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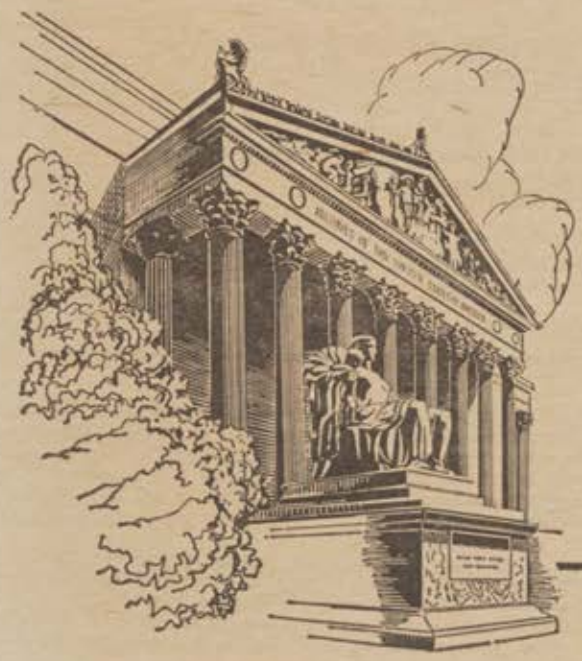
Part I

(Part II begins on page 16509)

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, 1970, and specifies how they are affected.

5 CFR

213 16467

7 CFR

989 16467

PROPOSED RULES:

1061 16474
1063 16475
1070 16475
1079 16475

9 CFR

76 16468

14 CFR

39 16468
71 (2 documents) 16468, 16469

PROPOSED RULES:

71 (2 documents) 16480

16 CFR

13 (4 documents) 16469–16471

29 CFR

794 16510

PROPOSED RULES:

526 16479
728 16479
729 16479

31 CFR

407 16472

32 CFR

172 16473
175 16473
197 16473

41 CFR

9–7 16473
9–15 16473
9–16 16473

42 CFR

71 16472

PROPOSED RULES:

73 16479

49 CFR

PROPOSED RULES:

1061 16480

50 CFR

32 16472

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Transportation

Section 213.3394 is amended to show that two additional positions of Congressional Liaison Officer in the Office of Congressional Relations are excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (17) of paragraph (a) of § 213.3394 is amended as set out below.

§ 213.3394 Department of Transportation.

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

(17) Five Congressional Liaison Officers.

* * * * *

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., p. 218)

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

[F.R. Doc. 70-14329; Filed, Oct. 21, 1970; 11:09 a.m.]

Title 7—AGRICULTURE

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

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Finding and Approval Relative to Retention and Disposition of Reserve Tonnage Raisins Carried Over From 1969–70 Crop Year

The finding and approval hereinafter set forth are pursuant to § 989.67 of the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California, referred to hereinafter collectively as the "order." This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "act".

Section 989.67(a) provides, in part, that any reserve tonnage raisins of a crop year held unsold by the Raisin Administrative Committee on November 1 of the subsequent crop year shall be physically disposed of promptly in any available outlet not competitive with normal market channels for free tonnage raisins or sales of new crop reserve tonnage raisins in export. Said section also provides, however, that whenever the Secretary approves of a finding by the Committee or finds, on the basis of information otherwise available to him, that because of crop failure, retention of reserve tonnage raisins carried over is warranted, the foregoing requirements as to disposal shall not apply and such carried over raisins may be disposed of in any outlet recommended by the Committee and approved by the Secretary.

The Raisin Administrative Committee's estimate of the 1970 production of natural Thompson Seedless raisins is 169,000 tons. Such production is regarded as a crop failure because it is only 75 percent of the 1965–69 average annual production of this varietal type and is substantially less than the estimated 1970–71 commercial domestic and export requirements for such raisins for human consumption.

On the basis of the desirable free tonnage for such raisins of 122,750 tons established (35 F.R. 15631) for sale in free tonnage markets and the Committee estimate of the 1970 production of standard raisins of 169,000 tons, only about 46,250 tons of standard 1970 crop raisins would be available as reserve tonnage for export sale by handlers to eligible countries. However, export sales of natural Thompson Seedless raisins to these countries have averaged about 63,000 tons annually for the past 3 crop years and, if the raisins are made available, could approximate this level during the 1970–71 crop year.

The Committee reported that 42,135 tons of 1969–70 unsold reserve tonnage raisins were carried over into the 1970–71 crop year on September 1, 1970. As of October 7, this quantity had been reduced to 36,849 tons and will be further reduced by export sales before November 1, 1970. Addition of the 42,135 tons of raisins to a 1970–71 reserve tonnage expected to be 46,250 tons gives 88,385 tons. This would provide sufficient raisins to supply export outlets during the 1970–71 crop year and provide a carryout on August 31, 1971, to permit uninterrupted export movement of raisins during the early part of the 1971–72 crop year until substantial quantities of 1971 crop raisins are produced and become available for shipment.

Retention of the unsold 1969–70 reserve tonnage raisins for disposition in the outlets specified in § 989.67(b) will permit continued orderly marketing of raisins in export, the principal outlet for reserve tonnage raisins. Increased returns to raisin producers will result because an alternative to export would be to dispose of such raisins for such uses as distillation or livestock feed at lower net returns.

Accordingly, pursuant to § 989.67(a), and based on the unanimous recommendation of the Raisin Administrative Committee and other information, it is hereby found that: (a) The 1970 production of natural Thompson Seedless raisins is such as to be a crop failure; (b) retention of the reserve tonnage natural Thompson Seedless raisins of the 1969–70 pool which are held unsold by the Committee on November 1, 1970, for disposition as reserve tonnage in export and other eligible outlets is warranted; and (c) such disposition of the reserve tonnage raisins will tend to effectuate the declared policy of the act. Accordingly, disposition of such reserve tonnage in the outlets specified in § 989.67(b) in accordance with the applicable provisions of this part, is approved.

It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give public notice and engage in public rule making procedure, and that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) This action, unanimously recommended by the Raisin Administrative Committee, must become effective before November 1, 1970, or otherwise the Committee is required by program provisions to dispose of 1969–70 reserve tonnage raisins held uncommitted on November 1, 1970, for such uses as distillation or livestock feed at low net returns to producers even though the opportunity exists for selling such tonnage for export at higher net returns to producers; (2) having this action become effective promptly will permit a continuing availability and an orderly movement of raisins in export; and (3) this action constitutes a relaxation of restrictions on the disposal of reserve tonnage raisins.

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

Dated October 16, 1970, to become effective upon publication in the FEDERAL REGISTER.

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

[F.R. Doc. 70-14210; Filed, Oct. 21, 1970; 8:46 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 70-283]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, in paragraph (e)(10) relating to the State of Ohio, subdivision (iii) relating to Clinton County is amended to read:

(10) *Ohio.* * * *

(iii) That portion of Clinton County bounded by a line beginning at the junction of State Highway 73 and State Highway 28; thence, following State Highway 28 in a westerly direction to Martinsville Road; thence, following Martinsville Road in a northwesterly direction to State Highway 350; thence, following State Highway 350 in a northwesterly direction to U.S. Highway 68; thence, following U.S. Highway 68 in a northeasterly direction to State Highway 134; thence, following State Highway 134 in a southeasterly direction to Farmers Road; thence, following Farmers Road in a southeasterly direction to Jenkins Road; thence, following Jenkins Road in a generally northeasterly direction to the Green-Union Township line; thence, following the Green-Union Township line in a northerly and then southeasterly direction to the junction of the Green-Union-Wayne Township lines; thence, following the Green-Wayne Township line in a southeasterly direction to State Highway 729; thence, following State Highway 729 in a southwesterly direction to State Highway 73; thence, following State Highway 73 in a southeasterly direction to its junction with State Highway 28.

2. In § 76.2, in paragraph (e)(7) relating to the State of Missouri, subdivision (ii) relating to Dunklin County is deleted.

(Secs. 4–7, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, secs. 1–4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments quarantine a portion of Clinton County, Ohio, because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined portion of such county.

The amendments also exclude a portion of Dunklin County, Mo., from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded area, but will continue to apply to the quarantined areas described in § 76.2. Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 will apply to the area excluded from quarantine.

Insofar as the amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera, they must be made effective immediately to accomplish their purpose in the public interest. Insofar as they relieve restrictions, they should be made effective promptly in order to be of maximum benefit to affected persons.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 16th day of October 1970.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 70-14209; Filed, Oct. 21, 1970; 8:46 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 70-WE-23-AD; Amdt. 39-1093]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 747–100 Series Airplanes

Amendment 39-1024 (35 F.R. 11176), AD-70-14-3, requires inspection of wing trailing edge flap tracks and establishes recommended flap operating speeds on Boeing Model 747–100 series airplanes.

After issuing Amendment 39-1024, the Administration determined that the recommended flap operating speeds can be modified to enhance operational safety. Therefore, the AD is being amended to include recommended flap operating speed for flap position 30 and to increase recommended operating speed at flap position 20 to the original placard value. Pilot reporting requirements are added to a placard.

Since this amendment relieves a restriction, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1024 (35 F.R. 11176), AD 70-14-3, is amended as follows:

In paragraph (b), revise placard wording to read as follows:

Flap Position:	*Recommended Flap Operating Speed (Knots IAS)*
25	170
30	140

In paragraph (c), delete the words "or when flap position 30 is used."

Add paragraph (e) to read:

(e) Install placard advising pilot of reporting requirements specified in paragraph (c).

This amendment becomes effective October 22, 1970.

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

Issued in Los Angeles, Calif., on October 13, 1970.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 70-14185; Filed, Oct. 21, 1970; 8:45 a.m.]

[Airspace Docket No. 69-PC-4]

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

Alteration, Designation and Revocation of Federal Airway Segments and Reporting Points; Alteration of Transition Area and Control Zone

On May 21, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 7814) stating that the Federal Aviation Administration was proposing amendments to Part 71 of the Federal Aviation Regulations that would alter, designate, and revoke several VOR Federal airway segments and compulsory reporting points in the Hawaiian Islands. Also, the Hilo, Hawaii, transition area and control zone would be amended.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No adverse comments were received.

Subsequent to the issuance of the notice, it was determined that revised instrument approach procedures at Hilo would require a larger control zone extension than that proposed in Item 13 of the notice. The alteration of the Hilo control zone will be the subject of a supplemental notice of proposed rule making and will not be included in this final rule.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 7, 1971, as hereinafter set forth.

1. Section 71.127 (35 F.R. 2041) is amended as follows:

a. In V-2 Hawaii all after the phrase "Upolu Point;" is deleted and the phrase "INT Upolu Point 093° and Hilo, Hawaii, 336° radials; Hilo. The airspace within R-3104 is excluded." is substituted therefor.

b. In V-3 Hawaii "067°" is deleted and "068°" is substituted therefor. Also, "334°" is deleted and "336°" is substituted therefor.

c. In V-6 Hawaii "334°" is deleted and "336°" is substituted therefor.

d. V-10 Hawaii is revoked.

e. In V-13 Hawaii the phrase "Koko Head." is deleted and the phrase "Koko Head; INT Koko Head 050° and Molokai, Hawaii, 015° radials; to INT Molokai 015° radial and the Honolulu FIR/Oceanic CTA." is substituted therefor.

f. In V-15 Hawaii all after the phrase "Maui, Hawaii;" is deleted and the phrase "INT Maui 095° and Hilo, Hawaii, 336° radials; Hilo; to INT Hilo 099° radial and the Honolulu FIR/Oceanic CTA." is substituted therefor.

g. V-18 Hawaii is revoked.

h. V-19 Hawaii is redescribed as follows:

V-19 Hawaii, from Hilo, Hawaii, to INT Hilo 013° and Maui, Hawaii, 086° radials.

i. V-21 Hawaii is redescribed as follows:

V-21 Hawaii, from INT Honolulu, Hawaii, 179° and Lanai, Hawaii, 285° radials; Lanai; INT Lanai 107° and Hilo, Hawaii, 013° radials; to INT Upolu Point 093° radial and the Honolulu FIR/Oceanic CTA.

j. In V-22 Hawaii "Hilo." is deleted and the phrase "Hilo; to INT Hilo 078° radial and the Honolulu FIR/Oceanic CTA." is substituted therefor.

k. V-24 Hawaii is designated as follows:

V-24 Hawaii, from Lanai, Hawaii; Maui, Hawaii; to INT Maui 086° radial and the Honolulu FIR/Oceanic CTA.

l. V-25 Hawaii is designated as follows:

V-25 Hawaii, from Hilo, Hawaii, to INT Hilo 356° radial and the Honolulu FIR/Oceanic CTA.

2. In § 71.181 (35 F.R. 2134) the Hilo, Hawaii, transition area is amended to read as follows:

HILO, HAWAII

That airspace extending upward from 700 feet above the surface within the arc of an 8.5-mile radius circle centered on General Lyman Field, Hilo, Hawaii (lat. 19°43'15" N., long. 155°02'55" W.), extending clockwise from a line 2 miles southwest of and parallel to the Hilo VORTAC 321° radial to a line 2 miles south of and parallel to the Hilo VORTAC 099° radial; and that airspace extending upward from 1,200 feet above the surface northeast of Hilo bounded on the north by V-21, on the south by V-22 and on the west by V-19; that airspace east of Hilo bounded on the north by V-22, on the east by the Honolulu FIR/Oceanic CTA and on the south by V-15; that airspace south of Hilo within the arc of a 21-mile radius circle centered on the Hilo, Hawaii, VORTAC, extending clockwise from V-15 to a line 9 miles southwest of and parallel to the 157° radial of the Hilo VORTAC.

3. Section 71.215 (35 F.R. 2308) is amended as follows:

a. The Bait Intersection is designated as follows:

Bait INT: INT Hilo, Hawaii, 078° radial and the Honolulu FIR/Oceanic CTA at lat. 20°00'42" N., long. 153°33'16" W.

b. Clam INT is revoked.

c. The Cod Intersection is designated as follows:

Cod INT: INT Hilo, Hawaii, 356° radial and the Honolulu FIR/Oceanic CTA at lat. 21°26'17" N., long. 155°08'30" W.

d. Crater INT is revoked.

e. The Cuttle Intersection is designated as follows:

Cuttle INT: INT Upolu Point, Hawaii, 093° radial and the Honolulu FIR/Oceanic CTA at lat. 20°04'48" N., long. 153°37'46" W.

f. The Eel Intersection is designated as follows:

Eel INT: INT Hilo, Hawaii, 099° radial and the Honolulu FIR/Oceanic CTA at lat. 19°27'35" N., long. 153°18'22" W.

g. The Frog Intersection is designated as follows:

Frog INT: INT Molokai, Hawaii, 015° radial and the Honolulu FIR/Oceanic CTA at lat. 22°46'16" N., long. 156°41'58" W.

h. The Lobster Intersection is amended to read as follows:

Lobster INT: INT Maui, Hawaii, 086° radial and the Honolulu FIR/Oceanic CTA at lat. 21°00'34" N., long. 154°39'36" W.

i. In Paradise INT "334°" is deleted and "336°" is substituted therefor.

(Secs. 307(a), 1110, Federal Aviation Act of 1958; 49 U.S.C. 1348, 1510; Executive Order 10854, 24 F.R. 9565; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 16, 1970.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 70-14187; Filed, Oct. 21, 1970; 8:45 a.m.]

[Airspace Docket No. 70-SW-60]

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

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Big Spring, Tex., control zone.

The military mission at Webb Air Force Base, Big Spring, Tex., has required the full-time support of its related aviation facilities and services such as weather observing/reporting, approach control, and the airport traffic control tower. Radar approach control has been available from 0800-2300 local time daily and nonradar approach control from 2300-0800 local time daily. These services have also been available to users of Howard County Airport.

Military authorities have planned to reduce the effective hours of operations, associated facilities and services at Webb AFB. As tentatively proposed, the normal operating periods of the facilities will be from 0700-2300 local time Monday through Friday and from 1100-1900 local time Saturday, Sunday, and holidays.

Aviation services which Webb AFB has previously afforded users at Howard County Airport will continue to be provided during the effective hours of operations of the Webb AFB facilities.

One of the requirements for the designation or continuation of a control zone is that there be a federally certified weather observer available to provide all hourly and special weather observations at the primary airport within the control zone, i.e., Webb AFB. As weather reporting will no longer be available on a full-time basis, it is necessary that the control zone designation be changed from full time to part time and the airspace description be amended accordingly.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 10, 1970, as hereinafter set forth.

In § 71.171 (35 F.R. 2054), the Big Spring, Tex., control zone is amended by adding, "This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual."

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

Issued in Fort Worth, Tex., on October 8, 1970.

T. A. ADAMS, Jr.,
Acting Director, Southwest Region.

[F.R. Doc. 70-14188; Filed, Oct. 21, 1970; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-1801]

PART 13—PROHIBITED TRADE PRACTICES

Harmin's Jewelers, Inc., and Edwin H. Cohen

Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements:*

13.1623–95 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–75 Truth in Lending Act; § 13.1905 *Terms and conditions:* 13.1905–60 Truth in Lending Act.[1]

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601–1605) [Cease and desist order, Harmin's Jewelers, Inc., et al., Rochester, N.Y., Docket C–1801, Sept. 24, 1970]

In the Matter of Harmin's Jewelers, Inc., a Corporation, and Edwin H. Cohen, Individually and as an Officer of Said Corporation

Consent order requiring a Rochester, N.Y., jewelry store to cease violating the Truth in Lending Act in its retail installment contracts by failing to state in terminology prescribed by Regulation Z the cash price of jewelry and other merchandise, the amount of downpayment, the number, amount, and due date of scheduled payments, the annual percentage rate of the finance charge, and the deferred payment price.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Harmin's Jewelers, Inc., a corporation, and Edwin H. Cohen, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or indirectly or through any corporate or other device, in connection with any consumer credit sale of jewelry or any other merchandise or services, as "credit sale" is defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Public Law 90–321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to use the term "cash price" to describe the cash price of goods or services sold by them, as required by § 226.8(c)(1) of Regulation Z.

2. Failing to use the term "cash downpayment" to describe any downpayment in money, as required by § 226.8(c)(2) of Regulation Z.

3. Failing to accurately disclose the amount of the trade-in portion of the downpayment, using the term "trade-in", as required by § 226.8(c)(2) of Regulation Z.

4. Failing to use the term "total downpayment" to describe the sum of the "cash downpayment" and the "trade-in", as required by § 226.8(c)(2) of Regulation Z.

5. Failing to use the term "unpaid balance of cash price" to describe the difference between the "cash price" and the "total downpayment", as required by § 226.8(c)(3) of Regulation Z.

6. Failing to use the term "amount financed" to describe the amount financed, as required by § 226.8(c)(7) of Regulation Z.

7. Failing to use the term "finance charge" to describe the total amount of the finance charge, in the amount, manner and form required by §§ 226.4, 226.6(a) and 226.8(c)(8)(i) of Regulation Z.

8. Failing to disclose the "annual percentage rate", using that term, in the manner and form required by §§ 226.5, 226.6(a) and 226.8(b)(2) of Regulation Z.

9. Failing to disclose the sum of the cash price, all other charges which are included in the amount financed but which are not part of the finance charge, and the finance charge, using the term "deferred payment price", as required by § 226.8(c)(8)(ii) of Regulation Z.

10. Failing to use the term "total of payments" to describe the sum of the payments scheduled to repay the indebtedness, as required by § 226.8(b)(3) of Regulation Z.

11. Failing to disclose the due date of the first payment, or otherwise failing to disclose the number, amount and due dates or periods of payments scheduled to repay the indebtedness, prior to the consummation of the transaction, as required by § 226.8(b)(3) of Regulation Z.

12. Engaging in any consumer credit transaction within the meaning of Regulation Z without making all disclosures that are required thereby in the amount, manner and form specified in § 226.8 of Regulation Z.

13. Failing to deliver forthwith a copy of this order to each present and future employee or other person engaged in the sale of respondents' products or services.

It is further ordered, That each respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with the order to cease and desist contained herein.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

Issued: September 24, 1970.

By the Commission.

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

[F.R. Doc. 70–14219; Filed, Oct. 21, 1970; 8:47 a.m.]

[Docket No. C–1802]

PART 13—PROHIBITED TRADE PRACTICES

Little Georgie Togs, Inc., and Seymour Baruch

Subpart—Furnishing false guaranties: § 13.1053 *Furnishing false guaranties:* 13.1053–80 Textile Fiber Products Identification Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185–80 Textile Fiber Products Identification Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212–80 Textile Fiber Products Identification Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition:* 13.1845–70 Textile Fiber Products Identification Act; § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–70 Textile Fiber Products Identification Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 72 Stat. 1717; 15 U.S.C. 45, 70) [Cease and desist order, Little Georgie Togs, Inc., et al., New York, N.Y., Docket C–1802, Sept. 28, 1970]

In the Matter of Little Georgie Togs, Inc., a Corporation, and Seymour Baruch, Individually and as an Officer of Said Corporation

Consent order requiring a New York City manufacturer of textile fiber products, namely boys' wear, to cease misbranding and falsely guaranteeing its textiles and failing to maintain required records.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Little Georgie Togs, Inc., a corporation, and its officers, and Seymour Baruch, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, manufacture for introduction, sale, advertising or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber products; or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding such textile fiber products by:

1. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising or otherwise identifying such products as to the name or amount of the constituent fibers contained therein.

2. Failing to affix a stamp, tag, label, or other means of identification to each such textile fiber product showing in a clear, legible and conspicuous manner each element of information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act.

3. Failing to affix labels to samples, swatches or specimens of textile fiber products used to promote or effect the sale of such textile fiber products showing in words and figures plainly legible

[1] New

all the information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act.

4. Failing to separately set forth the required information as to fiber content on the required label in such a manner as to separately show the fiber content of the separate sections of textile fiber products containing two or more sections where such form of marking is necessary to avoid deception.

B. Failing to maintain and preserve proper records of fiber content of textile fiber products manufactured by respondents, as required by section 6(a) of the Textile Fiber Products Identification Act and Rule 39 of the regulations promulgated thereunder.

It is further ordered, That respondents Little Georgie Togs, Inc., a corporation, and its officers, and Seymour Baruch, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from furnishing false guaranties that textile fiber products are not misbranded or falsely or deceptively invoiced or advertised under the provisions of the Textile Fiber Products Identification Act.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: September 28, 1970.

By the Commission.

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

[F.R. Doc. 70-14220; Filed, Oct. 21, 1970; 8:47 a.m.]

[Docket No. C-1803]

PART 13—PROHIBITED TRADE PRACTICES

Louis Weissman, Inc., and Louis Weissman

Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* 13.1108-45 Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Louis Weissman, Inc., et al., New York, N.Y., Docket C-1803, Sept. 28, 1970]

In the Matter of Louis Weissman, Inc., a Corporation, and Louis Weissman, Individually and as an Officer of Said Corporation

Consent order requiring New York City wholesalers of fur products to cease and desist from falsely invoicing their fur products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That Louis Weissman, Inc., a corporation, and its officers, and Louis Weissman, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the sale, advertising, offering for sale, transportation or distribution of any fur product which is made in whole or in part of fur which has been shipped and received in commerce; or in connection with the introduction into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of furs, as the terms "commerce," "fur," and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from falsely or deceptively invoicing furs or fur products by failing to furnish an invoice as the term "invoice" is defined in the Fur Products Labeling Act, showing in words and figures plainly legible all the information required to be disclosed by section 5(b)(1) of the Fur Products Labeling Act.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: September 28, 1970.

By the Commission.

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

[F.R. Doc. 70-14221; Filed, Oct. 21, 1970; 8:47 a.m.]

[Docket No. 8582]

PART 13—PROHIBITED TRADE PRACTICES

Trade Advertising Associates, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections:* 13.15-30 Connections or arrangements with others; § 13.110 *Endorsements, approval and testimonials.* Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1395 *Connections and arrangements with others;* Misrepresenting oneself and goods—Goods: § 13.1665 *Endorsements.* Subpart—Using misleading name—Goods: § 13.2305 *Endorsements, approval or awards;* Using misleading name—Vendor: § 13.2370 *Connections and arrangements with others.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Modified order to cease and desist, Trade Advertising Associates, Inc., et al., New York, N.Y., Docket No. 8582, Sept. 24, 1970]

In the Matter of Trade Advertising Associates, Inc., a Corporation, Joseph Lash and Eugene Serels, Individually and as Officers of Said Corporation and as Copartners, Trading and Doing Business as Trade Union News

Order modifying an earlier order, 29 F.R. 7508, dated May 15, 1964, by adding thereto a paragraph which forbids the respondent from using words implying that it is officially connected with any labor union, and requiring it to place on certain printed matter the statement "Not affiliated with, endorsed by, or an official publication of any labor organization or union."

The modified order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Trade Advertising Associates, Inc., a corporation, and its officers, and Joseph Lash and Eugene Serels, individually and as officers of said corporation, and as copartners trading and doing business as Trade Union News, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the soliciting, offering for sale or sale in commerce of advertising space in the newspaper designated as Trade Union News, or any other publication, whether published under that name, or any other name, and in connection with the offering for sale, sale or distribution of said newspaper, or any other publication, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the names or designations Trade Union News, Trade Union News of New Jersey or using the words trade, labor, union, guild, brotherhood, workers, or any other word, words, or combination of words of similar import or

meaning in the title of their publications without disclosing in a clear and conspicuous manner in all oral solicitations for advertising and on all printed materials including the masthead of the newspapers, letterheads, billheads, and stationery the statement "Not affiliated with, endorsed by, or an official publication of any labor organization or union."

2. Representing, directly or by implication, that any of their publications is endorsed by, affiliated with, or an official publication of, or otherwise connected with a labor union or trade union.

3. Representing that any of their publications was the "Winner of the National Trade Union Advertising Award" or "Winner of International Editorial Excellence Award", or otherwise misrepresenting that any of respondents' publications has been presented with an award or distinction as a result of a competitive contest.

4. Misrepresenting in any manner that competitive contests are or have been conducted by impartial and qualified individuals to determine the relative quality or merits of any of their publications in comparison with competing publications.

5. Placing, printing or publishing any advertisement on behalf of any person, firm, or corporation, in any of respondents' publications without a prior order or agreement to purchase said advertisement.

6. Sending bills, letters or notices to any person, firm or corporation, with regard to an advertisement which has been or is to be printed, inserted or published on behalf of said person, firm or corporation, or in any other manner seeking to exact payment for any such advertisement, without a bona fide order or agreement to purchase said advertisement.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: September 24, 1970.

By the Commission.

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

[F.R. Doc. 70-14222; Filed, Oct. 21, 1970; 8:47 a.m.]

Title 31—MONEY AND FINANCE: TREASURY

Chapter IV—Secret Service, Department of the Treasury

PART 407—REGULATIONS GOVERNING CONDUCT IN THE TREASURY BUILDING AND THE TREASURY ANNEX

Authority

These amendments delete from Part 407 the references to obsolete delegation orders of the Administrator of General Services and the Under Secretary of the Treasury and insert in lieu thereof references to recently revised delegation orders. In accordance with 5 U.S.C. 553(a), notice and public procedure thereon are found to be impractical, unnecessary and not required since the amendments pertain to the management of public property.

1. The authority paragraph following the table of contents is amended by deleting "FPM Reg. Temp. D-5, 32 F.R. 11968" and inserting in lieu thereof "FPMR Temp. Reg. D-22, 35 F.R. 14426"; and by deleting "T.D. Order 177-25, 32 F.R. 17490" and inserting in lieu thereof "Treasury Dept. Order 177-25 (Revision 1), 35 F.R. 15312". As amended, the paragraph reads as follows:

AUTHORITY: The provisions of this Part 407 issued under 5 U.S.C. 301; FPMR Temp. Reg. D-22, 35 F.R. 14426; Treasury Dept. Order 177-25 (Revision 1), 35 F.R. 15312.

2. Section 407.1 is amended by deleting "32 F.R. 11968 (1967)" and inserting in lieu thereof "35 F.R. 14426 (1970)"; and by deleting "dated November 28, 1967, 32 F.R. 17490 (1967)" and inserting in lieu thereof "(Revision 1), 35 F.R. 15312 (1970)". As amended, § 407.1 reads as follows:

§ 407.1 Authority.

The regulations in this part governing conduct in and on the Treasury Building and grounds and the Treasury Annex Building and grounds are promulgated pursuant to the authority vested in the Secretary of the Treasury, including 5 U.S.C. 301 and that vested in him by delegation from the Administrator of General Services, 35 F.R. 14426 (1970), and in accordance with the authority vested in the Director of the U.S. Secret Service by Treasury Department Order No. 177-25 (Revision 1), 35 F.R. 15312 (1970).

Effective date. These amendments are effective from September 4, 1970.

Dated: October 14, 1970.

[SEAL] JAMES J. ROWLEY, *Director, U.S. Secret Service.*

[F.R. Doc. 70-14231; Filed, Oct. 21, 1970; 8:48 a.m.]

Title 50—WILDLIFE AND FISHERIES

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

PART 32—HUNTING

Arrowwood National Wildlife Refuge, N. Dak.

The following special regulations are issued and are effective on date of publication in the FEDERAL REGISTER.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

NORTH DAKOTA

ARROWWOOD NATIONAL WILDLIFE REFUGE

Public hunting of Red Fox on the Arrowwood National Wildlife Refuge, N. Dak., is permitted only on the area designated by signs as open to hunting. This open area, comprising 11,800 acres is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting shall be in accordance with all applicable State regulations covering the hunting of Red Fox subject to the following conditions:

(1) Hunting is permitted from sunrise to sunset on November 16, 1970, through January 31, 1971.

(2) A Federal permit is required to enter the public hunting area. It may be obtained by applying in person at refuge headquarters, located 6 miles east of Edmunds, N. Dak., between the hours of 8 a.m. and 4:30 p.m. Monday through Friday.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 31, 1971.

ARNOLD D. KRUSE, *Refuge Manager, Arrowwood National Wildlife Refuge, Edmunds, N. Dak.*

OCTOBER 14, 1970.

[F.R. Doc. 70-14218; Filed, Oct. 21, 1970; 8:47 a.m.]

Title 42—PUBLIC HEALTH

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

SUBCHAPTER F—QUARANTINE, INSPECTION, LICENSING

PART 71—FOREIGN QUARANTINE

Aircraft; Insecticide

A notice of proposed rule making was published in the FEDERAL REGISTER on February 18, 1970, 35 F.R. 3119. The proposal was to substitute for the prescribed DDT-based insecticidal aerosol a more effective aerosol utilizing a recently developed formula which does not contain DDT. A period of 30 days was prescribed for submittal of data, views, and arguments. It was proposed that any amendments that would be adopted would be effective upon publication. After consideration of the comments that were received, the proposed amendment, which is set forth below, is hereby adopted, without substantial change.

Effective date. This amendment shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 361, 58 Stat. 703; 42 U.S.C. 264)

Dated: October 1, 1970.

VERNON E. WILSON,
Administrator, Health Services and Mental Health Administration.

Approved: October 14, 1970.

ELLIOT L. RICHARDSON,
Secretary.

Section 71.102(b)(1) is amended to read as follows:

§ 71.102 Disinsecting of aircraft.

* * * * *

(b) * * *

(1) The insecticide shall be Insecticidal Aerosol G–1707, the formula for which is given below, or an insecticide found by the Administrator, Health Services and Mental Health Administration, upon application, to be substantially as effective.

FORMULA FOR INSECTICIDAL AEROSOL G–1707

Component:	*Percent by weight*
Pyrethrum extract (20 percent pyrethrins) (R)	2.25
Tropital Synergist [1]	2.70
Petroleum distillate [2]	10.05
Propellents:	
Trichlorofluoromethane (Freon-11 or Genetron-11)	25.50
Dichlorodifluoromethane (Freon-12 or Genetron-12)	59.50

[1] Piperonal bis [2-(2-butoxyethoxy) ethyl] acetal and related compounds.

[2] Deodorized kerosene; shall conform to requirements of Federal Specification VV–K–220a, Aug. 20, 1962, as amended, Standardization Division, General Services Administration, Washington, D.C. (Available at U.S. Government Printing Office.)

* * * * *

[F.R. Doc. 70–14228; Filed, Oct. 21, 1970; 8:48 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER F—TRANSPORTATION

PART 172—REDUCTION OF OFFICIAL TRAVEL OVERSEAS

PART 175—DEPARTMENT OF DEFENSE SHIPMENTS BY FOREIGN-FLAG VESSELS IN THE CUBAN TRADE

SUBCHAPTER M—MISCELLANEOUS

PART 197—FLEXIBILITY IN THE MANAGEMENT OF RESEARCH AND DEVELOPMENT

Codification of the following parts has been discontinued, effective immediately: Parts 172, 175, and 197.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Administration).

[F.R. Doc. 70–14194; Filed, Oct. 21, 1970; 8:45 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 9—Atomic Energy Commission

MISCELLANEOUS AMENDMENTS TO CHAPTER

The purpose of the amendment to § 9–16.5002–8 is to permit disposition of records under the Special Research Support Agreement form of contract in accordance with the requirements of the AEC records disposition program.

The remaining amendments are minor and editorial in nature.

PART 9–7—CONTRACT CLAUSES

Subpart 9–7.50—Use of Standard Clauses

1. In § 9–7.5007–5, *Price redetermination*, paragraph (a)(1) is revised to read as follows:

§ 9–7.5007–5 Price redetermination.

* * * * *

(a) *Time for redetermination.*[6]

(1) Upon delivery of ____ percent of the total number of articles specified to be furnished [7] under this contract, or at such earlier time as the Contracting Officer may direct in the event of any termination by the Government of work under this contract,[8] the Contractor shall submit to the Contracting Officer the data specified in paragraph (c) of this article. On the basis of such information, and of any other relevant information which may be available to the Contracting Officer, the price or prices set forth in this contract shall be redetermined by agreement of the Contracting Officer and the Contractor. Any redetermined price or prices established under this subparagraph shall be effective as of the date of this contract and shall apply to all articles covered by the contract, whether already delivered or yet to be delivered.

* * * * *

PART 9–15—CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart 9–15.50—Cost Principles and Procedures

2. Section 9–15.5010–6, *Outside technical and professional consultants*, is revised to read as follows:

§ 9–15.5010–6 Outside technical and professional consultants.

Technical and professional consultants, as used here, refers to private individuals acting in their own behalf who make their services available on a fee or per diem basis. It does not refer to employees of firms acting in the firm's behalf whose services may be made available by the firm on, for example, a fixed rate basis. Consultant arrangements may permit bringing to contract work the services of outstanding specialists who would not be available on a full-time basis, or whose employment on a full-time basis would not be economically feasible. Costs of such outside consultant services are normally allowable (however, see §§ 9–7.5006–9(e)(26); 9–7.5006–10(e)(24); 9–7.5006–11(b); and 9–7.5006–12(e)(22) of this chapter regarding compensation of an individual who is employed by another contractor and concurrently performing work on a full-time annual basis under an AEC cost-type contract): *Provided*, That, the services are essential to and will make a material contribution to the performance of contract work; the services may be performed more economically or more successfully by a consultant than by the contractor's regular personnel; the fee or per diem charged is reasonable; and when approved by the contracting officer. If the cost of such services is charged directly to the AEC contract, the cost of like items properly chargeable only to other work of the contractor must be eliminated from indirect costs allocable to the AEC contract (see § 9–15.5009–1).

PART 9–16—PROCUREMENT FORMS

Subpart 9–16.1—Forms for Advertised Supply Contracts

3. In § 9–16.104–50, *AEC additions to Standard Form 32, General Provisions (Supply Contract) (June 1964 edition)*, the title is revised to read as follows:

§ 9–16.104–50 AEC additions to Standard Form 32, General Provisions (Supply Contract) (November 1969 edition).

* * * * *

Subpart 9–16.4—Forms for Advertised Construction Contracts

4. In § 9–16.404–52, *AEC additions to Standard Form 23A, General Provisions (Construction Contract) (June 1964 edition)*, the title is revised to read as follows:

§ 9–16.404–52 AEC additions to Standard Form 23A, General Provisions (Construction Contract) (November 1969 edition).

* * * * *

Subpart 9–16.50—Contract Outlines

5. In § 9–16.5002–8, *Outline of special research support agreement with educational institutions*, Article B–XVIII is revised to read as follows:

§ 9–16.5002–8 Outline of special research support agreement with educational institutions.

* * * * *

ARTICLE B–XVIII—EXAMINATION OF RECORDS

Insert § 9–7.5004–10.

* * * * *

(Sec. 161, Atomic Energy Act of 1954, as amended, 68 Stat. 948, 42 U.S.C. 2201; sec. 205, Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390, 40 U.S.C. 486)

Effective date. These amendments are effective upon publication in the FEDERAL REGISTER.

Dated at Germantown, Md., this 14th day of October, 1970.

For the U.S. Atomic Energy Commission.

JOSEPH L. SMITH,
Director, Division of Contracts.

[F.R. Doc. 70–14206; Filed, Oct. 21, 1970; 8:46 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 1061]

[Docket No. AO-367-A2]

MILK IN SOUTHEASTERN MINNESOTA-NORTHERN IOWA (DAIRYLAND) MARKETING AREA

Partial Decision on Proposed Amendments to Marketing Agreement and to Order

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Southeastern Minnesota-Northern Iowa (Dairyland) marketing area. The hearing was held, 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 (7 CFR Part 900), at Rochester, Minn., on August 19, 1970, pursuant to notice thereof issued on August 3, 1970 (35 F.R. 12613).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on September 21, 1970 (35 F.R. 14846), filed with the Hearing Clerk, U.S. Department of Agriculture, his partial recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein.

This decision deals only with the issue relating to the level of the Class I price after October 31, 1970. All other issues are reserved for later decision.

The material issues on the record relate to:

1. Class I price level after October 31, 1970.
2. Pool plant performance standards.
3. Basis for making producer payments.
4. Charges on overdue accounts.
5. Miscellaneous administrative and conforming changes.

Findings and Conclusions

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

1. *Class I price level.* The present Class I price provisions should remain in effect beyond October 31, 1970.

The order regulating the handling of milk in the Southeastern Minnesota-Northern Iowa (Dairyland) marketing area was made effective on May 1, 1969. In his decision to promulgate the order, the Under Secretary concluded that the Class I price provisions should be applicable for only an 18-month period, which expires October 31, 1970. This period of operation provided all interested parties with an opportunity to examine the effectiveness of the Class I price level. The decision provided further that prior to the expiration of the pricing provisions, a reexamination of the Class I price level should be made at a public hearing, at which time more complete market information pertaining to milk supplies and sales could be considered.

The present Class I price per hundredweight of milk is the basic formula price for the preceding month plus $0.86, plus an additional $0.20 per hundredweight. The basic formula price is the average pay price for manufacturing grade milk in Minnesota and Wisconsin. The Class I price formula is identical to that provided in the base zone of the Minneapolis-St. Paul order.

Associated Milk Producers, Inc. (AMPI), one of the major cooperative associations operating in the market, proposed that the current Class I price level be continued pending the completion of a regional study of Class I price levels in this general area. Proponent's witness stated that while AMPI believes that an increase in the Class I price level would be appropriate at this time, a specific proposal to increase the Class I price level might result from the regional Class I price study and could be regional in scope. For this reason, proponent supports an indefinite extension of the present Class I price level after October 31, 1970.

Another witness, representing Mid-America Dairymen, Inc., stated that his organization favored an increase in the Class I price level also, since to them it seemed that Class I prices in this area are out of alignment with other milk orders to the west and south. The witness cited no specific problem in connection with markets located to the west and south of this order, except to note that the Class I differentials there are higher than those provided in Order 61.

An exception to the decision was filed by the Carnation Co., Los Angeles, Calif., on behalf of its distributing plant at Waterloo, Iowa, a handler regulated by the North Central Iowa milk order (No. 78). Exceptor stated that the Dairyland Class I price should be raised about 9 cents per hundredweight to provide what exceptor believes would be a more reasonable Class I price alignment between Orders 78 and 61.

Appropriate price alignment with other markets was cited by cooperative association witnesses as one reason they were in the process of preparing a regional study to determine whether the Class I price level of Order 61 should be increased at a future date. Exceptor did not testify at the hearing, and there was no testimony by any other witness concerning the specific points raised by exceptor relative to Order 78.

Proponents, and a witness for Land O'Lakes Creameries, Inc., recognized that the Class I pirce relationship with the Minneapolis-St. Paul order is of major significance in any proposal to change the level of the Class I price for this market.

Official notice it taken of the decision of the Under Secretary promulgating this marketing order issued on February 27, 1969 (34 F.R. 3808), which states in part:

> Since this marketing area, as well as the Minneapolis-St. Paul marketing area, is located in a region of heavy milk production in relation to population, there is considerably more milk manufactured in the area than is disposed of for Class I uses. In order to compensate producers for producing milk of Grade A quality which is needed for Class I sales, the Class I milk price must be somewhat higher than the price received by producers of manufacturing grade milk. However, if the Class I price more than compensates producers for the extra cost of Grade A milk production, dairy farmers are encouraged unnecessarily to shift from manufacturing grade milk production to the production of Grade A milk. If additional Grade A milk supplies cannot be disposed of in Class I outlets, such milk must be utilized in manufactured dairy products at a price competitive with dairy products made from manufacturing grade milk. Hence, in establishing a Class I price, particularly for this area where large quantities of Grade A milk in excess of those needed for Class I sales already exist, it is essential that the Class I price be maintained at a level which will not unduly encourage greater supplies of Grade A milk to be produced.
>
> Handlers who would be regulated under this order compete for fluid milk sales with Minneapolis-St. Paul handlers, both within this marketing area and within the proposed expanded Minneapolis-St. Paul marketing area.[1] The Minneapolis-St. Paul market is much the larger of the two markets. Its Class I sales are four times the Class I sales in this area. Because of its size, the Minneapolis-St. Paul market's Class I price virtually dictates the Class I price for this area.
>
> Any higher price for this area might cause Minneapolis-St. Paul Class I milk to be substituted for local milk supplies.

The interaction between the two markets as described in the decision which promulgated the order remains virtually unchanged. This situation was not controverted in the record. In addition, the juxtaposition of both markets to each other, and to one of the heaviest milk production areas in the nation underscores the need to coordinate closely the respective Class I price differentials.

Based on data for the first 12 months (ending April 1970) that the order was

[1] The marketing area expansion referred to was made effective May 1, 1969 (34 F.R. 5919).

fully effective, a fully adequate supply of milk for the market has been forthcoming. Official notice is taken of the monthly "Milk Market Data" issued by the market administrator for the months of August 1969 through April 1970. Issues covering May, June and July 1969 were introduced as exhibits. Of 372.4 million pounds of producer milk pooled during the 12 months ending April 1970, 195.2 million pounds, or about 52 percent, were marketed as Class I sales. Monthly Class I utilization figures during this period ranged from a low of 41.7 percent in June 1969 to a high of 70.3 percent in October 1969.

The present Class I price as established in Order 61, and as proposed herein to be continued, is appropriate for this market

RULINGS ON EXCEPTIONS

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

MARKETING AGREEMENT AND ORDER

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the Southeastern Minnesota-Northern Iowa (Dairyland) marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

DETERMINATION OF PRODUCER APPROVAL AND REPRESENTATIVE PERIOD

August 1970 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Southeastern Minnesota-Northern Iowa (Dairyland) marketing area is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on October 16, 1970.

RICHARD E. LYNG,
Assistant Secretary.

Order[1] Amending the Order, Regulating the Handling of Milk in the Southeastern Minnesota-Northern Iowa (Dairyland) Marketing Area

FINDINGS AND DETERMINATIONS

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

(a) *Findings.* 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 Southeastern Minnesota-Northern Iowa (Dairyland) marketing area. The hearing was held 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 (7 CFR Part 900).

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.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Southeastern Minnesota-Northern Iowa (Dairyland) marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on September 21, 1970, and published in the FEDERAL REGISTER on September 24, 1970 (35 F.R. 14846), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

Paragraph (a) of § 1061.51 is revised to read:

§ 1061.51 Class prices.

* * * * *

(a) *Class I milk price.* The Class I milk price shall be the basic formula price for the preceding month plus $0.86, plus an additional 20 cents.

* * * * *

[F.R. Doc. 70-14211; Filed, Oct. 21, 1970; 8:46 a.m.]

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

[7 CFR Parts 1063, 1070, 1079]

[Dockets Nos. AO-105-A33, AO-229-A24, AO-295-A22]

MILK IN QUAD CITIES-DUBUQUE, CEDAR RAPIDS-IOWA CITY, AND DES MOINES MARKETING AREAS

Decision on Proposed Amendments to Marketing Agreements and to Orders

A public hearing was held upon proposed amendments to the marketing agreements and the orders regulating the handling of milk in the Quad Cities-Dubuque, Cedar Rapids-Iowa City, and Des Moines marketing areas. The hearing was held, 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 (7 CFR Part 900), at Des Moines, Iowa, on October 8, 1970, pursuant to notice thereof issued on September 30, 1970 (35 F.R. 15446).

The material issues on the record relate to:

1. Location adjustments.
2. Class I price differentials.
3. The determination of which order a plant shall be regulated under.
4. Whether an emergency exists to warrant the omission of a recommended decision.

FINDINGS AND CONCLUSIONS

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

1. *Location adjustments.* The location adjustment provisions of the Quad Cities-Dubuque order should be modified with respect to their application to minimum prices at plants located within the Des Moines, Iowa, Federal milk marketing area. The present minus adjustment to the Class I price at any plant located in such territory should be removed. Also, for the period through April 1971, the Quad Cities-Dubuque order Class I price at any plant located in the Des Moines,

Iowa, marketing area should be adjusted to equal the Des Moines order Class I price level applicable at the location of such plant. Conforming changes should be made in the location adjustments applicable to the uniform price to producers under the Quad Cities-Dubuque order.

Presently the Quad Cities-Dubuque order establishes a minus location adjustment to prices at plants located outside the marketing area and 70 miles or more from the nearer of the city hall, Rock Island, Ill., or the Post Office, West Liberty, Iowa. Such adjustment is at the rate of 10 cents plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 80 miles. Also, a minus 10-cent location adjustment applies in Dubuque and Jackson Counties, Iowa, and East Dubuque, Ill.

Two cooperative associations representing a majority of the producers supplying handlers regulated under the Des Moines order proposed that a plus 15-cent location adjustment be provided under the Quad Cities-Dubuque order at a plant located in the Des Moines, Iowa, Federal order "base zone", which includes all of the marketing area except Boone and Story Counties, Iowa. This proposal is supported by a large handler regulated under the Des Moines order and two handlers regulated under the Greater Kansas City order. One handler who operates a distributing plant located in Des Moines and regulated under the Quad Cities-Dubuque order opposed this proposal and presented testimony relating to the reduction of the level of the Des Moines order Class I price.

The location adjustment provisions of the Quad Cities-Dubuque order reduce the Class I price by 19 cents at a plant located in Des Moines. The Des Moines order Class I price is 15 cents higher than the Quad Cities-Dubuque order Class I price. In this circumstance, a Quad Cities-Dubuque order regulated plant located in Des Moines would have a Class I price 34 cents below the Class I price applicable at a plant so located and regulated under the Des Moines order.

On September 1, 1970, Borden, Inc., discontinued bottling operations at its Rock Island, Ill., plant which had been regulated under the Quad Cities-Dubuque order. Its fluid milk accounts in the Quad Cities-Dubuque market are now being served from the Borden, Inc., plant located in Des Moines. Prior to September 1970, the Borden, Inc., Des Moines plant was regulated under the Des Moines order, due to the volume of fluid milk distribution from the plant within the Des Moines marketing area. In September distribution of fluid milk from the plant on routes in the Quad Cities-Dubuque marketing area exceeded the volume distributed on routes in the Des Moines marketing area. There is also substantial distribution from this plant in the Greater Kansas City and North Central Iowa Federal order marketing areas. The plant meets the pool distributing plant qualification provisions of the orders for each of these markets. Under the terms of the orders, however, a plant is regulated in the market where it has the greatest distribution, which for September was the Quad Cities-Dubuque market in the case of this plant.

The volume of milk distributed from the Borden, Inc., plant in the Quad Cities-Dubuque, Des Moines, and Greater Kansas City markets is nearly the same for each market. Distribution from the plant in the North Central Iowa marketing area is a substantially lesser volume than in the other markets. In this circumstance, with a relatively small change in the sales volume from the plant in the Quad Cities-Dubuque, Des Moines, or Greater Kansas City markets, regulation of the plant could shift from one order to another.

The Borden, Inc., plant is not unique in this respect. In May 1970, the Beatrice Foods Co. distributing plant at Ottumwa, Iowa, and its supply plant, operated by Farmers Cooperative Creamery, at Cresco, Iowa, shifted regulation from the Des Moines order to the Quad Cities-Dubuque order. In June 1970 these plants shifted back to the Des Moines order. The shift in regulation of the plants was due to a slight change in the relative volume of distribution in the two markets from the Beatrice Foods Co. plant.

Such shifts in regulation of plants among the orders results in abrupt changes in minimum prices to dairy farmers who supply such plants when the Class I prices applicable at such plant locations differ among the orders. It also disrupts competitive Class I price relationships among handlers similarly located but regulated under different orders. This is the case for a Des Moines located plant as between the Des Moines and Quad Cities orders but not in the case of the Des Moines and Greater Kansas City orders, since the Class I prices under these two orders are virtually the same at the Des Moines location.

Location adjustments reasonably should reflect the cost associated with distance in moving milk from outlying supply plants to the central market for fluid processing and disposition. In some instances, however, the economic value of the milk to the producer at a particular location will be affected not only by transportation cost to move the milk to a regulated plant under one order, but also by the price he can obtain by shipping to an alternative market. Unless the letter is taken in account, the milk so located may not be available to the former plant.

The milk supply area for the Quad Cities-Dubuque market consists of the territory in Iowa and Illinois in the immediate vicinity of the marketing area and territory to the north of the marketing area in northeastern Iowa and the southeastern corner of Wisconsin. On the basis of December 1969 data, approximately one-half of the milk supply for the market is produced on farms in the seven northeastern Iowa counties of Dubuque, Delaware, Buchanan, Clayton, Fayette, Allamakee, and Winneshiek.

Northeastern Iowa is the region of highest milk production in the State. The milk production areas for the Des Moines and Cedar Rapids-Iowa City markets also extend into such area. For example, approximately 15 percent of the milk supply for the Des Moines market originated in the same seven counties listed above from which one-half of the Quad Cities-Dubuque supply came from in December 1969. This overlapping of supply areas between Des Moines plants and Quad Cities plants was intensified beginning September 1970 since the supply of milk for the Borden, Inc., Des Moines plant now is being obtained from the Mississippi Valley Milk Producers Association which had supplied the Borden, Inc., fluid milk operation in Rock Island, Ill.

The area of greatest density of supply for the Quad Cities market is in the vicinity of Delaware and Dubuque Counties, Iowa. Milk from farms in these two counties accounted for about 40 percent of the supply on the market, or about 12 million pounds of milk per month. Much of this supply is now being moved by the cooperative association to Des Moines, about 150 miles away, rather than to Rock Island, Ill., about 100 miles away.

Because of the greater hauling distance the cooperative is obviously incurring a greater transportation cost in furnishing a supply of milk from such area to Borden, Inc., at its Des Moines plant than it incurred in moving milk from such area to the Rock Island plant.

In this circumstance it is not reasonable to price milk to a Quad Cities regulated plant at the Des Moines location at a minimum Class I price lower than the Class I price applicable at plants in such market regulated under the Des Moines order, since the Des Moines regulated plants represent a higher valued outlet for milk delivered to a similar location. Moreover, the addition of the volume of fluid milk sales from the closed Rock Island plant to the Des Moines location increases the total demand for milk delivered to Des Moines and in turn has expanded the production area wherein milk must be attracted to such location by the price fixed thereat under the order.

Under the marketing circumstances related above it is concluded that orderly marketing will be enhanced by amending the Quad Cities-Dubuque order location adjustment provisions to provide the Des Moines Class I price level at plants located in the Des Moines marketing area, and to provide corresponding adjustments to the uniform prices to producers delivering milk to such plants. The plus amount of such price adjustments relative to the prices applicable at Rock Island, Ill., should be limited, however, to a 6-month period for the reasons stated hereinafter under "Class I differentials."

Providing a plus location differential creates a problem in applying location differentials to diverted milk. In circumstances described above milk is moved from farms that are also close to manufacturing plants in northeastern Iowa. In that area a minus location differential would still apply. If such milk were priced at the plant from which diverted as is now provided under the Quad Cities order, the blend price would be computed at a plus 15 cents differential when diverted from a plant in Des Moines.

This would result even though the producer had not incurred the extra transportation cost for which the differential is provided. Accordingly, for the temporary period during which the plus 15-cent location adjustment is provided for plants located in the Des Moines marketing area, milk diverted from a plant located in that marketing area should be priced at the plant to which diverted.

2. *Class I differentials.* No change should be made in the Class I prices provided by the Des Moines, Quad Cities-Dubuque, and Cedar Rapids-Iowa City orders on the basis of this record. Potential market developments shown on the record indicate such price levels may need to be adjusted to provide better price alignment among these markets and with Class I prices in neighboring markets. This record, however, does not provide a basis for deciding the changes in Class I prices which may be needed. Since the plus adjustment of the Quad Cities-Dubuque order prices at locations in the Des Moines marketing area is related to the existing price differences, it should be maintained for a temporary period only.

Borden, Inc., proposed that the Des Moines Class I price be reduced by 15 cents per hundredweight. This would provide the same Class I price level under the Des Moines, Cedar Rapids-Iowa City, and Quad Cities-Dubuque orders.

In support of its proposal the witness for this handler alluded to the potential for increased supplies of milk for Des Moines plants from Minnesota and the feasibility of serving Iowa fluid milk accounts with milk packaged under the Chicago Regional Federal milk order.

About 10 percent of the fluid milk supply for the Des Moines market comes from farms located in 14 southern Minnesota counties. This represents about 2.5 million pounds of milk per month. Total milk production, both manufacturing grade and milk approved for fluid use, in just seven such counties was in excess of 1 billion pounds during 1969. Undoubtedly a large portion of this 1 billion pounds was manufacturing grade milk.

The average of prices paid for manufacturing grade milk in Minnesota and Wisconsin was $4.60 for the period September 1969 through August 1970. The uniform prices under the Des Moines order during this same period averaged $5.53 or 93 cents over the manufacturing grade milk price. Southern Minnesota is approximately 200 miles north of Des Moines.

The Borden witness pointed out that it would cost about 30 cents per hundredweight to transport milk such distance, leaving a net price difference of 63 cents per hundredweight as an inducement for manufacturing grade producers to convert to Grade A production.

There is indication that additional milk supplies are being added to the Des Moines market. The total number of producers increased from 1,137 in August 1969 to 1,381 in August 1970. Total receipts of milk increased from 34.4 million pounds in August 1969 to 41.6 million pounds in August 1970 and Class I utilization dropped from 64.4 percent to 55.8 percent.

Borden, Inc., operates a fluid milk plant at Woodstock, Ill., which is regulated under the Chicago Regional Federal milk order. The Class I price at Woodstock is 23 cents less than the Class I price at Des Moines. The Borden, Inc., fluid milk accounts in the Quad Cities area are located about the same distance from the Woodstock plant as they are from the Des Moines plant. Consequently, Borden, Inc., conceivably may be in position to serve this area from its Woodstock plant rather than its Des Moines plant. If this occurs it would reduce the demand for milk delivered to its Des Moines plant.

Borden's proposal was not supported by any other handler or producer witness. However, all witnesses urged that the issue of Class I price alignment among Federal order markets throughout the Iowa, Minnesota, Kansas, Nebraska, and Missouri region be considered at a hearing as soon as practicable. For example, one Des Moines handler contended that the Des Moines Class I price was 4.5 cents too high relative to the Class I price for the North Central Iowa market, and 9 cents too high relative to the Class I price for the Southeastern Minnesota-Northern Iowa market. He suggested this matter be considered at a hearing involving all such order markets.

A witness for still another Des Moines handler contended that orderly marketing conditions in the Iowa markets would be enhanced by the merger of the orders and adoption of the same Class I price throughout the merged territory. This position is supported in briefs by another handler and a cooperative association.

All interested persons who participated in this proceeding indicate that there is a need to consider the matter of the appropriate Class I price differential for the Des Moines order relative to several neighboring orders. But since most persons urge that it be done at a hearing of broader scope, it is concluded that the proposal to reduce such differential by 15 cents should not be adopted on the basis of this record.

Nevertheless, in view of widely expressed desire to consider such issue soon, and because of the potential changes in the milk supply available to or needed by Des Moines handlers, the plus location adjustment to the Quad Cities-Dubuque order price at the Des Moines location should be made effective only on a temporary basis. Since it is contemplated that another hearing will be held soon on the issue of Class I price and/or a merger of orders involving the Des Moines and Quad Cities markets, such provision of the Quad Cities order can and should be reviewed at such a hearing.

3. *Market of regulation.* The hearing notice included a proposed amendment to the Des Moines order provisions concerning the market of regulation in the circumstance that a distributing plant meets the pool plant qualification provisions of more than one order.

No evidence was offered in support of the proposal on this matter. Accordingly, no action is taken on the proposal.

4. *Request for emergency action.* The issuance of a recommended decision and opportunity to file exceptions thereto should be omitted from the proceedings on this matter.

On the basis of emergency conditions being claimed by petitioners for the hearing, the hearing notice specified that evidence would be received on whether the recommended decision should be omitted.

All witnesses requested prompt action on their proposals and specifically requested that the recommended decision be omitted. Such requests were made also in most of the briefs filed. None of the briefs indicate opposition to such emergency action.

The amendments concluded to be appropriate in this decision would make the Class I price applicable at a plant located in the Des Moines marketing area the same when such plant is regulated under the Quad Cities-Dubuque order as when it is regulated under the Des Moines order. It is imperative that this amendment establishing equal prices be made effective at the earliest possible date to prevent the disorderly marketing conditions which would result from the present disparity of Class I prices at this location. It is found, therefore, that the due and timely execution of the Secretary's functions imperatively and unavoidably requires that the recommended decision be omitted.

Rulings on Proposed Findings and Conclusions

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

General Findings

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

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

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds,

and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

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

MARKETING AGREEMENT AND ORDER

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the Quad Cities-Dubuque marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

DETERMINATION OF PRODUCER APPROVAL AND REPRESENTATIVE PERIOD

July 1970 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Quad Cities-Dubuque marketing area is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on October 18, 1970.

RICHARD E. LYNG,
Assistant Secretary.

Order[1] Amending the Order, Regulating the Handling of Milk in the Quad Cities-Dubuque Marketing Area

FINDINGS AND DETERMINATIONS

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

(a) *Findings.* 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 Quad Cities-Dubuque marketing area. The hearing was held 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 (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

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

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 3 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

Producer milk, other source milk allocated to Class I pursuant to § 1063.46 (a) (3) and (7) and the corresponding steps of § 1063.46(b), and 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.

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

1. Section 1063.52 is revised to read as follows:

§ 1063.52 Location adjustments to handlers.

(a) For milk received from producers at a pool plant and disposed of as Class I milk 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 § 1063.50 (b) shall be adjusted as follows:

(1) At a plant in Dubuque and Jackson Counties, Iowa, and East Dubuque, Ill., subtract 10 cents;

(2) At a plant located outside the marketing area and outside the Des Moines, Iowa, marketing area as specified in Part 1079 of this chapter and 70 miles or more, by the shortest hard-surfaced highway distance as determined by the market administrator, from the nearer of the city hall, Rock Island, Ill., or the post office, West Liberty, Iowa, substract 10 cents and subtract an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 80 miles; and

(3) During the period through April 1971, at a plant located within the Des Moines, Iowa, marketing area, add any amount by which the price specified in § 1063.50(b) is less than the applicable Class I price at the same location pursuant to Part 1079 of this chapter regulating the handling of milk in the Des Moines, Iowa, marketing area.

(b) For purposes of calculating such adjustments, transfers between pool plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers, and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants having the same Class I price, next to transferor plants having a higher Class I price, and then in sequence to the plants having a lower Class I price beginning with the plant at which the highest Class I price would apply.

2. In § 1063.71 paragraph (c) is revised to read as follows:

§ 1063.71 Computation of aggregate value used to determine uniform price.

* * * * *

(c) Add the aggregate of the values of minus location adjustments and subtract the aggregate of all plus location adjustments pursuant to § 1063.82; and

* * * * *

3. In § 1063.80 paragraph (a) is revised to read as follows:

§ 1063.80 Time and method of payment for producer milk.

* * * * *

(a) On or before the 17th day after the end of each month during which milk was received, to each producer for milk received from him and for which payment is not made pursuant to paragraph (b) of this section, at not less than the uniform price pursuant to § 1063.72 adjusted by the butterfat differential computed pursuant to § 1063.81 and the location differential pursuant to § 1063.82.

* * * * *

4. In § 1063.82 paragraph (a) is revised to read as follows:

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

§ 1063.82 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk pursuant to § 1063.72 received at a pool plant shall be adjusted according to the location of the pool plant, at the rates set forth in § 1063.52; and

* * * * *

§ 1063.14 [Amended]

5. Section 1063.14 is amended by inserting the following provision prior to the proviso therein: "except that, during the period through April 1971, milk diverted from a plant located within the Des Moines, Iowa, marketing area as defined in Part 1079 of this chapter shall be priced at the location of the plant to which diverted."

[F.R. Doc. 70-14230; Filed, Oct. 21, 1970; 8:48 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Part 526]

INDUSTRIES OF A SEASONAL NATURE

Clarification of Notice of Proposed Findings Relating to Wild Rice Processing

A notice of proposed rule making relating to wild rice, processing was published in the October 7, 1970, FEDERAL REGISTER on page 15761.

The notice and the heading thereto are hereby clarified to indicate with more precision that the proposed heading and notice refer to those provisions of 29 CFR Part 526 which relate to "Industries of a Seasonal Nature." Accordingly the heading should refer to "Industries of a Seasonal Nature" and the first paragraph of the notice should read as follows:

Proposed findings relating to wild rice processing. In accordance with §§ 526.6 (b) and 526.7 of Title 29, Code of Federal Regulations, and pursuant to subsection (c) of section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(c)), Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and Secretary of Labor's Order No. 19–67 (32 F.R. 12980), notice is hereby given that I propose to amend § 526.10(b)(35) to extend the present industry of a seasonal nature determination for the wild rice industry which is at present limited to the State of Minnesota to include all wild rice processing establishments in the United States.

Dated at Washington, D.C., this 19th day of October 1970.

ROBERT D. MORAN,
Administrator.

[F.R. Doc. 70-14226; Filed, Oct. 21, 1970; 8:47 a.m.]

[29 CFR Parts 728, 729]

[Administrative Order No. 617]

INDUSTRIES IN PUERTO RICO

Revision of Schedules of Meetings of Committees

Administrative Order No. 613, 35 F.R. 6436, provided for the appointment of various Industry Committees for various defined industries in Puerto Rico, including Industry Committees Nos. 97–A, and 97–B, and gave notice of dates for investigations and hearings.

Pursuant to the authority given me under section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205), Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004) and 29 CFR Part 511, the time of investigations and hearings of Industry Committees Nos. 97–A, and 97–B set forth in section 3(c)(3) of Administrative Order 613, are changed as follows:

Industry Committee No. 97–A will meet in executive session to commence its investigation at 9:30 a.m. and begin its public hearing at 10:30 a.m. on Monday, January 11, 1971. Following this hearing, Industry Committee No. 97–B will immediately convene to conduct its investigation and hold its hearing.

Signed at Washington, D.C., this 20th day of October 1970.

J. D. HODGSON,
Secretary of Labor.

[F.R. Doc. 70-14284; Filed, Oct. 21, 1970; 8:48 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 73]

BIOLOGICAL PRODUCTS

Standards for Whole Blood (Human)

Notice is hereby given that the Director, National Institutes of Health, proposes to amend Part 73 of the Public Health Service Regulations by prescribing specific standards of safety, purity, and potency for Whole Blood (Human) from which antihemophilic factor has been removed in accordance with the Additional Standards for Cryoprecipitated Antihemophilic Factor (Human).

Inquiries may be addressed and data, views, and arguments may be presented by interested parties, in writing, in triplicate, to the Director, National Institutes of Health, Public Health Service, 9000 Rockville Pike, Bethesda, Md. 20014. All relevant material received not later than 30 days after publication of this notice of proposed rule making in the FEDERAL REGISTER will be considered.

Notice is also given that it is proposed to make any amendments that are adopted effective upon publication in the FEDERAL REGISTER.

It is therefore proposed to amend Part 73, as follows:

1. Amend Subpart D of the table of contents by inserting immediately after "73.3005 Labeling" the following:

Sec.

73.3006 Modifications of Whole Blood (Human).

2. Amend § 73.3005 by revising the first sentence up to the colon and by adding a new paragraph (f), to read as follows:

§ 73.3005 Labeling.

In addition to all other applicable labeling requirements, the following, except as prescribed in paragraphs (e) and (f) of this section, shall appear on the label of each container:

* * * * * *

(f) *Whole Blood (Human), Modified.* The label on each container of blood that is issued pursuant to the provisions of § 73.3006 shall bear, in addition to the other applicable labeling requirements, the following:

(1) Immediately following and in no less prominence than the proper name, the word "Modified."

(2) A prominent statement indicating that antihemophilic factor has been removed by cryoprecipitation. Such statement may appear on a separate label affixed to the container.

(3) Instructions not to use the unit of blood for patients requiring antihemophilic factor.

3. Amend Subpart D, the Additional Standards for Whole Blood (Human), by adding a new § 73.3006 immediately after § 73.3005, as follows:

§ 73.3006 Modifications of Whole Blood (Human).

Upon approval by the Director, Division of Biologics Standards, of an amendment to the product license application for Whole Blood (Human), a manufacturer may prepare Whole Blood (Human) from which the antihemophilic factor has been removed, provided the Whole Blood (Human) meets the applicable requirements of this part and the following conditions are met:

(a) The antihemophilic factor is removed by a process meeting the Additional Standards in Subpart D for Cryoprecipitated Antihemophilic Factor (Human).

(b) The red blood cells shall be maintained between 1 and 6° C. at all times including that time when the plasma is being frozen for removal of the antihemophilic factor.

(c) If containers for pilot samples are detached from the blood container during removal of the antihemophilic factor the pilot samples shall be reattached to the unit of Whole Blood (Human), Modified, as soon as the plasma is returned to the red blood cells. The reattachment

of the pilot samples shall be in a tamper-proof manner that will conspicuously indicate removal and reattachment.

(Sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216; sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262)

Dated: September 22, 1970.

ROBERT Q. MARSTON,
Director,
National Institutes of Health.

Approved: October 12, 1970.

ELLIOT L. RICHARDSON,
Secretary.

[F.R. Doc. 70-14227; Filed, Oct. 21, 1970; 8:48 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 70-SW-59]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter controlled airspace in the Walnut Ridge, Ark., terminal area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

(1) In § 71.171 (35 F.R. 2054), the Walnut Ridge, Ark., control zone is amended by substituting "3 miles" for "2 miles" in the second line and "8.5 miles" for "8 miles" in the third line.

(2) In § 71.181 (35 F.R. 2134, 11900), the Walnut Ridge, Ark., transition area is amended to read:

WALNUT RIDGE, ARK.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Walnut Ridge Municipal Airport (lat. 36°07'30" N., long. 90°55'25" W.); within 3 miles each side of the Walnut Ridge VORTAC 244° radial extending from the 6.5-mile radius area to 8.5 miles southwest of the VORTAC; and within a 5-mile radius of the Pocahontas Municipal Airport (lat. 36° 14'40" N., long. 90°56'40" W.).

Slight modifications of the Walnut Ridge, Ark., control zone have been effected to conform to Terminal Instrument Procedures (TERPs). Alteration of the transition area will provide controlled airspace for aircraft executing the instrument approach/departure procedures for Pocahontas Municipal Airport.

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

Issued in Fort Worth, Tex., on October 12, 1970.

HENRY L. NEWMAN,
Director, Southwest Region.

[F.R. Doc. 70-14189; Filed, Oct. 21, 1970; 8:45 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-CE-106]

FEDERAL AIRWAY

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would extend VOR Federal airway No. 138 from Fort Dodge, Iowa, to Mankato, Minn.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The FAA proposes the designation of a segment of V-138 from the Fort Dodge VORTAC direct to the Mankato VOR. The latest peak day activity report indicates 11 aircraft operated along a direct route between these locations. In addition, the airway segment will reduce the airway mileage between Omaha, Nebr., and Minneapolis, Minn., and lessen the congestion problem over the Mason City, Iowa, VORTAC.

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

Issued in Washington, D.C. on October 16, 1970.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 70-14190; Filed, Oct. 21, 1970; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1061]

[Ex Parte No. MC-89]

MOTOR COMMON CARRIERS OF PROPERTY

Maintenance of Service Request Records

OCTOBER 7, 1970.

At the request of Mr. J. Raymond Clark, Attorney on behalf of American Movers Conference et al., the time for filing initial statements in the above-entitled proceeding has been extended from October 15, 1970, to November 16, 1970. The time for filing reply statements has been extended from November 16, 1970, to December 16, 1970.

[SEAL] ROBERT L. OSWALD,
Secretary.

[F.R. Doc. 70-14229; Filed, Oct. 21, 1970; 8:48 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

FROZEN FRENCH FRIED POTATOES FROM CANADA

Notice of Tentative Negative Determination

OCTOBER 16, 1970.

Information was received on May 29, 1969, that frozen french fried potatoes manufactured by McCain Foods, Ltd., Florenceville, New Brunswick, Canada, were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act."). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of October 25, 1969, on page 17344.

I hereby make a tentative determination that frozen french fried potatoes manufactured by McCain Foods, Ltd., Florenceville, New Brunswick, Canada, are not being, nor likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

Statement of reasons on which this tentative determination is based. Information gathered during the course of the investigation indicated that there were sales in the home market of sufficient quantity to afford a proper basis for comparison.

There are no relationships between the exporter and importer within the meaning of section 207 of the Act.

Purchase price was, therefore, compared to the adjusted home market price for fair value purposes.

Purchase price was computed by deducting a cash discount, selling commission, U.S. Customs duty, and U.S. Customs brokerage fee from the gross f.o.b. plant, duty paid, price to unrelated purchasers in the United States. A drawback of Canadian duty was added to that price.

Adjusted home market price was based on the weighted average price to unrelated home market purchasers. From this price inland freight and actual selling expenses up to the amount of the commission deducted from purchase price were deducted. Adjustment was made for differences in servicing, packing and assumption by the seller of the purchasers' advertising costs.

Comparison between purchase price and adjusted home market price revealed that purchase price was not lower than the adjusted home market price.

In accordance with § 153.33(b), Customs Regulations (19 CFR 153.33(b)), interested parties may present written views or arguments, or request in writing, that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, D.C. 20226, in time to be received by his office not later than 14 days from the date of publication of this notice in the FEDERAL REGISTER.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

This tentative determination and the statement of reasons therefor are published pursuant to § 153.33 of the Customs Regulations (19 CFR 153.33).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[F.R. Doc. 70-14199; Filed, Oct. 21, 1970; 8:46 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

IDAHO

Notice of Filing of Plats of Survey

OCTOBER 16, 1970.

1. Plats of survey for the following described lands, accepted July 30, 1970, will be officially filed in the Land Office, Boise, Idaho, effective at 10 a.m. on November 25, 1970:

BOISE MERIDIAN, IDAHO

T. 7 N., R. 40 E.,
Sec. 1, lots 14 to 18, inclusive;
Sec. 2, lot 8;
Sec. 9, lot 3;
Sec. 10, lots 7 to 23, inclusive, NW¼SE¼;
Sec. 11, lots 7 to 15, inclusive;
Sec. 15, lots 4 and 5;
Sec. 16, lots 8 to 16, inclusive;
Sec. 17, lots 6 to 12, inclusive;
Sec. 18, lots 7 and 8;
Sec. 19, lots 9 to 16, inclusive;
Sec. 20, lots 4, 5, and 6.
T. 8 N., R. 41 E.,
Sec. 12, lot 8;
Sec. 23, lots 7, 8, and 9;
Sec. 27, lots 8 and 9;
Sec. 32, lots 7, 8, and 9;
Sec. 33, lots 9 to 14, inclusive.

The areas described aggregate 935.79 acres of surveyed land.

2. The lands involve dependent resurveys, surveys of islands and omitted lands.

3. The omitted lands are subject to the provisions of the Act of May 31, 1962 (76 Stat. 89). Before sale of any of the omitted lands can be made, a notice in accordance with the regulations in 43 CFR 2546.1 must be published in the FEDERAL REGISTER. Inquiries concerning the lands should be addressed to the Manager, Idaho Land Office, 550 West Fort Street, Boise, Idaho 83702.

EUGENE E. BABIN,
Acting Land Office Manager,
Boise, Idaho.

[F.R. Doc. 70-14215; Filed, Oct. 21, 1970; 8:47 a.m.]

[Serial No. I-3362]

IDAHO

Notice of Classification of Public Lands in Milner Wildlife Habitat Area for Multiple-Use Management

OCTOBER 15, 1970.

1. Pursuant to the Act of September 19, 1964 (78 Stat. 986; 43 U.S.C. 1411–18), and to the regulations in 43 CFR Parts 2410 and 2460, the public lands within the area described in paragraph No. 3 are hereby classified for multiple-use management. Publication of this notice has the effect of segregating all of the public lands in the area described from appropriation under the agricultural land laws (43 U.S.C., Parts 7 and 9; 25 U.S.C., sec. 334); from sale under the Public Land Sale Act (43 U.S.C. 1421–1427) and section 2455 of the Revised Statutes (43 U.S.C. 1171); from Lieu Selection laws (43 U.S.C. 141–143, 851–2, and 870–1); and from operation of the general mining laws (30 U.S.C., Chapter 2), but not the mineral leasing laws. Except as provided for above, the lands shall remain open to all other applicable forms of appropriation.

As used herein, "public lands" mean any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. Comments were received during the 60 days following publication of the notice of proposed classification (F.R. Doc. 70-8435). The record showing reaction to the proposed notice of classification for multiple-use management made by members of the public is on file and can be examined in the Idaho Land Office, Boise, Idaho. All comments concerning the proposed classification were carefully considered and evaluated.

3. Public lands proposed for classification are in Cassia County and within the area described below. They are shown on maps filed in the Burley District Office, Bureau of Land Management, and in the Land Office, Federal Building, 550 West Fort Street, Boise, Idaho 83702:

BOISE MERIDIAN, IDAHO

T. 10 S., R. 21 E.,
Secs. 22, 25, 26, 27, and 35 (all land south of Snake River).

T. 10 S., R. 22 E.,
Sec. 30: lots 3 and 4.

The area described aggregates approximately 1,415.39 acres.

4. For a period of thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2461.3.

CLAIR M. WHITLOCK,
Acting State Director.

[F.R. Doc. 70-14216; Filed, Oct. 21, 1970; 8:47 a.m.]

[Montana 12759]

MONTANA

Order Providing for Opening of Public Lands

OCTOBER 13, 1970.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1269), as amended (43 U.S.C. 315g), the following described lands have been reconveyed to the United States:

PRINCIPAL MERIDIAN, MONTANA

T. 13 N., R. 55 E.,
Sec. 2, lots 3, 4, S½NW¼, N½SW¼, and W½SE¼;
Sec. 10, E½;
Sec. 24, all.
T. 13 N., R. 56 E.,
Sec. 5, lots 1, 2, 3, and 4, S½N½ and S½;
Sec. 10, E½;
Sec. 18, lots 1, 2, 3, and 4, E½W½ and E½.

The area described contains 2,885.57 acres.

2. The lands comprise six parcels of grazing land situated in Dawson County, Mont. Generally, the topography is gently to moderately rolling. The lands have been acquired to further Federal programs. Public lands in this area have been classified for Multiple-Use Management and retention in Federal ownership under serial number Montana 12080.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands are hereby opened to application, petition, location, and selection, except for appropriation under the agricultural land laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. sec. 334), and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171). All valid applications received at or prior to 10 a.m. on November 19, 1970, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The mineral rights in the lands were not exchanged. Therefore, the mineral status of the lands are not affected by this order.

5. Inquiries concerning the lands should be addressed to the Land Office Manager, Bureau of Land Management, Billings, Mont.

ROLAND F. LEE,
Acting Land Office Manager.

[F.R. Doc. 70-14201; Filed, Oct. 21, 1970; 8:46 a.m.]

[Montana 16609]

MONTANA

Order Providing for Opening of Public Lands

OCTOBER 13, 1970.

1. In exchanges of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1269), as amended (43 U.S.C. 315g), the following lands have been reconveyed to the United States:

PRINCIPAL MERIDIAN, MONTANA

T. 9 N., R. 49 E.,
Sec. 21;
Sec. 29.
T. 6 N., R. 53 E.,
Sec. 1, lots 1 to 12 inclusive and S½;
Sec. 11, all;
Sec. 12, W½;
Sec. 13, all;
Sec. 14, E½.
T. 6 N., R. 54 E.,
Sec. 17, all;
Sec. 18, lots 1 and 2, NE¼, and E½NW¼.

The areas described contain 4,914.87 acres.

2. The lands are located in Custer County. The broken topography of the land is not suitable for cultivation. The lands have been acquired to further Federal programs. Public lands in this area have been classified for multiple use management and retention in Federal ownership under serial number M 12081.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands are hereby open to application, petition, location, and selection, except for appropriation under the agricultural land laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. sec. 334), and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171). All valid applications received at or prior to 10 a.m., November 23, 1970, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The mineral rights in the lands are in private ownership and their status is not affected by this order.

5. Inquiries concerning the lands should be addressed to the Chief, Division of Lands and Minerals Program Management and Land Office, Bureau of Land Management, 316 North 26th Street, Billings, Mont. 59101.

ROLAND F. LEE,
Acting Land Office Manager.

[F.R. Doc. 70-14202; Filed, Oct. 21, 1970; 8:46 a.m.]

[Montana 15352]

MONTANA

Notice of Classification of Public Lands for Multiple-Use Management

Correction

In F.R. Doc. 70-13487 appearing at page 15852 in the issue for Thursday, October 8, 1970, the third line under the heading "Yellowstone County" in paragraph 4, now reading "Sec. 21, E½NE¼, SW¼NW¼, and SE¼" should read "Sec. 21, E½NE¼, SW¼NE¼, and SE¼".

[Serials Nos. N-892-A, N-1005-A]

NEVADA

Notice of Proposed Amendment to Final Classification of Public Lands for Multiple-Use Management

OCTOBER 15, 1970.

1. The notices appearing in F.R. Doc. 67-6610, pages 8537-38 of the issue of June 14, 1967, and F.R. Doc. 67-7343, pages 9239-40 of the issue of June 29, 1967, are proposed to be changed as follows:

2. F.R. Doc. 67-7343 (White Pine County Classification.) Add a new paragraph 3-a to include the following described lands to provide for their segregation from disposal under the public land laws, including the general mining laws, but not the Recreation and Public Purposes Act or the mineral leasing and material sale laws. In accordance with the provisions in 43 CFR 2071.1(b), each site listed below is designated to be identified by the name listed.

GOSHUTE CAVE GEOLOGIC AREA

Goshute Cave located in the Cherry Creek Mountains of eastern Nevada. This cave is a major challenge to speleologists. Stalactitic and flowstone deposits occur through most of Goshute Cave except for a few isolated areas of massive forms. However, they tend to be small and sparse. Strange interlocking wavy ribs, known as folia, are known only from Goshute Cave and Burial Cave.

MOUNT DIABLO MERIDIAN, NEVADA

T. 25 N., R. 63 E.,
Sec. 1, NE¼SE¼, E½NE¼.
T. 25 N., R. 64 E.,
Sec. 6, SW¼NW¼, NW¼SW¼.

GOSHUTE CANYON NATURAL AREA

This area contains a live stream, Goshute Creek. It rises from springs about the 9,000-foot level and flows down to approximately 6,400 feet in elevation.

Massive limestone ledges bound the canyon to the north and south, and along the west boundary. Elevations range from about 10,500 feet in the high country to about 6,400 feet on the bench.

Goshute Creek contains a unique and rare trout. Until early 1970, this fish was thought to be a remanent population of the Utah Cutthroat Trout. Recent studies, however, indicate this fish is probably of preglacial origin, and is presently not identified.

Vegetation ranges from aspen and white fir in the higher elevations to pinyon and juniper at the lower elevations. Aspen, cottonwood, roses, and a variety of browse species grow along the banks of Goshute Creek.

Geologically, the upper basin is characterized by a near textbook display of earth slumps or geologic land slides.

MOUNT DIABLO MERIDIAN, NEVADA

T. 25 N., R. 63 E., unsurveyed,
Sec. 1, SW¼SW¼;
Sec. 2, S½, S½N½, NW¼NW¼;

Sec. 3;
Sec. 4;
Sec. 5;
Sec. 8, NE¼, SE¼NW¼, N½NW¼, N½SE¼;
Sec. 9, N½SW¼, W½SE¼, NE¼SE¼;
Sec. 10, N½;
Sec. 11, N½, N½SE¼, NE¼SW¼;
Sec. 12, N½SW¼, S½NW¼, NW¼NW¼, SW¼NE¼, NW¼SE¼, E½SE¼.
T. 26 N., R. 63 E.,
Sec. 26, SW¼, SW¼NW¼, SW¼SE¼;
Sec. 27, SE¼, SE¼NE¼, S½SW¼;
Sec. 33, SE¼, E½SW¼, S½NE¼;
Sec. 34, N½, SW¼, E½SE¼;
Sec. 35, W½, W½E½, E½SE¼.
T. 25 N., R. 64 E.,
Sec. 7, SW¼, SW¼SE¼;
Sec. 17, SW¼NW¼;
Sec. 18, NE¼NW¼, NW¼NE¼, NE¼NE¼, S½NE¼.

SWAMP CEDAR NATURAL AREA

The most unique characteristic of this site is the swamp cedar, an unnamed subspecies of Juniperous scopulorum. This colony of trees is completely isolated from any other trees in the bottom of Spring Valley. The site is characterized by a high water table and saline alkali soils. Normally, this tree is found scattered among other species at the higher elevations on well drained soils.

Only two other similar sites are known to exist in Nevada.

MOUNT DIABLO MERIDIAN, NEVADA

T. 15 N., R. 67 E.,
Sec. 21;
Sec. 22;
Sec. 23, NW¼, N½SW¼;
Sec. 27, N½, NW¼SE¼, N½SW¼, SW¼SW¼;
Sec. 28;
Sec. 33, NE¼NE¼, W½E½, W½;
Sec. 34, NW¼NW¼.

WEAVER CREEK SCENIC AREA

This area is characterized by willows and cottonwoods and other phreatophytes common to the area. It is quite a scenic setting below the rugged Bald Mountain-Wheeler Peak area. Some of the fish from the Goshute Canyon area were recently transplanted into this formerly barren stream. The Nevada Department of Fish and Game feel this stream is a compatible fishery. The area ties into the Wheeler Peak scenic and recreation area of Humboldt National Forest and Lehman Caves National Monument.

MOUNT DIABLO MERIDIAN, NEVADA

T. 14 N., R. 68 E.,
Sec. 10, E½SE¼;
Sec. 11, NE¼, S½NW¼, SW¼SW¼, N½SW¼;
Sec. 12, N½N½, SW¼NW¼.

BLUE MASS CANYON SCENIC AREA

This scenic area, located in northeast White Pine County, Nev., in the Kern Mountains, lies at an elevation from 7,000–9,000 feet. A winding canyon bottom containing a live stream is bounded by rugged and scenic slopes. Vegetative cover consists of chokecherry, alders, and willows in the canyon bottoms, with white fir, pinyon pine, curlleaf mahogany, and sagebrush on the upper slopes. Numerous unusual granitic rock formations over several hundred acres may be observed by the traveler. Wildlife such as coyote, mountain lion, deer, ground squirrel, and many species of birds can be seen in the area.

MOUNT DIABLO MERIDIAN, NEVADA

T. 21 N., R. 68 E.,
Sec. 1, lots 1 and 2, S½NE¼.
T. 21 N., R. 69 E.,
Sec. 6, lots 3, 4, and 5, SE¼NW¼.
T. 22 N., R. 68 E.,
Sec. 36, E½.
T. 22 N., R. 69 E.,
Sec. 31, lots 2, 3, and 4, E½SW¼, SE¼NW¼, W½NE¼.

SHOSHONE PONDS NATURAL AREA

This area contains a small stand of swamp cedar. Five artesian wells were drilled in 1937 and are flowing unchecked over the area. This water has been examined by fisheries biologists and found suitable as an alternate habitat for the Pahrump Killifish, Moapa Dace, and Pahranagat Bonytail, all rare and endangered species. There are also numerous bird species and small mammals in the area.

MOUNT DIABLO MERIDIAN, NEVADA

T. 13 N., R. 67 E.,
Sec. 35, S½S½.
T. 12 N., R. 67 E.,
Sec. 2;
Sec. 11, W½, S½NE¼, SW¼SE¼.

GARNET FIELDS ROCKHOUND AREA

Dark red garnets are plentiful on the area and an occasional crystal of size and quality suitable for use as jewelry may be found. These garnets have been identified by the Nevada Bureau of Mines as a deep red variety of spessarite, manganese aluminum garnet.

The garnet fields are located about mid-way between Ely and Ruth, Nev., on Highway 50. The vegetative cover is predominately pinyon-juniper with a sagebrush understory.

MOUNT DIABLO MERIDIAN, NEVADA

T. 16 N., R. 62 E.,
Sec. 1;
Sec. 2, E½, SE¼NW¼, NE¼SW¼ (less patented lands);
Sec. 12, N½N½, S½NE¼ (less patented lands).

BAT CAVE AND GUANO MINE HISTORIC AREA

The Bat Cave and Guano Mine is a natural cave. An old mining shaft runs about 100 feet through solid rock to the bottom of the cave. The abundant guano was mined through this tunnel in past years. Remnants of the old mining operation are still visible at the site which creates interest from a historical, as well as a geological standpoint.

The vegetative cover type of the area is primarily pinyon-juniper. Wildflowers, small birds, and other small animals are numerous in the area.

MOUNT DIABLO MERIDIAN, NEVADA

T. 15 N., R. 67 E.,
Sec. 25, SE¼SE¼.

NORTH CREEK SCENIC AREA

The North Creek Scenic Area is characterized by a steep canyon with a clear, flowing creek in its bottom which supports a small population of rainbow trout. Vegetation consists of pinyon-juniper on the drainage side slopes and willow aspen, black locust, grasses, forbs, and a wide assortment of shrubs in the drainage bottom. The area is outstanding from a scenic viewpoint, especially in the fall months when the aspen leaves change color.

The area presently receives quite heavy recreation use despite the absence of improved recreation facilities. Recreation opportunities are abundant and include activities such as fishing, hunting, camping, sightseeing, and rockhounding.

MOUNT DIABLO MERIDIAN, NEVADA

T. 10 N., R. 65 E.,
Sec. 19, S½;
Sec. 20, S½;
Sec. 30, N½.

KIOUS SPRING SCENIC AREA

The Kious Spring Scenic Area consists of a large, clear spring and a wet meadow. It is situated on benchland characterized by vegetative cover of the black sagebrush type. This location makes the spring and meadow area very scenic, contrasting with the dull grey of the surrounding terrain.

The spring area contains some Indian writings, mostly of the petroglyph type, which can be found on the rocks in the immediate vicinity.

There are populations of deer and sage grouse in the surrounding area, and smaller animals and birds are abundant.

Rock hounding opportunities are available and many fossils can be seen.

MOUNT DIABLO MERIDIAN, NEVADA

T. 13 N., R. 70 E.,
Sec. 19, SW¼NE¼.

SNAKE CREEK INDIAN BURIAL CAVE ARCHEOLOGICAL SITE

The Snake Creek Indian Burial Cave Site is a cave that has a depth of about 50 feet and an entrance about 10 feet across. It has been speculated that the cave was used as a burial ground for Indians inhabiting the area during the Development Pueblo Period, more specifically Pueblo II, although this has not been verified.

MOUNT DIABLO MERIDIAN, NEVADA

T. 12 N., R. 70 E.,
Sec. 13, SE¼NW¼.

ROCK ANIMAL CORRAL ARCHEOLOGICAL SITE

The Rock Animal Corral is approximately 275 feet wide and 550 yards long constructed in a small ravine or saddle. The walls are about 3 feet tall and side walls or wings run up the sides of the saddle.

The corral was constructed and used by Indians to trap and hold antelope. There are three piles of rock at the northwest corner of the corral which were used to decoy antelope into the corral.

The site is located about 10 miles northeast of Silverdale, Nev., near the Nevada-Utah State Line.

MOUNT DIABLO MERIDIAN, NEVADA

T. 15 N., R. 70 E.,
Sec. 23, SE¼.

BAKER CREEK ARCHEOLOGICAL SITE

The Baker Creek Site is an area of prehistoric Indian occupation. The site consists of numerous irregularly shaped mounds and shallow depressions, and large concentrations of rock can be observed. These formations appear to be part of a house or room foundation, since some of the stones are arranged in straight lines.

Drill points and butts, chips of stone and pottery can be observed in and around the site.

The site is located near the road between Baker, Nev., and Lehman Caves.

MOUNT DIABLO MERIDIAN, NEVADA

T. 13 N., R. 70 E.,
Sec. 7, lots 1 and 2.

BAKER ARCHEOLOGICAL SITE

The Baker Site is an area of prehistoric Indian occupation. The site consists of numerous irregular shaped mounds and shallow depressions which appear to be the remains of buried house mounds. Arrowheads, chips of stone, pottery, and other artifacts can be observed at the site.

The site is located about 2 miles north of Baker, Nev., and east of State Highway 73.

MOUNT DIABLO MERIDIAN, NEVADA

T. 14 N., R. 70 E.,
Sec. 33, S½SE¼.

GARRISON ARCHEOLOGICAL SITE

The Garrison Site is an area of prehistoric Indian occupation. The site was excavated by the Archeology Department of the University of Utah in 1952, and was found to contain 14 irregularly shaped oval mounds and three shallow depressions or basins. The mounds were found to contain coursed adobe surface structures and the basins revealed remains of a subterranean structure. The outline of a rectangular jackel house was found in one of the basins. Associated artifacts of pottery stone, bone, and shell, were also found.

It was determined from this investigation that the site was clearly aligned with the Development Pueblo Period, more specifically Pueblo II.

The site is situated in the Snake Valley floor at about 5,300 feet elevation. Garrison, Utah is about 2 miles south of the site.

MOUNT DIABLO MERIDIAN, NEVADA

T. 12 N., R. 70 E.,
Sec. 1, lots 1, 10, 11.

The area within the sites described aggregates approximately 16,700 acres.

3. F.R. Doc. 67-7343 (White Pine County Classification). Add a new paragraph 3-b to include the following described lands to provide for their segregation from disposal under the public land laws, but not the general mining laws, Recreation and Public Purposes Act, mineral leasing laws, or the material sale laws. In accordance with 43 CFR 2071.1(b), the site is designated to be identified by the name listed.

MOUNT GRAFTON SCENIC AREA

The Mount Grafton Area is a rugged mountain range, part of the South Schell Creek Range situated about 40 miles south of Ely, Nev. The elevation of the mountain varies from 10,993 feet at its highest point to 7,000 feet near the foot of the mountain.

The mountain range is very scenic. There are large areas of jagged rock intermingled with almost pure stands of white fir. From the top of the mountain one can see for many miles in most directions.

Vegetation on the mountain is varied. The foothills are covered with sagebrush and as the elevation increases, pinyon-juniper, mountain mahogany, and white fir are encountered. The area near the top of the mountain supports vegetation representative of the sub-Alpine vegetation types.

The Mount Crafton Area also supports scattered areas of Bristlecone Pine. The Bristlecone Pine Tree is unique in that it achieves ages in excess of 4,000 years, although those observed on the mountain are about 1,500–2,000 years old. These trees grow at the higher elevations and attain greater ages on areas where there are shallow rocky soils.

The geology of the area is characterized by the presence of the Pioche Shale and the Prospect Mountain Quartzite formations. These two formations have been very productive mineral producers in the past.

MOUNT DIABLO MERIDIAN, NEVADA

T. 10 N., R. 64 E.,
Sec. 23, S½, S½N½, N½NE¼, NE¼NW¼;
Sec. 24, S½, S½N½;
Sec. 25;
Sec. 26, E½, E½W½, NW¼NW¼;
Sec. 35, E½, E½W½;
Sec. 36.
T. 9 N., R. 64 E.,
Sec. 1;
Sec. 2, E½, NE¼NW¼;
Sec. 11, E½E½;
Sec. 12;
Sec. 13;
Sec. 14, NE¼NE¼;
Sec. 23, SE¼NE¼, E½SE¼, SW¼SE¼;
Sec. 24;
Sec. 25;
Sec. 26, E½;
Sec. 35, E½;
Sec. 36, N½, N½S½, S½SW¼.
T. 9 N., R. 65 E.,
Sec. 5, W½;
Sec. 6;
Sec. 7;
Sec. 8, W½;
Sec. 17, W½;
Sec. 18;
Sec. 19;
Sec. 20, W½;
Sec. 29, W½W½;
Sec. 30;
Sec. 31, N½, N½SW¼, NW¼SE¼.
T. 10 N., R. 65 E.,
Sec. 19, W½SW¼, SE¼SW¼, SW¼SE¼;
Se. 30, W½, SE¼, W½NE¼;
Sec. 31;
Sec. 32, W½SW¼.

The area described above aggregates approximately 15,000 acres.

4. F.R. Doc. 67-6610 (Lincoln County Classification.) Add a new paragraph 3-a to include the following described lands to provide for their segregation from disposal under the public land laws, including the general mining laws, but not the Recreation and Public Purposes Act or the mineral leasing and material sale laws. In accordance with the provisions in 43 CFR 2071.1(b), each site listed below is designated to be identified by the name listed.

MOUNT IRISH ARCHEOLOGICAL SITE

The Mount Irish Archeological Site consists of numerous petroglyphs that can be found on rocks in several areas within the site. The site is characterized by massive boulders laying over the land, many of which carry the petroglyphs. The surrounding terrain consists of various rock formations which contribute to the natural beauty of the area.

The site is located about 8 miles west of Hiko, Nev., on the southeast side of Mount Irish in Logan Canyon.

MOUNT DIABLO MERIDIAN, NEVADA

T. 4 S., R. 59 E.,
Sec. 8, SE¼;
Sec. 9, SW¼;
Sec. 16, NW¼;
Sec. 17, NE¼.

LEVIATHIAN CAVE GEOLOGIC AREA

This cave, located high on the south and west end of the Worthington Mountain Range, is accessible only to the hardy individual. The cave has three distinct rooms. The most active room is characterized by stalagmites, stalactites, flowstone, curtains, and unusual globe-like formations. Many of the other cave formations such as cave coral, rimstone, and a raganite may also be observed in this cave. The most outstanding feature of the cave is its tremendous opening. This cave may possibly have the largest natural cave opening in the continental United States, being about 180 feet wide by 80 feet high. The total length of the cave as it is known today is about 2,000 feet. Human skeletal remains have been observed in the cave. This may indicate the Indians used this as a burial cave.

MOUNT DIABLO MERIDIAN, NEVADA

T. 1 S., R. 57 E.,
Sec. 29, SW¼SW¼;
Sec. 30, S½S½;
Sec. 31;
Sec. 32, W½W½.

WHITE RIVER PETROGLYPHS ARCHEOLOGICAL SITE

The White River Petroglyphs occupy an area in a narrow, winding canyon approximately 2½ miles long. The canyon walls are vertical rock walls with unusual rock formations. Indian writings (petroglyphs) are present in both canyon walls along most of the canyon length. There are also a few pictographs present in the area but these have eroded extensively and are difficult to see.

The area has outstanding scenic qualities and recreation opportunities, and is located about 21 miles north of Hiko, Nev., on State Highway 38A in the White River drainage. The area is locally known as the Narrows.

MOUNT DIABLO MERIDIAN, NEVADA

T. 1 S., R. 62 E.,
Sec. 15, SW¼SW¼;
Sec. 21, SE¼SE¼;
Sec. 22, W½W½;
Sec. 28, N½N½, S½NW¼.

WHIPPLE CAVE GEOLOGIC AREA

This cave has an unsual double opening which drops vertically about 90 feet to the floor of the main cave. Many of the usual cave formations such as flowstone, rimstone, stalactites, and stalagmites and columns may be seen in Whipple Cave. Due to its relatively easy access, this is a very popular cave with spelunkers.

MOUNT DIABLO MERIDIAN, NEVADA

T. 8 N., R. 62 E.,
Sec. 35, E½NE¼.

CAVE VALLEY CAVE GEOLOGIC AREA

Cave Valley Cave was one of the first caves discovered and surveyed in Nevada. This was discovered by members of the second White Mountain expedition of the Latter Day Saints Church on April 14, 1858. It is about 3,000 feet long and consists of low, wide rooms and immense chambers that are bewildering to explore. In 1942, Carl K. and Earl L. Hubbs discovered a new cave species of polydesmoid milliped (tidesmas hubbsi) deep within the cave. One of the most unusual features of this cave is a stag-lamitic form termed "cave money", a flat multilaminated formation about the size of a half dollar. The cave is developed in Pole Canyon limestone of middle cambrian age. It is characterized by a deep viscous orange mud with which the cave is well supplied.

MOUNT DIABLO MERIDIAN, NEVADA

T. 9 N., R 64 E.,
Sec. 17, NE¼NE¼.

The area within the sites described above aggregates approximately 2,250 acres.

5. All the above described lands are found to have high scientific, natural, and recreation values. The lands require the protection afforded by the above segregations to maintain the natural environment. The record of public comments and maps of each of the sites described are of record in the Ely District Office.

6. For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed segregation may present their views in writing to the Ely District Manager, Bureau of Land Management, Pioche Star Route, Ely, Nev. 89301.

7. A public hearing on the proposed segregation will be held on Tuesday, November 10, 1970 at 7:30 p.m., in the Ely Grade School Auditorium, Ely, Nev.

For the State Director.

ROLLA E. CHANDLER,
Manager, Nevada Land Office.

[F.R. Doc. 70-14203; Filed, Oct. 21, 1970; 8:46 a.m.]

[Serial No. N-1885-C]

NEVADA

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

OCTOBER 15, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1412), it is proposed to classify for multiple-use management the public land described below. Publication of this notice has the effect of segregating the described land from appropriation under the agriculture land laws (43 U.S.C. Parts 7 and 9, 25 U.S.C. 334) and from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171), from exchange (43 U.S.C. 315g), and from sale under the Act of September 19, 1964 (78 Stat. 988, 43 U.S.C. 1421-1427). As used in this order, the term "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269) as amended, which are not otherwise withdrawn for a Federal use or purpose.

Lands will remain open to disposal under the Recreation and Public Purposes Act of June 24, 1925 (44 Stat. 741, 68 Stat. 173, 43 U.S.C. 869) as amended. The public lands described in paragraph 5 are further segregated from appropriation under the general mining laws but not the mineral leasing and material sale laws. The public lands described in paragraph 6 are further segregated from all forms of appropriation except under the Recreation and Public Purposes Act, the general mining laws, the mineral leasing laws and the material sale laws.

2. This proposed classification will add some 24,800 acres to the previous countywide multiple-use classification N-1885, finally classified on November 1, 1969. The lands involved have been identified as being valuable for a community college site, school sites, recreation use and development, wildlife habitat (extremely valuable winter deer range), scenic open space near Topaz Lake and along U.S. Highway 395 and watershed purposes. The Bureau of Land Management's District Office has worked closely with local governmental officials in identifying these areas which have high public use potential. Segregation from appropriation under the public land laws, except the Recreation and Public Purposes Act, and in part from appropriation under the general mining laws, will help insure protection and provide for public use of these sites.

Comments received on this proposed classification from state and local governmental officials have all been favorable to the action planned. No adverse comments have been received.

3. The public land affected by this proposed classification is shown on maps on file and available for inspection in the Carson City District Office, Bureau of Land Management, 801 North Plaza Street, Carson City, Nev., and the Nevada Land Office, Bureau of Land Management, Room 3104, Federal Building, 300 Booth Street, Reno, Nev. 89502.

4. The public lands proposed to be classified for multiple-use management are described as follows:

MOUNT DIABLO MERIDIAN, NEVADA

T. 14 N., R. 19 E.,
Sec. 24, NE¼SW¼, N½SE¼.
T. 14 N., R. 20 E.,
Sec. 5, lots 3-13 and 16-18 (NW¼NW¼), E½SW¼NW¼, NE¼NW¼SW¼NW¼, NE¼SW¼SW¼NW¼, NE¼SE¼NW¼, NW¼NW¼SE¼NW¼, S½NW¼SE¼NW¼, S½SE¼NW¼, SW¼;
Sec. 6, SW¼NE¼SW¼NE¼, N½SE¼SW¼NE¼, SW¼SE¼SW¼NE¼, E½NE¼SE¼NE¼, NW¼NE¼SE¼NE¼, NE¼NW¼SE¼NE¼, NW¼SW¼SE¼NE¼, SE¼SW¼SE¼NE¼, SE¼SE¼NE¼, E½E½SE¼, NW¼NW¼NE¼SE¼, SE¼NW¼NE¼SE¼, S½SW¼NE¼SE¼, N½N½NW¼SE¼, SW¼NE¼NW¼SE¼, S½NW¼NW¼SE¼, S½NW¼SE¼, S½NW¼SE¼SE¼, N½SW¼SE¼SE¼;
Sec. 7, NE¼NE¼NE¼, S½NW¼NE¼NE¼, S½NE¼NE¼;
Sec. 8, N½NW¼;
Sec. 18, S½SW¼;
Sec. 21, NW¼SE¼, SE¼SE¼;
Sec. 27, E½SW¼.
T. 13 N., R. 20 E.,
Sec. 1, E½;
Sec. 12, NE¼, N½SE¼.
T. 13 N., R. 21 E.,
Sec. 4, E½;
Sec. 7, N½NE¼, NW¼, N½SW¼;
Sec. 8, E½NW¼, NW¼NW¼, E½SW¼, SE¼;
Sec. 9, all;
Sec. 16, N½N½;
Sec. 17, E½, E½W½.
T. 12 N., R. 21 E.,
Sec. 5, NW¼SW¼, S½S½;
Sec. 6, S½;
Sec. 7, all;
Sec. 8, all;
Sec. 9, SW¼, W½SE¼, SE¼SE¼;
Sec. 16, all;
Sec. 17, N½, W½SW¼, E½SE¼;
Sec. 18, N½NE¼, E½SW¼NE¼, SE¼NE¼, NE¼NW¼, lots 1 and 3, E½SW¼, SE¼;
Sec. 19, NE¼NW¼, E½;
Sec. 20, all;
Sec. 21, all;
Sec. 29, N½, SW¼;
Sec. 30, E½, S½NW¼, N½SW¼, E½SW¼SW¼, SE¼SW¼.
T. 11 N., R. 21 E.,
Sec. 1, SW¼, E½SE¼;
Sec. 3, W½W½, SE¼SW¼, SW¼SE¼;
Sec. 4, N½, NE¼SW¼, SE¼;
Sec. 9, E½NE¼;
Sec. 10, W½NE¼, NW¼, N½SW¼, SW¼SW¼, SE¼;
Sec. 11, W½SW¼;
Sec. 12, NW¼NE¼, N½NW¼;
Sec. 14, NW¼NW¼;
Sec. 15, N½NE¼, NE¼NW¼, SW¼;
Sec. 16, S½.
T. 11 N., R. 22 E.,
Sec. 8, NE¼NE¼, S½NE¼;
Sec. 17, S½;
Sec. 18, NW¼SE¼, S½SE¼;
Sec. 20, E½SE¼;
Sec. 29, E½NE¼;
Sec. 32, N½, N½S½, SW¼SW¼, SE¼SE¼.
T. 10 N., R. 21 E.,
Sec. 23, lots 4 and 5;
Sec. 24, lots 4, 5, 6, and 7.
T. 10 N., R. 22 E.,
Sec. 1, NW¼NE¼, N½NW¼, SW¼NW¼, S½;
Sec. 2, N½, N½S½;
Sec. 3, NE¼, N½S½;

Sec. 5, NW¼NW¼, S½NW¼, SW¼, W½SE¼;
Sec. 8, W½NW¼, NW¼, N½SW¼, NW¼SE¼;
Sec. 17, N½NW¼;
Sec. 19, S½NE¼, NE¼NW¼, S½NW¼, N½SW¼, SE¼SW¼, SE¼;
Sec. 20, all;
Sec. 21, S½;
Sec. 28, N½;
Sec. 29, E½NE¼, NW¼NE¼, N½SW¼NE¼, N½NE¼NW¼, SE¼NE¼NW¼, SE¼SW¼NE¼, E½SW¼SW¼NE¼, E½SW¼NE¼NW¼, N½NW¼NW¼;
Sec. 30, NE¼NE¼, SW¼NE¼, lots 6, 7, 8, 9, 10, 11, 12, 13, and 14;
Sec. 31, lot 3;
Sec. 33, SE¼NE¼, N½SE¼, SE¼SE¼;
Sec. 34, S½NE¼, SE¼NW¼, S½;
Sec. 35, W½NE¼, NE¼NW¼, S½NW¼, SW¼, NW¼SE¼.

T. 10 N., R. 23 E.,
Sec. 4, N½, N½SW¼, SW¼SW¼, N½SE¼;
Sec. 5, N½N½, SE¼NE¼, NE¼SE¼, S½SE¼;
Sec. 6, N½, SW¼, NW¼SE¼;
Sec. 7, W½NW¼;
Sec. 8, NE¼, N½SE¼;
Sec. 21, lots 1–4, 7–10;
Sec. 22, lots 1–4, S½N½;
Sec. 28, lots 1–4, E½W½;
Sec. 33, lots 1–5, E½NW¼, NE¼SW¼.

T. 9 N., R. 23 E.,
Sec. 4, lots 3, 4, 11–14, S½NW¼;
Sec. 9, lots 1–8, E½W½;
Sec. 16, lots 1–7, E½W½;
Sec. 20, lots 1–11, SE¼NE¼, S½SE¼;
Sec. 21, W½.

T. 9 N., R. 22 E.,
Sec. 3, lots 3, 4, S½NW¼, N½SE¼;
Sec. 4, lots 1, 2, 8, 9, 10, 11, S½NW¼;
Sec. 10, E½NE¼, NW¼NE¼.

The area described above totals approximately 24,800 acres.

5. The following described public lands are further segregated from appropriation under the general mining laws:

MOUNT DIABLO MERIDIAN, NEVADA

T. 14 N., R. 20 E.,
Sec. 5, lots 3–13 and 16–18 (NW¼NW¼), E½SW¼NW¼, NE¼NW¼SW¼NW¼, NE¼SW¼SW¼NW¼, NE¼SE¼NW¼, NW¼NW¼SE¼NW¼, S½NW¼SE¼NW¼, S½SE¼NW¼, SW¼;
S½SE¼NW¼, SW¼;
Sec. 6, SW¼NE¼SW¼NE¼, N½SE¼SW¼NE¼, SW¼SE¼SW¼NE¼, E½NE¼SE¼NE¼, NW¼NE¼SE¼NE¼, NE¼NW¼SE¼NE¼, NW¼SW¼SE¼NE¼, SE¼SW¼SE¼NE¼, SE¼SE¼NE¼, E½SE¼; NW¼NW¼NE¼SE¼, SE¼NW¼NE¼SE¼, S½SW¼NE¼SE¼, E½N½NW¼SE¼, SW¼NE¼NW¼SE¼, S½NW¼NW¼SE¼, S½NW¼SE¼, S½NW¼SE¼SE¼, S½NW¼SE¼SE¼, N½SW¼SE¼SE¼;
Sec. 7, NE¼NE¼NE¼, S½NW¼NE¼NE¼, S½NE¼NE¼;
Sec. 8, N½NW¼;
Sec. 18, S½SW¼;
Sec. 27, E½SW¼.

T. 14 N., R. 19 E.,
Sec. 24, NE¼SW¼, N½SE¼.

T. 10 N., R. 21 E.,
Sec. 23, lots 4 and 5;
Sec. 24, lots 4, 5, 6, and 7.

T. 10 N., R. 22 E.,
Sec. 19, S½NE¼, NE¼NW¼, S½NW¼, N½SW¼, SE¼SW¼, SE¼;
Sec. 20, all;
Sec. 21, S½;
Sec. 28, N½;
Sec. 29, E½NE¼, NW¼NE¼, N½SW¼NE¼, N½NE¼NW¼, SE¼NE¼NW¼, SE¼SW¼NE¼, E½SW¼SW¼NE¼, E½SW¼NE¼NW¼, N½NW¼NW¼;
Sec. 30, NE¼NE¼, SW¼NE¼, lots 6, 7, 8, 9, 10, 11, 12, 13, and 14;
Sec. 31, lot 3;
Sec. 33, SE¼NE¼, N½SE¼, SE¼SE¼;
Sec. 34, S½NE¼, SE¼NW¼, S½;
Sec. 35, W½NE¼, NE¼NW¼, S½NW¼, SW¼, NW¼SE¼.

T. 10 N., R. 23 E.,
Sec. 21, lots 1–4, 7–10;
Sec. 22, lots 1–4, S½N½;
Sec. 28, lots 1–4, E½W½;
Sec. 33, lots 1–5, E½NW¼, NE¼SW¼.

T. 9 N., R. 23 E.,
Sec. 4, lots 3, 4, 11–14, S½NW¼;
Sec. 9, lots 1–8, E½W½;
Sec. 16, lots 1–7, E½W½;
Sec. 20, lots 1–11, SE¼NE¼, S½SE¼;
Sec. 21, W½.

T. 9 N., R. 22 E.,
Sec. 3, lots 3, 4, S½NW¼, N½SE¼;
Sec. 4, lots 1, 2, 8, 9, 10, 11, S½NW¼;
Sec. 10, E½NE¼, NW¼NE¼.

The area described above totals approximately 8,200 acres.

6. The following described public lands are further segregated from all forms of appropriation except the Recreation and Public Purposes Act, the general mining laws, the mineral leasing laws and the material sale laws:

MOUNT DIABLO MERIDIAN, NEVADA

T. 11 N., R. 21 E.,
Sec. 1, SW¼, E½SE¼;
Sec. 3, W½W½, SE¼SW¼, SW¼SE¼;
Sec. 4, N½, NE¼SW¼, SE¼;
Sec. 9, E½NE¼;
Sec. 10, W½NE¼, NW¼, N½SW¼, SW¼SW¼, SE¼;
Sec. 11, W½SW¼;
Sec. 12, NW¼NE¼, N½NW¼;
Sec. 14, NW¼NW¼;
Sec. 15, N½NE¼, NE¼NW¼, SW¼;
Sec. 16, S½.

T. 11 N., R. 22 E.,
Sec. 8, NE¼NE¼, S½NE¼;
Sec. 17, S½;
Sec. 18, NW¼SE¼, S½SE¼;
Sec. 20, E½SE¼;
Sec. 29, E½NE¼;
Sec. 32, N½, N½S½, SW¼SW¼, SE¼SE¼.

T. 10 N., R. 22 E.,
Sec. 1, NW¼NE¼, N½NW¼, SW¼NW¼, S½;
Sec. 2, N½, N½S½;
Sec. 3, NE¼, N½S½;
Sec. 5, NW¼NW¼, S½NW¼, SW¼, W½SE¼;
Sec. 8, W½NW¼, NW¼, N½SW¼, NW¼SE¼;
Sec. 17, N½NW¼.

T. 10 N., R. 23 E.,
Sec. 4, N½, N½SW¼, SW¼SW¼, N½SE¼;
Sec. 5, N½N½, SE¼NE¼, NE¼SE¼, S½SE¼;
Sec. 6, N½, SW¼, NW¼SE¼;
Sec. 7, W½NW¼;
Sec. 8, NE¼, N½SE¼.

The area described above totals approximately 7,500 acres.

7. For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification, may present their views in writing to the District Manager, Bureau of Land Management, 801 North Plaza Street, Carson City, Nev. 89701.

For the State Director.

ROLLA E. CHANDLER,
Manager, Nevada Land Office.

[F.R. Doc. 70-14204; Filed, Oct. 21, 1970; 8:46 a.m.]

[District No. 1]

NEW MEXICO

Modification of Grazing District; Correction

OCTOBER 15, 1970.

In F.R. Doc. No. 70-12632 (35 F.R. 14794-14795), in the issue of September 23, 1970, the following correction is hereby made:

At page 14795 in the first column, insert between T. 20 N., R. 6 W.,:

T. 18 N., R. 6 W.,
Sec. 12, N½, S½SW¼ and SE¼;
Sec. 13, E½ and E½W½.

CLYDE R. DURNELL,
Acting State Director.

[F.R. Doc. 70-14200; Filed, Oct. 21, 1970; 8:46 a.m.]

[Montana 1786(SD)]

SOUTH DAKOTA

Notice of Proposed Withdrawal and Reservation of Lands; Correction

OCTOBER 16, 1970.

F.R. Doc. 67-4963 appearing in the FEDERAL REGISTER issue of May 4, 1967, at page 6852, is hereby corrected as follows:

The land description in Sec. 31, T. 1 S., R. 6 E., in Keystone "Y" and U.S. Highway 16 Roadside Zone described as "N½SE¼, NE¼NE¼NW¼, and SE¼NE¼" is corrected to "N½NE¼, NE¼NE¼NW¼, and SE¼NE¼."

EUGENE H. NEWELL,
Land Office Manager.

[F.R. Doc. 70-14217; Filed, Oct. 21, 1970; 8:47 a.m.]

Geological Survey

[Colorado No. 133]

COLORADO

Coal Land Classification Order

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563, May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

SIXTH PRINCIPAL MERIDIAN
NONCOAL LANDS

T. 2 N., R. 86 W., in part unsurveyed,
Secs. 1 to 24, inclusive;
Tracts 37, 38, 39, 40, 41, 42, and 44;
Tract 43, that part in SE¼SE¼ sec. 22 and S½ sec. 23;
Tract 45, that part in S½SE¼ sec. 23;
H.E.S. 178.

T. 3 N., R. 86 W.,
Secs. 25 to 36, inclusive.

T. 2 N., R. 87 W., in part unsurveyed,
Secs. 1 to 24, inclusive;
Secs. 27 to 34, inclusive.

T. 3 N., R. 87 W.,
Sec. 7, lots 3 and 4, E½SW¼, SE¼;
Sec. 8, S½;
Sec. 9, S½;

Secs. 15 to 30, inclusive;
Sec. 31, lots 1 to 4, inclusive, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Secs. 32 to 36, inclusive.
T. 2 N., R. 88 W., in part unsurveyed,
Secs. 1 to 36, inclusive.
T. 3 N., R. 88 W.,
Sec. 10, S½N½, S½;
Sec. 11, S½N½, S½;
Sec. 12, S½N½, S½;
Secs. 13 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 34 to 36, inclusive.

The area described aggregates about 92,482 acres.

W. A. RADLINSKI,
Acting Director.

OCTOBER 15, 1970.

[F.R. Doc. 70-14191; Filed, Oct. 21, 1970; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

MOBILE COUNTY STOCKYARDS, INC., ET AL.

Proposed Posting of Stockyards

The Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards Administration, U.S. Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

Mobile County Stockyards, Inc., Mobile, Ala.
Benjamin R. Tilton, East Corinth, Maine.
Baker Livestock Auction, Inc., Baker, Mont.
Hubbard Auction Sale, Hubbard, Tex.
Midwest Livestock Producers Cooperative, Ettrick, Wis.

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule, may do so by filing them with the Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards Administration, U.S. Department of Agriculture, Washington, D.C. 20250, within 15 days after publication in the FEDERAL REGISTER.

All written submissions made pursuant to this notice shall be made available for public inspection at such times and places in a manner convenient to the public business (7 U.S.C. 1.27(b)).

Done at Washington, D.C., this 15th day of October 1970.

G. H. HOPPER,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[F.R. Doc. 70-14212; Filed, Oct. 21, 1970; 8:47 a.m.]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. C-325]

WILLIAM F. AND CARROLE E. HAAS

Notice of Loan Application

OCTOBER 16, 1970.

William F. Haas and Carrole E. Haas, 412 South McPherson Street, Fort Bragg, Calif. 95437, have applied for a loan from the Fisheries Loan Fund to aid in financing the construction of a new 51-foot overall length steel vessel to engage in the fishery for salmon, albacore, and Dungeness crab.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

JAMES F. MURDOCK,
Chief,
Division of Financial Assistance.

[F.R. Doc. 70-14192; Filed, Oct. 21, 1970; 8:45 a.m.]

[Docket No. B-493]

HIGHPOINT TRAWLERS, INC.

Notice of Loan Application

OCTOBER 16, 1970.

Highpoint Trawlers, Inc., Gooseberry Road, Wakefield, R.I. 02879, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new 76-foot length overall wood vessel to engage in the fishery for herring, scup, flounders, whiting, mackerel, and fish for industrial uses.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

JAMES F. MURDOCK,
Chief,
Division of Financial Assistance.

[F.R. Doc. 70-14193; Filed, Oct. 21, 1970; 8:45 a.m.]

DELAWARE RIVER BASIN COMMISSION

PRACTICE AND PROCEDURE, COMPREHENSIVE PLAN, AND BASIN REGULATIONS—WATER QUALITY

Notice of Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on proposed amendments to its Rules of Practice and Procedure, Comprehensive Plan and Basin Regulations—Water Quality as set forth below. The hearing will take place at 2 p.m. on Tuesday, October 27, 1970, in the East Room of The Inn, Buck Hill Falls, Pa.

A. A proposed amendment to the Rules of Practice and Procedure by the addition thereto of a new section 2-3.14 as follows:

2-3.14 *Certification for Federal license or permit.* (a) For the purposes of section 21 of the Water Quality Improvement Act of 1970 (Public Law 91-224), upon application, the Executive Director may give notice and he, or such person as he may designate, may hold a public hearing with respect to any project which is deemed not to have a substantial effect on the water resources of the basin by virtue of the provisions of section 2-3.5(a) of these regulations. Following such notice and hearing (if any), the Director may issue a certificate under the provisions of the cited statute.

(b) As to all other projects which are subject to review by the Commission, the notice required by the said section 21 will be given and a hearing may be held by the Commission at or before the meeting at which it considers the project for the purposes of section 3.8 or Article 11 of the Compact.

(c) In either case a certificate under said section 21 may be issued by the Executive Director following appropriate findings and determinations after public notice and hearing (if any) by the Director or the Commission, as the case may be. Such certificate may be issued either before or after review and action which may be required under the laws and regulations applicable to any other governmental agency of the signatory parties.

(d) In the event that an application for emergency action is submitted to the Director pursuant to section 2-3.9(c) of these regulations, the Director may hold a hearing for the purposes of the said section 21 and issue a certificate thereunder in connection with the issuance of an emergency certificate for the purposes and under the conditions described in said paragraph (c).

B. A proposed amendment to the Rules of Practice and Procedure by the addition thereto of a new section 2-3.5.2 as follows:

2-3.5.2 *Environmental statement.* (a) Not later than the completion of preliminary engineering or studies, the sponsors of a project in any of the following classifications shall submit, in compliance with the provisions of the National Environmental Policy Act (Public Law 91-190), an environmental statement together with and as part of the application:

(1) Impoundments having storage capacity in excess of 100 million gallons;

(2) Diversion of water from one sub-basin to another or out of the basin in excess of an average of 100,000 gallons per day during any calendar month;

(3) Electric generating stations of all types;

(4) Electric transmission or bulk power system lines and appurtenances, or highways, passing across reservoir, or conservation project areas shown in the Comprehensive Plan;

(5) Draining or filling of marshes or wetlands in excess of 25 acres;

(6) Deepening, widening or rechanneling of existing stream beds, channels, anchorages, harbors or turning basins, or the construction of new or enlarged channels, anchorages, harbors or turning basins, or the dredging of the bed of any stream or lake and disposal of the dredged spoil; and

(7) Any other project which the Executive Director, in his discretion, determines may have a significant ecological effect beyond the normal scope of project review under section 3.8 of the Compact.

(b) An environmental statement shall describe in reasonable detail the following:

(1) The environmental impact of the proposed action;

(2) Any adverse environmental effects which cannot be avoided;

(3) Alternatives to the proposed action that were considered and rejected;

(4) Relationship between short-term use of the environment and maintenance and enhancement of long-term productivity; and

(5) Any irreversible and irretrievable commitments of resources involved in the proposed action.

(c) Each docket decision by the Commission will specifically include or refer to the environmental statement of any such project, and will make specific findings and conclusions with respect to the environmental effects of the project.

(d) The Executive Director shall review, revise and approve an environmental statement for each project referred to in paragraph (a) hereof. He shall forward a preliminary draft thereof to the Council on Environmental Quality in accordance with its guidelines or rules of procedure, with a notation on the statement, unless it has been included in a docket decision, that such statement is preliminary and subject to revision by the Commission.

C. Proposals to amend sections of the Basin Regulations—Water Quality and/or Comprehensive Plan as follows:

1. Amend sections 2-2.4A1 of the Basin Regulations—Water Quality (and section X of the Comprehensive Plan) to read as follows:

"1. Not less than 5.0 mg/l at any time; *with a minimum daily average of 6.0 mg/l; and not less than 7.0 mg/l in spawning areas whenever water temperatures are suitable for trout spawning.*"

2. Amend section 2-2.4B1 of the Basin Regulations—Water Quality (and section X of the Comprehensive Plan) to read as follows:

"[Not to exceed 5° F. rise above natural temperature until stream temperature reaches 70° F.; natural temperature will prevail above 70° F.]. *No increase in the natural temperature of any trout stream; and no heat may be discharged whenever the temperature of the receiving water is 68° F. or greater; and no outfall carrying a heated effluent may be located in the vicinity of a spawning area.*"

3. Amend section 3-3.9(1) of the Basin Regulations-Water Quality to read as follows:

"(1) *Trout waters.* In waters classified for trout use the discharge of waste effluents shall not increase the natural temperature of the receiving water [by more than 5° F. (2.8° C.), nor shall such discharge result in stream temperature exceeding 70° F. (21.1° C.), which temperatures shall be measured in the stream] outside of mixing areas designated by the Commission *and no heat may be discharged whenever the temperature of the receiving water is 68° F. or greater; and no outfall carrying a heated effluent may be located in the vicinity of a spawning area.*"

(NOTE: Matter in brackets [ ] is deleted; matter in italics is added.)

All persons wishing to testify at the public hearing are requested to register in advance with the Secretary to the Commission. Telephone (609) 883-9500.

W. BRINTON WHITALL,
Secretary.

OCTOBER 9, 1970.

[F.R. Doc. 70-14207; Filed, Oct. 21, 1970; 8:46 a.m.]

COMPREHENSIVE PLAN

Notice of Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Tuesday, October 27, 1970. The hearing will take place in the East Room of The Inn, Buck Hill Falls, Pa., beginning at 2 p.m. The hearing will be on proposals to amend the Comprehensive Plan so as to include the following two projects:

1. *City of Newark.* A municipal water supply well to augment water supplies for the city of Newark, New Castle County, Del. Located in Municipal District No. 11, the new facility will be limited to 8,640,000 gallons during any month.

2. *Borough of West Chester.* Relocation of the intake, treatment plant, and force main for the proposed water supply diversion from the Brandywine to be undertaken by the Borough of West Chester, Chester County, Pa. The new location for the intake and treatment plant will be immediately upstream of the town of Copesville on the East Branch of Brandywine Creek.

Documents relating to the items on this hearing notice may be examined at the Commission's offices. All persons wishing to testify are requested to register in advance with the Secretary to the Commission. Telephone (609) 883-9500.

W. BRINTON WHITALL,
Secretary.

OCTOBER 16, 1970.

[F.R. Doc. 70-14208; Filed, Oct. 21, 1970; 8:46 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RI71-328 etc.]

CITIES SERVICE OIL CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

OCTOBER 14, 1970.

The respondents named herein have filed proposed changes in rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges 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 hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their 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, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their 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 supplements to the rate schedules filed by respondents, as set forth herein, 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 respondents shall each 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 copies thereof upon all purchasers under the rate schedule involved. Unless respondents are advised to the contrary within 15 days after the filing of their respective agreements and undertakings, such agreements and undertakings shall be deemed to have been accepted.[2]

[1] Does not consolidate for hearing or dispose of the several matters herein.

[2] If an acceptable general undertaking, as provided in Order No. 377, has previously been filed by a producer, then it will not be neecssary 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.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of those proceedings or expiration of the suspension period.

(D) Notices of invention 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 December 7, 1970.

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 subject to refund in dockets Nos.
									Rate in effect	Proposed increased rate	
RI71-328	Cities Service Oil Co.	186	[1] [2] 20	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Grand Isle Area, Offshore Louisiana) (Disputed Zone).	$10,171	9-18-70	9-18-70	9-19-70	19.0	[3] 19.5	
RI71-329	Getty Oil Co.	107	[3] [4] 21	do	10,171	9-21-70	9-21-70	9-22-70	19.0	[3] 19.5	
RI71-330	Union Oil Co. of California.	119	[5] [6] 7	Transcontinental Gas Pipe Line Corp. (Block 76 Field, Vermilion Area, Offshore Louisiana) (Federal Domain).	13,329	9-21-70	10-22-70	10-23-70	19.0	[3] 20.0	
RI71-331	Continental Oil Co.	158	[5] [7] 19	Transcontinental Gas Pipe Line Corp. (West Cameron Block 110 Field, Offshore Louisiana) (Federal Domain).	5,100	9-21-70	10-22-70	10-23-70	19.0	[3] 20.0	

*Pressure base is 15.025 p.s.i.a.
[1] Documents required by Opinion No. 567 establishing a second vintage price for the subject gas previously accepted (Supp. No. 19).
[2] Applies only to gas well gas sales from the newly discovered reservoirs previously identified.
[3] Pursuant to Opinion No. 567.
[4] Documents required by Opinion No. 567 establishing a second vintage price for the subject gas previously accepted (Supp. No. 20).
[5] Includes documents required by Opinion No. 567.
[6] Applies only to gas well gas sales from the Amph. (E)-7 Reservoir.
[7] Applies only to gas well gas sales from the L-4 and I-3 sand reservoirs.

The proposed increases by Cities Service and Getty involve gas well gas produced from newly discovered reservoirs in the disputed zone, offshore Louisiana. The gas qualifies as second vintage gas pursuant to Opinion No. 567. The 19.5-cent rates proposed are equal to the 19.5-cent area base rate established in Opinion No. 546 for second vintage gas well gas produced from within the State's taxing jurisdiction but exceeds the 18-cent rate for gas well gas produced from the Federal domain. Both Cities Service and Getty request an effective date of November 1, 1969. Good cause has not been shown for granting these requests and they are denied. Consistent with Commission action on similar filings, the increases shall be suspended for 1 day from the date of filing. Thereafter Cities Service and Getty may collect the increased rates subject to refund of those amounts attributable to the difference in the onshore and offshore rate paid for gas well gas finally held to have been produced from the Federal domain.

The proposed rates of Union Oil and Continental involving sales in the Federal domain (offshore Louisiana) were submitted pursuant to paragraph (A) of Opinion No. 546-A with respect to gas well gas determined in accordance with Opinion No. 567 to qualify for a third vintage price. The proposed increases shall be suspended for 1 day from the expiration of the 30-day statutory notice period. Thereafter, the proposed rates may be collected, subject to refund, pending the outcome of Docket No. AR69-1.

[F.R. Doc. 70-14102; Filed, Oct. 21, 1970; 8:45 a.m.]

[Docket No. RI71-332, etc.]

SOHIO PETROLEUM CO. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

OCTOBER 14, 1970.

The respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges 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 hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

[1] Does not consolidate for hearing or dispose of the several matters herein.

(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, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings 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 December 1, 1970.

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 subject to refund in dockets Nos.
									Rate in effect	Proposed increased rate	
RI71-332	Sohio Petroleum Co.	152	7	Kansas-Nebraska Natural Gas Co., Inc. (Lost Cabin Field; Fremont County, Wyo.).	$17,049	9-16-70	10-17-70	3-17-71	[1] 15.0	[1] 16.08	
RI71-333	Tenneco Oil Co.	214	3	El Paso Natural Gas Co. (Red Hills Area, Lea County, N. Mex., Permian Basin).	1,094	9-21-70	10-22-70	3-22-71	[1] 17.69	[1] 19.6	

APPENDIX A—Continued

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.
RI71-334..	Cabot Corp. (SW).....	44	7	Transwestern Pipeline Co. (Estes Gasoline Plant, Ward County, Tex., RR. District No. 8 Permian Basin).	$138,000	9-15-70	10-16-70	3-16-71	[1] 18.0	[1] 27.2	RI69-455.
		49	5	Transwestern Pipeline Co. (Walton Gasoline Plant, Winkler County, Tex., RR. District No. 8 Permian Basin).	607,200	9-15-70	10-16-70	3-16-71	[1] 18.0	[1] 27.2	RI69-455.
RI71-335..	Marathon Oil Co.....	109	2	Kansas-Nebraska Natural Gas Co., Inc. (West Sidney Area, Cheyenne County, Nebr.).	15,162	9-21-70	11-1-70	4-1-71	[2] 18.1935	[2] 18.6989	RI70-1004.
RI71-336..	Kewanee Oil Co.....	76	3	Natural Gas Pipeline Co. of America (Lockridge Field, Ward County, Tex.) (RR. Dist. No. 8 Permian Basin).	10,487	9-14-70	10-15-70	3-15-71	[1] 16.46	[1] 18.14	RI70-763.
RI71-337..	Marathon Oil Co.....	29	17	Texas Eastern Transmission Corp. (Charlie No. 1 Well, Logansport Field, De Sota Parish, North Louisiana).	51	9-21-70	11-1-70	4-1-71	[3] [4] 18.0570	[3] [4] 18.2622	RI70-318.
RI71-338..	Murphy Oil Corp.....	6	15	Mississippi River Transmission Corp. (Sligo Field, Bassier Parish, North Louisiana).	75,000	[5] 9-21-70	10-22-70	3-22-71	[3] [6] 14.0	[3] [6] 17.0	
RI71-339..	Southwest Gas Producing Co., Inc.	16	4	Texas Gas Transmission Corp. (Monroe Field, Ouachita, Union, and Morehouse Parishes, North Louisiana).	25,200	9-24-70	11-1-70	4-1-71	[3] [7] 15.3	[3] [7] 16.3	
RI71-340..	The California Co., a division of Chevron Oil Co.	38	4	Texas Eastern Transmission Corp. (North Carlton Field, Ouachita and Lincoln Parishes, North Louisiana).	16,425	9-24-70	11-1-70	4-1-71	[3] 18.5	[3] 19.0	
RI71-341..	Monla Gas Co.....	3	1	Texas Gas Transmission Corp. (Monroe Field, Ouachita, Union, and Morehouse Parishes, North Louisiana).	8,460	9-24-70	11-1-70	4-1-71	[3] [7] 16.3	[3] [7] 17.3	
RI71-342..	The California Co., a division of Chevron Oil Co.	42	22	Texas Eastern Transmission (Hico-Knowles, Terryville, North Chouldrant and Tremont Fields, Lincoln and Ouachita Parishes, North Louisiana).	47,450	9-23-70 9-23-70 9-23-70	11-1-70 11-1-70 11-1-70	Accepted 4-1-71 4-1-71	[3] [8] 18.5 [3] [9] 18.75 [3] [8] 18.5	[3] [8] 18.75 [3] [8] 19.0 [3] [8] 19.0	
RI71-343..	Marathon Oil Co.....	60	17	Texas Eastern Transmission Corp. (Greenwood Waskom Field, Caddo Parish, North Louisiana).	129	9-21-70	11-1-70	4-1-71	[3] 18.0570	[3] 18.2622	RI70-318.
RI71-344..	Pennzoil Producing Co.	250	3	Natural Gas Pipeline Co. of America (Virginia Field, Arkansas County, Tex., RR. District No. 4).	24,091	9-18-70	11-1-70	4-1-71	[1] 16.06	[1] 17.0638	RI70-569.
RI71-345..	Logue and Patterson..	14	5	Florida Gas Transmission Co. (Kain Field, Matagorda County, Tex., RR. District No. 3).	19,349	9-21-70	11-1-70	4-1-71	[1] 19.0	[1] 19.5	RI67-419.
RI71-346..	Houston Oil & Minerals Corp.	12	1	United Gas Pipe Line Co. (West Weesatche Field, Goliad County, Tex., RR. District No. 2).	7,200	[10] 9-22-70	[11] [12] 10-23-70	3-23-71	[1] 16.0	[1] 18.0	
RI71-347..	W. Watson LaForce....	(14)	(14)	El Paso Natural Gas Co. (Gomez Field, Pecos County, Tex.) (RR. District No. 8, Permian Basin).	527 1,884	9-14-70 9-14-70	10-15-70 12-2-70	[13] Accepted [14] Accepted	[1] 16.5 [1] 16.7846	[1] 16.7846 [1] 17.8019	
RI71-348..	Imperial-American Management Co.	(15)	(15)	Northern Natural Gas Co. (Gomez Field, Pecos County, Tex.) (RR. District No. 8, Permian Basin).	77,760	9-24-70	10-25-70	3-25-71	[1] 16.5	20.5	

[1] Pressure base is 14.65 p.s.i.a.
[2] Pressure base is 15.025 p.s.i.a.
[3] Includes 1.75-cent tax reimbursement.
[4] Includes 2.5-cent gathering and dehydration charge paid by buyer before increase and 1.5-cent gathering and dehydration charge after increase.
[5] Unilateral increase. Contract expired on Dec. 1, 1969.
[6] Requests waiver of notice.
[7] Includes 1.3-cent tax reimbursement for wells producing less than 250 Mcf/day. Previously reported as 1.75-cent tax reimbursement which was applicable to wells producing more than 250 Mcf/day. Applicant states that 99 percent of gas delivered is from wells producing less than 250 Mcf/day.
[8] Applicable to production from newly discovered reservoirs as defined in Supplements Nos. 4 through 21 which have been accepted pursuant to Opinion No. 567.
[9] Applicable to all production under rate schedule except gas produced from newly discovered reservoirs.
[10] Requests an effective date that coincides with the date of issuance of a permanent certificate.
[11] Or the date which coincides with the issuance of a permanent certificate.
[12] Five months after the date of issuance of a permanent certificate, whichever is later.
[13] Accepted for filing to be effective as of Oct. 15, 1970, subject to refund in Docket No. R170-1773.
[14] Accepted for filing but subject to the suspension proceeding in Docket No. R170-1773 and shall become effective as of Dec. 2, 1970, or such later date as a motion is filed to place the increased rate in effect.
[15] No rate schedule on file—pertains to contract dated July 15, 1964. Applicant issued small producer certificate in Docket No. CS66-102.
[16] No rate schedule on file—pertains to contract dated May 25, 1970. Applicant issued small producer certificate in Docket No. CS69-58.

There is no formal increased rate ceiling in the Commission's policy statement for sales from Nebraska. However, the Commission has previously applied the increased rate ceiling of Colorado as a guide in determining action on Nebraska increases and such guideline shall be applied to Marathon's increase under its FPC Gas Rate Schedule No. 109.

Murphy Oil Corp. has requested an effective date for which adequate notice has not been given. Good cause has not been shown for waiving the 30-day statutory notice period and such request is denied.

The California Company proposes rate increases from 18.5 cents to 19 cents under its Rate Schedules Nos. 38 and 42 for sales of gas in North Louisiana. With respect to its proposed increase under its Rate Schedule No. 38, California requests that if the proposed 19-cent rate is suspended for more than 1 day, that a rate of 18.75 cents including tax reimbursement, be placed into effect on November 1, 1970, the contractual effective date, which rate would conform to the initial service rate ceiling set forth in general policy statement No. 61–1, and that the proposed 19-cent rate be granted at the end of the suspension period. The subject sale was certificated at 18.5 cents, including tax reimbursement, which is the present effective rate. Inasmuch as the 18.75-cent rate exceeds the 15.75-cent area increased rate ceiling which is applicable in this case, California's request that the 18.75-cent rate be made effective on November 1, 1970, is denied and the proposed 19-cent rate is suspended for 5 months.

With respect to the sale under its Rate Schedule No. 42, California has previously submitted documents covering 18 newly discovered reservoirs (as defined by Supplement Nos. 4 through 21) pursuant to Opinion No. 567 which established a ceiling of 18.75 cents for production from such reservoirs. California requests that, if the proposed 19-cent rate is suspended for more than 1 day, a rate of 18.75 cents be placed into effect on November 1, 1970, the contractual effective date, with respect to the "newly discovered reservoirs" and that the proposed 19-cent rate be granted at the end of the suspension period

covering all production under the subject rate schedule. As the area ceiling for the "newly discovered reservoirs" is 18.75 cents as established by Opinion No. 567, a rate of 18.75 cents is accepted to be effective on November 1, 1970, with respect to production from the newly discovered reservoirs and the proposed 19-cent rate is suspended for 5 months with respect to other production under the subject rate schedule.

Houston Oil & Minerals Corp. requests that its proposed rate increase be made effective on the date it is issued a permanent certificate for the subject sale in Docket No. CI71-202. Houston also has submitted a motion for waiver of the Condition (2) provision of the temporary certificate issued in such docket. By letter dated September 22, 1970, Houston accepted the temporary certificate as issued, and advised the Commission that it is willing to accept a permanent certificate pursuant to the terms and conditions prescribed in the temporary certificate. Since Houston is requesting an effective date to coincide with the date of issuance of a permanent certificate and not during the period of temporary certificate, waiver of Condition (2) is not necessary. We believe that the proposed rate should be suspended for 5 months from the date of issuance of a permanent certificate or the date of expiration of statutory notice, whichever is later.

All of the producers' increased rates and charges, except as previously noted, exceed the applicable increased rate ceilings set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56).

[F.R. Doc. 70-14103; Filed Oct. 21, 1970; 8:45 a.m.]

FEDERAL RESERVE SYSTEM

BARNETT BANKS OF FLORIDA, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Barnett Banks of Florida, Inc., which is a bank holding company located in Jacksonville, Fla., for prior approval by the Board of Governors of the acquisition by Applicant of 80 percent or more of the voting shares of The Brickell Bank, Miami, Fla.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Atlanta.

By order of the Board of Governors, October 16, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-14196; Filed, Oct. 21, 1970; 8:45 a.m.]

BARNETT BANKS OF FLORIDA, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Barnett Banks of Florida, Inc., Jacksonville, Fla., for approval of acquisition of 80 percent or more of the voting shares of The American Bank in Auburndale, Auburndale, Fla., a proposed new bank.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Barnett Banks of Florida, Inc., Jacksonville, Fla. (Applicant), a registered bank holding company, for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of the American Bank in Auburndale, Auburndale, Fla. (Auburndale Bank), a proposed new bank.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Commissioner of Banking of the State of Florida, and requested his views and recommendation. The Commissioner recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 5, 1970 (35 F.R. 14176), providing an opportunity for interested persons to submit comments and views with respect to the proposed transaction. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. The time for filing comments and views has expired and all those received have been considered by the Board.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources of the Applicant and the banks concerned, and the convenience and needs of the communities to be served and finds that:

Applicant presently controls 23 banks which hold deposits of $644 million, representing 5.2 percent of total deposits held by Florida's commercial banks, and is the State's third largest bank holding company. (All banking data are as of Dec. 31, 1969, adjusted to reflect holding company formations and acquisitions approved by the Board to date.) Applicant's acquisition of the proposed new bank would have no immediate effect on concentration of banking resources.

Applicant's two closest subsidiaries, with deposits of $29 million and $6 million, are located 5 and 7 miles southeast of Auburndale Bank, at Winter Haven and Cypress Gardens, respectively. Applicant's Winter Haven bank is the fourth largest and its bank in Cypress Gardens is the smallest of 11 banks in the Auburndale area, which range in deposit size from $6 million to $91 million. The town of Auburndale has one bank with deposits of more than $11 million. Applicant's present subsidiary banks do not derive any significant amount of their business from the area proposed to be served by Auburndale Bank. The consummation of this proposal would serve to stimulate competition in the Auburndale area; no existing competition would be eliminated nor significant potential competition foreclosed, nor would there be undue adverse effects on any competing banks.

The financial condition and management of Applicant's group and Auburndale Bank are satisfactory, and the prospects for each appear favorable. Considerations concerning community convenience and needs add some weight in favor of approval of the application because of the benefits to be derived by the community from an additional banking facility. It is the Board's judgment that the proposed transaction would be in the public interest, and that the application should be approved.

It is hereby ordered, For the reasons set forth in the findings summarized above, that said application be and hereby is approved: *Provided*, That the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order: *And provided further*, That (c) The American Bank in Auburndale shall be opened for business not later than 6 months after the date of this order. The periods described in (b) and (c) hereof may be extended for good cause by the Board or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] October 15, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-14197; Filed, Oct. 21, 1970; 8:46 a.m.]

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, and Brimmer. Absent and not voting: Governors Daane, Maisel, and Sherrill.

BROWARD BANCSHARES, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Broward Bancshares, Inc., Fort Lauderdale, Fla., for approval of acquisition of 80 percent or more of the voting shares of Lauderdale Lakes National Bank, Lauderdale Lakes, Fla., a proposed new bank.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Broward Bancshares, Inc., Fort Lauderdale, Fla. (Applicant), a registered bank holding company, for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of Lauderdale Lakes National Bank, Lauderdale Lakes, Fla. (Bank), a proposed new bank.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency, and requested his views and recommendation. The Comptroller offered no objection to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 2, 1970 (35 F.R. 13910), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and prospects of Applicant and the banks concerned, and the convenience and needs of the communities to be served. Upon such consideration, the Board finds that:

Applicant, the 12th largest banking organization and bank holding company in Florida, has three subsidiary banks with $210 million in deposits, which represents 1.7 percent of total deposits of all Florida banks. (All banking data are as of Dec. 31, 1969, adjusted to reflect holding company formations and acquisitions approved by the Board to date.) Since Bank is a proposed new bank, consummation of the proposal would not increase concentration in any market.

Bank would be located in the western suburban area of Fort Lauderdale, and would serve a rapidly growing area (population 59,000) consisting of Lauderdale Lakes, Sunrise Golf Village and an unincorporated part of Broward County. Applicant's three subsidiaries, all located in Fort Lauderdale, are 5.2 to 7.3 miles from Bank, with six competing banks located in the intervening area. Bank would be the only bank located within the immediate area which it would serve. It does not appear that existing competition would be eliminated, or significant potential competition foreclosed, by consummation of the present proposal.

Based upon the foregoing, the Board concludes that consummation of the proposed acquisition would not have significant adverse effects on competition in any relevant area. The banking factors, as they relate to Applicant, its subsidiaries, and Bank, are regarded as consistent with approval. The proposal will provide the immediate area served by Bank with its only banking facility, which, with Applicant's assistance, will have full-service capability. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest, and that the application should be approved.

It is hereby ordered, For the reasons set forth in the findings summarized above, that said application be and hereby is approved: *Provided*, That the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order, or (b) later than 3 months after the date of this order: *And provided further*, That (c) Lauderdale Lakes National Bank shall be open for business not later than 6 months after the date of this order. The periods described in (b) and (c) hereof may be extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors.[1]

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-14198; Filed, Oct. 21, 1970; 8:46 a.m.]

COLORADO CNB BANKSHARES, INC.

Notice of Request and Order for Hearing

Notice is hereby given that request has been made to the Board of Governors of the Federal Reserve System, pursuant to section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843 (c)(8)), and § 222.4(a) of Federal Reserve Regulation Y (12 CFR 222.4(a)), by Colorado CNB Bankshares, Inc., Denver, Colo., a bank holding company, for a determination that the planned activities of its proposed subsidiaries, B-G Service Corp. and Aspen Industrial Bank, are or are to be of the kind described in the aforementioned provisions of the Act and the Regulation so as to make it unnecessary for the prohibitions of section 4 of the Act with respect to the acquisition or retention of shares in nonbanking organizations to apply in order to carry out the purposes of the Act.

Inasmuch as section 4(c)(8) of the Act requires that any determination pursuant thereto be made by the Board after due notice and hearing and on the basis of the record made at such hearing:

It is hereby ordered, That pursuant to section 4(c)(8) of the Bank Holding Company Act and in accordance with §§ 222.4(a) and 222.5(a) of Federal Reserve Regulation Y (12 CFR 222.4(a), 222.5(a)), promulgated under the Bank Holding Company Act, a hearing with respect to this matter be held commencing on December 1, 1970, at 10 a.m. at the Denver Branch of the Federal Reserve Bank of Kansas City, 1020 16th Street, Denver, Colo., before John Poindexter (whose address is Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C.), a hearing examiner selected by the Civil Service Commission pursuant to section 3344 of title 5 of the United States Code. The hearing will be conducted in accordance with the Board's Rules of Practice for Formal Hearings (12 CFR Part 263). The right is reserved to the Board or the hearing examiner to designate any other date or place for such hearing, or any part thereof, that may be determined to be necessary or appropriate. Section 263.6(d) of the Board's Rules of Practice for Formal Hearings provides, in part, "Unless otherwise specifically provided by statute or by rule of the Board, a hearing shall ordinarily be private and shall be attended only by the parties, their representatives or counsel, representatives of the Board, witnesses while testifying, and other persons having an official interest in the proceedings: *Provided, however*, That on written request by a party or a representative of the Board, or on the Board's own motion, the Board, in its discretion and to the extent permitted by law, may permit other persons to attend or may order the hearing to be public."

Any person not named herein as a party who wishes to be admitted as a party, or who wishes to participate in the hearing for a limited purpose, should file with the hearing examiner named hereinabove, on or before November 20, 1970, a written request containing a statement of the nature of the person's interest in the proceeding, and a summary of any matters concerning which said person wishes to give evidence. The application may be inspected at the Denver Branch of the Federal Reserve Bank of Kansas City or at the Federal Reserve Building, 20th Street and Constitution Avenue NW., Washington, D.C.

By order of the General Counsel of the Board of Governors, October 15, 1970, acting on behalf of the Board pursuant to delegated authority (12 CFR 265.2(b)(4)).

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-14213; Filed, Oct. 21, 1970; 8:47 a.m.]

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[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, and Brimmer. Absent and not voting: Governors Daane, Maisel, and Sherrill.

October 15, 1970.

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. F-75]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the customer interest of the Federal Government in a telecommunications rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the interests of the executive agencies of the Federal Government before the New Jersey Board of Public Utility Commissioners in a proceeding (Docket No. 709-494) involving telecommunications rates of the New Jersey Bell Telephone Co.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: October 15, 1970.

ROBERT L. KUNZIG,
Administrator of General Services.

[F.R. Doc. 70-14195; Filed, Oct. 21, 1970; 8:45 a.m.]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE REPUBLIC OF KOREA

Entry or Withdrawal From Warehouse for Consumption

OCTOBER 19, 1970.

On December 19, 1969, there was published in the FEDERAL REGISTER (34 F.R. 19930) a letter dated December 15, 1969, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, establishing levels of restraint applicable to certain specified categories of cotton textiles and cotton textile products produced or manufactured in the Republic of Korea and exported to the United States during the 12-month period beginning January 1, 1970. As set forth in that letter, the levels of restraint are subject to adjustment pursuant to paragraph 7 of the bilateral cotton textile agreement of December 11, 1967, between the Governments of the United States and the Republic of Korea, which provides that within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than five (5) percent. The aforementioned letter also provided that any such adjustment in the levels of restraint would be made to the Commissioner of Customs by letter from the Chairman of the Interagency Textile Administrative Committee.

Accordingly, at the request of the Government of the Republic of Korea and pursuant to the provision of the bilateral agreement referred to above, there is published below a letter of October 19, 1970, from the Chairman of the Interagency Textile Administrative Committee to the Commissioner of Customs adjusting the level of restraint applicable to cotton textiles in Categories 9, 18/19, 22, 26 (duck), 26 (other than duck) and part of 64 (tablecloths and napkins only) for the 12-month period which began on January 1, 1970.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee and Deputy Assistant Secretary for Resources.

ASSISTANT SECRETARY OF COMMERCE
INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

OCTOBER 19, 1970.

DEAR MR. COMMISSIONER: On December 15, 1969, the Chairman of the President's Cabinet Textile Advisory Committee, directed you, effective January 1, 1970, to prohibit entry of cotton textiles and cotton textile products in certain specified categories, produced or manufactured in the Republic of Korea, and exported to the United States in excess of the designated levels of restraint. The Chairman further advised you that in the event that there were any adjustments[1] in the levels of restraint you would be so informed by letter from the Chairman of the Interagency Textile Administrative Committee.

Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to paragraph seven (7) of the bilateral cotton textile agreement of December 11, 1967, between the Governments of the United States and the Republic of Korea, in accordance with Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, and under the terms of the aforementioned directive of December 15, 1969, the levels of restraint provided in that directive for cotton textile products in Categories 9, 18/19, 22, 26 (duck), 26 (other than duck) and part of 64 (tablecloths and napkins only), produced or manufactured in the Republic of Korea and exported from the Republic of Korea to the United States, for the period beginning January 1, 1970, and extending through December 31, 1970, are hereby amended as follows, to be effective as soon as possible:

Categories		Amended 12-month levels of restraint[2]
9	square yards	3,038,766
18/19	do	2,309,462
22	do	972,405
26 (duck only)[3]	do	13,370,569
26 (other than duck)[3]	do	1,154,731
64 (only T.S.U.S.A. Nos.: 366.4500, 366.4600, and 366.4700)	pounds	555,487

[2] These levels have not been adjusted to reflect entries made on or after Jan. 1, 1970.

[3] In Category 26, the T.S.U.S.A., numbers for duck are:

320...01 through 04, 06, 08
321...01 through 04, 06, 08
322...01 through 04, 06, 08
326...01 through 04, 06, 08
327...01 through 04, 06, 08
328...01 through 04, 06, 08

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton textiles and cotton textile products from the Republic of Korea have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553 (Supp. V, 1965-69). This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

STANLEY NEHMER
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

[F.R. Doc. 70-14232; Filed, Oct. 21, 1970; 8:48 a.m.]

[1] The term "adjustments" refers to those provisions of the bilateral cotton textile agreement of Dec. 11, 1967, between the Governments of the United States and the Republic of Korea which provide in part that within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than five (5) percent; for the limited carryover of short falls in certain categories to the next agreement year; and for administrative arrangements.

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

VALLEY CAMP COAL CO.

Applications for Renewal Permits; Notice of Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Interim Mandatory Dust Standard (3.0 mg./m.[3]) have been accepted for consideration as follows:

(1) ICP docket No. 10446, the Valley Camp Coal Co., Valley Camp No. 3 Mine, USBM ID No. 46 01482 0, Triadelphia, Ohio, W. Va., Section ID No. 014 (2 Left Off P North), Section ID No. 011 (10 North Off 2 East), Section ID No. 001 (Main East).

In accordance with the provisions of section 202(b)(4) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173),

notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be completed in accordance with 30 CFR Part 505 (35 F.R. 11296, July 15, 1970), copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Suite 800, 1730 K Street NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

OCTOBER 19, 1970.

[F.R. Doc. 70-14223; Filed, Oct. 21, 1970; 8:47 a.m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 30—San Diego Disaster 1]

MANAGER AND SUPERVISORY LOAN OFFICER, DISASTER BRANCH OFFICE, SANTEE, CALIF.

Delegations of Authority Relating to Financial Assistance Functions

I. Pursuant to the authority delegated to the District Director by Delegation of Authority No. 30-A, 35 F.R. 3133, the following authority is hereby redelegated to the positions as indicated herein:

A. *Manager, Santee Disaster Branch Office.* 1. To approve or decline disaster direct and immediate participation loans up to the total SBA share of (a) $50,000 per household for repairs or replacement of the home and/or not to exceed an additional $10,000 allowable for household goods and personal items, but in no event may the money loaned exceed $55,000 for a single disaster on home loans, except for funds to refinance prior liens or mortgages, which may be approved in addition to the foregoing limits for amounts up to $50,000; and (b) $350,000 on disaster business loans except to the extent of refinancing of a previous SBA disaster loan; to approve disaster guaranteed loans up to $350,000, and to decline disaster guaranteed loans in any amount.

2. To execute loan authorizations for Central, Region and District office approved loans and disaster loans approved under delegated authority, said execution to read as follows:

(Name), Administrator
By ----------
Manager,
Disaster Branch Office.

3. To cancel, reinstate, modify, and amend authorizations for disaster loans approved under delegated authority.

4. To disburse unsecured disaster loans.

5. To extend the disbursement period on disaster loan authorizations or undisbursed portions of disaster loans.

B. *Supervisory Loan Officer, Santee Disaster Branch Office.* 1. To approve unsecured disaster loans up to $2,500 (SBA share).

II. The authority delegated herein may not be redelegated.

III. All authority delegated herein to a specific position may be exercised by an SBA employee designated as acting in that position.

Effective date: October 6, 1970.

JOHN W. QUIMBY,
District Director,
San Diego, Calif.

[F.R. Doc. 70-14205; Filed, Oct. 21, 1970; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 96]

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER APPLICATIONS

OCTOBER 16, 1970.

The following applications are governed by Special Rule 247[1] of the Commission's general rules of practice (49 CFR 1100.247, 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 section 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 section 247(d)(4) of the special rules, and shall include the certification required therein.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

Section 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 forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 2228 (Sub-No. 61), filed September 24, 1970. Applicant: MERCHANTS FAST MOTOR LINES, INC., East U.S. Highway 80, Post Office Drawer 270, Abilene, Tex. 79604. Applicant's representative: Laurence M. Cottingham (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, including classes A and B explosives (except household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), serving plantsite and facilities of the American Magnesium Co. approximately 5 miles west of Snyder, Tex., as an off-route point in connection with carriers presently authorized regular operations at Snyder, Tex. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 2860 (Sub-No. 85), filed September 29, 1970. Applicant: NATIONAL FREIGHT, INC., 57 West Park Avenue, Vineland, N. J. 08360. Applicant's representative: Robert W. Gerson, 1201 Commerce Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fibrous glass products and materials, building wall and insulating materials, plastic products and materials, and materials, supplies, and equipment* used in connection with the production, distribution, and installation of the above commodities (except commodities in bulk), between Fairburn, Ga., and points within 5 miles thereof, on the one hand, and, on the other, all points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia. NOTE:

Applicant states that tacking to an extent is possible but it is not presently contemplated, and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga. or Washington, D.C.

No. MC 22229 (Sub-No. 65), filed September 28, 1970. Applicant: TERMINAL TRANSPORT COMPANY, INC., 248 Chester Avenue SE., Atlanta, Ga. 30316. Applicant's representatives: Ralph B. Matthews (same address as applicant) and T. R. Buck, Post Office Box 1160, Owensboro, Ky. 42301. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, classes A and B explosives and those requiring the use of special equipment), serving Clarksville, Tenn., as an intermediate and off-route point in connection with presently authorized operations. Common control may be involved. NOTE: No duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 29643 (Sub-No. 5), filed October 5, 1970. Applicant: WALSH TRUCKING SERVICE, INCORPORATED, 50 Burney Avenue, Massena, N.Y. 13662. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Appliances, electrical and gas equipment, and batteries*, from Burlington, Vt., to points in Clinton, Franklin, St. Lawrence, and Essex Counties, N.Y., returned shipments, in the opposite direction. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Burlington, Vt., or Albany, N.Y.

No. MC 29886 (Sub-No. 265), filed September 30, 1970. 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: *Motor vehicles*, in initial truckaway and driveaway service, (1) from Scotia, N.Y., and points five miles thereof, to points in the United States (except Hawaii); and (2) from Charlotte, N.C., and five miles thereof, to points in the United States (except Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 30837 (Sub-No. 408), filed September 30, 1970. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4200 39th Avenue, Kenosha, Wis. 53141. Applicant's representative: Paul F. Sullivan, Washington Building, 15th and New York Avenue NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trucks, truck tractors, chassis and station wagon type vehicles* cn truck chassis designed to transport passengers and property, with or without bodies and parts thereof, in secondary movements, in truckaway service, from Selkirk, N.Y., to points in Connecticut, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont, restricted to the transportation of vehicles manufactured or assembled at International Harvester Co. plants at Fort Wayne, Ind.; Springfield, Ohio; San Leandro, Calif.; and Chatman, Ontario, Canada, which have had an immediately prior movement by rail or by truck. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 36918 (Sub-No. 3), filed September 28, 1970. Applicant: BECKER'S MOTOR TRANSPORTATION, INC., 528 Michigan Avenue, Kenilworth, N.J. 07033. Applicant's representative: William D. Traub, 10 East 40th Street, New York, N.Y. 10016. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass containers*, under 1-gallon capacity, moving on automated rollerbed trailers, from Salem, N.J., to New York, N.Y., and (2) *rejected glass containers, and pallets, paper shrouds, deck boards and other packing materials* used in the inbound movement, from New York, N.Y., to Salem, N.J. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority under MC 128890 (Sub-No. 1), therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 40915 (Sub-No. 35), filed September 28, 1970. Applicant: BOAT TRANSIT, INC., Post Office Box 1403, Newport Beach, Calif. 92663. Applicant's representative: J. Max Harding, 605 South 14th Street, Post Office Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpet, carpet remnants and rugs*, (1) from Cartersville and Dalton, Ga., to points in Texas, Arizona, California, Oregon, Washington, and Nevada and (2) from Los Angeles, Calif., to points in Texas, Minnesota, Missouri, Illinois, Virginia, North Carolina, Georgia, and Florida. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif., or Atlanta, Ga.

No. MC 48635 (Sub-No. 5), filed September 28, 1970. Applicant: CLOQUET TRANSFER COMPANY, a corporation, 107 Avenue C, Cloquet, Minn. 55720. Applicant's representative: Anthony C. Vance, 1111 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except in those of unusual value, classes A and B explosives, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Minneapolis-St. Paul, Minn., and Cloquet, Minn., from Minneapolis-St. Paul over Interstate Highway 35E (also over Interstate Highway 35W) to junction Interstate Highway 35, thence over Interstate Highway 35 junction to Minnesota Highway 33, thence over Minnesota Highway 33 to Cloquet and return over the same route, serving all intermediate points. NOTE: If a hearing is deemed necessary applicant requests it be held at Duluth or Minneapolis, Minn.

No. MC 51146 (Sub-No. 178), filed September 28, 1970. Applicant: SCHNEIDER TRANSPORT & STORAGE, INC., 817 McDonald Street, Green Bay, Wis. 54306. Applicant's representative: D. F. Martin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs*, from points in Marathon and Taylor Counties, Wis., to points in the United States (except Alaska and Hawaii), and (2) *Materials, equipment, and supplies*, used in the manufacture and distribution of the above-named products, from the above-destination points to points in Marathon and Taylor Counties, Wis. NOTE: Applicant states requested authority could be tacked with various subs of MC 51146 and applicant will tack with its MC 51146 where feasible, but does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. NOTE: Applicant further states it has various duplicative items of authority under various subs but does not seek duplicative authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Madison, Wis.

No. MC 51146 (Sub-No. 179), filed September 28, 1970. Applicant: SCHNEIDER TRANSPORT & STORAGE, INC., 817 McDonald Street, Green Bay, Wis. 54306. Applicant's representatives: D. F. Martin (same address as applicant) and Charles W. Singer, 33 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Furniture*, from Kiel, Wis., to points in the United States (except Alaska and Hawaii), and (2) *equipment, materials, and supplies*, from points in the United States (except Alaska and Hawaii), to Kiel, Wis. NOTE: Applicant states that requested authority could be tacked with various subs of MC 51146 and applicant will tack with its MC 51146 where feasible, however it does not further identify the points or territories which can be served through such tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may

result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Madison, Wis.

No. MC 51146 (Sub-No. 184), filed October 5, 1970. Applicant: SCHNEIDER TRANSPORT & STORAGE, INC., 817 McDonald Street, Green Bay, Wis. 54306. Applicant's representatives: D. F. Martin (same address as above) and Charles W. Singer, 33 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such products* as are manufactured or distributed by manufacturers or converters of cellulose materials and products and paper products, from Wilmington, Ill., to points in Arkansas, Kansas, Upper Peninsula of Michigan, Nebraska, North Dakota, Pennsylvania, South Dakota, and Tennessee; and (2) *returned shipments, equipment, materials, and supplies* used in the manufacture and distribution of the products outlined in (1) above, from points in Arkansas, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, North Dakota, South Dakota, Nebraska, Ohio, Tennessee, West Virginia, and Wisconsin to Wilmington, Ill. NOTE: Applicant states that it will tack with various subs in MC 51146 where feasible. No duplicating authority is sought. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 52460 (Sub-No. 102), filed September 28, 1970. Applicant: HUGH BREEDING, INC., 1420 West 35th Street, Post Office Box 9515, Tulsa, Okla. 74107. Applicant's representatives: Warren A. Goff and Robert E. Joyner, 2111 Sterick Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ammonium nitrate urea, fertilizer materials and fertilizer ingredients*, dry, in bulk or bags, (1) from the plantsite of Missouri Farmers Association at South River (located near Palmyra) in Marion County, Mo., to points in Illinois, Iowa, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin, and rejected shipments, on return, and (2) from points in Marion County, Mo., to points in Kentucky and rejected shipments, on return. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Des Moines, Iowa.

No. MC 59680 (Sub-No. 183), filed September 28, 1970. Applicant: STRICKLAND TRANSPORTATION CO., INC., 3011 Gulden Avenue, Post Office Box 5689, Dallas, Tex. 75222. Applicant's representative: Oscar P. Peck (same address as applicant). 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, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite and warehouses of R. R. Donnelley and Sons Co., at or near Warsaw, Ind., as an off-route point in connection with carrier's present operations to and from South Bend, Ind. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., Chicago, Ill., or Washington, D.C.

No. MC 59856 (Sub-No. 38), filed September 23, 1970. Applicant: SALT CREEK FREIGHTWAYS, INC., 3333 West Yellowstone, Post Office Box 1411, Casper, Wyo. 82601. Applicant's representative: Joseph F. Sloan, 6540 North Washington Street, Denver, Colo. 80229. 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 requiring special equipment, and those injurious or contaminating to other lading) serving the plantsite and warehouse facilities of Western Electric Co., Inc., at Adams County, Colo., near Northglenn, Colo., as an off-route point in connection with carrier's regular route operations at Denver, Colo. NOTE: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 64112 (Sub-No. 45), filed September 29, 1970. Applicant: NORTHEASTERN TRUCKING COMPANY, a corporation, 2508 Starita Road, Post Office Box 26276, Charlotte, N.C. 28213. Applicant's representative: John M. Dunn, Jr., Post Office Box 26276, Charlotte, N.C. 28213. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper*, from Roanoke Rapids, N.C., to points in Connecticut, Massachusetts, Rhode Island, New Jersey, New York (except those points on Long Island east of the New York, N.Y., commercial zone as defined by the Commission), and those points in Pennsylvania north of U.S. Highway 22 from the New Jersey-Pennsylvania State line to Harrisburg, Pa., and west of Interstate Highway 83 from Harrisburg to the Pennsylvania-Maryland State line, Concord, N.H., and Portland, Maine. NOTE: Applicant states that by combining the authority sought with that presently held in MC-64112 and subs thereunder, operating through common point of Roanoke Rapids, N.C., applicant may serve all origins in North Carolina. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 94201 (Sub-No. 90) (Amendment), filed August 24, 1970, published in the FEDERAL REGISTER issue of September 24, 1970, amended, and republished as amended, this issue. Applicant: BOWMAN TRANSPORTATION, INC., 1010 Stroud Avenue, Gadsden, Ala. Applicant's representative: Maurice F. Bishop, 327 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, between the plantsites, storage and warehouse facilities (owned and leased) of U.S. Plywood-Champion Papers, Inc., at or near Canton, Waynesville, and Asheville, N.C., on the one hand, and, on the other, Chattanooga, Tenn. NOTE: Applicant states that it proposes to tack the authority herein sought with its present certificates at the named origin and destination points, (1) by tacking at Chattanooga, Tenn., it can eliminate its present gateways and provide service to points in Tennessee, Alabama, Indiana, and authorized points in Ohio and Illinois, (2) by tacking at Canton, Waynesville, and Asheville, N.C., it can provide service to points in North Carolina and its authorized points in Virginia, Maryland, Delaware, Pennsylvania, New York, New Jersey, and Connecticut without being required to operate through its north Georgia gateways. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Atlanta, Ga.

No. MC 94201 (Sub-No. 91) (Amendment), filed August 24, 1970, published in the FEDERAL REGISTER issue of September 24, 1970, amended and republished as amended, this issue. Applicant: BOWMAN TRANSPORTATION, INC., 1010 Stroud Avenue, Gadsden, Ala. Applicant's representative: Maurice F. Bishop, 327 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tires, tubes, tire and tube repairing materials, and related articles*, between the warehouses and distribution centers of Lee Tire & Rubber Co. at or near Frazer and Devault, Pa., on the one hand, and, on the other, points in Virginia, North Carolina, South Carolina, Tennessee, Georgia, Alabama, and Florida. NOTE: Applicant states that it proposes to tack the authority sought herein with its present authority at authorized points in Virginia, North Carolina, South Carolina, Tennessee, Georgia, Alabama, and Florida, thus enabling it to eliminate its northwest Georgia gateways and provide a more direct service to points in Indiana and authorized points in Ohio and Illinois. The purpose of this republication is to add the tacking information. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C. or Atlanta, Ga.

No. MC 102567 (Sub-No. 136), filed September 25, 1970. Applicant: EARL GIBBON TRANSPORT, INC., 4295 Meadow Lane, Post Office Drawer 5357, Bossier City, La. 71010. Applicant's representative: Jo E. Shaw, 816 Houston First Savings Building, Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from points in Caddo Parish, La., to points in Arkansas, Louisiana, Mississippi, and Texas. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 102567 (Sub-No. 137), filed September 28, 1970. Applicant: EARL GIBBON TRANSPORT, INC., 4295 Meadow Lane, Post Office Drawer 5357, Bossier City, La. 71010. Applicant's representative: Jo E. Shaw, 816 Houston

First Savings Building, Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from De Ridder, La., and Monticello, Miss., to points in Arkansas, Louisiana, Mississippi, Oklahoma, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 102567 (Sub-No. 138), filed September 28, 1970. Applicant: EARL GIBBON TRANSPORT, INC., 4295 Meadow Lane, Post Office Drawer 5357, Bossier City, La. 71010. Applicant's representative: Jo E. Shaw, 816 Houston First Savings Building, Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid paper and pulp mill products, byproducts and derivatives*, in bulk, in tank vehicles, from the plantsite of Crown Zellerbach Corp. at or near St. Francisville, La., to the plantsite of Crosby Chemical Co., Picayune, Miss. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 105146 (Sub-No. 5), filed September 8, 1970. Applicant: COORDINATED TRANSPORTATION COMPANY, a corporation, 701 Commerce Street, Dallas, Tex. 75202. Applicant's representative: W. H. Wiley, 701 Commerce Street, Dallas, Tex. 75202. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between New Franklin, Mo., and Parsons, Kans., from New Franklin over Missouri Highway 5 to junction U.S. Highway 40, thence over U.S. Highway 40 via Boonville, Mo., to junction unnumbered highways, thence over unnumbered highway via Pilot Grove, Pleasant Green, Clifton City, and Beaman, Mo., to junction U.S. Highway 50, thence over U.S. Highway 50 to junction U.S. Highway 65, thence over U.S. Highway 65 to junction unnumbered highway, thence over unnumbered highways via Camp Branch, Mo., to junction Missouri Highway 127, thence over Missouri Highway 127 to junction Missouri Highway 52, thence over Missouri Highway 52 to Appleton City, Mo. (also from junction Missouri Highway 52 and unnumbered highway over unnumbered highway to La Due, Mo., and return), thence over unnumbered highways via Rockville, Schell City, Harwood, and Walker, Mo., to junction U.S. Highway 54, thence over U.S. Highway 54 to Eldorado Springs, Mo., thence return over U.S. Highway 54 to Fort Scott, Kans., thence over U.S. Highway 69 to junction Kansas Highway 39, thence over Kansas Highway 39 to junction Kansas Highway 3, thence over Kansas Highway 3 via Helper, Kans., to junction unnumbered highway, thence over unnumbered highways via Walnut, Kans., to junction Kansas Highway 57, thence over Kansas Highway 57 to St. Paul, Kans., thence over unnumbered highways via South Mound, Kans., to junction U.S. Highway 59, and thence over U.S. Highway 59 to Parsons, and return over the same route, serving all intermediate points;

(2) Between Kansas City, Mo., and Parsons, Kans., from Kansas City over U.S. Highway 50 to Olathe, Kans., thence over U.S. Highway 169 to Paola, Kans., thence over U.S. Highway 169 to junction Kansas Highway 7, thence over Kansas Highway 7 to Beagle, Kans., thence over unnumbered highways via Parker, Goodrich, Findlay, Centerville, and Selma, Kans., to junction Kansas Highway 52, thence over Kansas Highway 52 to Moran, Kans., thence over Kansas Highway 6 to junction unnumbered highway, thence over unnumbered highways via Kimball, Kans., to junction U.S. Highway 59, thence over U.S. Highway 59 to Parsons; and return from Parsons over U.S. Highway 59 to junction unnumbered highway north of Erie, Kans. (formerly U.S. Highway 59), thence over unnumbered highway via Shaw, Kans., to junction U.S. Highway 169 (formerly U.S. Highway 59), thence over U.S. Highway 169 to junction U.S. Highway 59, thence over U.S. Highway 59 to junction U.S. Highway 54, thence over U.S. Highway 54 to Moran, Kans., and thence over the same route to Kansas City, serving all intermediate points; (3) between Parsons, Kans., and Chanute, Kans., over U.S. Highway 59 to junction Kansas Highway 39 to Chanute and return over the same route, serving all intermediate points; (4) between Parsons, Kans., and Joplin, Mo., from Parsons over U.S. Highway 160 to junction unnumbered highway, thence over unnumbered highway via Sherman City and West Mineral, Kans., to junction Kansas Highway 7, thence over Kansas Highway 7 to Columbus, Kans., thence over Kansas Highway 96 to junction Kansas Highway 26, thence over Kansas Highway 26 to Galena, Kans., and thence over U.S. Highway 66 to Joplin, and return over the same route, serving all intermediate points; (5) between Parsons, Kans., and Muskogee, Okla., from Parsons over U.S. Highway 59 also to Labette over unnumbered highway and return to junction Oklahoma Highway 2, thence over Oklahoma Highway 2 to Vinita, Okla. (also from junction Oklahoma Highway 2 and unnumbered highway over unnumbered highways to Blue Jacket, Okla., and return), and thence over U.S. Highway 69 to Muskogee, and return over the same route, serving all intermediate points; (6) between Muskogee, Okla., and Denison, Tex., over U.S. Highway 69 to Denison, and return over the same route, serving all intermediate points;

(7) Between Muskogee, Okla., and Oklahoma City, Okla., from Muskogee over U.S. Highway 69 to junction Oklahoma Highway 51B, thence over Oklahoma Highway 51B via Tullahassee, Porter, and Redbird, Okla., to junction Oklahoma Highway 72, thence over Oklahoma Highway 72 to Coweta, Okla., thence over Oklahoma Highway 51 to junction U.S. Highway 64, thence over U.S. Highway 64 via Tulsa and Sand Springs, Okla., to junction Oklahoma Highway 99, thence over Oklahoma Highway 99 to junction Oklahoma Highway 51, thence over Oklahoma Highway 51 to junction Oklahoma Highway 18, thence over Oklahoma Highway 18 to Agra, Okla., thence to junction Oklahoma Highway 105 via Tryon to junction U.S. Highway 177 via Carney, Okla., to junction U.S. Highway 66 (also from junction U.S. Highway 66 and unnumbered highway over unnumbered highways to Fallis, Okla., and return), thence over U.S. Highway 66 to junction U.S. Highway 77, thence over U.S. Highway 77 to junction unnumbered highway, and thence over unnumbered highways via Witcher and Owanda, Okla., to Oklahoma City, and return over the same route, serving all intermediate points; (8) between Parsons, Kans., and Oklahoma City, Okla., from Parsons over U.S. Highway 59 to junction Kansas Highway 96, thence over Kansas Highway 96 to Mound Valley, Kans., thence over Kansas Highway 96 to junction unnumbered highway thence over unnumbered highways via Angola, Kans., to junction U.S. Highway 166, thence over U.S. Highway 166 to Coffeyville, Kans., thence over U.S. Highway 169 to junction unnumbered highway near South Coffeyville, Okla., thence over unnumbered highways via Wann, Okla., to junction U.S. Highway 75, thence over U.S. Highway 75 to Bartlesville, Okla., thence over U.S. Highway 60 to junction unnumbered highway north of Okesa, Okla., thence over unnumbered highways via Okesa and Nelagoney, Okla., to junction Oklahoma Highway 11, thence over Oklahoma Highway 11 to junction Oklahoma Highway 99, thence over Oklahoma Highway 99 to junction unnumbered highway north of Osage, Okla., and thence over the route described immediately above, to Oklahoma City, and return over the same route, serving all intermediate points;

(9) Between Wichita Falls, Tex., and Forgan, Okla., from Wichita Falls over U.S. Highway 277 to junction Oklahoma Highway 32, thence over Oklahoma Highway 32 to junction U.S. Highway 70, thence over U.S. Highway 70 to Grandfield, Okla., thence over Oklahoma Highway 36 to junction unnumbered highway south of Tillman, Okla., thence over unnumbered highways via Loveland and Hollister, Okla., to junction U.S. Highway 183, thence over U.S. Highway 183 to Frederick, Okla., thence over Oklahoma Highway 5 to junction unnumbered highway west of Tipton, Okla., thence over unnumbered highways via Humphreys, Okla., to junction U.S. Highway 62, thence over U.S. Highway 62 to Altus, Okla., thence over U.S. Highway

283 to junction unnumbered highway east of Martha, Okla., thence over unnumbered highways via Martha and Hester, Okla., to junction U.S. Highway 283, thence over U.S. Highway 283 to Mangum, Okla., thence over Oklahoma Highway 34 to junction U.S. Highway 270 (also from junction Oklahoma Highway 34 and unnumbered highway over unnumbered highways to Brinkman, Okla., and return), thence over U.S. Highway 270 to junction U.S. Highway 283, thence over U.S. Highway 283 to junction U.S. Highway 64 and thence over U.S. Highway 64 to Forgan, and return over the same route, serving all intermediate points; (10) between Coffeyville, Kans., and Chetopa, Kans., over U.S. Highway 166 to Chetopa, and return over the same route, serving all intermediate points. Restriction: The service authorized herein is subject to the following conditions: The motor carrier service to be performed by said carrier shall be limited to service which is auxiliary to, or supplemental of, the rail service of the Missouri-Kansas-Texas Railroad Co., hereinafter called the railroad; carrier shall serve only points which are stations on a rail line of the railroad; no shipments shall be transported by said carrier as a common carrier by motor vehicle, between any of the following points, or through, or to or from more than one of said points: New Franklin and Kansas City, Mo., Parsons, Kans., Oklahoma City, Okla., and Denison and Wichita Falls, Tex.; all contractual arrangements between said carrier and the railroad, and between either said carrier, the railroad and Coordinated Transportation Co., pertaining to the service authorized herein, shall be reported to the Commission and shall be subject to revision if and as the Commission may find it to be necessary, in order that such arrangements shall be fair and equitable to the parties. NOTE: Applicant states that the purpose of this application is to delete the present restriction and route authority under existing certificate No. MC 105146 (Sub-No. 1) and reissue certificate as set forth herein. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas or Fort Worth, Tex., or Oklahoma City, Okla.

No. MC 105249 (Sub-No. 9), filed October 2, 1970. Applicant: KEENAN TRANSFER & STORAGE, INC., 1205 Greenvale Road, Albany, Ga. 31702. Applicant's representative: Norman J. Bolinger, 1729 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, dairy products and articles distributed by meat packinghouses*, as described in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except in bulk, in tank vehicles, from Thomasville, Ga., to points in those parts of Alabama and Florida on and bounded by a line beginning at the junction of Alabama Highway 51 and U.S. Highway 84 at or near Enterprise, Ala., thence west along U.S. Highway 84 to junction U.S. Highway 29, thence west and south along U.S. Highway 29 to the Alabama-Florida State line, thence west and south along the Alabama-Florida State line to junction U.S. Highway 98, thence east along U.S. Highway 98 to junction Florida Highway 79, thence north on Florida Highway 79 to junction Florida Highway 20, thence west on Florida Highway 20 to junction Florida Highway 81, thence north along Florida Highway 81 to junction Florida Highway 183, thence north along Florida Highway 183 to Florida-Alabama State line, thence north on Alabama Highway 27 to junction U.S. Highway 84, thence north along U.S. Highway 84 to junction Alabama Highway 51, the point of beginning. Service to be performed under continuing contract or contracts with John Morrell & Co., Ottumwa, Iowa 52501. NOTE: Applicant holds common carrier authority under MC 2261 and subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Jacksonville, Fla., or Atlanta, Ga.

No. MC 106398 (Sub-No. 503), filed October 1, 1970. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representatives: Irvin Tull (same address as applicant) and Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, in truckaway service, from points in Jones and Jasper Counties, Miss., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control and dual operations may be involved. All duplicating authority shall be eliminated. If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss.

No. MC 106398 (Sub-No. 504), filed October 2, 1970. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representatives: Irvin Tull (same address as applicant) and Leonard A. Jaskiewicz, 1730 M Street NW, Suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, in truckaway service, from plantsite of Crestwood Mobile Homes, Inc., in Nashua, N.H., to the States of Maine, Vermont, New Hampshire, Connecticut, Rhode Island, Massachusetts, and New York. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Duplication with present authority to be eliminated. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Manchester or Portsmouth, N.H.

No. MC 106398 (Sub-No. 506), filed October 7, 1970. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representatives: Irvin Tull (same address as applicant) and Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobile, in initial movement, in truckaway service, from points in Cherokee County, S.C., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Duplication with present authority to be eliminated. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C., or Columbia, S.C.

No. MC 106451 (Sub-No. 7), filed September 30, 1970. Applicant: COOK MOTOR LINES, INC., 408 Wellington Street, Post Office Box 1391, Akron, Ohio 44309. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. 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, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between the plantsites and facilities of The Ohio Body Co. at New London, Ohio, on the one hand, and, on the other, points in West Virginia on and north of U.S. Highway 60, except those in Brooke and Hancock Counties, W. Va. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 107162 (Sub-No. 26), filed September 30, 1970. Applicant: NOBLE GRAHAM, an individual, Route 1, Brimley, Mich. 49715. Applicant's representative: Philip H. Porter, 121 South Pinckney Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and chemicals* used in the manufacture of fertilizer (except in bulk), from Dubuque, Iowa, and Jackson, Wis., to points in the Upper Peninsula of Michigan. NOTE: If a hearing is deemed necessary applicant requests it be held at Madison or Milwaukee, Wis.

No. MC 109478 (Sub-No. 118), filed September 29, 1970. Applicant: WORSTER MOTOR LINES, INC., Gay Road, North East, Pa. 16428. Applicant's representative: William W. Knox, 23 West 10th Street, Erie, Pa. 16501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, supplies, and products* used in or produced by the food processing industry, between Springdale, Ark., on the one hand, and, on the other, North East, Pa., and Westfield and Brocton, N.Y. NOTE: Applicant

states that the requested authority would be tacked at North East, Pa., with its existing authority to provide service to points in New York and unnamed New England States. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 112668 (Sub-No. 52), filed September 28, 1970. Applicant: HARVEY R. SHIPLEY & SONS, INC., U.S. Route 140, Finksburg, Md. 21048. Applicant's representative: Norman E. Shipley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fertilizer*, in bulk, in pneumatic tank vehicles, from Hagerstown, Md., to points in that portion of Pennsylvania bounded on the west and north by U.S. Highway 220, beginning at the Maryland-Pennsylvania State line to its junction with the Susquehanna River at or near Williamsport, Pa.; on the east by the Susquehanna River to its junction with the Maryland-Pennsylvania State line; and on the south by the Maryland-Pennsylvania State line; points in Virginia north of U.S. Highway 60 and west of Interstate Highway 95 to the Virginia-West Virginia State line and points in West Virginia east of U.S. Highway 19 and north of U.S. Highway 60; (2) *Stone products*, from Millville, W. Va., to points in Georgia, New York, Ohio, and South Carolina; (3) *Slag*, in bulk, in pneumatic tank vehicles, from Sparrows Point, Md., to points in Fairfax, Loudoun, Arlington, Clark, Frederick, Fauquier, Prince William, Warren, Orange, Culpeper, Madison, and Rappahannock Counties, Va.; points in Delaware; points in Jefferson, Berkley, and Morgan Counties, W. Va., and points in Fulton, Franklin, Adams, York, Lancaster, Chester, Delaware, Cumberland, and Dauphin Counties, Pa.; (4) *Sand*, except in pneumatic tank vehicles, from Chase, Md., to points in Delaware, New Jersey (except those in Cumberland, Salem, Gloucester, Cape May, Atlantic, Camden, and Burlington Counties, N.J.), West Virginia, Virginia, Pennsylvania, New York, Connecticut, Maryland, and the District of Columbia and (5) *Sand*, in packages, from White Marsh, Md., to points in Delaware, New Jersey (except points in Cumberland, Salem, Gloucester, Cape May, Atlantic, Camden, and Burlington Counties, N.J.), West Virginia, Virginia, Pennsylvania, New York, Connecticut, Maryland, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Baltimore, Md.

No. MC 113024 (Sub-No. 100), filed October 7, 1970. Applicant: ARLINGTON J. WILLIAMS, INC., Rural Delivery No. 2, South Du Pont Highway, Smyrna, Del. 19977. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lubricating oils and greases*, in containers, from Kansas City, Kans., to points in Delaware, Maryland, New Jersey, Pennsylvania, West Virginia, Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont, under continuing contract with Phillips Petroleum Co. NOTE: Duplication with present authority to be eliminated. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Kansas City, Mo.

No. MC 113434 (Sub-No. 37), filed September 29, 1970. Applicant: GRA-BELL TRUCK LINE, INC., 679 First Federal Building, Holland, Mich. 49423. Applicant's representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar and cider stock*, in bulk, in tank vehicles, (1) from Muscatine, Iowa, to Holland, Mich., and (2) from Bowling Green and Fremont, Ohio, to Holland, Mich. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Pittsburgh, Pa.

No. MC 113678 (Sub-No. 403), filed September 28, 1970. Applicant: CURTIS, INC., Post Office Box 16004, Stockyards Station, Denver, Colo. 80216. Applicant's representatives: Duane W. Acklie and Richard Peterson, Post Office Box 806, Lincoln, Nebr. 68501. 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 Cherokee, Iowa, and Omaha, Nebr., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, West Virginia, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 113855 (Sub-No. 227), filed September 28, 1970. Applicant: INTERNATIONAL TRANSPORT, INC., South Highway 52, Rochester, Minn. 55901. Applicant's representative: Gene P. Johnson, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors*, with or without attachments, *tractor attachments* but not confined to backhoe loaders, front-end loaders, ditchers, forklifts, buckets, and *parts of the above-mentioned commodities*, from Topeka, Kans., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states it proposes to tack at Topeka, Kans., with authorities in its Sub-No. 80 wherein it holds authority to points in North Dakota and South Dakota. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Kansas City, Mo.

No. MC 114045 (Sub-No. 341), filed September 28, 1970. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, Tex. 75222. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery products*, from points in Cook County, Ill., to points in Arizona, California, Nevada, Utah, Oregon, and Washington. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114045 (Sub-No. 342), filed September 28, 1970. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, Tex. 75222. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery products*, from points in Cook County, Ill., to points in Oklahoma and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114897 (Sub-No. 91), filed September 28, 1970. Applicant: WHITFIELD TANK LINES, INC., 300–316 North Clark Road, El Paso, Tex. 79989. Applicant's representative: J. P. Rose (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Titanium tetrachloride*, in bulk, in tank vehicles, from Henderson, Nev., to points in Alameda, Contra Costa, Marin, Napa, San Mateo, San Francisco, Solano, and Sonoma Counties, Calif. Common control may be involved. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Las Vegas, Nev.

No. MC 116273 (Sub-No. 128) (Correction), filed August 5, 1970, published in the FEDERAL REGISTER issue of August 27, 1970, corrected in part, and republished as corrected, this issue. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, Ill. 60650. Applicant's representative: William R. Lavery (same address as applicant). NOTE: The purpose of this partial republication is to reflect the correct address of applicant as 3800 South Laramie Avenue, in lieu of 2800 South Laramie Avenue, as shown erroneously in previous publication. The rest of the application remains the same.

No. MC 116273 (Sub-No. 130), Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, Ill. 60605. Applicant's representative: William R. Lavery (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum*

and petroleum products, from Carson City, Mich., to points in Illinois, Indiana, Kentucky, and Ohio. NOTE: Applicant states requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack, and therefore does not identify the territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 116763 (Sub-No. 174), filed September 28, 1970. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are used, distributed, or dealt in by automotive, vehicular, or engine supply outlets, manufacturers, or distributors, (1) from points in California, to points in Alabama, Arkansas, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia, and (2) from points in Alabama, Arkansas, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia, to points in California. NOTE: Applicant states that the requested authority cannot be tacked with its present authority. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 117565 (Sub-No. 34), filed October 1, 1970. Applicant: MOTOR SERVICE COMPANY, INC., 237 South Fifth Street, Coshocton, Ohio 43812. Applicant's representative: Louis J. Amato, Post Office Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *All terrain vehicles and parts, accessories, and attachments therefor*, from points in Huron County, Ohio, to points in the United States (except Hawaii), (2) *trailers*, designed to be drawn by passenger automobiles in initial movements, from points in Warren County, Ohio, to points in the United States (except Hawaii), (3) *trailers*, designed to be drawn by passengr automobiles, between the plantsite of Cardinal Craft, Inc., Marion, Iowa, and points in Minnesota, North Dakota, South Dakota, Nebraska, Kansas, Missouri, Wisconsin, Illinois, Indiana, Kentucky, and Tennessee, and (4) *travel trailers*, designed to be drawn by passenger automobiles, from points in Mahaska County, Iowa, to points in the United States (except Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Cedar Rapids, Iowa, or Cleveland, Ohio.

No. MC 117644 (Sub-No. 22), filed September 30, 1970. Applicant: D & T TRUCKING CO., INC., Post Office Box 2611, 498 First Street, New Brighton, Minn. 55112. Applicant's representative: A. R. Fowler, 2288 University Avenue, St. Paul, Minn. 55114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, 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, Worthington, Minn., and Huron, S. Dak., to points in Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and District of Columbia, under contract with Armour and Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 118127 (Sub-No. 18), filed September 21, 1970. Applicant: HALE DISTRIBUTING COMPANY, INC., 914 South Vail Avenue, Montebello, Calif. 90640. Applicant's representative: William J. Augello, Jr., 103 Fort Salonga Road, Northport, N.Y. 11768. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen fruits and vegetables*, from points in California, to points in New Jersey, New York, Connecticut, and Massachusetts, (2) *frozen meat and meat products*, from Manchester, N.H., and Lawrence, Mass., to Seattle, Wash., and Alameda, Calif., and (3) *frozen commodities*, the transportation of which is otherwise exempt from economic regulations under section 203 (b)(6) of the Act, when moving in the same vehicle and at the same time and place with the commodities authorized in Parts (1) and (2) above. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 118159 (Sub-No. 103), filed September 28, 1970. Applicant: EVERETT LOWRANCE, INC., 4916 Jefferson Highway, New Orleans, La. 70121. Applicant's representative: David D. Brunson, 419 Northwest Sixth Street, Oklahoma City, Okla. 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum, petroleum products, petrochemicals, and petroleum waxes* in packages or containers, from Barnsdall, Okla., to points in Indiana, Michigan, Ohio, Pennsylvania, New York, New Jersey, and Louisiana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., Oklahoma City, Okla., Washington, D.C., or New Orleans, La.

No. MC 118318 (Sub-No. 20), filed September 29, 1970. Applicant: IDA-CAL FREIGHT LINES, INC., Post Office Box 422, Twin Falls, Idaho 83301. Applicant's representative: Kenneth G. Bergquist, Post Office Box 1775, Boise, Idaho 83701. 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), from Nampa, Idaho, to points in California, Oregon, and Washington. NOTE: Applicant states that the requested authority can be tacked at Nampa, Idaho, under its present authority in MC 118318 (Sub-No. 13). Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho.

No. MC 118806 (Sub-No. 13), filed September 28, 1970. Applicant: ARNOLD BROS. TRANSPORT, LTD., a corporation, 1101 Dawson Road, Winnipeg 6, Manitoba, Canada. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors* (except those with vehicle beds, bed frames and fifth wheels), (2) *equipment* designed for use in conjunction with tractors, (3) *agricultural, industrial, and construction machinery, and equipment*, (4) *trailers*, designed for the transportation of the above-described commodities (except those trailers designed to be drawn by passenger automobiles), (5) *attachments* for the above described commodities, (6) *internal combustion engines*, and (7) *parts* of the above-described commodities when moving in mixed loads with such commodities, (a) between Detroit and Port Huron, Mich., on the one hand, and, on the other, the international boundary of the United States and Canada at or near Detroit, Mich., Windsor, Ontario, and Port Huron, Mich., Sarnia, Ontario, and (b) from Sault Ste Marie, Mich., to the international boundary of the United States and Canada at or near Sault Ste Marie, Mich., and Sault Ste Marie, Ontario. Restriction: The above requested authority is restricted to traffic originating at the plants, warehouse sites, and experimental farms of Deere & Co. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 118978 (Sub-No. 3), filed September 28, 1970. Applicant: MERCURY PRODUCE EXPRESS, LTD., a corporation, 2201 Rosser, Burnaby 2, British Columbia, Canada. Applicant's representative: George H. Hart, 1100 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber*, from ports of entry on the United States-Canada boundary line in Washington and Idaho to points in California, Arizona and

Nevada; and (2) *bananas*, from points in California and Washington to points on the United States-Canada boundary line at or near Blaine and Sumas, Wash. NOTE: Applicant presently holds contract carrier authority under its No. MC 125022, therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 119176 (Sub-No. 7), filed October 1, 1970. Applicant: THE SQUAW TRANSIT COMPANY, a corporation, 5121 South 49th West Avenue, Post Office Box 9415, Tulsa, Okla. 74107. Applicant's representative: Joe G. Fender, 802 Houston First Savings Building, Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, tubes and tubing* (except oilfield pipe, as authorized T. E. Mercer-Extension, 75 M.C.C. 459, 543, from Beaver Falls, Pa., and Alliance, Ohio, to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 120181 (Sub-No. 4) (Amendment), filed August 14, 1970, published in the FEDERAL REGISTER issue of September 3, 1970, and republished in part, as amended this issue. Applicant: MAIN LINE HAULING CO., INC., Box C, St. Clair, Mo. 63077. Applicant's representative: Robert L. Hawkins, Jr., 312 East Capitol Avenue, Jefferson City, Mo. 65101. The purpose of this partial republication is to delete the following words in the alternate route "* * * serving St. Clair, Mo., and all intermediate points between St. Clair, Mo., and Potosi, Mo., and Memphis, Tenn.," and to insert in lieu thereof the following: "* * * serving St. Clair, Mo., and Potosi, Mo., and all intermediate points, and Memphis, Tenn.," in part (b) of the application. The rest of the application remains as previously published.

No. MC 123054 (Sub-No. 12), filed September 30, 1970. Applicant: R & H CORPORATION, 295 Grand Avenue, Clarion, Pa. 16214. Applicant's representative: V. Baker Smith, 2107 The Fidelity Building, Philadelphia, Pa. 19109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass and plastic containers, closures, and fiberboard and pulpboard boxes*, from Bridgeton, N.J., to points in New York on and west of a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 11 to Syracuse, N.Y., thence along New York Highway 57 to Lake Ontario. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 123407 (Sub-No. 72), filed September 25, 1970. Applicant: SAWYER TRANSPORT, INC., 2424 Minnehaha Avenue, Minneapolis, Minn. 55404. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal briquettes, lignite char fireplace logs, lighter fluid, and barbecue grill base material*, from the plantsite and warehouse facility of Husky Briquetting, Inc., at or near Isanti, Minn., to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, Nebraska, North Dakota, South Dakota, Ohio, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 124221 (Sub-No. 32), filed September 19, 1970. Applicant: HOWARD BAER, 821 East Dunne Street, Morton, Ill. 61550. Applicant's representative: Robert W. Loser, 1001 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Yogurt* (plain and flavored), *dip n'dressings, and dairy products* as described in section (B) of appendix I to the Report in *Descriptions and Motor Carrier Certificates*, 61 M.C.C. 209, from the plantsite and storage facilities of Sealtest Foods Division Kraftco Corp., Peoria, Ill., to the plant and storage facilities of Sealtest Foods Division Kraftco Corp., Rochester, N.Y., and New York City, N.Y.; and (2) *ice cream, ice cream products, sherbets, water ices, and water ice products*, in containers, and *dairy products* as described in section (B) of appendix I to the Report in *Descriptions and Motor Carrier Certificates* 61 M.C.C. 209, and *fruit drinks and juices*, fresh and frozen, from the plantsite and storage facilities of Sealtest Foods Division Kraftco Corp. at Peoria, Ill., to the plantsite and storage facilities of Sealtest Foods Division Kraftco Corp., Pittsburgh, Pa. Restriction: The operations sought herein are limited to a transportation service to be performed under a continuing contract or contracts with Sealtest Foods Division Kraftco Corp. NOTE: Applicant states no duplication is involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Indianapolis, Ind.

No. MC 124702 (Sub-No. 2), filed September 16, 1970. Applicant: DAVID H. WILLEMS, doing business as WILLEMS TRUCK LINE, 2425 Porter, Wichita, Kans. 67204. Applicant's representative: Paul V. Dugan, 1400 Wichita Plaza Building, Wichita, Kans. 67202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated wooden boxes and materials* used in the construction thereof (except lumber), between the plantsite of Love Box Co. and Love Manufacturing, Inc., at Wichita, Kans., on the one hand, and, on the other, points in Colorado, under contract with Love Box Co. and Love Manufacturing, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Wichita, Kans., or Denver, Colo.

No. MC 125140 (Sub-No. 13), filed September 28, 1970. Applicant: RICHARD B. BRUNZLICK, Augusta, Wis. 54722. Applicant's representative: A. R. Fowler, 2288 University Avenue, St. Paul, Minn. 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products, dairy byproducts, fruit juices and fruit drinks*, from Rochester, Minn., to Chippewa Falls, Galesville, La Crosse, and Whitehall, Wis. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 125770 (Sub-No. 6), filed September 21, 1970. Applicant: SPIEGEL TRUCKING, INC., 504 Essex Street, Harrison, N.J. 07029. 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: (1) *Washers*, from St. Joseph, Mich., (2) *ranges*, from Grand Rapids, Mich., (3) *washers, wringers, and trash mashers*, from Clyde, Ohio; (4) *dryers*, from Marion, Ohio; (5) *dishwashers*, from Findlay, Ohio; (6) *refrigerators, freezers, and air-conditioners*, from Evansville, Ind.; (7) *televisions, stereos, radios, and tape recorders*, from Indianapolis, Ind.; (8) *televisions*, from Bloomington, Ind.; (9) *freezers*, central vac's (vacuum cleaners) from St. Paul, Minn.; (10) *refrigerators, freezers, and dehumidifiers*, from Fort Smith, Ark.; (11) *televisions*, from Memphis, Tenn. and Louisville, Ky.; to points in New Jersey, and returned shipments of the named commodities on return, restricted to (a) consumer deliveries and (b) to a transportation service to be performed under a contract or continuing contract with Krich-New Jersey, Inc., of Newark, N.J. NOTE: To avoid any misunderstanding, New Jersey is the destination State for all of the above-named commodities and origins. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 126149 (Sub-No. 10), filed September 28, 1970. Applicant: DENNY MOTOR FREIGHT, INC., 617 Indiana Avenue, New Albany, Ind. 46150. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Industrial or commercial waste containers, and truck bodies*, from Winamac, Ind., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Louisiana, Maryland, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Vermont, Virginia, and West Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority.

If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Indianapolis, Ind.

No. MC 126283 (Sub-No. 3), filed September 16, 1970. Applicant: BERGEN-PASSAIC AIR EXPRESS, INC., 124 East Columbia Avenue, Palisades Park, N.J. 07650. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk), from the facilities of Minnesota Mining & Manufacturing Co., at West Caldwell, N.J., to points in New York, N.Y., Rockland and Westchester Counties, N.Y., and points in Connecticut, with no transportation for compensation on return except as otherwise authorized, under contract with Minnesota Mining & Manufacturing Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 127042 (Sub-No. 65) (Amendment), filed September 21, 1970, published in the FEDERAL REGISTER issue of October 8, 1970, amended and republished as amended, this issue. 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 applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, 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 (except hides and commodities in bulk), from Pekin, Ill., to points in Colorado, Indiana, Kentucky, Michigan, Minnesota, Ohio, North Dakota, South Dakota, Wisconsin, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to broaden the destination territory by adding the State of Kentucky. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Des Moines, Iowa.

No. MC 127156 (Sub-No. 2), filed October 1, 1970. Applicant: E. J. BRADLEY, doing business as ED'S FUEL AND TRANSFER, Box 139, Wrangell, Alaska 99929. Applicant's representative: Robin L. Taylor, 111 Stedman Street, Post Office Box 1769, Ketchikan, Alaska 99901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (a) between points on Mitkof Island, Alaska, (b) between points on Mitkof Island, Alaska, on the one hand, and, on the other, points in zone 1, and (c) between points on Mitkof Island, Alaska, on the one hand, and, on the other, points on the Mitkof Highway between Mitkof Island (Petersburg), Alaska and the Alaska-British Columbia, Canadian boundary line along the Stikine River. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Petersburg, Wrangell, Ketchikan, or Juneau, Alaska.

No. MC 127497 (Sub-No. 3), filed September 28, 1970. Applicant: J. E. DODSON, INC., 7624 Chardon Road, Kirtland, Ohio 44097. 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: *Roofing shingles and tar paper*, from Chicago, Ill., to that part of Ohio on east and north of a line beginning at Port Clinton, Ohio, thence south along Ohio Highway 53 to junction U.S. Highway 30N, thence east along U.S. Highway 30N to junction U.S. Highway 30, thence east along U.S. Highway 30 to junction U.S. Highway 62, and thence along U.S. Highway 62 to the Ohio-Pennsylvania State line (except Willoughby, Ohio). NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 128375 (Sub-No. 49), filed September 28, 1970. Applicant: CRETE CARRIER CORPORATION, Post Office Box 249, Crete, Nebr. 68333. Applicant's representative: Richard A. Peterson, 521 South 14th Street, Post Office Box 80806, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Exhaust pipe, exhaust pots, mufflers, tail pipes, suspension parts, steering gear, fifth wheel and plates, cam shaft, axle parts, wheel clamps, rim attachments, brake linings, brake shoes, brake equipment, shock absorbers and related fittings, parts, tools, materials, accessories, and advertising matter and displays, and equipment, materials and supplies*, used in the manufacture of the above-described items, from Bayonne, N.J., to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Virginia, West Virginia, Delaware, and the District of Columbia under continuing contract or contracts with Maremont Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Lincoln, Nebr.

No. MC 128375 (Sub-No. 50), filed September 27, 1970. Applicant: CRETE CARRIER CORPORATION, a Nebraska corporation, Post Office Box 249, Crete, Nebr. 68333. Applicant's representative: Richard A. Peterson, 521 South 14th Street, Post Office Box 80806, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, and equipment, materials and supplies* used in the manufacture and processing of iron and steel articles, between Pueblo, Colo., on the one hand, and, on the other, points in Nebraska, Kansas, Missouri, Iowa, Minnesota, Illinois, and Wisconsin under continuing contract with CF&I Steel Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr., or Denver, Colo.

No. MC 128375 (Sub-No. 51), filed September 28, 1970. Applicant: CRETE CARRIER CORPORATION, Post Office Box 249, Crete, Nebr. 68333. Applicant's representative: Richard A. Peterson, 521 South 14th Street, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed and animal feed ingredients, and related advertising and promotional material* when shipped with animal feed and animal feed ingredients, from St. Paul, Minn., to points in Massachusetts, Pennsylvania, Connecticut, and Kansas, under continuing contract with Allen Products Co., Inc., its affiliates and subsidiaries. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lincoln or Omaha, Nebr.

No. MC 128375 (Sub-No. 52), filed September 28, 1970. Applicant: CRETE CARRIER CORPORATION, Post Office Box 249, Crete, Nebr. 68333. Applicant's representative: Richard A. Peterson, 521 South 14th Street, Post Office Box 80806, Lincoln, Nebr. 68501. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Exhaust pipe, exhaust pots, mufflers, tail pipes, suspension parts, steering gear, fifth wheel and plates, cam shaft, axle parts, wheel clamps, rim attachments, brake linings, brake shoes, brake equipment, shock absorbers, and related fittings, parts, tools, materials, accessories and advertising matter and displays, and equipment, materials and supplies*, used in the manufacture of the above-described items, from Vernon, Calif., to points in Washington, Oregon, Idaho, Utah, Arizona, New Mexico, Texas, and Colorado under continuing contract or contracts with Maremont Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Lincoln, Nebr.

No. MC 127834 (Sub-No. 57), filed September 28, 1970. Applicant: CHEROKEE HAULING & RIGGING, INC., 540-42 Merritt Avenue, Nashville, Tenn. 37203. 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: (A) *Water heaters, water heater accessories*, (a) from Kankakee, Ill., to points in Maine, Vermont, New Hampshire, Rhode Island, Connecticut, and Massachusetts, and (b) from Erie, Pa., to points in the United States (except Alaska and Hawaii), and (B) *materials and supplies* used in the manufacture of water heaters (except commodities in bulk) from points in the United States (except Alaska and Hawaii), to Erie, Pa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 128988 (Sub-No. 10), filed September 28, 1970. Applicant: JO/KEL, INC., Post Office Box 22265, Los Angeles, Calif. 90022. Applicant's representative: J. Max Harding, 605 South 14th Street, Post Office Box 2028, Lincoln, Nebr. 68501.

Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heating and air-conditioning equipment, patio equipment and camping and recreational equipment*, from Wichita, Kans., Somerset, Pa., and Cedar City, Utah, to points in the United States (except Alaska and Hawaii); and (2) *returned shipments, materials, equipment and supplies* utilized in the manufacture, distribution, and sale of such commodities in the reverse direction, restricted against the transportation of commodities in bulk and those which by reason of size or weight require special equipment. All shipments to either originate or terminate at the plantsites and warehouse facilities utilized by the Coleman Co., Inc., of Wichita, Kans. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Washington, D.C.

No. MC 129054 (Sub-No. 10), filed September 30, 1970. Applicant: GILDER TRUCKING COMPANY, a corporation, 280 Memorial Drive SE., Atlanta, Ga. 30312. 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: *Acrylic paints, adhesive, black asphalt, liquid asphalt sealer, tile grout, vinyl concrete patcher, cement mix, lime, sand, rock and stone, and advertising materials*, (a) from the plantsite of Stone Mountain Marble Manufacturing Co., Division of Bil-Dry, Grip-On, Corp., at or near Lithonia, Ga., and (b) from the plantsite of Bil-Dry, Grip-On Corp., Norfolk, Va., to points in the United States on and east of U.S. Highway 85. NOTE: Applicant states that the requested authority cannot be tacked with its existing auhority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 133136 (Sub-No. 1), filed September 28, 1970. Applicant: ENGELMANN TRUCKING COMPANY, INC., 180 Hoover Place, Centerport, N.Y. Applicant's representatives: Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006 and Douglas Miller, 14 Front Street, Hempstead, N.Y. 11550. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic cups, plastic bowls, and plastic covers, and materials, supplies, and equipment* used in the manufacture and distribution of plastic cups, bowls, and plastic covers (except in bulk), between the plantsite and the site of warehouse facilities of Mars Sales Co., Inc., and Mars Cup Co., Inc., at Huntington Station, N.Y., on the one hand, and, on the other, points in Ohio, West Virginia, North Carolina, South Carolina, Kentucky, Vermont, Maine, New Hampshire, Tennessee, and Georgia under continuing contract with Mars Sales Co., Inc., If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 133268 (Sub-No. 1), filed September 23, 1970. Applicant: LEE'S CARRIER CORP., 2905 Northwest 32d Street, Miami, Fla. 33142. Applicant's representative: John P. Bond, 30 Giralda Avenue, Coral Gables, Fla. 33134. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Folded paper boxes* other than corrugated knocked down flat, between points in Dade County, Fla., on the one hand, and, on the other, Pascagoula, Miss.; Franklinton, Bogalusa, New Orleans, Metairie, Baton Rouge, Opelousas, Lake Charles, Alexandria, West Monroe, and Shreveport, La.; Beaumont, Houston, Brenham, Terrell, Dallas, Arlington, Fort Worth, and Cisco, Tex., (2) *polystyrene, polyvinyl chloride, and vinyl plastic products*, (a) from points in Dade County, Fla., to Chillicothe, Ohio, Philadelphia, and Lancaster, Pa.; Atlanta, Ga.; Dallas, Tex.; Los Angeles, Calif.; Baltimore and Beltsville, Md., and (b) from Leominster, Mass.; Trenton, N.J.; and Springfield, Mass., to points in Dade County, Fla., and (3) *electrical supplies*, from (a) Pittsburgh, Carnegie, Monaca, Jeanette, Delmont, Arnold, Greensburg, Ford City, and Creighton, Pa., to points in Duval, Dade, Orange, Pinellas, Broward, Palm Beach, and Hillsborough Counties, Fla., (b) from Philadelphia, Pa.; Chicago, Ill.; Detroit, Mich.; Atlanta, Ga.; and New York, N.Y., to points in Dade County, Fla., (c) from Los Angeles, Calif., to points in Dade County, Fla., and (d) from Los Angeles, Calif., to Miami, Fort Lauderdale, Tampa, Largo, Delray, Hollywood, West Palm Beach, Clearwater, Orlando, St. Petersburg, Hialeah, Jacksonville, Leesburg, Sarasota, Port Richey, and Ocala, Fla. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Miami or Tampa, Fla.

No. MC 133683 (Sub-No. 4) (Clarification), filed September 11, 1970, published in the FEDERAL REGISTER issue of October 1, 1970, and republished as clarified this issue. Applicant: WACHOVIA COURIER CORPORATION, Wachovia Building, Winston-Salem, N.C. 27102. Applicant's representatives: David G. Macdonald and John Guandolo, Suite 502, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cash letters, commercial papers, documents and records, bank stationery, sales, payroll and other accounting, audit and data processing media* (except currency, coin, and bullion) such as are used in the business of banks and banking institutions, (a) between Raleigh-Durham Airport, Raleigh-Durham, Friendship Airport, Greensboro, N.C., Smith-Reynolds Airport, Winston-Salem, N.C., and Douglas Airport, Charlotte, N.C., restricted to traffic having an immediately prior or subsequent movement by air, and (b) between Tri-City Airport, Kingsport, Tenn., on the one hand, and, on the other, points in Johnson, Sullivan, Hawkins, Hancock, Clairborne, Carter, Washington, Greene, Unicoi, Cocke, Seiver, Blount, Jefferson, Knox, Loudon, Anderson, Union, and Grainger Counties, Tenn., and Washington County, Va., restricted to traffic having an immediately prior or subsequent movement by air, under contract with persons, as defined in section 203(a) of the Interstate Commerce Act, who are engaged in the bank and banking institution business, and those in the business of furnishing data processing service. The purpose of this republication is to more clearly set forth the persons or business applicant will be under contract with. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Winston-Salem, N.C.

No. MC 133922 (Sub-No. 4), filed September 30, 1970. Applicant: WILLIAM H. NAGEL, doing business as JENKINS AND NAGEL TRUCKING CO., Post Office Box 98, Wolcott, Ind. 47995. Applicant's representative: Alki E. Scopelitis, 816 Merchants Bank Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Soy flour, corn flour, delactosed whey, whey, and dry milk products*, from points in Arkansas, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Nebraska, New York, North Carolina, North Dakota, Ohio, Pennsylvania, South Carolina, South Dakota, Tennessee, Utah, Virginia, West Virginia, and Wisconsin to Momence, Ill., and Louisville, Ky.; (2) *casein and caseinate*, from points in California, Florida, Illinois, Indiana, Louisiana, Massachusetts, Michigan, Mississippi, New Jersey, New York, North Carolina, Oregon, Pennsylvania, South Carolina, Texas, Virginia, and Washington, to Momence, Ill., and Louisville, Ky., and (3) *dry milk products blended with soy flour, corn flour, delactosed whey, whey, casein, and caseinate*, from Momence, Ill., and Louisville, Ky., to points in the United States except Alaska and Hawaii, restricted to a contract or contracts with Dry Milks, Inc., and Dry Milk Products, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Louisville, Ky.

No. MC 134389 (Sub-No. 2) (Correction), filed July 15, 1970, published FEDERAL REGISTER, issues of August 6, August 27, and October 1, 1970, and republished as corrected this issue. Applicant: WILLIAM MILLICAN, doing business as MILLICAN TRANSFER, 2121 Main Street, Victoria, Va. 23974. Applicant's representative: J. G. Dail, Jr., 1111 E Street NW., Washington, D.C. 20004. NOTE: The purpose of this republication is to show the correct docket number assigned thereto, No. MC 134389 (Sub-No. 2), in lieu of No. MC 13489 (Sub-No. 2), which was published in error. The rest of the notice remains as previously published.

No. MC 134467 (Sub-No. 1), filed October 1, 1970. Applicant: POLAR EXRESS, INC., Box 691, Springdale, Ark. 72764. Applicant's representative: Charles J. Kimball, 14th and J Streets, 300 N.S.E.A. Building, Post Office Box 82028, Lincoln,

Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Berryville, Ark., to Arkansas, Illinois, Indiana, Iowa, Kansas, Louisiana, Missouri, Nebraska, Oklahoma, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Little Rock, Ark.

No. MC 134577, filed May 4, 1970. Applicant: THOMAS L. QUINN, Box 155, Brockway, Pa. 15824. Applicant's representative: R. Edward Ferraro, Main Street, Brockway, Pa. 15824. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Jefferson, Elk, Indiana, Cameron, and Cambria Counties, Pa., and those in Huston Township (Clearfield County), Pa., to points in New York. NOTE: Applicant presently holds contract motor carrier authority in MC 128436 authorizing the transportation of coal from points in Jefferson County, Pa., to points in Chautauqua, Cattaraugus, Allegany, Steuben, Chemung, Erie, Wyoming, Niagara, Orleans, Genesee, and Monroe Counties, N.Y. NOTE: Applicant states it will relinquish the said contract carrier authority upon issuance of the authority requested in the instant application. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa.

No. MC 134664 (Sub-No. 2), filed October 1, 1970. Applicant: GILLES ROBERT INC., 298 Bernier Street, Post Office Box 21, St-Luc, Province of Quebec, Canada. Applicant's representative: Adrien R. Paquette, 200 St-James Street, West, Suite 1010, Montreal, Province of Quebec, Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products*, from ports of entry on the international boundary line between the United States and Canada at Champlain, N.Y., and Highgate Springs and North Mill, Vt., to points in Pennsylvania, New York, Maine, New Hampshire, Vermont, Connecticut, Rhode Island, Maryland, New Jersey, Massachusetts, and Michigan. NOTE: If a hearing is deemed necessary, applicant requests it be held at Montpelier, Vt., or Albany, N.Y.

No. MC 134777 (Sub-No. 4), filed September 29, 1970. Applicant: SOONER EXPRESS, INC., Post Office Box 219, Madill, Okla. 73446. Applicant's representative: David D. Brunson, 419 Northwest Sixth, Oklahoma City, Okla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products*, and *meat byproducts*, 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 St. Joseph, Mo., to points in Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, Maryland, Delaware, West Virginia, Virginia, Ohio, and the District of Columbia. NOTE: Applicant presently holds contract carrier authority under its No. MC 87088 Sub-No. 1, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., St. Louis, Mo., or Washington, D.C.

No. MC 134828, field August 3, 1970. Applicant: WALLACE IRWIN, doing business as IRWIN TRUCKING, Hettinger, N. Dak. 58639. Applicant's representative: Lyle G. Stuart, Hettinger, N. Dak. 58639. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Feed and feed ingredients*, between Hettinger, N. Dak., on the one hand, and, on the other, Des Moines and Alden, Iowa, St. Paul, Minneapolis, Savage, Mankato, Bird Island, and Dawson, Minn., Green Bay and Appleton, Wis., and Aberdeen, S. Dak.; and (2) *coal*, from Roundup, Mont., to Hettinger, N. Dak.; under contract with P. E. Knudson Mill and Elevator, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Bismarck or Fargo, N. Dak.

No. MC 134891 (amendment), filed August 27, 1970, as published in the FEDERAL REGISTER issue of September 17, 1970, and republished as amended this issue. Applicant: ED GUZZO ON TIME DELIVERY SERVICE, INC., 60 Pennsylvania Avenue, Montvale, N.J. 07645. Applicant's representative: Morris Honig, 150 Broadway, New York, N.Y. 10038. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Inter-Office communications, office records, proofs, advertising* and publication items, between Westwood, N.J., on the one hand, and, on the other, New York, N.Y., and Stamford, Norwalk, and Bridgeport, Conn., (2) *proofs, galleys, printed bulk literature, bulk addressed envelopes, and unprinted material therefor*, between Saddle River, N.J., on the one hand, and, on the other, New York, N.Y., White Plains, Orangeburg, and Pleasantville, N.Y., (3) *leather goods, hand made suitcases, and leather and wool materials and supplies* used in the manufacture thereof, between Hackensack, N.J., and New York, and (4) *data transceiver terminals, and parts thereof, paper, key punch, and component parts thereof*, from Paramus, N.J., to New York, N.Y., and points in Connecticut on the south of U.S. Highway 44, and on and west of U.S. Highway 91. NOTE: The purpose of this republication is to change the commodity description in part in (4) above, to data transceiver terminals, and parts thereof in lieu of typewriters and parts thereof. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Newark, N.J.

No. MC 134902 (Sub-No. 2), filed September 21, 1970. Applicant: LARAIN CORPORATION, 2007 West Gardenia, Phoenix, Ariz. 85021. Applicant's representative: Richard Minne, 609 Luhrs Building, Phoenix, Ariz. 85003. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *Dairy products*, in mechanically controlled refrigerated trailers as defined by the Commission in Ex Parte MC-45, and *ice cream mix* from Glendale, Ariz., to points in Los Angeles County, Calif., to Gallup, Albuquerque, and Silver City, N. Mex., and to El Paso, Tex.; *ice cream* from Silver City, N. Mex., and El Paso, Tex., to Glendale, Ariz.; *cartons, empty containers and milk cases* from Albuquerque and Gallup, N. Mex., to Glendale, Ariz., and *cartons* for dairy packaging from points in Los Angeles County, Calif., to Glendale, Ariz., and on return; (b) *juices*, citrus and fruit, natural and artificial, plain, concentrated and frozen, between Glendale, Ariz., on the one hand, and, on the other, points in Los Angeles County, Calif., Gallup, Albuquerque, and Silver City, N. Mex., and El Paso, Tex., under contract with Associated Dairy Products Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz.

No. MC 134952, filed September 14, 1970. Applicant: LOUIS E. RITT AND S. DIANNE RITT, a partnership, doing business as ANTRIM COUNTY AVIATION, Box 395, Bellaire, Mich. 49615. Applicant's representative: Louis E. Ritt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Air freight* automotive and refrigeration industry, from points in Antrim, Charlevoix, Emmet, Otsego, and Kalkaska Counties, Mich., to Traverse City Airport, Traverse City, Mich.; Detroit Metropolitan Airport, Detroit, Mich.; and Willow Run Airport, Ypsilanti, Mich. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lansing, Mich.

No. MC 134970, filed September 28, 1970. Applicant: UNZICKER TRUCKING, INC., Post Office Box 114, El Paso, Ill. 61738. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural chemicals* (except in bulk) from the plantsite and warehouse facility of Monsanto Co. near Muscatine, Iowa (approximately 3½ miles south of Muscatine City limits), to points in Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota, and Wisconsin. NOTE: Applicant states that the requesting authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Springfield, Ill.

No. MC 134972, filed September 25, 1970. Applicant: MICHIGAN TOWING SERVICE, INC., 307 East Grand River, Howell, Mich. 48843. Applicant's representative: William B. Elmer, 22644 Gratiot Avenue, East Detroit, Mich. 48021. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, disabled, repossessed motor vehicles, and replacement vehicles* for wrecked and disabled motor vehicles, between points in the

Lower Peninsula of Michigan, on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Maryland, New Jersey, New York, Ohio, Pennsylvania, Tennessee, West Virginia, Wisconsin, and ports of entry on the international boundary line between the United States and Canada located at or near Port Huron, Detroit, and Sault Ste. Marie, Mich., and Niagara Falls and Buffalo, N.Y. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Detroit or Lansing, Mich., or Chicago, Ill.

No. MC 134973, filed September 30, 1970. Applicant: E E & L CARTAGE, INC., 432 South Sleigh Street, Naperville, Ill. 60540. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by wholesale and retail floor, wall, and ceiling covering, and home furnishing business houses*, between Chicago, Ill., on the one hand, and, on the other, points in Lake, Porter, and La Porte Counties, Ind., and Kenosha, Racine, Milwaukee, Waukesha, and Walworth Counties, Wis., under continuing contract with Carson Pirie Scott & Co., Chicago, Ill. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 134974, filed September 25, 1970. Applicant: BE-WELL FARMS, INC., 2 Franklin Street, Medway, Mass. 02053. Applicant's representative: Frederick T. O'Sullivan, 372 Granite Avenue, Milton, Mass. 02186. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles dealt in by meat packinghouses and meat distributors* (except hides and commodities in bulk, in tank vehicles), from Philadelphia, Pa., Port Newark, N.J., Brooklyn, N.Y., New Bedford, Boston, and Worcester, Mass., and Portsmouth, N.H., to points in Massachusetts, Rhode Island, Connecticut, Maine, New Hampshire, Vermont, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Indiana, Illinois, Michigan, Kentucky, Tennessee, Missouri, North Carolina, South Carolina, Florida, Mississippi, Alabama, Georgia, and Louisiana under continuing contract with Chicago Dressed Beef Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

MOTOR CARRIER OF PASSENGERS

No. MC 1515 (Sub-No. 157), filed October 1, 1970. Applicant: GREYHOUND LINES, INC., 10 South Riverside Plaza, Room 1900, Chicago, Ill. 60606. Applicant's representative: Linwood C. Major, Jr., Suite 301 Tavern Square, 421 King Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express and newspapers* in the same vehicle with passengers, (1) between Dallas, Tex., and Montgomery, Ala.; from Dallas, Tex., over U.S. Highway 80 to Montgomery, Ala., and return over the same route, serving all intermediate points; (2) between Dallas, Tex., and the junction of U.S. Highway 80 and Interstate Highway 20, at or near Toomsuba (Miss.) Interchange; from Dallas, Tex., over Interstate Highway 20 to its junction with U.S. Highway 80, at or near Toomsuba (Miss.) Interchange (and also via all access routes connecting Interstate Highway 20 and U.S. Highway 80) and return over the same route, serving all intermediate points; (3) between the junction of Interstate Highway 20 and U.S. Highway 69, north of Tyler, Tex., and Longview, Tex., from the junction of Interstate Highway 20 and U.S. Highway 69, via U.S. Highway 69 to Tyler, Tex., thence via Texas Highway 31 to Kilgore, Tex., and thence via U.S. Highway 259 to Longview, Tex., and return over the same route, serving all intermediate points; (4) between Minden, La., and the junction of Interstate Highway 20 and Louisiana Highway 159 and 7, approximately 2 miles south of Minden; from Minden, La., over Louisiana Highway 159 and 7 to its junction with Interstate Highway 20, and return over the same route, serving all intermediate points:

(5) between Ruston, La., and the junction of U.S. Highway 167 and Interstate Highway 20, approximately 1 mile north of Ruston; from Ruston, La., over U.S. Highway 167 to its junction with Interstate Highway 20, and return over the same route, serving all intermediate points; (6) between Monroe, La., and the junction of Interstate Highway 20 and Louisiana Highway 34, southwest of Monroe; from Monroe, La., over Louisiana Highway 34 to junction with Interstate Highway 20, and return over the same route, serving all intermediate points; (7) between Rayville, La., and the junction of Interstate Highway 20 and Louisiana Highway 137, south of Rayville; from Rayville, La., over Louisiana Highway 137 to junction of Interstate Highway 20 and return over the same route, serving all intermediate points; and (8) between Vicksburg, Miss., and the junction of Interstate Highway 20 and U.S. Highway 61, south of Vicksburg; from Vicksburg over U.S. Highway 61 to junction with Interstate Highway 20 and return over the same route, serving all intermediate points. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at (1) Dallas, Tex.; (2) Shreveport, La.; (3) Jackson, Miss.; or (4) Montgomery, Ala.

No. MC 114931 (Sub-No. 3), filed October 2, 1970. Applicant: CECIL K. GEIGER, doing business as MERCURY BUS LINES, 806 Francisco Street, Mail: RR. No. 2, Box 314-A, Alma, Mich. 48801. Applicant's representative: Martin J. Leavitt, 1800 Buhl Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, transporting: (1) Over regular routes: *Passengers and their baggage and express and newspapers*, in the same vehicle with passengers, between Midland and Bay City, Mich.: From Midland over U.S. Highway 10 to Bay City, and return over the same route, serving all intermediate points. (2) Over irregular routes: *Passengers and their baggage*, in special and charter operations, beginning and ending at points along the route in (1) above, and extending to points in the United States (except Hawaii), and return. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lansing or Detroit, Mich.

No. MC 133336 (Sub-No. 1), filed September 23, 1970. Applicant: CAROLINA TRANSIT LINES OF CHARLOTTE, INC., 224 Iverson Way, Charlotte, N.C. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Passengers and their baggage* in the same vehicle with passengers in round trip charter operations, and (2) *passengers and their baggage* in the same vehicle with passengers in round trip sightseeing and pleasure tours, in special operations, from those portions of the States of North Carolina and South Carolina embraced by the following highway boundaries, commencing at Salisbury, N.C., thence southeast on U.S. Highway 52 to (a) Wadesboro, N.C., via Albermarle, N.C., thence over North Carolina Highway 742 to Chesterfield, S.C., thence west on South Carolina Highway 9 to its junction with U.S. Highway 321 at Chester, S.C., thence north on U.S. Highway 321 to junction U.S. Highway 70 near Newton, N.C., thence over U.S. Highway 70 to Salisbury, N.C., via Statesville, N.C., including all points on the indicated highway boundaries, and (b) to points in the United States, including the District of Columbia and excluding Hawaii and Alaska, and return. NOTE: Applicant's president, secretary, and treasurer do business as a partnership under Carolina Transit Lines, MC 124473 (Sub-No. 1). If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C.

No. MC 134539, filed April 19, 1970. Applicant: NIAGARA FALLS SCENIC LINES LTD., Sheraton Hotels, Niagara Falls, Ontario, Canada. Applicant's representative: Steve R. Demko (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, beginning and ending at Buffalo Airport, Buffalo, N.Y., and the Niagara Falls, N.Y., Airport, and extending to ports of entry on the international boundary line between the United States and Canada at Niagara Falls, N.Y. NOTE: If a hearing is deemed necessary, applicant requests it be held at Niagara Falls or Buffalo, N.Y.

FREIGHT FORWARDER APPLICATION

No. FF-394 (PYRAMID INTERNATIONAL, INC., FREIGHT FORWARDER APPLICATION), filed October 13, 1970. Applicant: PYRAMID INTERNATIONAL, INC., 479 South Airport Boulevard, South San Francisco, Calif. 94080. Applicant's representative: David C. Venable, Suite 701, Washington Building, 15th and New York Avenue NW., Washington, D.C. 20005. Authority sought under section 410, Part IV of the Interstate Commerce Act, for a permit to continue operation as a *freight forwarder*, in interstate or foreign commerce, through use of the facilities of common carriers by motor vehicle, water and rail in the transportation of *household goods, used automobiles* (restricted to the movement of privately owned automobiles of a householder when involving a change of residence) and *unaccompanied baggage*, between points in the United States, including Alaska and Hawaii.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 41432 (Sub-No. 108), filed September 30, 1970. Applicant: EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, Post Office Box 10125, Dallas, Tex. 75207. Applicant's representatives: A. Doyle Cloud, Jr., 2111 Sterick Building, Memphis, Tenn. 38103 and Rollo E. Kidwell, 2355 Stemmons Freeway, Post Office Box 10125, Dallas, Tex. 75207. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Ammunition* (explosive, incendiary, or gas, smoke, or tear producing), *manufactured ingredients and component parts* of ammunition, and *general commodities*, except those of unusual value, explosives (other than ammunition and manufactured ingredients and component parts of ammunition, as specified), livestock, rock, gravel, sand, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, from Jefferson over Texas Highway 49 to junction Texas Highway 11, thence over Texas Highway 11 to Linden, Tex., thence over U.S. Highway 59 to Texarkana, Tex., thence across the Texas-Arkansas State line to Texarkana, Ark., and return over the same route, serving the site of International Paper Co., approximately 10 miles southeast of Texarkana, Tex., as an off-route point in connection with carrier's regular route operations authorized between Jefferson, Tex., and Texarkana, Ark., serving all intermediate points. NOTE: Applicant states the above-described commodities are identical to those authorized in certificate No. MC-41432, at Sheet 5. Common control may be involved.

No. MC 124211 (Sub-No. 163), filed September 28, 1970. Applicant: HILT TRUCK LINE, INC., Post Office Box 988 DTS, Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cordage, bags, sewing twine, and cotton yarn*, from Omaha, Nebr., to points in Iowa, Minnesota, North Dakota, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[F.R. Doc. 70-14164; Filed, Oct. 21, 1970; 8:45 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—OCTOBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during October.

3 CFR

PROCLAMATIONS:

	Page
3279 (modified by Proc. 4018)	16357
3969 (see Proc. 4018)	16358
3990 (see Proc. 4018)	16358
4015	15799
4016	15895
4017	16233
4018	16357

EXECUTIVE ORDERS:

Aug. 8, 1914 (revoked in part by PLO 4920)	16087
6276 (revoked in part by PLO 4918)	16086
10001 (see EO 11563)	15435
10202 (see EO 11563)	15435
10292 (see EO 11563)	15435
10659 (see EO 11563)	15435
10735 (see EO 11563)	15435
10984 (see EO 11563)	15435
11098 (see EO 11563)	15435
11119 (see EO 11563)	15435
11145 (amended by EO 11565)	16155
11241 (see EO 11563)	15435
11360 (see EO 11563)	15435
11497 (see EO 11563)	15435
11537 (see EO 11563)	15435
11563	15435
11564	15801
11565	16155

3 CFR—Continued

PRESIDENTIAL DOCUMENTS OTHER THAN PROCLAMATIONS AND EXECUTIVE ORDERS:

Reorganization Plan No. 3 of 1970	15623
Reorganization Plan No. 4 of 1970	15627
See EO 11564	15801

4 CFR

105	16397

5 CFR

213	14370, 15439, 15975, 16309, 16359, 16397, 16398, 16467
550	16309
771	15803
870	15897
871	15897
2470	16310
2471	16310

7 CFR

20	16398
81	15739
301	15285, 15897
601	16157
711	15355, 16235
722	16311, 16312

7 CFR—Continued

723	15975
833	15741
863	16235
864	15741
873	16238
892	15361, 16075
905	16075
907	16359
908	15286, 15803
909	15980
910	15439, 15981, 16313
912	15287
913	15981, 16314
926	15744
927	15744
931	15745
932	15631
947	15631
971	16360
981	15900
982	16239, 16361
987	15981, 16398
989	15631, 16037, 16240, 16467
1004	15287
1006	15439
1012	15439
1013	15439
1062	15362
1063	15632
1134	15363
1136	15365

7 CFR—Continued

8 CFR

9 CFR

12 CFR

13 CFR

14 CFR

15 CFR

16 CFR

17 CFR

18 CFR

19 CFR

21 CFR

FEDERAL REGISTER

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PART II

DEPARTMENT OF LABOR

Wage and Hour Division

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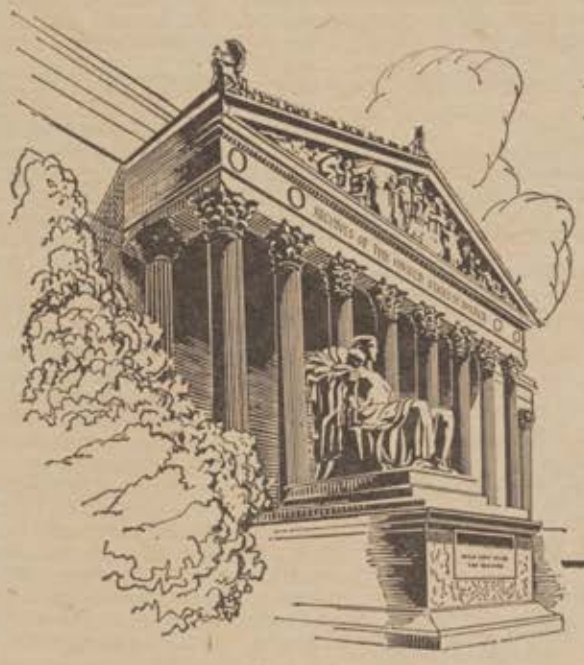
Partial Overtime Exemption for Employees of Wholesale or Bulk Petroleum Distributors Under Section 7(b)(3) of the Fair Labor Standards Act



Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

SUBCHAPTER B—STATEMENTS OF GENERAL POLICY OR INTERPRETATION NOT DIRECTLY RELATED TO REGULATIONS

PART 794—PARTIAL OVERTIME EXEMPTION FOR EMPLOYEES OF WHOLESALE OR BULK PETROLEUM DISTRIBUTORS UNDER SECTION 7(b)(3) OF THE FAIR LABOR STANDARDS ACT

Pursuant to the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and Secretary of Labor's Order No. 2–69 (34 F.R. 1203), Part 794 of Title 29 of the Code of Federal Regulations is hereby revised in the manner indicated below. The revision adapts the part to the changes made in the Fair Labor Standards Act by the Fair Labor Standards Amendments of 1966 (80 Stat. 830); brings up-to-date the interpretative statements published therein; and changes the part heading in order to describe more precisely the contents of the revised part.

The revision involves only interpretative rules, and therefore the notice, public procedure, and delay in effective date requirements of section 4 of the Administrative Procedure Act, codified in 5 U.S.C. 553, do not apply, nor would such procedures serve any useful purpose here. Accordingly, the revision shall be effective upon publication in the FEDERAL REGISTER.

As revised, Part 794 reads as follows:

Subpart A—General

Subpart B—Exemption From Overtime Pay Requirements Under Section 7(b)(3) of the Act

AUTHORITY: The provisions of this Part 794 issued under secs. 1–19, 52 Stat. 1060, as amended; 29 U.S.C. 201–219.

Subpart A—General

§ 794.1 General scope of the Act.

The Fair Labor Standards Act, as amended, hereinafter referred to as the Act, is a Federal statute of general application which establishes minimum wage, overtime pay, equal pay, and child labor requirements that apply as provided in the Act. All employees whose employment has the relationship to interstate or foreign commerce which the Act specifies are subject to the prescribed labor standards unless specifically exempted from them. Employers having such employees are required to comply with the Act's provisions in this regard unless relieved therefrom by some exemption in the Act. Such employers are also required to comply with specified recordkeeping requirements contained in Part 516 of this chapter. The law authorizes the Department of Labor to investigate for compliance and, in the event of violations, to supervise the payment of unpaid wages or unpaid overtime compensation owing to any employee. The law also provides for enforcement in the courts.

§ 794.2 Purpose of this part.

This Part 794 constitutes the official interpretation of the Department of Labor with respect to the meaning and application of section 7(b)(3) of the Act. This section provides a limited partial exemption from the overtime provisions of section 7 of the Act (but not from the minimum wage, child labor, equal pay, or recordkeeping provisions) with respect to employees of an independently owned and controlled local enterprise engaged in the wholesale or bulk distribution of petroleum products, if the enterprise meets certain specified conditions. This exemption was added to the Act by the 1966 Amendments, which repealed a complete overtime exemption previously available for employees of such enterprises (sec. 13(b)(10) of the Act as amended in 1961). It is the purpose of this part to make available in one place the interpretations of the law governing this exemption which will guide the Secretary of Labor and the Administrator in the performance of their duties under the Act.

§ 794.3 Matters discussed in this part.

This part primarily discusses the meaning and application of the section 7(b)(3) exemption. The meaning and application of other provisions of the Fair Labor Standards Act are discussed only to make clear their relevance to the 7(b)(3) exemption and are not considered in detail in this part. Interpretations published elsewhere in this title deal with such subjects as the general coverage of the Act (Part 776 of this chapter), methods of payment of wages (Part 531, Subpart C, of this chapter), computation and payment of overtime compensation (Part 778 of this chapter), retailing of goods or services (Part 779 of this chapter), hours worked (Part 785 of this chapter), and child labor provisions (Part 1500 of this title). Regulations on recordkeeping are contained in Part 516 of this chapter, and regulations defining exempt bona fide executive, administrative, and professional employees are contained in Part 541 of this chapter. The equal pay provisions are discussed in Part 800 of this chapter. Regulations and interpretations on other subjects concerned with the application

of the Act are listed in the table of contents to this chapter. Copies of any of these documents may be obtained from any office of the Wage and Hour Division.

§ 794.4 Significance of official interpretations.

The interpretations of the law contained in this part are official interpretations of the Department of Labor with respect to the application under described circumstances of the provisions of law which they discuss. These interpretations indicate the construction of the law which the Secretary of Labor and the Administrator believe to be correct and which will guide them in the performance of their duties under the Act unless and until they are otherwise directed by authoritative decisions of the courts or conclude, upon re-examination of an interpretation, that it is incorrect. The interpretations in this part provide statements of general principles applicable to the subjects discussed and illustrations of the application of these principles to situations that frequently arise. They do not and cannot refer specifically to every problem which may be met in the consideration of the exemption discussed. The omission to discuss a particular problem in this part or in interpretations supplementing it should not be taken to indicate the adoption of any position by the Secretary of Labor or the Administrator with respect to such problem or to constitute an administrative interpretation or practice or enforcement policy. Questions on matters not fully covered by this part may be addressed to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 or to any Regional or Area Office of the Division.

§ 794.5 Basic support for interpretations.

The ultimate decisions on interpretations of the Act are made by the courts (Mitchell v. Zachry, 362 U.S. 310; Kirschbaum v. Walling, 316 U.S. 517). Court decisions supporting interpretations contained in this part are cited where it is believed they may be helpful. On matters which have not been determined by the courts, it is necessary for the Secretary of Labor and the Administrator to reach conclusions as to the meaning and the application of provisions of the law in order to carry out their responsibilities of administration and enforcement (Skidmore v. Swift, 323 U.S. 134). In order that these positions may be made known to persons who may be affected by them, official interpretations are issued by the Administrator on the advice of the Solicitor of Labor, as authorized by the Secretary (Reorg. Plan 6 of 1950, 64 Stat. 1263; Gen. Ord. 45A, May 24, 1950, 15 F.R. 3290). As included in the regulations in this part, these interpretations are believed to express the intent of the law as reflected in its provisions and as construed by the courts and evidenced by its legislative history. References to pertinent legislative history are made in this part where it appears that they will contribute to a better understanding of the interpretations.

§ 794.6 Reliance on interpretations.

As previously stated, the interpretations of the law contained in this part are official interpretations. So long as they remain effective and are not modified, amended, rescinded, or determined by judicial authority to be incorrect, they may be relied upon as provided in section 10 of the Portal-to-Portal Act of 1947 (63 Stat. 910, 29 U.S.C. 251 et seq., discussed in Part 790 of this chapter). In addition, the Supreme Court has recognized that such interpretations of this Act "provide a practical guide to employers and employees as to how the office representing the public interest in its enforcement will seek to apply it" and "constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance." Further, as stated by the Court: "Good administration of the Act and good judicial administration alike require that the standards of public enforcement and those for determining private rights shall be at variance only where justified by very good reasons." (Skidmore v. Swift, 323 U.S. 134).

§ 794.7 Interpretations made, continued, and superseded by this part.

On and after publication of this part in the FEDERAL REGISTER, the interpretations contained therein shall be in effect and shall remain in effect until they are modified, rescinded, or withdrawn. Prior opinions, rulings, and interpretations and prior enforcement policies which are not inconsistent with the interpretations in this part or with the Fair Labor Standards Act as amended by the Fair Labor Standards Amendments of 1966 and which were in effect at the time of such publication are continued in effect; all other opinions, rulings, interpretations, and enforcement policies on the subjects discussed in the interpretations in this part are rescinded and withdrawn.

Subpart B—Exemption From Overtime Pay Requirements Under Section 7(b)(3) of the Act

SCOPE AND APPLICATION IN GENERAL

§ 794.100 The statutory provision.

Section 7(b)(3) of the Act provides a partial exemption from the overtime pay requirements of section 7 (but not from the minimum wage, equal pay or child labor requirements) for any employee employed

by an independently owned and controlled local enterprise (including an enterprise with more than one bulk storage establishment) engaged in the wholesale or bulk distribution of petroleum products if—

(A) The annual gross volume of sales of such enterprise is less than $1 million exclusive of excise taxes;

(B) More than 75 per centum of such enterprise's annual dollar volume of sales is made within the State in which such enterprise is located, and

(C) Not more than 25 per centum of the annual dollar volume of sales of such enterprise is to customers who are engaged in the bulk distribution of such products for resale, and such employee receives compensation for employment in excess of 40 hours in any workweek at a rate not less than one and one-half times the minimum wage applicable to him under section 6, and if such employee receives compensation for employment in excess of 12 hours in any workday, or for employment in excess of 56 hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.

§ 794.101 Intended scope of exemption.

Under section 7(b)(3) of the Act, the intent of the exemption must be given effect in determining the scope of its application to an enterprise and to the employees of an enterprise. The statutory language must be applied to the facts in a manner consistent with the purpose of the exemption as evidenced by its legislative history. This purpose is to relieve the described enterprises from the application of the Act's general overtime pay requirements (in the limited manner specified in the exemption) to employment in their activities of distributing petroleum products. Such employment was stated to be affected by climatic, seasonal, and other pertinent factors characteristic of business operations in the distribution of such products. (See, in this connection, the following documents of the 87th Cong., first sess.; H. Rept. No. 75, pp. 26, 27, 36; 105 Congressional Record (daily edition) p. 4519; S. Rept. No. 145, pp. 37, 50; H. Rept. No. 327, p. 18; Hearings before Senate Subcommittee on Labor on S. 256, S. 879, and S. 895, at pp. 411–424; Hearings before House Specal Subcommittee on Labor on H.R. 3935, at pp. 422–425 and 627–629; and these documents of the 89th Cong., second sess.; H. Rept. No. 1366, pp. 12, 13, and 43; Cong. Record (daily edition) p. 10745; S. Rept. No. 1487, pp. 32 and 51.)

§ 794.102 Guides for construing exemptions.

It is judicially settled that "The details with which the exemptions in this Act have been made preclude their enlargement by implication" and "no matter how broad the exemption, it is meant to apply only to" the employment specified in the statute. Conditions specified in the language of the Act are "explicit prerequisites to exemption." Accordingly, it is the well-established rule that exemptions from the Act "are to be narrowly construed against the employer seeking to assert them" and their application is limited to those who come "plainly and unmistakably within their terms and spirit." An employer who claims such an exemption has the burden of showing that it applies. See Wirtz v. Lunsford, 404 F. 2d 693 (C.A. 6); Addison v. Holly Hill, 322 U.S. 607; Maneja v. Waialua, 349 U.S. 254; Phillips v. Walling, 334 U.S. 490; Arnold v. Kanowsky, 361 U.S. 388; Mitchell v. Kentucky Finance Co., 359 U.S. 290; Walling v. General Industries Co., 330 U.S. 545.

§ 794.103 Dependence of exemption on engagement in described distribution.

By its terms, section 7(b)(3) provides a partial and contingent exemption from the general overtime pay requirements of the Act applicable to "any employee * * * employed * * * by an * * * enterprise * * * engaged in the wholesale or bulk distribution of petroleum products * * *." Thus, engagement in the described distribution is an "explicit prerequisite to exemption" (Arnold v. Kanowsky, 361 U.S. 388), as are the other express conditions set forth in the section. A natural reading of the statutory language suggests that the employee as well as the enterprise must be so engaged in order for the exemption to apply (see Porto Rico Light Co. v. Mor, 253 U.S. 345). To the extent that its employees are engaged in the described distribution, the enterprise is itself so engaged (see Kirshbaum v. Walling, 316 U.S. 517; and see section 794.104). Also, whenever an enterprise is so engaged, any of its employees will be considered to be "employed by an * * * enterprise * * * engaged in the wholesale or bulk distribution of petroleum products" if the duties of his employment require him to perform any operations or provide any services in carrying on such activities of his employer, and if the employee is not engaged in a substantial portion of his workweek in other activities which do not provide a basis for exemption under section 7(b)(3). Such an interpretation of the quoted language is believed necessary to give effect to the intended scope of the exemption as explained in § 794.101. Where an enterprise is exclusively engaged in the wholesale or bulk distribution of petroleum products and meets all the other requirements of section 7(b)(3), all of its employees who are paid for their hours of work in accordance with section 6 of the Act and the special pay provisions of section 7(b)(3) (see § 778.602 of this chapter and §§ 794.135–794.136) will be exempt from the overtime pay requirements of the Act under the principles stated above. What products are included in the term "petroleum products" and what constitutes the "bulk distribution" of such products within the meaning of section 7(b)(3) are discussed in §§ 794.132–794.133.

§ 794.104 Enterprises engaged in described distribution and in other activities.

An enterprise may be engaged in the wholesale or bulk distribution of petroleum products, within the meaning of section 7(b)(3), without being exclusively so engaged. Such engagement may be only one of the several related activities, performed through unified operation or common control for a common business purpose, which constitute the enterprise (see § 794.106) under section 3(r) of the Act. If engaging in such distribution is a regular and significant part of its business, an enterprise which meets the other tests for exemption under section 7(b)(3) will be relieved of overtime pay obligations with respect to employment of its employees in such distribution activities, in accordance with the intended scope (see § 794.101) of the exemption. The same will be true with respect to employment of its employees in those related activities which are customarily performed as an incident to or in conjunction with the wholesale or bulk distribution of petroleum products in the enterprises of the industry engaged in such distribution. There is no requirement that engaging in such activities constitute any particular percentage of the enterprise's business. However, in the case of an enterprise engaged in other activities as well as in the wholesale or bulk distribution of petroleum products (including related activities customarily performed in the enterprises of the industry as an incident thereto or in conjunction therewith), an employee employed in such other activities of the enterprise is not engaged in employment which the exemption was intended to reach (see § 794.101). Such an employee is not brought within the exemption by virtue of the fact that the enterprise by which he is employed is engaged with other employees in the distribution activities described in section 7(b)(3). This accords with the judicial construction of other exemptions in the Act which are similarly worded. See Connecticut Co. v. Walling, 154 F. 2d 522, certiorari denied, 329 U.S. 667; Northwest Airlines v. Jackson, 185 F. 2d 74; Davis v. Goodman Lumber Co., 133 F. 2d 52; Fleming v. Swift & Co., 41 F. Supp. 825, aff'd 131 F. 2d 249.

§ 794.105 Other requirements for exemption.

The limited overtime pay exemption provided by section 7(b)(3) applies to any employee compensated in accordance with its terms who is "employed * * * by an * * * enterprise * * * engaged in the wholesale or bulk distribution of petroleum products" as explained in §§ 794.103–794.104 if the enterprise which employs him meets all of the following requirements: (a) It is a "local" enterprise; (b) it is "independently owned and controlled"; (c) it has an annual gross volume of sales of less than $1 million exclusive of excise taxes; (d) it makes more than 75 percent of its annual dollar volume of sales within the State in which it is located; and (e) not more than 25 percent of such annual dollar volume of sales is to customers who are engaged in the bulk distribution of petroleum products for resale. In order to determine whether all these requirements are met, it is necessary to know what constitutes the "enterprise" to which reference is made, the meaning of "the wholesale or bulk distribution of petroleum products" in which engagement is required as a prerequisite to exemption, what is meant by a "local" enterprise and what characterizes it as "independently owned and controlled", and the criteria for application of the dollar volume tests. These matters will be discussed in some detail in the sections following.

The "Enterprise"

§ 794.106 Statutory definition of "enterprise."

The term "enterprise" is defined in section 3(r) of the Act. That definition (insofar as it affects a wholesale or bulk petroleum distributor) is as follows:

> "Enterprise" means the related activities performed (either through unified operation or common control) by any person or persons for a common business purpose, and includes all such activities whether performed in one or more establishments or by one or more corporate or other organizational units including departments of an establishment operated through leasing arrangements, but shall not include the related activities performed for such enterprise by an independent contractor: *Provided*, That within the meaning of this subsection, a retail or service establishment which is under independent ownership shall not be deemed to be so operated or controlled as to be other than a separate and distinct enterprise by reason of any arrangement, which includes, but is not necessarily limited to, an agreement (1) that it will sell, or sell only, certain goods specified by a particular manufacturer, distributor, or advertiser, or (2) that it will join with other such establishments in the same industry for the purpose of collective purchasing, or (3) that it will have the exclusive right to sell the goods or use the brand name of a manufacturer, distributor, or advertiser within a specified area, or by reason of the fact that it occupies premises leased to it by a person who also leases premises to other retail or service establishments.

§ 794.107 "Establishment" distinguished.

The "enterprise" referred to in the section 7(b)(3) exemption is to be distinguished from an "establishment". As used in the Act, the term "establishment", which is not specially defined therein, refers to a "distinct physical place of business" rather than to "an entire business or enterprise" which may include several separate places of business. (See Phillips v. Walling, 324 U.S. 490; Mitchell v. Bekins Van & Storage Co., 352 U.S. 1027; 95 Congressional Record 12505, 12579, 14877; H. Rept. No. 1453, 81st Cong., first session, p. 25.) It will be noted from the definition of "enterprise" in section 3(r), as set forth in § 794.106, that the activities of the enterprise may be "performed in one or more establishments," and section 7(b)(3) specifies that the enterprises to which its exemption requirements are applicable will include "an enterprise with more than one bulk storage establishment."

§ 794.108 Scope of enterprise must be known before exemption tests can be applied.

The scope of the "enterprise" as defined by section 3(r) of the Act must be ascertained before it is possible to apply the tests for exemption contained in section 7(b)(3) which are based on the dollar volume of sales of the "enterprise". The activities included in the enterprise must be known, and any activities not a part of the enterprise must be excluded, before the dollar volume of sales derived from the activities of the enterprise can be computed.

§ 794.109 Statutory basis for inclusion of activities in enterprise.

The "enterprise", for purposes of enterprise coverage under section 3(s) and the exemption provision in section 7(b)(3), is defined in section 3(r) (§ 794.106) in terms of the activities in which it is engaged. All the "related activities" which are "performed * * * by any person or persons for a common business purpose" are included if they are performed "either through unified operation or common control." This is true even if they are performed by more than one person, or in more than one establishment, or by more than one corporate or other organizational unit. The definition specifically includes as a part of the enterprise, departments of an establishment operated through leasing arrangements. These statutory criteria are discussed in more detail in subsequent sections.

§ 794.110 Activities excluded from the enterprise by the statute.

The circumstances under which certain activities will be excluded from the "enterprise" referred to in the Act are made clear by the definition quoted in § 794.106. The definition distinguishes between the related activities performed through unified operation and common control for a common business purpose by the participants in the enterprise, and activities which are related to these activities but are performed for the enterprise by a bona fide independent contractor (for example, an independent accounting or auditing firm). The latter activities are expressly excluded from the "enterprise" as defined. In addition, the definition contains a proviso detailing certain circumstances under which a retail or service establishment under independent ownership will not lose its status as a separate and distinct enterprise by reason of certain franchise and other arrangements which it may enter into with others. This proviso, the effect of which is more fully explained in Parts 776 and 779 of this chapter, may be important to wholesale or bulk distributors of petroleum products in determining whether the effect of particular arrangements which they may make with retailers of their products will be to include activities of the latter with their own activities in the same enterprise for purposes of the Act.

§ 794.111 General characteristics of the statutory enterprise.

As defined in the Act, the term "enterprise" is roughly descriptive of a business rather than of an establishment or of an employer although on occasion the three may coincide. The enterprise, however, is not necessarily coextensive with the entire business activities of an employer. The enterprise may consist of a single establishment which may be operated by one or more employers; or it may be composed of a number of establishments which may be operated by one or more employers. On the other hand, a single employer may operate more than one enterprise. The Act treats as separate enterprises different businesses which are unrelated to each other and lack any common business purpose, even if they are operated by the same employer.

"INDEPENDENTLY OWNED AND CONTROLLED LOCAL ENTERPRISE"

§ 794.112 Only independent and local enterprises qualify for exemption.

The legislative history of the exemption (§ 794.101) shows that the proponents of an amendment to provide the relief which it grants from the overtime pay provisions of the Act were organizations of independent local merchants who did not as a rule engage extensively in interstate operations such as those typical of major oil companies, and who functioned primarily at the local level in distributing petroleum products at wholesale or in bulk. As a result the exemption provided by the Act, like that requested, was limited to enterprises which are "local" (§ 794.113) and are "independently owned and controlled" (§§ 794.114–794.118).

§ 794.113 The enterprise must be "local."

It is clear from the language of section 7(b)(3) that the exemption which it provides is available to an enterprise only if it is a "local enterprise". The other tests of exemption must also, of course, be met. A "local" enterprise is not defined in the Act, and the word "local", which appears in a different context elsewhere in the Act (see clause (2) of the last sentence of section 3(r) and sections 13(b)(7), 13(b)(11)), is likewise given no express definition. There is no fixed legal meaning of the term "local"; it is usually a flexible and comparative term whose meaning may vary in different contexts. As used here, certain guides are available from the context in which it is used, the legislative history surrounding adoption of section 7(b)(3), and the law of which it forms a part. A "local" enterprise engaged in the wholesale or bulk distribution of petroleum products is clearly intended to embrace the kind of enterprise operated by the merchants who requested the amendment; that is, one which provides farmers, homeowners, country merchants, and others in its locality with petroleum products in bulk quantities or at wholesale. The language of section 7(b)(3) makes it clear also that the enterprise will not be regarded as other than "local" merely because it has more than one bulk storage establishment. On the other hand, the section makes it equally clear that ordinarily an enterprise which is not located within a single State is not a local enterprise of the kind to which the exemption will apply. This follows from the express requirement that more than 75 percent of the enterprise's annual dollar volume of sales must be made "within the State in which such enterprise is located." The legislative history provides further evidence of this intent. At the hearings before the Senate Labor Subcommittee a proponent of the amendment which eventually was enacted in somewhat different language (sec. 13(b)(10) of the Act which was repealed by the 1966 Amendments to the Act and replaced by section 7(b)(3)), stated with respect to the significance of the word "local":

> * * * the language which we have suggested in the proposed amendment "locally owned and controlled establishments", I admit that can point up some trouble and make some work for lawyers.
>
> We, however, in our endeavor to show our sincerity of only trying to cover local intrastate establishments, went overboard on this language.
>
> You will note that 75 percent of our business has to be performed in one State. I think that "locally owned and controlled establishments" language should better read "independently owned and controlled local enterprise or establishment". (Sen. Hearings on amendments to the Fair Labor Standards Act, 87th Cong., first session, p. 416.)

The same witness also quoted from the Congressional Record of August 18, 1960, the discussion in the course of the consideration of the amendments to the Act by the Senate during the 86th Congress, second session, as follows:

> These wholesale and bulk distributors of petroleum products, commonly referred to as oil jobbers, are primarily local businessmen who acquire these products from their suppliers' bulk terminal in the State in which the jobber does business and sell these products to service stations, farmers, and homeowners in the State in which they maintain their place of business * * * I am advised that 98.3 percent of all the oil jobbers in the United States sell their products only in the State in which their place of business is located thus qualifying by any definition as local merchants. (Sen. Hearings on amendments to the Fair Labor Standards Act, 87th Cong., first session, pp. 415–416.)

It thus appears that the word "local" was intended to confine the exemption to enterprises of such local merchants. The enterprise need not, of course, conduct all of its business within the State in which it is physically located, since the exemption specifically provides that it may make a portion of its sales outside the State in which it is located.

§ 794.114 The enterprise must be "independently owned and controlled."

Another requirement for exemption under section 7(b)(3) is that the enterprise must be "independently owned and controlled". Since this requirement is in the conjunctive, it must be established that the enterprise which is engaged in the wholesale or bulk distribution of petroleum products is both independently owned and independently controlled. *Wirtz* v. *Lunsford*, 404 F. 2d 693 (C.A. 6).) At the hearing before the Senate Labor Subcommittee, when the amendment was proposed which eventually was incorporated in the Act as section 13(b)(10) by the 1961 amendments (later repealed by the 1966 amendments to the Act and replaced by section 7(b)(3)), a spokesman for proponents of the amendment made the following statement, which bears on this requirement for exemption:

> The designation "independent" as applied to an oil jobber means that he owns his own office, bulk storage, and delivery facilities; pays his own personnel, and in all respects conducts his business as any other independent businessman.

It also means that the jobber is not a subsidiary of nor controlled by any so-called major oil company, although the jobber may sell the branded products of such a company.

Some jobbers own service stations which they lease to independent dealers and a small percentage of jobbers may operate one or more service stations with their own salaried personnel. (Senate Hearings on the Amendments to the Fair Labor Standards Act, 87th Cong., first session, p. 411.)

It appears, therefore, that the purpose of the requirement limiting the exemption to enterprises which are "independently owned and controlled", is to confine the exemption to those petroleum jobbers who own their own facilities and equipment and who are not subsidiaries nor controlled by any producer, refinery, terminal supplier or so-called major oil company. (See Wirtz v. Lunsford, cited above.) The fact that the petroleum jobber sells a branded product of a major oil company will not, of itself, affect the status of his enterprise as one which is "independently owned and controlled". So also the fact that the jobber owns gasoline service stations, which he leases or which he operates himself, will not affect the status of his interprise as being "independently owned and controlled".

§ 794.115 "Independently owned."

Ownership of the enterprise may be vested in an individual petroleum jobber, or a partnership, or a corporation, so long as such ownership is not shared by a major oil company, or other producer, refiner, distributor or supplier of petroleum products, so as to affect the independent ownership of the enterprise. As noted in § 794.114, an enterprise will not be considered independently owned where it does not own its own office, bulk storage, and delivery facilities. The enterprise may also not be considered "independently owned" where it does not own its stock-in-trade. (See Wirtz v. Lunsford, 404 F. 2d 693 (C.A. 6).) It is recognized that, in the ordinary course of business dealings, an independently owned enterprise may purchase its goods on credit and this, of course, will not affect its characterization as being "independently owned" within the meaning of the exemption. However, there may well be a question as to whether the enterprise is "independently owned" where the enterprise receives its petroleum products on consignment and the supplier lays claim to the ownership of the accounts receivable. Of possible relevance also is the intent evident in the statutory language to provide exemption only for an enterprise which can meet the specified tests which depend on "the sales of such enterprise." The determination in such cases, as in other cases involving questions of independent ownership, will necessarily depend on all the facts.

§ 794.116 "Independently * * * controlled."

As explained in § 794.114, the enterprise in addition to being independently owned must also be "independently controlled." The test here is whether the individual, partnership, or corporation which owns the enterprise also controls the enterprise as an independent businessman, free of control by any so-called major oil company or other person engaged in the petroleum business. Control by others may be evidenced by ownership; but control may exist in the absence of any ownership. For example, where an enterprise engaged in the wholesale or bulk distribution of petroleum products enters into franchise or other arrangements which have the effect of restricting the products it distributes, the prices it may charge, or otherwise controlling the activities of the enterprise in those respects which are the common attributes of an independent businessman, these facts may establish that the enterprise is not "independently controlled" as required by the exemption under section 7(b)(3). (Wirtz v. Lunsford, 404 F. 2d 693 (C.A. 6).)

§ 794.117 Effect of franchises and other arrangements.

Whether a franchise or other contractual arrangement affects the status of the enterprise as "an independently owned and controlled * * * enterprise," depends upon all the facts including the terms of the agreements and arrangements between the parties as well as the other relationships that have been established. The term "franchise" is not susceptible of precise definition. While it is clear that in every franchise a business surrenders some rights, it is equally clear that every franchise does not necessarily deprive an enterprise of its character as an independently owned and operated business. This matter was the subject of legislative consideration in connection with other provisions of the 1961 amendments to the Act. The Senate Report on the amendments, in discussing the effects of franchises and similar arrangements on the scope of the "enterprise" under section 3(r) of the Act, stated as follows:

> There may be a number of different types of arrangements established in such cases. The key in each case may be found in the answer to the question, "Who receives the profits, suffers the losses, sets the wages and working conditions of employees, or otherwise manages the business in those respects which are the common attributes of an independent businessman operating a business for profit?"
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> * * * * *
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> In all of these cases if it is found on the basis of all the facts and circumstances that the arrangements are so restrictive as to products, prices, profits, or management as to deny the "franchised" establishment the essential prerogative of the ordinary independent businessman, the establishment, the dealer, or concessionaire will be considered an integral part of the related activities of the enterprise which grants the franchise, right, or concession. (S. Rep. 145, 87th Cong., first session, p. 42.)

Thus there may be a number of different types of arrangements established in such cases and the determination as to whether the arrangements have the effect of depriving the enterprise of its independent ownership or control will necessarily depend on all the facts. The fact that the distributor hires and controls the employees engaged in distribution of the product does not establish the requisite independence of the distributor; it is only one factor to be considered (Wirtz v. Lunsford, 404 F. 2d 693 (C.A. 6)). Ultimately the determination of the precise scope of such arrangements and their effect upon the independent ownership and control of the enterprise under section 7(b)(3), as well as on the question whether such arrangements result in creating a larger enterprise, rests with the courts.

§ 794.118 Effect of unrelated activities.

The term "independently owned and controlled" has reference to independence of ownership and control by others. Accordingly, the fact that the petroleum jobber may himself engage in other businesses which are not related to the enterprise engaged in the wholesale or bulk distribution of petroleum products, will not affect the question whether the petroleum enterprise is independently owned or controlled. For example, the fact that the wholesale or bulk petroleum distributor also owns or controls a wholly separate tourist lodge enterprise or job printing business will not affect the status of his enterprise engaged in the wholesale or bulk distribution of petroleum products as an "independently controlled" enterprise.

Annual Gross Volume of Sales

§ 794.119 Dependence of exemption on sales volume of the enterprise.

It is a requirement of the section 7(b)(3) exemption that the annual gross volume of sales of the enterprise must be less than $1 million exclusive of excise taxes. This dollar volume test is separate and distinct from the $250,000 annual gross volume (of sales made or business done) test in section 3(s)(1) of the Act. This latter test is for the purpose of determining coverage as an enterprise engaged in commerce or in the production of goods for commerce; whereas the $1 million test is for limiting the 7(b)(3) exemption to enterprises with annual sales of less than that amount.

§ 794.120 Meaning of "annual gross volume of sales."

The annual gross volume of sales of an enterprise consists of its gross receipts from all types of sales during a 12-month period (§ 794.122). The gross volume derived from all sales transactions is included, and will embrace among other things receipts from service, credit, or similar charges. However, credits for goods returned or exchanged (as distinguished from "trade-ins"), rebates, discounts, and the like are not ordinarily included in the annual gross volume of sales. In determining whether the million dollar limit on annual gross sales volume is or is not exceeded, the sales volume from all the related activities which constitute the enterprise must be included; the dollar volume of the entire business in all establishments is added together. Thus, the gross volume of sales will include the receipts from sales made by any gasoline service stations of the enterprise, as well as the sales made by

any other establishments of the enterprise. These principles and their application are considered in more detail in Parts 776 and 779 of this chapter, which contain general discussions of "annual gross volume" as used in other provisions of the Act.

§ 794.121 Exclusion of excise taxes.

The computation of the annual gross volume of sales of the enterprise for purposes of section 7(b)(3) is made "exclusive of excise taxes." It will be noted that the excise taxes excludable under section 7(b)(3) are not, like those referred to in section 3(s)(1) and section 13(a)(2), limited to those "at the retail level which are separately stated." Under section 7(b)(3), therefore, all excise taxes which are included in the sales price may be excluded in computing the annual gross volume of the enterprise.

§ 794.122 Ascertainment of "annual" gross sales volume.

The annual gross volume of sales of an enterprise engaged in the wholesale or bulk distribution of petroleum products consists of its gross dollar volume of sales during a 12-month period. Where a computation of annual gross volume of sales is necessary to determine the status of the enterprise under section 7(b)(3) of the Act, it must be based on the most recent prior experience which it is practicable to use.

§ 794.123 Method of computing annual volume of sales.

(a) Where the enterprise, during the portion of its current income tax year up to the end of the current payroll period, has already had a gross volume of sales in excess of the amount specified in the statute, it is plain that its annual gross volume of sales currently is in excess of the statutory amount.

(b) Where the enterprise has not yet in such current year exceeded the statutory amount in its gross volume of sales, but has had, in the most recently ended year used by it for income tax purposes, a gross volume of sales in excess of the amount specified in the Act, the enterprise will be deemed to have an annual gross volume of sales in excess of such statutory amount, unless use of the method set forth in paragraph (c) of this section establishes a gross annual volume less than the statutory amount.

(c) When it is necessary to make a computation of the annual gross volume of sales of the enterprise the following method shall be used: At the beginning of each calendar quarter (Jan. 1–Mar. 31; Apr. 1–June 30; July 1–Sept. 30; Oct. 1–Dec. 31), the gross receipts from all of its sales during the annual period (12 calendar months) which immediately precedes the current calendar quarter, is totaled. In this manner the employer, by calculating the sales of his enterprise, will know whether or not the dollar volume tests have been met for the purpose of complying with the law in the workweeks ending in the current calendar quarter.

§ 794.124 Computations on a fiscal year basis.

Some enterprises operate on a fiscal year, consisting of an annual period different from the calendar year, for income tax or sales or other accounting purposes. Such enterprises, in applying the method of computation in § 794.123(c) may use the four quarters of the fiscal period instead of the four quarters of the calendar year. Once adopted, the same basis must be used in subsequent calculations.

§ 794.125 Grace period of 1 month for compliance.

Where it is not practicable to compute the annual gross volume of sales under § 794.123 or § 794.124 in time to determine obligations under the Act for the current quarter, an enterprise may use a 1-month grace period. If this 1-month grace period is used, the computations made under those sections will determine its obligations under the Act for the 3-month period commencing 1 month after the end of the preceding calendar or fiscal quarter. Once adopted the same basis must be used for each successive 3-month period.

§ 794.126 Computations for a new business.

When a new business is commenced the employer will necessarily be unable for a time to determine its annual dollar volume on the basis of a full 12-month period as described in §§ 794.123 and 794.124. In many cases, it is readily apparent that the enterprise will or will not have the requisite annual dollar volume specified in the Act. For example, the new business may be so large that it is clear from the outset that the business will exceed the $1 million test of the exemption. In other cases, where doubt exists, the gross receipts of the new business during the first quarter year in which it has been in operation will be taken as representative of its annual dollar volume tests for purposes of determining its status under section 7(b)(3) of the Act in workweeks falling in the following quarter-year period. Similarly, for purposes of determining its status under the Act in workweeks falling within ensuing quarter-year periods, the gross receipts of the new business for the completed quarter-year periods will be taken as representative of its annual dollar volume in applying the annual volume tests of the Act. After the new business has been in operation for a full calendar or fiscal year, the analysis can be made by the methods described in §§ 794.123 and 794.124.

SALES MADE WITHIN THE STATE

§ 794.127 Exemption conditioned on making 75 percent of sales within the State.

A further requirement of the section 7(b)(3) exemption is that more than 75 percent of the sales of the enterprise engaged in the wholesale or bulk distribution of petroleum products (measured by annual dollar volume) must be made "within the State in which such enterprise is located." This means that over 75 percent of the annual dollar volume of sales must be from sales to customers within the same State in which the enterprise is located. If 25 percent or more of its sales volume is from sales to customers outside the State of its location, the requirement is not met and the enterprise cannot qualify for exemption.

§ 794.128 Sales made to out-of-State customers.

Whether the sale of goods or services is made to an out-of-State customer is a question of fact. In order for a customer to be considered an out-of-State customer, some specific relationship between him and the seller has to exist to indicate his out-of-State character. On the one hand, sales made to the casual cash-and-carry customer (such as at a gasoline station owned or operated by the enterprise), who, for all practical purposes, is indistinguishable from the mass of customers who visit the establishment, are sales made within the State even though the seller knows or has reason to believe, because of his proximity to the State line or because he is frequented by tourists, that some of the customers who visit his establishment reside outside the State. If the customer is of that type, sales made to him are sales made within the State even if the seller knows in the particular instance that the customer resides outside the State. On the other hand, a sale is made to an out-of-State customer and therefore, is not a sale made "within the State" in which the enterprise is located, if delivery of the goods is made outside that State, or if the relationship with the customer is such as to indicate his out-of-State character. Such a relationship would exist, for example, where an out-of-State company in the regular course of dealing picks up the petroleum products at the bulk storage station of the enterprise and transports them out of the State in its own trucks.

§ 794.129 Sales "made within the State" not limited to noncovered activity.

Sales to customers located in the same State as the establishment are sales made "within the State" even though such sales may constitute activity within the interstate commerce coverage of the Act, as where the sale (a) is made pursuant to prior orders from customers for goods to be obtained from outside the State; (b) contemplates the purchase of goods from outside the State to fill a customer's order; or (c) is made to a customer for his use in interstate or foreign commerce or in the production of goods for such commerce.

SALES MADE TO OTHER BULK DISTRIBUTORS

§ 794.130 Not more than 25 percent of sales may be to customers engaged in bulk distribution of petroleum products for resale.

As a further requirement for exemption, section 7(b)(3) limits to not more than 25 percent (measured by annual

dollar volume) the sales which an enterprise engaged in the wholesale or bulk distribution of petroleum products may make to customers who are engaged in the bulk distribution of such products for resale. It should be noted that this limitation does not depend on whether the goods sold by the enterprise to such customers are sold by it for resale, or on whether the goods sold to such customers are petroleum products. It is whether the customer is engaged in selling petroleum products for resale that is controlling. A sale of any goods must be included in this 25 percent limitation so long as it is made to a customer who, as described in section 7(b)(3), can be characterized as one "engaged in the bulk distribution of such products for resale". It should be also noted that this provision does not in any way limit the sales which the enterprise may make to customers who are not engaged in the bulk distribution of petroleum products for resale. Thus, there is no limitation on the sales the enterprise may make to gasoline service stations which sell such products for resale but do not engage in the "bulk distribution" of the products so sold, or to any other customers except those specified in the exemption in section 7(b)(3). Who is a "customer engaged in the bulk distribution of such products for resale" is discussed in §§ 794.131–794.133.

§ 794.131 "Customer * * * engaged in bulk distribution".

A sale to a customer of an enterprise engaged in the wholesale or bulk distribution of petroleum products will be considered to come within the 25 percent limitation for purposes of the exemption under section 7(b)(3) if it is made to a "customer who is engaged in the bulk distribution of such products for resale". The identity of such customers is generally well known in the trade. For example, this would generally include other petroleum jobbers, brokers, wholesalers, and any others who engaged in the bulk distribution of petroleum products for resale. Thus a sale to a petroleum jobber who is engaged in selling petroleum products to gasoline stations would clearly be a sale to a customer described in section 7(b)(3). The essential tests are first that the customer must be one who is engaged in the distribution of "such products", which means petroleum products; second that he must engage in "the bulk distribution" of such products; and finally that he must be engaged in such distribution "for resale". These three requirements are discussed in §§ 794.132–794.134.

§ 794.132 "Petroleum products".

A sale by an enterprise engaged in the wholesale or bulk distribution of petroleum products will be included in the 25 percent limitation under the exemption only if it is made to a customer who engages in the distribution, in bulk and for resale, of "petroleum products". The term "petroleum products" as used in section 7(b)(3) includes such products as gasoline, kerosene, diesel fuel, lubricating oils, fuel oils, greases, and liquified-petroleum gas. Sales to customers who are not engaged in the distribution of petroleum products will not be included in the 25 percent limitation.

§ 794.133 "Bulk" distribution.

"Bulk" distribution of petroleum products typically connotes those methods of distribution in which large quantities of the product are distributed in a single delivery or delivery trip. Thus, "bulk" distribution includes deliveries from bulk storage facilities at the establishment to the tank truck of a customer (whether or not at "wholesale"). It also includes deliveries made in series on a single trip on a delivery route to the storage tanks or facilities of a number of customers from a bulk supply of the product transported by tank truck, motor transport, or other motor carrier operated by the enterprise. Such deliveries are to be contrasted with such typical small-quantity individual deliveries as those made into the tank of a motor vehicle for use in its propulsion.

§ 794.134 Distribution "for resale."

A sale made to a customer engaged in the bulk distribution of petroleum products will be included in the 25 percent limitation only if the customer engages in the bulk distribution of petroleum products "for resale". Except with respect to a specific exclusion in section 3(n) regarding certain building materials, the word "resale" is not defined in the Act. The common meaning of "resale" is the act of "selling again". A sale is made for resale when the seller knows or has reasonable cause to believe that what is sold by him will be resold by the purchaser in the same or a different form. Where the sale is thus made for resale, it does not matter what ultimately happens to the subject of the sale. Thus, the fact that goods sold for resale are consumed by fire or no market is found for them and they are therefore never resold does not alter the character of the sale which is made for resale. In considering whether there is a sale of petroleum products for resale in any specific situation, the term "sale" includes, as defined in section 3(k) of the Act, "any sale, exchange, contract to sell, consignment for sale, shipment for sale, or other disposition."

Application of Exemption to Employees

§ 794.135 Employees who are exempt.

If an enterprise engaged in distribution of petroleum products satisfies all the conditions specified in section 7(b)(3) as previously discussed, the partial exemption provided by this section from the Act's general overtime pay requirements will be applicable to all employees employed by their employer in activities of the enterprise for which the exemption was intended if, but only if, such employees are compensated in accordance with the compensation requirements of section 7(b)(3) (see § 794.100).

§ 794.136 Employees whose activities may qualify them for exemption.

The activities for which the section 7(b)(3) partial exemption was intended are discussed generally in §§ 794.103–794.104. In accordance with the principles there set forth, those employees employed in an enterprise which qualifies for application of the exemption, who are engaged in the storage and delivery of petroleum products for the enterprise, and those employees whose work is required for the performance of the activities in the wholesale or bulk distribution of the petroleum products or the related activities customarily performed as an incident to or in conjunction with such distribution in the enterprises of the industry which distributes such products, are employees for whom the employer may take the exemption provided they are paid in accordance with the special compensation provisions of section 7(b)(3). Thus, so long as these payment requirements are met, the exemption is applicable not only to such employees as drivers, helpers, loaders, dispatchers, and warehousemen engaged in the bulk delivery and storage of petroleum products, but also to such employees as office, management, and sales personnel, maintenance, custodial, protective personnel, and any others, who engage in related functions customarily carried on by such enterprises in the industry in conjunction with the wholesale and bulk distribution of the petroleum products.

§ 794.137 Effect of activities other than "wholesale or bulk distribution of petroleum products".

As previously noted, in some cases the related activities performed through unified operation or common control for a common business purpose which are included in the enterprise under the definition in section 3(r) of the Act may include activities other than the wholesale or bulk distribution of petroleum products. Examples are tire recapping or gasoline station services, the sale and servicing of oil burners, or the distribution of coal, ice, feed, building supplies, paint, etc. In some instances, as in the case of oil burner servicing, these other activities are customarily performed as an incident to or in conjunction with the wholesale or bulk distribution of petroleum products in the enterprises of the industry engaged in such distribution. As indicated in § 794.104, employees of the enterprise who engage in such activities are within the general scope of the exemption. However, activities which are not customary practices of enterprises in the industry of wholesale or bulk distribution of petroleum products are not within the scope of the intent of the section 7(b)(3) exemption. For example, construction activities, operation of a sporting goods store, scrap paper and metal activities, the operation of a general repair garage, etc., are not the type of activities for which the section 7(b)(3) exemption was intended. Thus, where an enterprise engaged in the wholesale or bulk distribution of petroleum products operates a general repair garage, a mechanic servicing the automobiles and trucks brought to the garage by customers will not for that reason be within the exemption provided by section 7(b)(3), although the

exemption provided by section 13(a)(2) may apply to him if the garage qualifies as an exempt retail or service establishment under the tests provided in that section of the Act. On the other hand, mechanics employed by an enterprise engaged in the wholesale or bulk distribution of petroleum products for the purpose of keeping the distribution equipment of the enterprise in good repair would come within the 7(b)(3) exemption.

§ 794.138 Workweek unit in applying the exemption.

(a) As is true generally with respect to provisions of the Act concerning compensation for overtime hours of work (see §§ 778.100–778.105 of this chapter; Overnight Transportation Co. v. Missel, 316 U.S. 572), the unit of time to be used in determining the application of all provisions of the section 7(b)(3) exemption to an employee is the workweek. As defined in § 778.105 of this chapter, an employee's workweek is a fixed and regularly recurring period of 168 hours—seven consecutive 24-hour periods. It may begin at any hour of any day set by the employer and need not coincide with the calendar week. Once the workweek has been set it commences each succeeding week on the same day and at the same hour. Changing the workweek for the purpose of escaping the requirements of the Act is not permitted.

(b) By its terms (§ 794.100), section 7(b)(3) exempts an employer from any statutory responsibility he might otherwise have for a violation of section 7(a) of the Act "by employing any employee for a workweek in excess of that specified in such subsection" without paying the overtime compensation prescribed therein, "if such employee is so employed * * * by an * * * enterprise" qualifying under section 7(b)(3) for application of its provisions to such employment and if such employee receives the compensation which section 7(b)(3) requires. Accordingly, for section 7(b)(3) to apply to any workweek when an employee is employed for hours in excess of those specified in section 7(a), it must be established that in such workweek he is employed by his employer in the exempt activities of an enterprise described in section 7(b)(3) and that the compensation received by him for his work in such workweek satisfies the special pay requirements of section 7(b)(3).

§ 794.139 Exempt and nonexempt activities in the workweek.

The general nature of the activities of a wholesale or bulk petroleum distribution enterprise in which an employee must be engaged in order to come within the intent of the section 7(b)(3) exemption is discussed in §§ 794.136–794.137. In each case where an employee of the enterprise is engaged for a substantial portion of his workweek in activities which do not appear to be a part of the wholesale or bulk distribution of petroleum products, it will be necessary to examine such activities and the maner and extent of their performance to determine whether they are included in or are foreign to the activities customarily performed as an incident to or in conjunction with such distribution in the enterprises of the industry which distributes such products. If they are foreign to the activities thus customarily performed, engagement in them by the employee for a substantial portion of his workweek will render section 7(b)(3) inapplicable to him for that workweek. On the other hand, where an employee, who is otherwise engaged in exempt activities (the wholesale or bulk distribution of petroleum products, including activities which are a necessary part thereof, and in activities customarily performed in the enterprises of the industry as an incident thereto or in conjunction therewith), devotes an insubstantial amount of time (for administrative purposes, not more than 20 percent in a workweek) to these foreign activities, the section 7(b)(3) exemption will not for that reason be considered inapplicable to him.

§ 794.140 Compensation requirements for a workweek under section 7(b)(3).

(a) Exemption of an employee in any workweek under section 7(b)(3) is expressly conditioned on and limited by the special compensation provisions which it contains. These are set forth in full text in § 794.100. They require payment to the employee of compensation at specified rates for certain periods within the workweek when such periods are included in his hours of work. Their application requires an increase of at least 50 percent in the minimum wage rate otherwise applicable to the employee in such workweek "for employment in excess of forty hours" and, in addition, if such employment is "in excess of twelve hours in any workday, or * * * in excess of fifty-six hours in any workweek, as the case may be," the employee must be paid overtime compensation "at a rate not less than one and one-half times the regular rate at which he is employed" for all hours worked in the workweek in excess of the specified daily standard or in excess of the specified weekly standard, whichever is the greater number of overtime hours. The sections following discuss separately the application of these provisions to workweeks when the employee's hours of work do not exceed the daily or weekly standard specified in section 7(b)(3), and to workweeks when hours in excess of the daily or the weekly standard are worked.

(b) The special compensation requirements of section 7(b)(3) apply to an employee otherwise eligible for the exemption whenever he works more than 40 hours in a workweek for an enterprise described in and operating under this subsection. In any workweek in which the employee does not work more than 40 hours for his employer only the minimum wage requirements of section 6 are applicable. This is because section 7(b)(3) operates only as an exemption from the requirement of section 7(a) that compensation at a rate not less than one and one-half times the employee's regular rate must be paid for all hours worked by him in excess of 40 in the workweek. (This general 40-hour workweek standard has been applicable since Feb. 1, 1969, to all employment within the general coverage of the Act, regardless of whether any overtime pay requirements were previously applicable to such employment before the provisions added by the Fair Labor Standards Amendments of 1966 became effective.)

§ 794.141 Workweeks when hours worked do not exceed 12 in any day or 56 in the week; compensation requirements.

(a) The overtime pay exemption provided by section 7(b)(3) is "limited to 12 hours a day and 56 hours a week" in any workweek; the exemption is provided "for employment up to 12 hours in any workday and up to 56 hours in any workweek" without any payment for overtime hours at one and one-half times the regular rate being required. However, the exemption from any such time-and-one-half payment is limited to workweeks when "no more" than the specified hours are worked and is contingent on payment to the employee in such a workweek of "compensation for hours between 40 and 56" at a rate "not less than 1½ times the applicable minimum wage." (H. Rept. No. 1366, pp. 12–13, 43, and S. Rept. No. 1487, p. 32, 89th Cong., second sess.) Thus, the exemption will be applicable to an employee otherwise eligible under the principles previously discussed in this part in any workweek when his hours of work do not exceed 12 in any day or 56 in the week if, and only if, his "compensation for employment in excess of forty hours" is "at a rate not less than one and one-half times the minimum wage rate applicable to him under section 6", as provided in section 7(b)(3). This means that in addition to the requirement of section 6, under which the first 40 hours of work must be paid for at a rate not less than the minimum hourly wage rate therein specified, the compensation requirements applicable to such an employee for whom the 7(b)(3) exemption is claimed include any increase in his regular straight-time pay rate for the hours worked in excess of 40 which may be necessary in order to raise the wage rate for such hours to a level 50 percent above the rate required under section 6. Of course, if the employee is employed at a regular straight-time rate for all his hours of work which is as great or greater than one and one-half times the minimum wage applicable to him under section 6, no increase for the hours in excess of 40 will be required under the provisions of section 7(b)(3).

(b) The general minimum wage rate applicable to employees in employment that was subject to the minimum wage provisions of the Act prior to the effective date of the Fair Labor Standards Amendments of 1966 is $1.60 an hour. Under section 7(b)(3) an employee of a wholesale or bulk petroleum products distributor to whom this rate is applicable must be paid at least $2.40 an hour for hours worked in excess of 40 in the workweek in order for the exemption to

apply. Many employees of such distributors are subject to the $1.60 minimum wage rate under section 6 either because they are traditionally covered as employees individually engaged in commerce or in the production of goods for commerce as defined in the Act or because the enterprise coverage provisions in effect prior to the 1966 amendments (applicable to enterprises with an annual gross volume of $1 million or more including excise taxes) would subject their employment to the minimum wage provisions if the 1966 amendments had not been enacted. In the case, however, of an employee of such a distributor whose employment comes within the minimum wage provisions only because of the 1966 amendments (which reduced the annual gross volume for covered enterprises to $500,000 on Feb. 1, 1967, and to $250,000 on Feb. 1, 1969, exclusive of specified separately stated excise taxes at the retail level), the minimum wage rate applicable under section 6 was $1.30 an hour until February 1, 1970, when it increased to $1.45 an hour. Beginning February 1, 1971, the minimum wage rate applicable to such an employee will be the same ($1.60 an hour) as that presently applicable to employment covered by the provisions of the prior Act. For employees subject to the $1.30 minimum wage rate the rate required for work over 40 hours under section 7(b)(3) was accordingly $1.95 an hour; for those subject to the $1.45 rate beginning February 1, 1970, such rate is $2.175. A discussion of the present and prior coverage of the Act will be found in Part 776 of this chapter, when a revision of such part discussing enterprise coverage is published.

§ 794.142 Special compensation when overtime in excess of 12 daily or 56 weekly hours is worked in the workweek.

(a) As noted in § 794.141, the partial exemption provided by section 7(b)(3) from the requirement that overtime hours be paid for at not less than one and one-half times the employee's regular rate applies only to "employment up to 12 hours in any workday and up to 56 hours in any workweek." The statute makes it plain that in any workweek when an employee otherwise eligible for the exemption works more than the specified daily or weekly hours the exemption applies only "if such employee receives compensation for employment in excess of 12 hours in any workday, or for employment in excess of 56 hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed." Failure of the employer to pay overtime compensation under these special standards defeats the exemption. (see Wirtz v. Osceola Farms Co., 372 F. 2d 584 (C.A. 5); Holtville Alfalfa Mills v. Wyatt, 230 F. 2d 298 (C.A. 9).)

(b) Under this provision, the number of hours worked in the workweek which are in excess of 12 in any workday or workdays therein, or the number in excess of 56 in the week, whichever is the greater number, must be compensated as provided in section 7(b)(3). Thus, the requisite time-and-one-half compensation must be paid for all daily overtime hours in excess of 12 per day worked by an employee in a workweek when his hours worked do not exceed 56 in the week; and for all weekly overtime hours in excess of 56 which he works in a workweek when he does not work more than 12 hours in any day. When an employee works in excess of both the daily and weekly maximum hours standards in any workweek for which the exemption is claimed, he must be paid at such overtime rate for all hours worked in the workweek in excess of the applicable daily maximum or in excess of the applicable weekly maximum, whichever number of hours is greater. Thus, if his total hours of work in the workweek which are in excess of the daily maximum are 10, and his hours in excess of the weekly maximum are 8, overtime compensation is required for 10 hours, not 18. As an example, suppose an employee employed at an hourly rate of $2.40 is employed under the other conditions specified for exemption under section 7(b)(3) and works the following schedule:

	M	T	W	T	F	S	S	Total
Hours worked.....	14	9	10	15	12	8	0	6

Number of hours in excess of 56 in the workweek, 12; number of hours in excess of 12 per day, five.

Since the weekly overtime hours are greater, the employee is entitled to overtime pay for 12 hours at $3.60 an hour ($1\frac{1}{2}\times\$2.40$), a total of $43.60 for the overtime hours, in addition to pay at his regular rate for the remaining 56 hours ($56\times\$2.40$) in the amount of $134.40, or a total of $177.60 for the week. If the employee had not worked the 8 hours on Saturday, his total hours worked in the week would have been 60, of which five were daily overtime hours, and there would have been 4 weekly overtime hours under the section 7(b) standard. For such a schedule the employee would be entitled to 5 hours of overtime pay at time and one-half ($5\times1\frac{1}{2}\times\$2.40=\$18$) plus the pay at his regular rate for the remaining 55 hours ($55\times\$2.40=\$132$), making a total of $150 due him for the week.

(c) The overtime compensation payable to an employee under section 7(b)(3) when his hours worked in the workweek are in excess of 12 in any workday or in excess of 56 in the week must be "at a rate not less than one and one-half times the regular rate at which he is employed." This extra compensation for the excess hours cannot be said to have been paid to an employee unless all the straight time compensation due him for the nonovertime hours under his contract (express or implied) or under any applicable statute has been paid (§ 778.315 of this chapter). In computing the extra compensation due, the "regular rate" of the employee is calculated in accordance with section 7(e) of the Act, as explained in § 778.107 of this chapter et seq., and can in no event be less than the minimum required by the Act (see § 778.107 of this chapter). Since, for exemption from section 7(a) under section 7(b)(3) in workweeks exceeding 40 hours, the Act requires that the employee receive not only compensation for 40 hours at not less than the minimum rate prescribed in section 6 but also "compensation for employment in excess of forty hours" at a rate not less than one and one-half times such minimum rate, the "regular rate", on which time-and-one-half overtime pay must be computed for daily hours worked in excess of 12 or weekly hours worked in excess of 56, must be calculated in conformity with these minimum standards.

(d) The following illustrations of the application of these principles in the case of an employee whose applicable minimum wage rate under section 6 is $1.60 an hour may be helpful. First, suppose the "regular rate" at which such an employee is employed, calculated in accordance with section 7(e) of the Act and Part 778 of this chapter, is $2.40 an hour or more. This would be true of an employee employed solely at a single hourly rate of pay of $2.40 or more which he receives as straight time compensation for every hour of work. It would likewise be true of an employee, however compensated (whether by a salary for a fixed or variable number of hours, by commissions, piece rates, day rates, or other pay systems or by a combination of these), whose pay for all hours worked in the workweek (except amounts excluded under section 7(e)) yields him average hourly straight-time earnings of $2.40 or more an hour. Since the employee's regular rate received for all nonovertime hours of work is in such a case not less than one and one-half times his applicable minimum rate under section 6, the compensation requirements of section 7(b)(3) are satisfied for all nonovertime as well as overtime hours worked if he receives compensation at his "regular rate" of $2.40 or more an hour for all hours worked in his workweek which are not in excess of 12 in his workday or 56 in his workweek, together with extra compensation for overtime in an amount sufficient to provide compensation for all his hours worked in excess of such daily or weekly hours, whichever are greater, at a rate at least 50 percent higher than such regular rate (at least $3.60 an hour if the regular rate is $2.40 an hour). A somewhat different situation is presented, however, where the employee whose applicable minimum wage under section 6 is $1.60 an hour is paid, as the act permits, at a wage rate for nonovertime hours up to 40 in the workweek which is not less than the $1.60 minimum but is not as much as the $2.40 required for hours of employment in excess of 40. As an example, suppose he is paid $2 an hour for 40 hours and $2.40 as required by section 7(b)(3) for hours in excess of 40, and works 60 hours in a workweek in which 10 of his hours worked are in excess of 12 in a workday, for which overtime compensation must be paid at not less than one and one-half times his regular rate of pay. Since payment of the $2 and $2.40 rates for hours worked up to and in excess of 40,

respectively, satisfies the straight-time requirements for compensation under section 7(b)(3), all the compensation requirements for exemption thereunder will be satisfied if, in addition, he is paid for the 10 daily overtime hours an extra sum equal to one-half his "regular rate" multiplied by 10. His regular rate is computed for the workweek by dividing his total straight-time compensation for the week by the number of hours worked for which it is paid and is accordingly $2.133 an hour ($2×40=$80; $2.40×20=$48; $80+$48=$128; $128÷60=$2.133; see § 778.115 of this chapter). Thus, the section 7(b)(3) compensation requirements are satisfied by payment of straight-time compensation in the amount of $80 for 40 hours of work and in the amount of $48 for the 20 additional hours worked, together with $10.67 as overtime premium for the 10 daily overtime hours ($2.133×½×10), or total pay of $138.67 for the week.

§ 794.143 Work exempt under another section of the Act.

Where an employee performs work during his workweek, some of which is exempt under one section of the Act, and the remainder of which is exempt under another section or sections of the Act, the exemptions may be combined. The employee's combination exemption is controlled in such case by that exemption which is narrower in scope. For example, if part of his work is exempt from both minimum wage and overtime compensation under one section of the Act, and the rest is exempt only from the overtime pay requirements by virtue of section 7(b)(3), the employee is exempt that week from the overtime pay provisions, but not from the minimum wage requirements. Similarly, an employee who spends part of his workweek in work which would, if done throughout the week, exempt him completely from the overtime pay requirements, and the remainder of the week in work exempt from such requirements only to the extent and under the conditions specified in section 7(b)(3), could be exempt from overtime pay only to such extent and under such conditions. Thus, where an employee spends part of his workweek in transporting petroleum products by tank truck for an employer in an enterprise described in section 7(b)(3), and the remainder of his workweek in driving a taxicab for the employer's taxi business (work exempt from the overtime provisions under section 13(b)(17)), he is eligible for exemption from overtime pay only if he is compensated in such workweek in accordance with the provisions of section 7(b)(3) and only to the extent which that section provides.

RECORDS TO BE KEPT BY EMPLOYERS

§ 794.144 Records to be maintained.

(a) *Form of records.* No particular order or form of records is prescribed by the recordkeeping regulations (Part 516 of this chapter). Every employer operating under section 7(b)(3) of the Act is, however, required to maintain and preserve records containing the information and data as set out in §§ 516.2 and 516.21 of this chapter.

Signed at Washington, D.C., this 15th day of October 1970.

ROBERT D. MORAN,
Administrator,
Wage and Hour Division.

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