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HIGHLIGHTS OF THIS ISSUE

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(Revised as of January 1, 1971)

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Title 3—The President

PROCLAMATION 4055

Flag Day and National Flag Week, 1971

By the President of the United States of America

A Proclamation

On June 14, 1777—only months after the Declaration of Independence, and with four bitter years of the Revolutionary War still ahead—the Continental Congress adopted the Stars and Stripes as the flag of the United States of America. Like the Declaration itself, our flag began as an audacious assertion, crying out for proof.

With the passing decades the proof has come. One new freedom after another has enriched the flag's symbolism. But our vision of ideals to be realized has expanded as well, so that even now the flag speaks more of promise than of pride and looks more to tomorrow than to yesterday. And as long as America is a young Nation, this is the way it must be. Each generation must do its own proving.

The American flag today means what today's Americans make it mean. We have in our power to make it abroad the banner of peace, honor, generosity—at home the ensign of liberty, justice, opportunity. In these goals, all Americans can unite. To this work, each of us can dedicate himself—resolving that, on whatever else we may differ, the flag and its challenge are ours in common.

To commemorate the adoption of our flag, the Congress by a joint resolution of August 3, 1949 (63 Stat. 492), designated June 14 of each year as Flag Day and requested the President to issue annually a proclamation calling for its observance. By a joint resolution of June 9, 1966 (80 Stat. 194), the Congress also requested the President to issue annually a proclamation designating the week in which June 14 occurs as National Flag Week and calling upon all citizens to display the flag of the United States on the days of that week.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate the week beginning June 13, 1971, as National Flag Week, and I direct the appropriate

Government officials to display the flag on all Government buildings during that week.

I urge all Americans to observe Flag Day with appropriate ceremonies and to fly the flag at their homes and other suitable places during Flag Week.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of May, in the year of our Lord nineteen hundred seventy-one, and of the Independence of the United States of America the one hundred ninety-fifth.

Richard Nixon

[FR Doc.71-7494 Filed 5-25-71;2:30 pm]

Rules and Regulations

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 71-563]

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:

In § 76.2, the reference to the State of Indiana in the introductory portion of paragraph (e) and subparagraph (e)(1) relating to the State of Indiana are 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 amendment shall become effective upon issuance.

The amendment excludes portions of De Kalb and Allen Counties in Indiana 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 areas, but will continue to apply to the quarantined areas described in § 76.2(e). 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 excluded areas. No areas in Indiana remain under the quarantine.

The amendment relieves certain restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera, and it must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to this Department. 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 amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 21st day of May 1971.

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

[FR Doc.71-7421 Filed 5-26-71;8:50 am]

[Docket No. 71-564]

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 paragraph (e)(5) relating to the State of Texas is amended to read:

(5) *Texas.* (i) All of Collin, Harris, Galveston, Liberty, Montgomery, San Jacinto, and Tom Green Counties.

(ii) That portion of the State of Texas comprised of all of Bell, Bosque, Calahan, Comanche, Eastland, Ellis, Erath, Hill, Hood, Johnson, McLennan, Somervell, Tarrant, and Williamson Counties and portions of Brown, Coleman, Coryell, Falls, Hamilton, Limestone, Mills, Navarro, Shackelford, Stephens, and Taylor Counties, and bounded by a line beginning at the junction of the Tarrant-Dallas-Ellis County lines; thence, following the Dallas-Ellis County line in an easterly direction to the junction of the Dallas-Ellis-Kaufman County lines; thence, following the Kaufman-Ellis County line in a southeasterly direction to the junction of the Kaufman-Ellis-Henderson County lines; thence, following the Ellis-Henderson County line in a southeasterly direction to the junction of the Ellis-Henderson-Navarro County lines; thence, following the Ellis-Navarro County line in a southwesterly direction to Interstate Highway 45 in Ellis County; thence, following Interstate Highway 45 in a southeasterly direction to State Highway 14 in Navarro County; thence, following State Highway 14 in a southwesterly direction to the Navarro-Freestone County line; thence, following the Navarro-Freestone County line in a southwesterly direction to the junction of the Navarro-Freestone-Limestone County lines; thence following the Limestone-Freestone County line in a southeasterly direction to State Highway 14 in Limestone County; thence, following State Highway 14 in a southwesterly direction to State Highway 7 in Limestone County; thence, following State Highway 7 in a southwesterly direction to State Highway 320 in Falls County; thence, following State Highway 320 in a southwesterly direction to the Bell-Falls County line; thence, following the Bell-Falls County line in a southeasterly direction to the junction of the Bell-Milam-Falls County lines; thence, following the Bell-Milam County line in a southwesterly direction to the junction of the Bell-Milam-Williamson County lines; thence, following the Williamson-Milam County line in a southeasterly direction to the junction of the Williamson-Milam-Lee County lines; thence, following the Williamson-Lee County line in a southwesterly direction to the junction of the Williamson-Lee-Bastrop County lines; thence, following the Williamson-Bastrop County line in a generally northwesterly direction to the junction of the Williamson-Bastrop-Travis County lines; thence, following the Williamson-Travis County line in a generally northwesterly direction to the junction of the Williamson-Travis-Burnet County lines; thence, following the Williamson-Burnet County line in a northeasterly direction to the junction of the Williamson-Burnet-Bell County lines; thence, following the Bell-Burnet County line in a northwesterly direction to the junction of the Bell-Burnet-Lampasas County lines; thence, following the Bell-Lampasas County line in a northerly direction to the junction of the Bell-Lampasas-Coryell County lines; thence, following the Bell-Coryell County line in a northeasterly direction to State Highway 36 in Bell County; thence, following State Highway 36 in a northwesterly direction to U.S. Highway 84 in Coryell County; thence, following U.S. Highway 84 in a generally northwesterly direction to State Highway 351 in Taylor County; thence, following State Highway 351 in a northeasterly direction to U.S. Highway 180 in Shackelford County; thence, following U.S. Highway 180 in an easterly direction to State Highway 67 in Stephens County; thence, following State Highway 67 in a northeasterly direction to Farm-to-Market Road 717 in Stephens County; thence, following Farm-to-Market Road 717 in a southeasterly direction to U.S. Highway 180 in Stephens County; thence, following U.S. Highway 180 in an easterly direction

to the Stephens-Palo Pinto County line; thence, following the Stephens-Palo Pinto County line in a southerly direction to the junction of the Stephens-Palo Pinto-Eastland County lines; thence, following the Palo Pinto-Eastland County line in an easterly direction to the junction of the Palo Pinto-Eastland-Erath County lines; thence, following the Palo Pinto-Erath County line in an easterly direction to the junction of the Palo Pinto-Erath-Hood County lines; thence, following the Palo Pinto-Hood County line in a northerly direction to the junction of the Palo Pinto-Hood-Parker County lines; thence, following the Parker-Hood County line in an easterly direction to the junction of the Parker-Hood-Johnson County lines; thence, following the Parker-Johnson County line in an easterly direction to the junction of the Parker-Johnson-Tarrant County lines; thence, following the Parker-Tarrant County line in a northerly direction to the junction of the Parker-Tarrant-Wise County lines; thence, following the Tarrant-Wise County line in an easterly direction to the junction of the Tarrant-Wise-Denton County lines; thence, following the Tarrant-Denton County line in an easterly direction to the junction of the Tarrant-Denton-Dallas County lines; thence, following the Tarrant-Dallas County line in a southerly direction to its junction with the Ellis County line.

(iii) That portion of Potter County bounded by a line beginning at the junction of the Potter-Oldham County line and the south bank of the Canadian River; thence following the south bank of the Canadian River in a generally northeasterly direction to the south bank of Lake Meredith; thence, following the south bank of Lake Meredith in a generally northeasterly direction to the Potter-Moore County line; thence, following the Potter-Moore County line in an easterly direction to the junction of the Potter-Moore-Carson County lines; thence, following the Potter-Carson County line in a southerly direction to the junction of the Potter-Carson-Armstrong-Randall County lines; thence, following the Potter-Randall County line in a westerly direction to the junction of the Potter-Randall-Oldham County lines; thence, following the Potter-Oldham County line in a northerly direction to its junction with the south bank of the Canadian River.

2. In § 76.2, in paragraph (e)(2) relating to the State of Massachusetts, subdivision (i) relating to Bristol County is deleted.

(Secs. 4–7, 23 Stat. 32, as amended, secs. 1 and 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. 111–113, 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 Potter County, Tex., because of the existence of hog cholera. 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 portions of Palo Pinto and Parker Counties in Texas, and a portion of Bristol County, Mass., 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 areas, but will continue to apply to the quarantined areas described in § 76.2(e). 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 areas excluded from quarantine. No areas in Palo Pinto and Parker Counties in Texas, or in Bristol County, Mass., remain under the 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. It does not appear that public participation in this rule making proceeding would make additional relevant information available to this Department.

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 21st day of May 1971.

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

[FR Doc.71-7464 Filed 5-26-71;8:54 am]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Revision 10, Amdt. 4]

PART 121—SMALL BUSINESS SIZE STANDARDS

Definition of Term "Affiliates"

A proposal was issued on February 9, 1971 (36 F.R. 2629) to amend Part 121 of Chapter I of Title 13 of the Code of Federal Regulations by adding a provision to prevent an otherwise small business which has sponsored a subcontractor pursuant to section 8(a) of the Small Business Act, from losing its small business status solely because of the 8(a) subcontract, or of other contracts or business of such subcontractor if the substantial beneficiaries of such other contract and/or business will be the socially or economically disadvantaged.

Interested persons were given 30 days in which to submit written statements of facts, opinions or arguments concerning the proposal.

No adverse comments were received. Accordingly § 121.3–2(a) of Part 121 of Chapter I of the Title 13 of the Code of Federal Regulations is hereby amended by adding a paragraph at the end thereof to read as follows:

§ 121.3–2 Definition of terms used in this part.

(a) Affiliates:

* * * * *

Where a concern is a subcontractor pursuant to section 8(a)(2) of the Small Business Act and, in connection therewith, is the subject of a Divestiture Agreement approved by SBA for the benefit of socially or economically disadvantaged individuals, the receipts, employment and other factors of the concern attributable to the section 8(a)(2) subcontract shall not be included in determining the size of either concern during the term of such divestiture agreement. Other contracts and business of such subcontractor may also be excluded in determining the size if, in the judgment of SBA, substantial beneficiaries of such other contracts and business will be the socially or economically disadvantaged individuals in question.

Effective date: This amendment shall become effective on June 1, 1971.

Dated: May 18, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-7375 Filed 5-26-71;8:54 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 71-CE-59]

SUBCHAPTER E—AIRSPACE

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

Revocation of Federal Airway Segments

The purpose of these amendments to Part 71 of the Federal Aviation Regulations is to revoke a segment of VOR Federal Airway No. 13 and a segment of VOR Federal Airway No. 161.

The actions taken herein would revoke V–13E from Des Moines, Iowa, to Mason City, Iowa, and V–161W from Des Moines, Iowa, to Waterloo, Iowa.

These airway segments were originally designated for use in nonradar environment; however, they no longer serve a useful purpose for air traffic.

Since these amendments restore airspace to the public use and relieve a restriction, notice and public procedure thereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, these amendments will become effective more than 30 days after publication.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 22, 1971, as hereinafter set forth.

Section 71.123 (36 F.R. 2010 and 3892) is amended as follows:

a. In V–13 after "Mason City, Iowa; including" the phrase "an east alternate and also" is deleted.

b. In V–161 after "Waterloo, Iowa," the phrase "including a west alternate from Des Moines to Waterloo via INT Des Moines 023° and Waterloo 241° radials" is deleted.

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

Issued in Washington, D.C., on May 19, 1971.

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

[FR Doc.71–7404 Filed 5–26–71;8:49 am]

[Airspace Docket No. 71–EA–16]

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

Alteration of Control Zone

On page 4789 of the FEDERAL REGISTER for March 12, 1971, the Federal Aviation Administration published proposed regulations which would alter the Manchester, N.H., Control Zone (36 F.R. 2101).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t., July 22, 1971.

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

Issued in Jamaica, N.Y., on May 7, 1971.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Manchester, N.H., control zone and insert the following in lieu thereof:

Within a 5-mile radius of the center, 42°56'00" N., 71°26'21" W. of Grenier Field-Manchester Municipal Airport, Manchester, N.H.; within 2.5 miles each side of the 157° bearing from the Manchester RBN, 42°52'12" N., 71°23'52" W., extending from the 5-mile radius zone to 8.5 miles south of the RBN and within 2.5 miles each side of the Manchester VORTAC 325° radial, extending from the 5-mile radius zone to 13 miles northwest of the VORTAC. This control zone is effective from 0600 to 2400 hours, local time, daily or during the specific dates and times established in advance by a Notice to Airmen, which thereafter will be continuously published in the Airman's Information Manual.

[FR Doc.71–7406 Filed 5–26–71; 8:49 am]

[Airspace Docket No. 71–CE–60]

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

Revocation of Control Zone and Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to revoke the Rantoul, Ill., control zone and transition area.

The Chanute VOR at Rantoul, Ill., will be decommissioned on June 30, 1971. Consequently, controlled airspace for the protection of IFR air traffic into and out of Rantoul, Ill., is no longer required. Since this revocation cancels designated controlled airspace in the Rantoul, Ill., terminal area, it imposes no additional burden on any person, therefore notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., June 30, 1971, as hereinafter set forth:

(1) In § 71.171 (36 F.R. 2055), the following control zone is revoked: Rantoul, Ill.

(2) In § 71.181 (36 F.R. 2140), the following transition area is revoked: Rantoul, Ill.

(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 Kansas City, Mo., on May 4, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

[FR Doc.71–7405 Filed 5–26–71;8:49 am]

[Airspace Docket No. 71–CE–7]

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

Alteration of Control Zone and Transition Area

On page 4426 of the FEDERAL REGISTER dated March 5, 1971, the Federal Aviation Administration published a notice of proposed rule making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Winona, Minn.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendments.

No objections have been received and the proposed amendments are hereby adopted without change and are set forth below.

These amendments shall be effective 0901 G.m.t., July 22, 1971.

(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 Kansas City, Mo., on May 10, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

(1) In § 71.171 (36 F.R. 2055), the following control zone is amended to read:

WINONA, MINN.

Within a 5-mile radius of the Winona Municipal-Max Conrad Field (latitude 44°-04'37" N., longitude 91°42'22" W.); within 2½ miles each side of the 319° bearing from Winona Municipal-Max Conrad Field, extending from the 5-mile-radius area to 6 miles northwest of the airport and within 3 miles each side of the 107° bearing from the Winona Municipal-Max Conrad Field extending from the 5-mile-radius area to 6½ miles east of the airport. This control zone shall 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.

(2) In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

WINONA, MINN.

That airspace extending upward from 700 feet above the surface within a 12-mile radius of Winona Municipal-Max Conrad Field (latitude 44°04'37" N., longitude 91°42'22" W.); excluding that portion which overlies the La-Crosse, Wis. transition area.

[FR Doc.71–7396 Filed 5–26–71;8:48 am]

[Airspace Docket No. 71–CE–5]

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

Alteration of Control Zone and Transition Area

On page 4425 of the FEDERAL REGISTER dated March 5, 1971, the FAA published a notice of proposed rule making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Pellston, Mich.

Interested persons were given 45 days to submit written comments, objections and comments concerning the proposed amendments. Two comments were received. The Air Transport Association concurred with the proposal. The Department of the Air Force objected to the proposal unless the FAA could assure it that the instrument approach procedure to the Emmet County Airport, Pellston, Mich., would not interfere with oil burner routes 9 and 14 which operate in this area. Subsequent to the issuance of this proposal the FAA has determined

that the portions of oil burner routes 9 and 14 that conflict with the instrument approach procedure at Emmet County Airport have been suspended pending relocation of the target site and the RBS site. Notwithstanding this fact, the Air Force can be assured that no instrument approach procedures will be permitted at Emmet County Airport during oil burner operations. As a consequence, the Agency believes the Air Force's concern has been satisfied. Accordingly, the proposed amendments are hereby adopted subject to the minor change as set forth below.

In view of the foregoing, the proposed amendments are hereby adopted subject to the following change:

Lines 21 and 22 of the transition area description recited as "met County Airport, extending from the 13-mile-radius area to 18½ miles southeast of" are corrected to read "met County Airport, extending from the airport to 18½ miles southeast of".

These amendments shall be effective 0901 G.m.t., July 22, 1971.

(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 Kansas City, Mo., on May 10, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

In § 71.171 (36 F.R. 2055), the following control zone is amended to read:

PELLSTON, MICH.

Within a 5-mile radius of Emmet County Airport (latitude 45°34'09" N., longitude 84°-47'45" W.); within 2½ miles each side of the 132° bearing from Emmet County Airport, extending from the 5-mile radius zone to 5½ miles Southeast of the airport; and within 5 miles each side of the Pellston VORTAC 238° radial extending from the airport to 21 miles Southwest of the VORTAC.

In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

PELLSTON, MICH.

That airspace extending upward from 700 feet above the surface within a 11-mile radius of Emmet County Airport (latitude 45°34'09" N., longitude 84°47'45" W.); and within 5 miles each side of the Pellston VORTAC 238° radial, extending from the 11-mile-radius area to 22 miles southwest of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 13-mile radius of Pellston VORTAC; within 4½ miles northwest and 9½ miles southeast of the Pellston VORTAC 238° radial extending from the 13-mile-radius area to 32½ miles southwest of the VORTAC; within 4½ miles southeast and 9½ miles northwest of the Pellston VORTAC 060° radial, extending from the 13-mile-radius area to 18½ miles northeast of the VORTAC; and within 4½ miles southwest and 9½ miles northeast of the 132° bearing from the Emmet County Airport, extending from the airport to 18½ miles southeast of the airport, excluding the portion which overlies the Sault Sainte Marie, Mich., transition area.

[FR Doc.71-7392 Filed 5-26-71;8:48 am]

[Airspace Docket No. 71-CE-63]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the transition area at Estherville, Iowa.

U.S. Standard for Terminal Instrument Procedures (TERPS) became effective November 18, 1967, and was issued only after extensive consideration and discussion with Government agencies concerned and affected industry groups. TERPS updates the criteria for the establishment of instrument approach procedures in order to meet the safety requirements of modern day aviation and to make more efficient use of the airspace possible. As a result, the criteria for designation of controlled airspace for the protection of these procedures were modified to conform to TERPS. The new criteria requires minor alteration of the Estherville, Iowa, transition area. Action is taken herein to reflect this change.

Since changes in most, if not all, existing airspace designations are required in order to achieve the increased safety and efficient use of the airspace that TERPS is designed to accomplish and since these changes are minor in nature, notice and public procedure hereon have been determined to be both unnecessary and impracticable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., July 22, 1971, as hereinafter set forth:

In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

ESTHERVILLE, IOWA

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Estherville Municipal Airport (latitude 43°25'00" N., longitude 94°44'45" W.); and within 3 miles each side of the 175° bearing from Estherville Municipal Airport, extending from the 6½-mile-radius area to 8 miles south of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles west and 9½ miles east of the 175° and 355° bearings from Estherville Municipal Airport extending from 6 miles north to 18½ miles south of the 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 Kansas City, Mo., on May 14, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

[FR Doc.71-7407 Filed 5-26-71;8:49 am]

[Airspace Docket No. 71-CE-64]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Jefferson, Iowa, transition area.

U.S. Standard for Terminal Instrument Procedures (TERPS) became effective November 18, 1967, and was issued only after extensive consideration and discussion with Government agencies concerned and affected industry groups. TERPS updates the criteria for the establishment of instrument approach procedures in order to meet the safety requirements of modern day aviation and to make more efficient use of the airspace possible. As a result, the criteria for designation of controlled airspace for the protection of these procedures were modified to conform to TERPS. The new criteria requires minor alteration of the Jefferson, Iowa, transition area. Action is taken herein to reflect this change.

Since changes in most, if not all, existing airspace designations are required in order to achieve the increased safety and efficient use of the airspace that TERPS is designed to accomplish and since these changes are minor in nature, notice and public procedure hereon have been determined to be both unnecessary and impracticable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., July 22, 1971, as hereinafter set forth:

In § 71.181 (36 F.R. 2140), the following transition area is amended to read

JEFFERSON, IOWA

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Jefferson Municipal Airport (latitude 42°00'36" N., longitude 94°20'31" W.); and within 3 miles each side of the 152° bearing from Jefferson Municipal Airport extending from the 5½-mile radius area to 8 miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles southwest and 9½ miles northeast of the 152° and 132° bearing from Jefferson Municipal Airport, extending from 9 miles northwest to 18½ miles southeast of the airport excluding the portion which overlies the Perry, Iowa, transition area.

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

Issued in Kansas City, Mo., on May 14, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

[FR Doc.71-7408 Filed 5-26-71;8:49 am]

[Airspace Docket No. 71-EA-20]

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

Designation of Transition Area

On page 5619 of the FEDERAL REGISTER for March 25, 1971, the Federal Aviation Administration published proposed regulations which would designate a Bloomsburg, Pa., transition area.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t., July 22, 1971.

(Sec. 37(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; and sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on May 7, 1971.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate the Bloomsburg, Pa., transition area as follows:

BLOOMSBURG, PA.

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the center of Bloomsburg Municipal Airport, Bloomsburg, Pa., 40°59'45" N., 76°26'30" W., and within 3 miles each side of the Milton, Pa., VORTAC 099° radial extending from the 7.5-mile-radius area to the VORTAC.

[FR Doc.71-7409 Filed 5-26-71;8:49 am]

[Airspace Docket No. 71-EA-21]

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

Alteration of Transition Area

On page 5619 of the FEDERAL REGISTER for March 25, 1971, the Federal Aviation Administration published proposed regulations which would alter the Butler, Pa., transition area (36 F.R. 2161).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t., July 22, 1971, except to correct 75°57'15" W. to read 79°57'15" W.

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

Issued in Jamaica, N.Y., on May 13, 1971.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Butler, Pa., 700-foot-floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the center, 40°46'45" N., 79°57'15" W. of Butler-Graham Airport, Butler, Pa., and within 3.5 miles each side of the 181° bearing from the Butler RBN, 40°41'54" N., 79°57'14" W., extending from the 7.5-mile-radius area to 11.5 miles south of the RBN.

[FR Doc.71-7410 Filed 5-26-71;8:49 am]

[Airspace Docket No. 71-CE-3]

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

Designation of Transition Area

On pages 4424 and 4425 of the FEDERAL REGISTER dated March 5, 1971, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Platteville, Wis.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., July 22, 1971.

(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 Kansas City, Mo., on May 10, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

In § 71.181 (36 F.R. 2140), the following transition area is added:

PLATTEVILLE, WIS.

That airspace extending upward from 700 feet above the surface within an 8½ mile radius of the Platteville Municipal Airport (latitude 42°41'15" N., longitude 90°26'41" W.); and that airspace extending upward from 1,200 feet above the surface within 9½ miles north and 4½ miles south of the 084° bearing from Platteville Municipal Airport extending from the airport to 18½ miles east of the airport.

[FR Doc.71-7390 Filed 5-26-71;8:48 am]

[Airspace Docket No. 71-CE-4]

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

Alteration of Transition Area

On page 4425 of the FEDERAL REGISTER dated March 5, 1971, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Ann Arbor, Mich.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., July 22, 1971.

(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))

DANIEL E. BARROW,
Acting Director, Central Region.

In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

ANN ARBOR, MICH.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Ann Arbor Municipal Airport (latitude 42°13'22" N., longitude 83°44'40" W.); excluding the portion which overlies the Detroit, Mich., 700-foot floor transition area.

[FR Doc.71-7391 Filed 5-26-71;8:48 am]

[Airspace Docket No. 71-CE-6]

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

Alteration of Transition Area

On pages 4425 and 4426 of the FEDERAL REGISTER dated March 5, 1971, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Brookings, S. Dak.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., July 22, 1971.

(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 Kansas City, Mo., on May 10, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

BROOKINGS, S. DAK.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Brookings Municipal Airport (latitude 44°18'12" N., longitude 96°48'40" W.); within 3 miles each side of the 300° bearing from Brookings Municipal Airport extending from the 6½-mile-radius area to 7½ miles west of the airport; and within 3 miles each side of the 141° bearing from the Brookings Municipal Airport, extending from the 6½-mile-radius area to 7½ miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within 9½ miles southwest and 4½

miles northeast of the 141° and 321° bearings from the Brookings Municipal Airport extending from 4½ miles northwest of the airport to 18½ miles southeast of the airport.

[FR Doc.71-7395 Filed 5-26-71;8:48 am]

[Airspace Docket No. 71-CE-8]

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

Alteration of Transition Area

On page 4508 of the FEDERAL REGISTER dated March 6, 1971, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Morris, Minn.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., July 22, 1971.

(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 Kansas City, Mo., on May 10, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

MORRIS, MINN.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Morris Municipal Airport (latitude 45°34'05" N., longitude 95°58'10" W.); and within 3 miles each side of the 138° bearing from the Morris Municipal Airport extending from the airport to 7 miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within 9½ miles northeast and 4½ miles southwest of the 138° bearing from the Morris Municipal Airport extending from the airport to 18½ miles southeast of the airport; and within 5 miles each side of the 318° bearing from the Morris Municipal Airport extending from the airport to 12 miles northwest of the airport.

[FR Doc.71-7397 Filed 5-26-71;8:48 am]

[Airspace Docket No. 71-CE-9]

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

Designation of Transition Area

On pages 4508 and 4509 of the FEDERAL REGISTER dated March 6, 1971, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Eagle River, Wis.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., July 22, 1971.

(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 Kansas City, Mo., on May 10, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

In § 71.181 (36 F.R. 2140), the following transition area is added:

EAGLE RIVER, WIS.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Eagle River Municipal Airport (latitude 45°55'45" N., longitude 89°16'00" W.); and within 3 miles each side of the 037° bearing from Eagle River Municipal Airport extending from the 5-mile-radius area to 7½ miles northeast of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles southeast and 9½ miles northwest of the 037° and 217° bearings from Eagle River Municipal Airport, extending from 6 miles southwest to 18½ miles northeast of the airport, excluding the portions which overlap the Rhinelander and Land O'Lakes, Wis., transition areas.

[FR Doc.71-7398 Filed 5-26-71;8:48 am]

[Airspace Docket No. 71-CE-10]

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

Alteration of Transition Area

On page 4509 of the FEDERAL REGISTER dated March 6, 1971, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at West Bend, Wis.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., July 22, 1971.

(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 Kansas City, Mo., on May 10, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

WEST BEND, WIS.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of West Bend Municipal Airport (latitude 43°25'20" N., longitude 88°07'45" W.); and within 3 miles each side of the 133° bearing from the West Bend Municipal Airport, extending from the 7-mile-radius area to 7½ miles southeast of the airport.

[FR Doc.71-7399 Filed 5-26-71;8:49 am]

[Airspace Docket No. 71-CE-11]

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

Alteration of Transition Area

On pages 4509 and 4510 of the FEDERAL REGISTER dated March 6, 1971, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Brainerd, Minn.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., July 22, 1971.

(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 Kansas City, Mo., on May 10, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

BRAINERD, MINN.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Brainerd-Crow Wing County Airport (latitude 46°23'55" N., longitude 94°08'15" W.); within 3 miles each side of the 120° radial of the Brainerd VORTAC extending from the 7-mile-radius area to 7½ miles southeast of the VORTAC; within 5 miles each side of the Brainerd VORTAC 302° radial extending from the 7-mile-radius area to 21 miles northwest of the VORTAC; within 3 miles each side of the 198° bearing from Brainerd-Crow Wing County Airport, extending from the 7-mile-radius area to 11½ miles south of the airport; and within 3 miles each side of the 043° bearing from the Brainerd-Crow Wing County Airport, extending from the 7-mile-radius area to 7½ miles northeast of the airport; and that airspace extending upward from 1,200 feet above the surface within a 13-mile radius of the Brainerd VORTAC; within 9½ miles southwest and 4½ miles northeast of the Brainerd VORTAC 302° radial, extending from the 13-mile-radius area to 31½ miles northwest of the VORTAC; within 9½ miles east and 4½ miles west of the 198° bearing from Brainerd-Crow Wing County Airport, extending from the 13-mile radius to 23 miles south of the airport; within 9½ miles northeast and 4½ miles southwest of the Brainerd VORTAC 120° radial extending from the 13-mile-radius area to 18½ miles southeast of the VORTAC; and within a 25-mile radius of the Brainerd VORTAC from a line 5 miles southwest of and

parallel to the VORTAC 302° radial clockwise to a line 5 miles southeast of and parallel to the VORTAC 024° radial.

[FR Doc.71-7400 Filed 5-26-71;8:49 am]

[Airspace Docket No. 71-CE-36]

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

Alteration of Transition Area

On page 5298 of the FEDERAL REGISTER dated March 19, 1971, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Huron, S. Dak.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., July 22, 1971.

(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 Kansas City, Mo., on May 14, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

HURON, S. DAK.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the W. W. Howes Municipal Airport (latitude 44°23'03" N., longitude 98°13'39" W.); within 4½ miles northeast and 11 miles southwest of the Huron VORTAC 314° and 134° radials, extending from 5 miles southeast to 18½ miles northwest of the VORTAC; and within 5 miles each side of the Huron ILS localizer southeast course, extending from the 6½-mile radius area to 19½ miles southeast of the OM; and that airspace extending upward from 1,200 feet above the surface within a 25-mile radius of the Huron VORTAC extending from a line 5 miles west of and parallel to the 343° radial clockwise to a line 5 miles north of and parallel to the 269° radial; and within 4½ miles southwest and 9½ miles northeast of the Huron localizer southeast course extending from 6 miles southeast of the OM to 29 miles southeast of the OM.

[FR Doc.71-7402 Filed 5-26-71;8:49 am]

[Airspace Docket No. 71-CE-49]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the transition area at Port Huron, Mich.

U.S. Standard for Terminal Instrument Procedures (TERPS) became effective November 18, 1967, and was issued only after extensive consideration and discussion with Government agencies concerned and affected industry groups. TERPS updates the criteria for the establishment of instrument approach procedures in order to meet the safety requirements of modern day aviation and to make more efficient use of the airspace possible. As a result, the criteria for designation of controlled airspace for the protection of these procedures were modified to conform to TERPS. The new criteria requires minor alteration of the Port Huron, Mich., transition area. Action is taken herein to reflect this change.

Since changes in most, if not all, existing airspace designations are required in order to achieve the increased safety and efficient use of the airspace that TERPS is designed to accomplish and since these changes are minor in nature, notice and public procedure hereon have been determined to be both unnecessary and impracticable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., July 22, 1971, as hereinafter set forth:

In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

PORT HURON, MICH.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the St. Clair County Airport (longitude 42°54'40" N., 82°31'35" W.), within 3 miles each side of the 229° and 341° bearings from the St. Clair County Airport extending from the 7-mile-radius area to 8.5 miles southwest and north of the airport, excluding the portion outside the United States.

(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 Kansas City, Mo., on May 14, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

[FR Doc.71-7403 Filed 5-26-71;8:49 am]

[Airspace Docket No. 71-CE-26]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Jet Route

On March 11, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 4709) stating that the Federal Aviation Administration was considering an amendment to Part 75 of the Federal Aviation Regulations that would designate a jet route between Fargo, N. Dak., and Sault Ste. Marie, Mich.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable except one. The Department of the Air Force noted that the proposed jet route would penetrate three of its training areas and would object unless it could be assured that there would be no impact on the availability of the assigned airspace areas to accommodate daily training operations. The FAA has determined that the training flights can be handled without conflict with the proposed route.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 22, 1971, as hereinafter set forth.

In § 75.100 (36 F.R. 2371) Jet Route No. 140 is added as follows:

JET ROUTE NO. 140 (FARGO, N. DAK., TO SAULT STE. MARIE, MICH.)

From Fargo, N. Dak., via Duluth, Minn., to Sault Ste. Marie, Mich.

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

Issued in Washington, D.C., on May 20, 1971.

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

[FR Doc.71-7401 Filed 5-26-71;8:49 am]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 11087; Amdt. 95-207]

PART 95—IFR ALTITUDES

Miscellaneous Amendments

The purpose of this amendment to Part 95 of the Federal Aviation Regulations is to make changes in the IFR altitudes at which all aircraft shall be flown over a specified route or portion thereof. These altitudes, when used in conjunction with the current changeover points for the routes or portions thereof, also assure navigational coverage that is adequate and free of frequency interference for that route or portion thereof .

As a situation exists which demands immediate action in the interest of safety, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 95 of The Federal Aviation Regulations is amended, effective June 24, 1971 as follows:

1. By amending Subpart C as follows:

Section 95.619 *Blue Federal airway 19* is amended to read in part:

From, to, and MEA

Fish Hook, Fla., RBN; Perrine, Fla., RBN; *2,000. *1,600—MOCA.

Section 95.1001 *Direct Routes—United States* is amended to delete:

Fort Lauderdale, Fla., LF/RBN; New River INT, Fla.; *1,500. *1,400—MOCA.
Fort Myers, Fla., LF/RBN; Palm Beach, Fla., LF/RBN; 2,000.
Palm Beach, Fla., LF/RBN; Fort Lauderdale, Fla., LF/RBN 2,000.
*Titusville INT, Fla.; **Barracuda INT, Fla.; ***15,000. *4,000—MRA. **15,000—MRA. **1,200—MOCA.

Section 95.1001 *Direct Routes—United States* is amended by adding:

Sacramento, Calif., VOR; Klamath Falls, Oreg., VOR; 18,000. COP 130 SAC; MAA—45,000.

Klamath Falls, Oreg., VOR; Portland, Oreg., VOR; #22,000. MAA—45,000. #MEA is established with a gap in navigation signal coverage.

Norton, Calif., VOR; Hilltop INT, Calif.; 8,000. MAA—18,000.

Hilltop INT, Calif.; Hesperia INT, Calif.; *12,000. *7,700—MOCA. MAA—18,000.

Hilltop INT, Calif.; Palmdale, Calif., VORTAC; *12,000. *7,000—MOCA. MAA—18,000.

Plantation, Fla., LF/RBN; New River INT, Fla.; *1,500. *1,400—MOCA.

Rubin, Fla., RBN; Plantation, Fla., RBN; 2,000.

Tice, Fla., RBN; Rubin, Fla., RBN; 2,000.

*Apollo INT, Fla.; **Barracuda INT, Fla.; ***15,000. *4,000—MRA. **15,000—MRA. ***1,200—MOCA.

Section 95.1001 *Direct Routes—United States* is amended to read in part:

Bimini, Bahamas, VOR; Halibut INT, Bahamas (Via Control 1,150); *2,500. *1,300—MOCA.

*Mackerel INT, Fla.; **Mullet INT, Bahamas; ***3,500. *3,000—MRA. **6,500—MRA. ***1,200—MOCA.

Miami, Fla., VOR; Plantation, Fla., LF/RBN; *1,500. *1,400—MOCA.

Portland, Fla., RBN; Plantation, Fla., LF/RBN; 2,000.

Portland, Fla., RBN; Rubin, Fla., LF/RBN; 2,000.

Bahama Routes

65 V is amended to read in part:

Freeport, Bahamas, VOR; *Mullet INT, Bahamas; **2,000. *6,500—MRA. **1,400—MOCA.

7 Lima is amended to read in part:

Grand Bahama AAFB, Bahamas, RBN; Halibut INT, Fla.; *2,000. *1,400—MOCA.

Halibut INT, Fla.; Rubin, Fla., RBN; *2,000. *1,400—MOCA.

Section 95.5000 High Altitude RNAV.

From/to; total distance; changeover point; distance, from geographic location; track angle; MEA; and MAA

J800R is amended to read in part:

Thackery, Ohio, W/P, Mellott, Ind., W/P; 137.8; 55, Thackery, 39°57'39" N., 85°13'-23" W.; 268°/88° to COP, 266°/86° to Newton; 18,000; 45,000.

Mellott, Ind., W/P, Chapin, Ill., W/P; 165.7; 70, Newton, 39°48'29" N., 88°31'33" W.; 263°/83° to COP, 258°/78° to Chapin; 18,000; 45,000.

J801R is amended to read in part:

Joliet, Ill., VORTAC, Wolverine, Mich., W/P; 199.1; 110, Joliet, 41°56'35" N., 85°55'38" W.; 75°/255° to COP, 84°/264° to Wolverine; 18,000; 45,000.

Wolverine, Mich., W/P, Ormsby, Pa., W/P; 239.7; 114.9, Wolverine, 42°03'14" N., 81°-24'26" W.; 98°/278° to COP, 105°/285° to Ormsby; 18,000; 45,000.

J803R is amended to read in part:

Haven, Mich., W/P, Wolverine, Mich., W/P; 103.4; 51.7, Haven, 42°16'52" N., 85°07'42" W; 90°/270° to COP, 97°/277° to Wolverine; 18,000; 45,000.

Wolverine, Mich., W/P, Ormsby, Pa., W/P; 239.7; 114.9, Wolverine, 42°03'15" N., 81°-24'26" W.; 98°/278° to COP, 105°/285° to Ormsby; 18,000; 45,000.

Section 95.6001 *VOR Federal airway 1* is amended to read in part:

From, to, and MEA Cofield, N.C., VOR; Drum Hill INT, N.C.; 2,000.

Drum Hill INT, N.C.; Deep Creek INT, Va.; *2,000. *1,100—MOCA.

Deep Creek INT, Va.; Norfolk, Va., VOR; 1,600.

Section 95.6003 *VOR Federal airway 3* is amended to read in part:

Sombrero INT, Fla.; Rancho INT, Fla.; *6,000. *1,300—MOCA.

Section 95.6008 *VOR Federal airway 8* is amended to read in part:

Glenwood Springs INT, Colo., via S alter.; Ralston INT, Colo., via S alter.; *1,400. *13,200—MOCA.

Ralston INT, Colo., via S alter.; Gypsum INT, Colo., via S alter.; No. *12,500. No. 14,000—MEA for ACFT without DME. *11,190—MOCA.

Gypsum INT, Colo., via S alter.; Kremmling, Colo., VOR via S alter.; *14,000. *13,500—MOCA.

Section 95.6014 *VOR Federal airway 14* is amended to read in part:

Oklahoma City, Okla., VOR via N alter.; Navina INT, Okla., via N alter.; 3,000.

Navina INT, Okla., via N alter.; Langston INT, Okla., via N alter.; *3,000. *2,400—MOCA.

Springfield, Mo., VOR via N alter.; Vichy, Mo., VOR via N alter.; *3,000. *2,400—MOCA.

Vichy, Mo., VOR via N alter.; Int., 032° M rad, Vichy VOR and 244° M rad, St. Louis VOR via N alter.; *2,900. *2,200—MOCA.

Int., 032° M rad, Vichy VOR and 244° M rad, St. Louis VOR via N alter.; St. Louis, Mo., VOR via N alter.; *2,500. *2,000—MOCA.

Section 95.6019 *VOR Federal airway 19* is amended to read in part:

Hanover INT, Colo.; Kettle INT, Colo.; 9,000.

Section 95.6020 *VOR Federal airway 20* is amended to read in part:

Stockton INT, Ala., via S alter.; Monroeville, Ala., VOR via S alter.; *2,100. *1,600—MOCA.

Richmond, Va., VOR; Tappahannock INT, Va.; 1,900.

Section 95.6023 *VOR Federal airway 23* is amended to read in part:

*Gridley INT, Calif.; Red Bluff, Calif., VOR; **3,000. *4,000—MCA Gridley INT, southeastbound. **2,000—MOCA.

Fresno, Calif., VOR via W alter.; *Mendota INT, Calif., via W alter.; 2,000. *3,000—MCA Mendota INT, westbound.

Mendota INT, Calif., via W alter.; Los Banos, Calif., VOR via W alter.; 4,500.

Section 95.6025 *VOR Federal airway 25* is amended to read in part:

Triton INT, Calif.; Pacific INT, Calif.; *5,000. *2,000—MOCA.

Pacific INT, Calif.; Albacore INT, Calif.; *3,000. *2,000—MOCA.

Section 95.6027 *VOR Federal airway 27* is amended to read in part:

Triton INT, Calif.; Pacific INT, Calif.; *5,000. *2,000—MOCA.

Pacific INT, Calif.; Avalon INT, Calif.; *3,000. *2,000—MOCA.

Section 95.6033 *VOR Federal airway 33* is amended to read in part:

Keating, Pa., VOR; Bradford, Pa., VOR; 4,000.

Section 95.6043 *VOR Federal airway 43* is amended to read in part:

Tiverton, Ohio, VOR via W alter.; Akron, Ohio, VOR via W alter.; 3,000.

Akron, Ohio, VOR via W alter.; Youngstown, Ohio, VOR via W alter.; 3,000.

Section 95.6044 *VOR Federal airway 44* is amended to read in part:

Livonia INT, Ind.; Nabb, Ind., VOR; *2,700. *2,200—MOCA.

Section 95.6052 *VOR Federal airway 52* is amended to read in part:

Quincy, Ill., VOR; *Hardin INT, Ill.; **2,600. *3,700—MRA. **2,000—MOCA.

Section 95.6054 *VOR Federal airway 54* is amended to read in part:

Pike INT, Ark., via N alter.; Marcus INT, Ark., via N alter.; *3,500. *1,900—MOCA.

Section 95.6056 *VOR Federal airway 56* is amended to read in part:

Langley INT, S.C., via S alter.; Columbia, S.C., VOR via S alter.; *2,300. *1,800—MOCA.

Section 95.6072 *VOR Federal airway 72* is amended to read in part:

Akron, Ohio, VOR; Youngstown, Ohio, VOR; 3,000.

Section 95.6077 *VOR Federal airway 77* is amended to read in part:

Oklahoma City, Okla., VOR via E alter.; Navina INT, Okla., via E alter.; 3,000.

Navina INT, Okla., via E alter.; Langston INT, Okla., via E alter.; *3,000. *2,400—MOCA.

Section 95.6097 *VOR Federal airway 97* is amended to read in part:

Miami, Fla., VOR; Labelle, Fla., VOR; *1,500. *1,300—MOCA.

Section 95.6149 *VOR Federal airway 149* is amended to read in part:

Turner INT, Pa.; Allentown, Pa., VOR; *5,000. *2,500—MOCA.

Section 95.6152 *VOR Federal airway 152* is amended to read in part:

Jessup INT, Fla.; *Lake Helen INT, Fla.; **2,000. *3,000—MRA. **1,400—MOCA.

Section 95.6157 *VOR Federal airway 157* is amended to read in part:

Miami, Fla., VOR; Labelle, Fla., VOR; *1,500. *1,300—MOCA.

Section 95.6159 *VOR Federal airway 159* is amended to delete:

St. Joseph, Mo., VOR; Skidmore INT, Mo.; *2,800. *2,300—MOCA.

Skidmore, INT, Mo.; Elmo INT, Mo.; *2,800. *2,100—MOCA.

Elmo INT, Mo.; Coin INT, Iowa; *2,900. *2,200—MOCA.

Coin INT, Iowa; Emerson INT, Iowa; *2,700. *2,500—MOCA.

Emerson INT, Iowa; Omaha, Nebr., VOR; *2,800. *2,500—MOCA.

Section 95.6159 *VOR Federal airway 159* is amended by adding:

St. Joseph, Mo., VOR; Int., 320° M rad, St. Joseph VOR and 067° M rad, Pawnee City VOR; *2,800. *2,400—MOCA.

Int., 320° M rad, St. Joseph VOR and 067° M rad, Pawnee City VOR; Omaha, Nebr., VOR; *2,800. *2,500—MOCA.

Section 95.6159 *VOR Federal airway 159* is amended to read in part:

Walnut Ridge, Ark., VOR; Dogwood, Mo., VOR; *3,400. *3,000—MOCA.

Section 95.6194 *VOR Federal airway 194* is amended to read in part:

Cofield, N.C., VOR; Drum Hill INT, N.C.; 2,000.

Drum Hill INT, N.C.; Deep Creek INT, Va.; *2,000. *1,100—MOCA.
Deep Creek INT, Va.; Norfolk, Va., VOR; 1,600.

Section 95.6208 *VOR Federal airway 208* is amended to read in part:

Oceanside, Calif., VOR; *Vista INT, Calif., Eastbound 5,000; Westbound 3,000. *5,000—MRA.

Section 95.6216 *VOR Federal airway 216* is amended to read in part:

Trufant INT, Mich.; Elm INT, Mich.; *3,000. *2,500—MOCA.
Elm INT, Mich.; Saginaw, Mich., VOR; *2,300. *1,900—MOCA.

Section 95.6222 *VOR Federal airway 222* is amended to read in part:

*Harper INT, Tex.; Stonewall INT, Tex.; **4,000. *5,500—MRA. **3,300—MOCA.
Stonewall INT, Tex.; *Guadalupe INT, Tex.; **4,000. *4,300—MRA. **3,200—MOCA.

Section 95.6230 *VOR Federal airway 230* is amended to read in part:

Los Banos, Calif., VOR; *Mendota INT, Calif.; 4,500. *3,000—MCA Mendota INT, Westbound.
Mendota INT, Calif.; Fresno, Calif., VOR; 2,000.

Section 95.6265 *VOR Federal airway 265* is amended to read in part:

Keating, Pa., VOR; Bradford, Pa., VOR; 4,000.

Section 95.6267 *VOR Federal airway 267* is amended to read in part:

Jessup INT, Fla., via E alter.; *Lake Helen INT, Fla., via E alter.; **2,000. *3,000—MRA. **1,400—MOCA.

Section 95.6286 *VOR Federal airway 286* is amended to read in part:

Brooke, Va., VOR; Gwynn INT, Va.; 2,000.
Gwynn INT, Va.; Cape Charles, Va., VOR; *2,000. *1,200—MOCA.

Section 95.6290 *VOR Federal airway 290* is amended to read in part:

Franklin, Va., VOR; Somerton INT, Va.; *2,000. *1,300—MOCA.
Somerton INT, Va.; Sunbury INT, Va.; 2,000.
Sunbury INT, Va.; Elizabeth City, N.C., VOR; *2,000. *1,300—MOCA.

Section 95.6307 *VOR Federal airway 307* is amended by adding:

Pawnee City, Nebr., VOR; Omaha, Nebr., VOR; *3,000. *2,600—MOCA.
Pawnee City, Nebr., VOR; via W alter.; Weeping Water INT, Nebr., via W alter.; *3,000. *2,600—MOCA.
Weeping Water, INT, Nebr., via W alter.; Omaha, Nebr., VOR, via W alter.; *3,000. *2,500—MOCA.

Section 95.6307 *VOR Federal airway 307* is amended to read in part:

Tokeen INT, Alaska; Port Walter DME Fix, Alaska; *9,000. *6,000—MOCA.
Port Walter DME Fix, Alaska; Biorka Island, Alaska, VOR; *6,000. *5,800—MOCA.

Section 95.6310 *VOR Federal airway 310* is amended to read in part:

Rocky Mount, N.C., VOR; Elizabeth City, N.C., VOR; *1,800. *1,500—MOCA.

Section 95.6458 *VOR Federal airway 458* is amended to read in part:

Oceanside, Calif., VOR; *Vista INT, Calif., Eastbound 5,000; Westbound 3,000. *5,000—MRA.

2. By amending Subpart D as follows:

Section 95.8003 *VOR Federal Airway changeover points.*

From; to—Changeover point
Distance; from

V–19 is amended to delete:

Pueblo, Colo., VOR; Kiowa, Colo., VOR; 39; Pueblo.
Douglas, Wyo., VOR via E alter.; Casper, Wyo., VOR via E alter.; 31; Douglas.

V–48 is amended to delete:

Kiowa, Colo., VOR; Thurman, Colo., VOR; 46; Kiowa.

V–23 is amended to delete:

Fresno, Calif., VOR via W alter.; Los Banos, Calif., VOR via W alter.; 14; Los Banos.

V–230 is amended to delete:

Los Banos, Calif., VOR; Fresno, Calif., VOR; 14; Los Banos.

Section 95.8003 *VOR Federal Airway changeover points.*

V–33 is amended to read in part:

Keating, Pa., VOR; Bradford, Pa., VOR; 30; Keating.

V–265 is amended to read in part:

Keating, Pa., VOR; Bradford, Pa., VOR; 30; Keating.

(Secs. 307, 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348, 1510)

Issued in Washington, D.C., on May 18, 1971.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[FR Doc.71–7295 Filed 5–26–71;8:45 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

SUBCHAPTER E—RULES, REGULATIONS, STATEMENT OF GENERAL POLICY OR INTERPRETATION AND EXEMPTIONS UNDER THE FAIR PACKAGING AND LABELING ACT

PART 500—REGULATIONS UNDER SECTION 4 OF THE FAIR PACKAGING AND LABELING ACT

Measurement of Commodities

The Federal Trade Commission on June 27, 1970 (35 F.R. 10528) proposed specific amendments to §§ 500.11 and 500.12 of the regulations issued pursuant to section 4 of the Fair Packaging and Labeling Act. The proposed amendments would permit the net quantity of contents statement on commodities expressed in terms of length and width to include an expression in terms of inches in addition to the presently required statement of length and width in the largest whole units (yards, yards and feet, or feet, as appropriate).

Comment was invited by the publication of the proposal. Twenty-three comments were received from members of industry, a consumer organization, and State and City Weights and Measures officials.

After consideration of all the comments, the Commission published an order on October 23, 1970 (35 F.R. 16535) which provided for a period of 30 days in which to file objections and requests for a public hearing. Communications were received from two firms expressing objections and requesting public hearings.

The Commission has evaluated all of the objections received and concludes as follows:

(1) An objection was made that the order did not provide for stating the net quantity of pressure sensitive tape in inches followed by largest whole units of measurement. This objection was premised on claims that the majority of the pressure sensitive tape industry now label in this fashion and to require them to change would be unreasonable and arbitrary since the law requires a dual statement of inches followed by largest whole units of measure to facilitate value comparisons by consumers. The Commission considers this objection reasonable and the regulation is changed below to provide the option of stating inches first.

(2) An objection was made to the option permitting inches as a portion of the statement of net quantity on a package of pressure sensitive tape. It was claimed that such a statement could be misleading and confusing to the consumer and would not contribute to value comparisons. This involves a question of law—is a dual statement of net quantity necessary to meet the provisions of section 4(a)(3) of the Fair Packaging and Labeling Act—and therefore it is not properly a subject for public hearing.

To facilitate making the above change in response to the objection received, the Commission concludes that said final order of October 23, 1970 (35 F.R. 16535), should be canceled and that a new final order in this matter should be adopted as set forth below.

Accordingly, pursuant to the provisions of the Fair Packaging and Labeling Act Part 500 is amended by revising §§ 500.11 and 500.12 to read as follows:

§ 500.11 Measurement of commodity length, how expressed.

Declaration of net quality in terms of commodity length shall be expressed as follows:

(a) If less than 1 foot, in terms of inches and fractions thereof.

(b) If at least 1 foot but less than 4 feet, in terms of inches followed in parentheses by a declaration in the largest whole unit (a yard or foot) with any remainder in terms of inches or common or decimal fractions of the foot or yard.

(c) If 4 feet or more, in terms of feet followed in parentheses by a declaration of yards and common or decimal fractions of the yard, or in terms of feet followed in parentheses by a declaration of yards with any remainder in terms of feet and inches, except that it shall be optional to express the length in the preceding manner followed by a statement in parentheses of the length in terms of inches.

§ 500.12 Measurement of commodities by length and width, how expressed.

For bidimensional commodities (including roll-type commodities) measured in terms of commodity length and width, the declaration of net quantity of contents shall be expressed in the following manner:

(a) The declaration of net quantity for bidimensional commodities having a width of more than 4 inches shall:

(1) When the commodity has an area of less than 1 square foot be expressed in terms of length and width in linear inches and fractions thereof.

(2) When the commodity has an area of 1 square foot or more, but less than 4 square feet, be expressed in terms of square inches, followed in parentheses by the length and width in the largest whole unit (yard or foot) with any remainder in inches or common or decimal fractions of the yard or foot except that a dimension of less than 2 feet may be stated in inches within the parenthetical. Commodities consisting of usable individual units (e.g., paper napkins) while requiring a declaration of unit area need not declare the total area of all such individual units.

(3) When the commodity has an area of 4 square feet or more, be expressed in terms of square feet, followed in parentheses by the length and width in the largest whole units (yards or feet) with any remainder in terms of inches or common or decimal fractions of the foot or yard except that a dimension of less than 2 feet may be stated in inches within the parenthetical.

(4) For any commodity for which the quantity of contents is required by subparagraph (2) or (3) of this paragraph to include a declaration of the linear dimensions, the quantity of contents, in addition to being declared in the manner prescribed by the appropriate provision of this regulation, may also include, after the statement of the linear dimensions in the largest unit of measurement, a parenthetical declaration of the linear dimensions of said commodity in terms of inches. (Example: "25 SQ. FT. (12 IN. X 8.33 YD.) (12 IN. X 300 IN.)".)

(b) The declaration of net quantity for bidimensional commodities having a width of 4 inches or less shall be expressed in terms of width in inches followed by length in the largest whole unit (yard or foot) with any remainder in terms of the common or decimal fractions of the yard or foot, except that it shall be optional to express the length in the largest whole unit followed by a statement in parentheses of length in inches, or to express the length in inches followed by a statement in parentheses of length in the largest whole unit. (Example: "2 INCHES X 10 YARDS", "2 INCHES X 10 YARDS (360 INCHES)", or "2 INCHES X 360 INCHES (10 YARDS)".

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Secretary, Federal Trade Commission, Washington, D.C. 20580, written objections thereto, specifying with particularity the provisions of the order deemed objectionable, stating the grounds therefor, and requesting a public hearing upon such objections. Objections will be deemed sufficient to warrant the holding of a public hearing only: (1) If they establish that the objector will be adversely affected by the order; (2) if they specify with particularity the provisions of the order to which objection is taken; and (3) if they are supported by reasonable grounds which if valid and factually supported may be adequate to justify the relief sought. Anyone who files objections which are not deemed by the Commission sufficient to warrant the holding of a public hearing will be promptly notified of that determination.

As soon as practicable after the time for filing objections has expired, the Commission will publish a notice in the FEDERAL REGISTER specifying those parts of the order which have been stayed by the filing of objections, or if no objections sufficient to warrant the holding of a public hearing have been filed, stating the fact. This order shall become effective 30 days following the date of its publication in the FEDERAL REGISTER, except as to any provision that may be stayed by the filing of valid objections.

(Secs. 4, 6, 80 Stat. 1297, 1299, 1300; 15 U.S.C. 1453, 1454, 1455)

Issued: May 21, 1971.

By direction of the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-7423 Filed 5-26-71;8:51 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release No. 33-5148]

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

Abandoned Registration Statements and Post-Effective Amendments

The Securities and Exchange Commission has adopted a new Rule 479 (17 CFR 230.479) under the Securities Act of 1933. The rule provides a procedure whereby the Commission may determine whether a registration statement or a post-effective amendment to such a statement, which has not become effective, has been abandoned and remove such statement or amendment from consideration as a pending matter. Notice of the proposed rule was published February 17, 1971, in Securities Act Release 5132 (36 F.R. 4070).

The rule provides that when a registration statement or amendment has become out of date by the passage of 9 months from the filing date, or the filing of the latest substantive amendment, and the registrant has not furnished a satisfactory explanation as to why it has not amended or withdrawn the registration statement, the Commission may, in its discretion, follow the procedure set forth in the rule to determine whether or not the statement or amendment has been abandoned. The rule also provides that an abandoned registration statement or amendment shall be suitably marked and shall remain in the files of the Commission.

Commission Action. Part 230 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adding thereunder a new § 230.479 reading as follows:

§ 230.479 Procedure with respect to abandoned registration statements and posteffective amendments.

When a registration statement, or a posteffective amendment to such a statement, has been on file with the Commission for a period of 9 months and has not become effective, the Commission may, in its discretion, proceed in the following manner to determine whether such registration statement or amendment has been abandoned by the registrant. If the registration statement has been amended, otherwise than for the purpose of delaying the effective date thereof, or if the posteffective amendment has been amended, the 9-month period shall be computed from the date of the latest such amendment.

(a) A notice will be sent to the registrant, and to the agent for service named in the registration statement, by registered or certified mail, return receipt requested, addressed to the most recent addresses for the registrant and the agent for service reflected in the registration statement. Such notice will inform the registrant and the agent for service that the registration statement or amendment is out of date and must be either amended to comply with the applicable requirements of the Act and the rules and regulations thereunder or be withdrawn within 30 days after the date of such notice.

(b) If the registrant or the agent for service fails to respond to such notice by filing a substantive amendment or withdrawing the registration statement and does not furnish a satisfactory explanation as to why it has not done so within such 30 days, the Commission may, where consistent with the public interest and the protection of investors, enter an order declaring the registration statement or amendment abandoned.

(c) When such an order is entered by the Commission the papers comprising the registration statement or amendment will not be removed from the files of the Commission but will be plainly marked in the following manner: "Declared abandoned by order dated ---- ----".

The foregoing action, which has been taken pursuant to section 19(a) of the Securities Act of 1933, shall become effective July 1, 1971.

(Sec. 19(a), 48 Stat 85; sec. 209, 48 Stat. 908; 15 U.S.C. 77s(a))

By the Commission, May 14, 1971.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-7377 Filed 5-26-71;8:47 am]

[Release No. IC-6440]

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

PART 271—INTERPRETATIVE RELEASES RELATING TO THE INVESTMENT COMPANY ACT OF 1940 AND RULES AND REGULATIONS THEREUNDER

Repeal of Certain Exemptions; Pyramiding of Investment Companies; Regulation of Fund Holding Companies; Correction

In F.R. Doc. 71-6602 appearing at page 8729 in the issue of Wednesday, May 12, 1971, the second line of footnote 1 should read as follows:

Nos. 6336 (36 F.R. 2867), 6392 (36 F.R. 5840),

By the Commission pursuant to delegated authority.

THEODORE L. HUMES,
Associate Secretary.

MAY 21, 1971.

[FR Doc.71-7381 Filed 5-26-71;8:47 am]

[Release No. IC-6480]

PART 271—INTERPRETATIVE RELEASES RELATING TO THE INVESTMENT COMPANY ACT OF 1940 AND GENERAL RULES AND REGULATIONS THEREUNDER

Fiduciary Duty of Directors of Registered Investment Company

Staff interpretative position relating to fiduciary duty of Directors of a Registered Investment Company in connection with proposed arrangement to impose sales load on reinvestment of income dividends and continuously offer fund shares only in connection with dividend reinvestments.

The Securities and Exchange Commission today called attention to an interpretive position taken by its Division of Corporate Regulation relating to the fiduciary duty of directors of a registered investment company to shareholders of the investment company under section 36(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-35(a)), as amended (84 Stat. 1428).[1] The facts were as follows:

A registered investment company proposed to operate as an open-end diversified, management investment company, and make the initial public offering of its securities through a group of underwriters. The investment company determined not to offer its shares continuously to the public after completion of the initial offering, except in connection with the reinvestment of income dividends. A maximum sales load of 8½ percent was imposed on sales of fund shares in the initial offering and a maximum sales load of 7½ percent was proposed to be imposed on reinvestment of income dividends in shares of the investment company. Capital gain distributions could be reinvested without the imposition of a sales load.

No registration statement would be required if the dividends were declared to be received in cash or stock at the option of the shareholder,[2] and if no sales load were charged on the reinvestment of income dividends. However, because of the imposition of a sales load on reinvestment of income dividends in shares of the investment company, a registration statement under the Securities Act of 1933 (15 U.S.C. 77a et seq.) would be required to be kept in effect covering shares issued pursuant to reinvestment of income dividends.[3] The sole purpose of the proposed continuous registration statement covering the investment company's shares was, therefore, to permit the sales load to be charged on reinvestment of income dividends.

Furthermore, the distribution agreement between the investment company and its exclusive selling agent (which was to become operative after the initial offering) provided that all expenses relating to the issuance and registration of the investment company's shares and preparation and printing of prospectuses would be borne by the investment company, except that the selling agent would pay expenses of (1) state qualification of investment company shares for sale in the various States subsequent to the initial offering; and (2) printing in quantity of the prospectus furnished by the investment company to the selling agent.

Under these circumstances, the Division of Corporate Regulation took the position that the arrangement was not only unjustified since no benefits were derived by shareholders, but was so unfair in view of the additional costs and possible liabilities to be imposed on Fund shareholders in connection with the proposed continuously effective registration statement, that serious questions were raised whether the directors of the investment company, if they agreed to such arrangement, would violate their fiduciary obligations to shareholders of the investment company under section 36(a) of the Investment Company Act of 1940, as amended.

The arrangement was subsequently revised to eliminate the sales load on dividend reinvestments and thereby eliminate the need for maintenance of a continuously effective registration statement. The registration statement, as revised, was thereafter declared effective.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

MAY 10, 1971.

[FR Doc.71-7378 Filed 5-26-71;8:47 am]

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[1] Section 36(a) provides, in part: "The Commisison is authorized to bring an action in the proper district court of the United States, or in the U.S. court of any territory or other place subject to the jurisdiction of the United States, alleging that a person serving or acting in one or more of the following capacities has engaged within 5 years of the commencement of the action or is about to engage in any act or practice constituting a breach of fiduciary duty involving personal misconduct in respect of any registered investment company for which such person so serves or acts——

"(1) as officer, director, member of any advisory board, investment adviser, or depositor; or

"(2) as principal underwriter, if such registered company is an open-end company, unit investment trust, or face-amount certificate company."

[2] Securities Act Release No. 929 (1936) (11 F.R. 10957).

[3] Public Policy Implications of Investment Company Growth, H. Rep. No. 2337, 89th Cong., second sess. (1966), at 216.

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

OLEIC ACID DERIVED FROM TALL OIL FATTY ACIDS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 0A2504) filed by Hercules, Inc., Wilmington, Del. 19899, and other relevant material, concludes that the food additive regulations should be amended as set forth below to provide for the safe use of oleic acid, derived from tall oil fatty acids, in food and as a component in the manufacture of food-grade additives.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended in Subpart D:

1. By revising §§ 121.1004(a), 121.1048(a), and 121.1071(a) to read as follows:

§ 121.1004 Glyceryl-lacto esters of fatty acids.

* * * * *

(a) They are manufactured from glycerin, lactic acid, and fatty acids conforming with § 121.1070 and/or oleic acid derived from tall oil fatty acids conforming with § 121.1237 and/or edible fats and oils.

* * * * *

§ 121.1048 Lactylic esters of fatty acids.

* * * * *

(a) They are prepared from lactic acid and fatty acids meeting the requirements of § 121.1070(b) and/or oleic acid derived from tall oil fatty acids meeting the requirements of § 121.1237.

* * * * *

§ 121.1071 Salts of fatty acids.

* * * * *

(a) The additive consists of one or any mixture of two or more of the aluminum, calcium, magnesium, potassium, and sodium salts of the fatty acids conforming with § 121.1070 and/or oleic acid derived from tall oil fatty acids conforming with § 121.1237.

* * * * *

2. By alphabetically inserting in the list in § 121.1099(a)(3) a new item, as follows:

§ 121.1099 Defoaming agents.

* * * * *

(a) * * *

(3) * * *

Substances	*Limitations*
* * *	* * *
Oleic acid derived from tall oil fatty acids.	Complying with § 121.1237.
* * *	* * *

3. By revising §§ 121.1113(a) and 121.1120 (a) and (c) to read as follows:

§ 121.1113 Propylene glycol mono- and diesters of fats and fatty acids.

* * * * *

(a) They are produced from edible fats and/or fatty acids in compliance with § 121.1070 and/or oleic acid derived from tall oil fatty acids in compliance with § 121.1237.

* * * * *

§ 121.1120 Polyglycerol esters of fatty acids.

* * * * *

(a) They are prepared from corn oil, cottonseed oil, lard, palm oil from fruit, peanut oil, safflower oil, sesame oil, soybean oil, and tallow and the fatty acids derived from these substances (hydrogenated and nonhydrogenated) meeting the requirements of § 121.1070(b) and/or oleic acid derived from tall oil fatty acids meeting the requirements of § 121.1237.

* * * * *

(c) Polyglycerol esters of a mxiture of stearic, oleic, and coconut fatty acids are used as a cloud inhibitor in vegetable and salad oils when use is not precluded by standards of identity. The fatty acids used in the production of the polyglycerol esters meet the requirements of § 121.1070(b), and the polyglycerol esters are used at a level not in excess of the amount required to perform its cloud-inhibiting effect. Oleic acid derived from tall oil fatty acids conforming with § 121.1237 may be used as a substitute for or together with the oleic acid permitted by this paragraph.

4. By alphabetically inserting in the list in § 121.1179(b)(2) a new item, as follows:

§ 121.1179 Coatings on fresh citrus fruit.

* * * * *

(b) * * *

(2) * * *

Component	*Limitations*
* * *	* * *
Oleic acid derived from tall oil fatty acids.	Complying with § 121.1237.
* * *	* * *

5. By adding the following new section:

§ 121.1237 Oleic acid derived from tall oil fatty acids.

The food additive oleic acid derived from tall oil fatty acids may be safely used in food and as a component in the manufacture of food-grade additives in accordance with the following prescribed conditions:

(a) The additive consists of purified oleic acid separated from refined tall oil fatty acids.

(b) The additive meets the following specifications:

(1) Specifications prescribed in "Food Chemicals Codex" for oleic acid, except that titer (solidification point) shall not exceed 13.5° C. and unsaponifiable matter shall not exceed 0.5 percent.

(2) The resin acid content does not exceed 0.01 percent as determined by ASTM Method D 1240–54 (1961).

(3) The requirements for absence of chick-edema factor as prescribed in § 121.1070.

(c) It is used or intended for use as follows:

(1) In foods as a lubricant, binder, and defoaming agent in accordance with good manufacturing practice.

(2) As a component in the manufacture of other food-grade additives.

(d) To assure safe use of the additive, the label and labeling of the additive and any premix thereof shall bear, in addition to the other information required by the act, the following:

(1) The common or usual name of the acid.

(2) The words "food grade" in juxtaposition with and equally as prominent as the name of the acid.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularly the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER. (5–27–71).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: May 18, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-7370 Filed 5-26-71;8:46 am]

NEQUINATE AND 3-NITRO-4-HYDROXYPHENYLARSONIC ACID

The Commissioner of Food and Drugs has evaluated new animal drug applications filed by Ayerst Laboratories proposing the safe and effective use in chicken feed of a drug containing nequinate alone (NADA 41–646V) or in combination with 3 - nitro - 4 - hydroxyphenylarsonic acid (NADA 42–919V) and by Ralston Purina Co. (NADA 46–700V) proposing the safe and effective use in chicken feed of nequinate alone for specified conditions. The applications are approved.

Having considered the submitted data and other relevant material, the Commissioner concludes that a tolerance limitation is required to assure that edible tissues of chickens treated with nequinate are safe for consumption. Tolerances for residues of 3-nitro-4-hydroxyphenylarsonic acid have already been established in § 135g.33 of this chapter.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)), in accordance with § 3.517 (21 CFR 3.517), and under authority delegated to the Commissioner (21 CFR 2.120), Parts 121, 135e, and 135g are amended as follows:

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

1. Section 121.262(c) is amended in table 1 by adding a new item 1.17, as follows:

§ 121.262 3-Nitro-4-hydroxyphenylarsonic acid.

* * * * *

(c) * * *

TABLE 1—3-NITRO-4-HYDROXYPHENYLARSONIC ACID IN COMPLETE CHICKEN AND TURKEY FEED

	Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
	* * *	* * *	* * *	* * *	* * *	* * *
1.16	* * *					
1.17	3-Nitro-4-hydroxy-phenyl-arsonic acid.	45.4 (0.005%)	Nequinate	18.16 (0.002%)	For broiler chickens only; feed continuously as sole ration throughout the starting period; withdraw 5 days before slaughter; as sole source of organic arsenic.	An aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati* in broiler chickens; growth promotion and feed efficiency; for improving pigmentation.
	* * *	* * *	* * *	* * *	* * *	* * *

SUBCHAPTER C—DRUGS

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

2. Part 135e is amended by adding the following new section:

§ 135e.57 **Nequinate.**

(a) *Chemical name.* Methyl 7-(benzyloxy) - 6 - butyl - 1,4–dihyro - 4 - oxo-3-quinoline carboxylate.

(b) *Approvals.* (1) Premix level containing 4 percent nequinate granted to Ayerst Laboratories, Division of American Home Products Corp., 685 Third Avenue, New York, N.Y. 10017.

(2) Premix level containing 4 percent nequinate granted to Ralston Purina Co., Checkerboard Square, St. Louis, Mo. 63199.

(c) *Assay limits.* Finished feed must contain not less than 80 percent nor more than 120 percent of nequinate.

(d) *Related tolerances.* See § 135g.79 of this chapter.

(e) *Special considerations.* Do not use in feeds containing bentonite.

(f) *Conditions of use.* It is used as follows:

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
1. Nequinate	18.16 (0.002%)			For broiler chickens only; feed continuously from day old to market.	As an aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati* in broiler chickens.
2. Nequinate	18.16 (0.002%)	3-Nitro-4-hydroxy-phenylarsonic acid.	45.4 (0.005%)	For broiler chickens only; feed continuously as sole ration throughout the starting period; withdraw 5 days before slaughter; as sole source of organic arsenic.	An aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati* in broiler chickens; growth promotion and feed efficiency; for improving pigmentation.

PART 135g—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

3. Part 135g is amended by adding the following new section:

§ 135g.79 **Nequinate.**

A tolerance of 0.1 part per million is established for negligible residues of nequinate in the uncooked edible tissues of chickens.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (5–27–71).

Dated: May 4, 1971.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.71–7251 Filed 5–26–71;8:45 a.m.]

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

Capsules Penicillin-Tetracycline Phosphate Complex-Novobiocin-Nystatin Veterinary; Revocation

In the FEDERAL REGISTER of July 22, 1970 (35 F.R. 11711), the Commissioner of Food and Drugs announced (DESI 0155NV) the conclusions of the Food and Drug Administration following evaluation of the report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Panplex Capsules (100,000 international units of penicillin G potassium, 50,000 units of nystatin, 50 milligrams novobiocin as sodium novobiocin and tetracycline phosphate complex equivalent to 50 milligrams tetracycline hydrochloride per capsule) marketed by the Upjohn Co., Kalamazoo, Mich. 49001.

The Academy concluded that: (1) Panplex is probably effective for oral administration in the treatment of susceptible bacterial infections in cats and dogs; (2) labeling changes are needed—each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)," and if the disease claim cannot be so qualified the claim must be deleated; (3) substantial evidence was not presented to establish that each ingredient designated as active makes a contribution to the total effect claimed for the combination drug; and (4) the dosage recommendations need to be revised. The Food and Drug Administration concurred with the Academy's conclusions.

The announcement allowed the Upjohn Co. 6 months to provide adequate documentation in support of the labeling used for Panplex and made provision for written comments or requests for an informal conference from interested persons.

The Upjohn Co. requested a conference to discuss the kind of data needed, but subsequently did not furnish any data to support the effectiveness of Panplex. No other comments or requests for a hearing were received.

Accordingly, the Commissioner concludes that the antibiotic drug regulations should be amended to revoke provisions for certification of this drug due to a lack of substantial evidence that it will have the effectiveness it purports and is represented to have in the treatment of susceptible bacterial infections in cats and dogs. The Commissioner further concludes that the certificates of safety and effectiveness heretofore issued for such drug should be revoked on the basis of an unwarranted hazard.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 507, 512, 59 Stat. 463, as amended, 82 Stat. 343–51; 21 U.S.C. 357, 360b) and under authority delegated to the Commissioner (21 CFR 2.120), Part 146a is amended by revoking § 146a.21 *Capsules penicillin-tetracycline phosphate complex-novobiocin-nystatin veterinary.* Certificates of safety and effectiveness issued under those regulations are also revoked.

Any person who will be adversely affected by the removal of any such drug from the market may file, within 30 days after publication hereof in the FEDERAL REGISTER, objections to this order stating reasonable grounds and requesting a hearing on such objections. A statement of reasonable grounds for a hearing must

identify the claimed errors in the NAS–NRC evaluation and identify any adequate and well-controlled investigations on the basis of which it could reasonably be concluded that the combination drug would have the effectiveness claimed and would be safe for its intended uses.

Objections and requests for a hearing should be filed (preferably in quintuplicate) with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–62, 5600 Fishers Lane, Rockville, Md. 20852.

Effective date. This order shall become effective 40 days after its date of publication in the FEDERAL REGISTER. If objections are filed, the effective date will be extended for ruling thereon.

(Secs. 507, 512, 59 Stat. 463, as amended, 82 Stat. 343–51; 21 U.S.C. 357, 360b)

Dated: May 5, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71–7371 Filed 5–26–71;8:46 am]

Chapter III—Environmental Protection Agency

PART 420—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Benomyl

A petition (PP 1F1010) was filed by E. I. du Pont de Nemours & Co., Wilmington, Del. 19898, in accordance with the provisions of the Federal Food, Drug, and Cosmetic Act as amended (21 U.S.C. 346a), proposing establishment of tolerances for residues of the fungicide benomyl (methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate) in or on the raw agricultural commodities bean forage and hay, peanut hulls, forage and hay, and sugar beet tops at 15 parts per million; beans at 2 parts per million; peanuts and sugar beets at 0.2 part per million; and in milk and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.05 part per million.

Subsequently, the petitioner amended the petition by withdrawing the request for bean forage and hay, peanut hulls, forage and hay, and sugar beet tops at 15 parts per million; and in milk and the meat, fat and meat by products of cattle, goats, hogs, horses, and sheep at 0.05 part per million.

Prior to December 2, 1970, the Secretary of Agriculture certified that this pesticide chemical is useful for the purposes for which the tolerances are being established, and the Fish and Wildlife Service of the Department of Interior advised that it has no objection to the tolerances.

Part 120, Chapter I, Title 21 was redesignated Part 420 and transferred to Chapter III (36 F.R. 424).

Based on consideration given the data submitted in the petition and other revelant material, it is concluded that:

1. The proposed uses with proposed livestock feeding restrictions are not reasonably expected to result in residues in meat, milk, poultry, and eggs. The uses are classified in the category specified in § 420.6(a)(3).

2. The tolerances established by this order will protect the public health.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), and the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), Part 420 is amended by adding to Subpart C the following new section:

§ 420.294 Benomyl; tolerances for residues.

Tolerances are established for residues of the fungicide benomyl (methyl 1-(butylcarbamoyl) - 2 - benzimidazolecarbamate) in or on raw agricultural commodities as follows:

2 parts per million in or on snap beans (succulent).

0.2 part per million in or on peanuts and sugar beet roots.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (5–27–71).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: May 21, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.71–7363 Filed 5–26–71;8:45 am]

Title 31—MONEY AND FINANCE: TREASURY

Chapter II—Fiscal Service, Department of the Treasury

SUBCHAPTER A—BUREAU OF ACCOUNTS

PART 223—SURETY COMPANIES DOING BUSINESS WITH THE UNITED STATES

Deposit Requirement

The Department of the Treasury has determined that it is necessary to amend that section in its regulations governing surety companies doing business with the United States (also appearing as Department Circular No. 297, Revised) which requires the deposit with State officials of investments for the protection of policyholders, in order to bring this requirement into greater consistency with the deposits required under State law. The Department notes that various State laws permit such deposits for the benefit of policyholders and creditors, or other designated claimants, and finds that deposits made in conformity with such State statutes will be sufficient for purposes of certification, under 6 U.S.C. 6–13, if the claimants protected by such deposits include all the policyholders of the surety company in the United States and if the deposits have a current market value of not less than $100,000.

The Treasury Department further finds, in conformity with 5 U.S.C. 553, that notice and public procedures are not necessary in promulgating this amendment, since the amendment relieves a restriction presently imposed.

Accordingly, Part 223, Chapter II of Title 31 of the Code of Federal Regulations is amended by revising § 223.4 to read as follows:

§ 223.4 Deposits.

No such company will be granted authority to do business under the provisions of the act referred to in § 223.1 unless it shall have and maintain on deposit with the Insurance Commissioner, or other proper financial officer, of the State in which it is incorporated, or of any other State of the United States, for the protection of claimants, including all its policyholders in the United States, legal investments having a current market value of not less than $100,000.

(5 U.S.C. 301)

Dated: May 24, 1971.

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

[FR Doc.71–7447 Filed 5–26–71;8:53 am]

Title 24—HOUSING AND HOUSING CREDIT

Chapter VII—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Designated Areas

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1914.4 **List of designated areas.**

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
* * *	* * *	* * *	* * *	* * *	* * *	* * *
California	Tulare	Tulare				May 28, 1971.
Florida	Pinellas	Largo	I 12 103 1770 02 through I 12 103 1770 05	Department of Community Affairs, State of Florida, 309 Office Plaza, Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, State Capitol, Tallahassee, FL 32304.	Town Manager's Office, 225 1st Ave. SW., Largo, FL 33540.	Do.
Do	do	St. Petersburg	I 12 103 2730 05 through I 12 103 2730 08	do	Department of Buildings, City of St. Petersburg, 650 16th St. North, St. Petersburg, FL 33713.	Do.
Kentucky	Bell	Middlesboro	I 21 013 2220 03 I 21 013 2220 04	Division of Water, Kentucky Department of Natural Resources, Frankfort, Ky. 40601. Kentucky Insurance Department, Old Capitol Annex, Frankfort, Ky. 40601.	Office of the City Clerk, City Hall, City of Middlesboro, North 20th St. and Lothbury Ave., Middlesboro, KY 40965.	Do.
Massachusetts	Plymouth	Wareham	I 25 023 1360 02 through I 25 023 1360 05	Division of Water Resources, State Office Bldg., 100 Cambridge St., Boston, MA 02202. Massachusetts Division of Insurance, 100 Cambridge St., Boston, MA 02202.	Selectmen's Office, Memorial Town Hall, Wareham, Mass. 02571.	Do.
New York	Suffolk	Saltaire	I 36 103 5430 02	New York State Department of Conservation, State Campus, Albany, N.Y. 12226. New York State Insurance Department, 123 William St., New York, N Y 10038, and 324 State St., Albany, NY 12210.	Village of Saltaire, Pomander Walk, Saltaire, N.Y. 11781.	Do.
Rhode Island	Providence	Central Falls	I 44 007 0040 03 I 44 007 0040 04	Rhode Island Statewide Planning Program, Room 123-A, The State House, Providence, R.I. 02903. Rhode Island Insurance Department, Room 418, 49 Westminister St., Providence, RI 02903.	Office of the Director of Public Works, Municipal Garage, 77 Hunt St., Central Falls, RI 02863.	Do.
Virginia	City of Alexandria		I 51 510 0040 03 I 51 510 0040 04	Division of Water Resources, Department of Conservation and Economic Development, 911 East Broad St., Richmond, VA 23219. Virginia Insurance Department, 700 Blanton Bldg., Post Office Box 1157, Richmond, VA 23209.	Department of Public Works, City Hall, Alexandria, Va. 22313.	Do.
Do	City of Hampton		I 51 650 1180 11 through I 51 650 1180 19	do	City Planning Office, City Hall, Hampton, Va. 23369. City Engineer's Office, City Hall, Hampton, Va. 23369. City Clerk's Office, City Courthouse, Hampton, Va. 23369.	Do.
Washington	Benton	Richland	I 53 005 1850 02 through I 53 005 1850 06	Washington State Department of Ecology, 335 General Administration Bldg., Olympia, Wash. 98501. Washington Insurance Department, Insurance Bldg., Olympia, Wash. 98501.	Office of the City Engineer, City Hall, 505 Swift Blvd., Richland, WA 99352.	Do.
Wisconsin	Eau Claire	Unincorporated areas.				Do.
Do	Iron	Hurley				Do.
Do	Trempealeau	Trempealeau				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: May 27, 1971.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.71-7274 Filed 5-26-71;8:45 am]

PART 1915—IDENTIFICATION OF FLOOD-PRONE AREAS

List of Flood Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 **List of flood hazard areas.**

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
* * *	* * *	* * *	* * *	* * *	* * *	* * *
California	Tulare	Tulare				May 28, 1971.
Florida	Pinellas	Largo	H 12 103 1770 02 through H 12 103 1770 05	Department of Community Affairs, State of Florida, 309 Office Plaza, Tallahassee, FL 32301. State of Florida Insurance Department, Treasurer's Office, State Capitol, Tallahassee, FL 32304.	Town Manager's Office, 225 First Ave. SW., Largo, FL 33540.	Aug. 7, 1970.
Do	do	St. Petersburg	H 12 103 2730 05 through H 12 103 2730 08	do	Department of Buildings, City of St. Petersburg, 650 16th St. North, St. Petersburg, FL 33713.	June 17, 1970.
Kentucky	Bell	Middlesboro	H 21 013 2220 03 H 21 013 2220 04	Division of Water, Kentucky Department of Natural Resources, Frankfort, KY 40601. Kentucky Insurance Department, Old Capitol Annex, Frankfort, KY. 40601.	Office of the City Clerk, City Hall, City of Middlesboro, North 20th St. and Lothbury Ave., Middlesboro, KY 40965.	Dec. 4, 1970.
Massachusetts	Plymouth	Wareham	H 25 023 1360 02 through H 25 023 1360 05	Division of Water Resources, State Office Bldg., 100 Cambridge St., Boston, MA 02202. Massachusetts Division of Insurance, 100 Cambridge St., Boston, MA 02202.	Selectmen's Office, Memorial Town Hall, Wareham, MA 02571.	July 11, 1970.
New York	Suffolk	Saltaire	H 36 103 5430 02	New York State Department of Conservation, State Campus, Albany, N.Y. 12226. New York State Insurance Department, 123 William St., New York, NY 10038, and 324 State St., Albany, NY 12210.	Village of Saltaire, Pomander Walk, Saltaire, N.Y. 11781.	May 21, 1970.
Rhode Island	Providence	Central Falls	H 44 007 0040 03 H 44 007 0040 04	Rhode Island Statewide Planning Program, Room 123-A, The State House, Providence, R.I. 02903. Rhode Island Insurance Department, Room 418, 49 Westminster St., Providence, RI 02903.	Office of the Director of Public Works, Municipal Garage, 77 Hunt St., Central Falls, RI 02863.	Nov. 6, 1970.
Virginia	City of Alexandria		H 51 510 0040 03 H 51 510 0040 04	Division of Water Resources, Department of Conservation and Economic Development, 911 East Broad St., Richmond, VA 23219. Virginia Insurance Department, 700 Blanton Bldg., Post Office Box 1157, Richmond, VA 23209.	Department of Public Works, City Hall, Alexandria, Va. 22313.	Aug. 22, 1969, May 2, 1970, and May 28, 1971.
Do	City of Hampton		H 51 650 1180 11 through H 51 650 1180 19	do	City Planning Office, City Hall, Hampton, Va. 23369. City Engineer's Office, City Hall, Hampton, Va. 23369. City Clerk's Office, City Courthouse, Hampton, Va. 23369.	Mar. 24, 1970, and May 28, 1971.
Washington	Benton	Richland	H 53 005 1850 02 through H 53 005 1850 06	Washington State Department of Ecology, 335 General Administration Bldg., Olympia, Wash. 98501. Washington Insurance Department, Insurance Bldg., Olympia, Wash. 98501.	Office of the City Engineer, City Hall, 505 Swift Blvd., Richland, WA 99352.	Mar. 27, 1970, and May 28, 1971.
Wisconsin	Eau Claire	Unincorporated areas.				May 28, 1971.
Do	Iron	Hurley				Do.
Do	Trempealeau	Trempealeau				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: May 27, 1971.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.71-7275 Filed 5-26-71;8:45 am]

Title 7—AGRICULTURE

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

[Valencia Orange Reg. 350]

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

Limitation of Handling

§ 908.650 Valencia Orange Regulation 350.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908, 35 F.R. 16625), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on May 25, 1971.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period May 28, 1971, through June 3, 1971, are hereby fixed as follows:

(i) District 1: 271,000 cartons;

(ii) District 2: 411,000 cartons;

(iii) District 3: 93,000 cartons.

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

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

Dated: May 26, 1971.

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

[FR Doc.71–7517 Filed 5–26–71;11:28 am]

PART 953—IRISH POTATOES GROWN IN THE SOUTHEASTERN STATES

Limitation of Shipments

Notice of a proposed limitation of shipments regulation to be made effective under Marketing Agreement No. 104 and Order No. 953, both as amended (7 CFR Part 953; 33 F.R. 8502, 8506), regulating the handling of Irish potatoes grown in designated counties of Virginia and North Carolina, was published in the May 15, 1971 FEDERAL REGISTER (36 F.R. 8956). This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

The notice provided interested persons an opportunity to file written data, views, or arguments with respect to the proposed regulation not later than May 23, 1971. None was filed.

After consideration of all relevant matters, including the proposal set forth in the aforesaid notice which was recommended by the Southeastern Potato Committee established pursuant to said marketing agreement and order, it is hereby found that the limitation of shipments regulation as hereinafter set forth, will tend to effectuate the declared policy of the act.

The grade and size requirements provided in the regulation are necessary to prevent potatoes that are of poor quality, or undesirable sizes from being distributed in fresh market channels. They will also provide consumers with good quality potatoes consistent with the overall quality of the crop, and maximize returns to producers for the preferred quality and sizes. The regulation is as follows:

§ 953.311 Limitation of shipments.

During the period June 1 through July 31, 1971, no person shall ship any lot of potatoes produced in the production area unless such potatoes meet the requirements of paragraphs (a) and (b) of this section or unless such potatoes are handled in accordance with paragraphs (c) and (d) of this section.

(a) *Minimum grade and size requirements.* All varieties U.S. No. 2, or better grade, 1½ inches minimum diameter.

(b) *Inspection.* Each first handler shall, prior to making each shipment of potatoes cause each shipment to be inspected by an authorized representative of the Federal-State Inspection Service. No handler shall ship any potatoes for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto by the Federal-State Inspection Service and the certificate is valid at the time of shipment.

(c) *Special purpose shipments.* The grade, size, and inspection requirements set forth in paragraphs (a) and (b) of this section shall not be applicable to shipments of potatoes for canning, freezing, "other processing" as hereinafter defined, livestock feed, or charity: *Provided,* That the handler thereof complies with the safeguard requirements of paragraph (d) of this section: *Further provided,* That shipments of potatoes for canning, freezing, and "other processing" shall be exempt from inspection requirements specified in § 953.50 and from assessment requirements specified in § 953.34.

(d) *Safeguards.* Each handler making shipments of potatoes for canning, freezing, "other processing", livestock feed, or charity in accordance with paragraph (c) of this section shall:

(1) Notify the committee of his intent to ship potatoes pursuant to paragraph (c) of this section by applying on forms furnished by the committee for a Certificate of Privilege applicable to such special purpose shipments;

(2) Obtain an approved Certificate of Privilege;

(3) Prepare on forms furnished by the committee a special purpose shipment report for each such individual shipment; and

(4) Forward copies of such special purpose shipment report to the committee office and to the receiver with instructions to the receiver that he sign and return a copy to the committee's office. Failure of the handler or receiver to report such shipments by promptly signing and returning the applicable special purpose shipment report to the committee office shall be cause for suspension of such handler's Certificate of Privilege applicable to such special purpose shipments.

(e) *Minimum quantity exception.* Each handler may ship up to, but not exceed, 5 hundredweight of potatoes any day without regard to the inspection and

assessment requirements of this part, but this exception shall not apply to any portion of a shipment that exceeds 5 hundredweight of potatoes.

(f) *Definitions.* The term "U.S. No. 2" shall have the same meaning as when used in the U.S. Standards for Potatoes (§§ 51.1540–51.1556 of this title), including the tolerances set forth therein. The term "other processing" has the same meaning as the term appearing in the act as amended February 20, 1970, and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, or dicing, or the application of material to prevent oxidation does not constitute "other processing". All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 104 and this part, both as amended.

(g) *Applicability to imports.* Pursuant to section 608e–1 of the act and § 980.1 "Import regulations" (7 CFR 980.1), Irish potatoes of the round white type imported during the effective period of this section shall meet the grade, size, quality, and maturity requirements specified in paragraph (a) of this section.

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

Effective date. Dated May 25, 1971, to become effective June 1, 1971.

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

[FR Doc.71–7478 Filed 5–26–71;8:54 am]

[Amdt. 8]

PART 980—VEGETABLES; IMPORT REGULATIONS

Irish Potatoes

Pursuant to the requirements of section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 608e–1) § 980.1 *Import regulations, Irish potatoes* (7 CFR Part 980), is hereby amended in the following respects:

1. Subparagraph (2) (ii) of paragraph (a) is amended by deleting the period and adding at the end thereof the following: "*Provided further,* That for the period June 1 through June 4, 1971, imports of all other round type potatoes are in most direct competition with the marketing of the same type potatoes produced in the Southeastern States covered by Order No. 953 (Part 953 of this chapter)."

2. Subparagraph (2) of paragraph (b) is amended by deleting the period and adding at the end thereof the following: "*Provided further,* That for the period June 1 through June 4, 1971, the grade, size, quality, and maturity requirements of Marketing Order No. 953, as amended (Part 953 of this chapter) applicable to potatoes of the round types shall be the respective grade, size, quality, and maturity for imports of other round type potatoes."

Findings. (a) It is hereby found and determined that during the period June 1 through June 4, 1971, all other round varieties of potatoes imported into the United States are in most direct competition with all other round varieties produced in the Southeastern States and that the import regulations shall be based on the regulation in effect for all other round varieties of potatoes regulated under Marketing Order 953 (7 CFR Part 953).

(b) It is hereby found that it is impracticable and unnecessary and contrary to the public interest to give preliminary notice or engage in public rule making procedure and that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) the grade, size, quality, and maturity requirements of Marketing Order No. 953 are less restrictive than those of Marketing Order No. 948 which heretofore were those applicable to imported potatoes of the round types, and hence this amendment relieves restrictions on such imported potatoes, (2) compliance with the amendment on and after the effective date of this regulation will not require any special preparation by importers which cannot be completed by the effective date hereof, and (3) the effective date hereof complies with the notice requirement specified in the Act and such notice is determined to be reasonable.

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

Dated May 25, 1971, to become effective June 1, 1971.

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

[FR Doc.71–7502 Filed 5–26–71;8:54 am]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1971 Crop Rye Supp.]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1971 Crop Rye Loan and Purchase Program

The General Regulations Governing Price Support for the 1970 and Subsequent Crops (35 F.R. 7363 and 7781) and the 1970 and Subsequent Crops Rye Loan and Purchase Program regulations (35 F.R. 10355) and any amendments to such regulations, are further supplemented for the 1971 crop of rye by adding §§ 1421.350–1421.354 to read as follows. The material previously appearing in these sections under centerhead "1970 Crop Rye Loan and Purchase Program" remains in full force and effect as to the 1970 crop to which it was applicable.

Sec.
1421.350 Purpose.
1421.351 Availability.
1421.352 Maturity of loans.
1421.353 Warehouse charges.
1421.354 Support rates.

AUTHORITY: The provisions of the subpart issued under sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 105, 401, 63 Stat. 1051, as amended; 15 U.S.C. 714c, 7 U.S.C. 1421, 1441.

§ 1421.350 Purpose.

This supplement contains program provisions which, together with the provisions of the General Regulations Governing Price Support for the 1970 and Subsequent Crops and the 1970 and Subsequent Crops Rye Loan and Purchase Program regulations, and any amendments thereto, apply to price support loans and purchases with respect to the 1971 crop of rye.

§ 1421.351 Availability.

A producer desiring a price support loan must request a loan on his eligible rye on or before March 31, 1972. To obtain price support through sales, a producer must execute and deliver to the appropriate county ASCS office, on or before April 30, 1972, a Purchase Agreement (Form CCC–614), indicating the approximate quantity of 1971 crop rye he will sell to CCC.

§ 1421.352 Maturity of loans.

Unless demand is made earlier, all loans on rye will mature on April 30, 1972.

§ 1421.353 Warehouse charges.

Subject to the provision of § 1421.342, the schedules of deductions set forth in this section shall apply to rye stored in an approved warehouse operating under the Uniform Grain Storage Agreement.

SCHEDULE OF DEDUCTIONS FOR STORAGE CHARGES

Maturity date April 30, 1972	*Deduction (cents per bushel)*
[1]	
Prior to June 22, 1971	13
June 22–July 17	12
July 18–Aug. 11	11
Aug. 12–Sept. 5	10
Sept. 6–Sept. 30	9
Oct. 1–Oct. 25	8
Oct. 26–Nov. 19	7
Nov. 20–Dec. 14	6
Dec. 15, 1971–Jan. 8, 1972	5
Jan. 9–Feb. 2	4
Feb. 3–Feb. 27	3
Feb. 28–Mar. 23	2
Mar. 24–Apr. 30	1

[1] Dates storage charges start, all dates inclusive.

§ 1421.354 **Support rates.**

(a) *Basic support rates (counties).* Basic county support rates per bushel for loan and settlement purposes for rye are established for rye grading U.S. No. 2 or better, or U.S. No. 3 on the factor of test weight only and are as follows:

ALABAMA

County	Rate per bushel
All counties	$1.02

ARIZONA

All counties	$0.92

ARKANSAS

All counties	$0.90

CALIFORNIA

Alameda	$1.09
Los Angeles	1.09
Sacramento	1.09
San Diego	1.09
San Francisco	1.09
San Joaquin	1.09
All other counties	.96

COLORADO

All counties	$0.75

CONNECTICUT

All counties	$1.01

DELAWARE

All counties	$1.01

FLORIDA

All counties	$1.07

GEORGIA

All counties	$1.07

IDAHO

All counties	$0.92

ILLINOIS

Cook	$1.02
St. Clair	1.02
All other counties	.96

INDIANA

All counties	$0.92

IOWA

Pottawattamie	$0.94
Woodbury	.94
All other counties	.91

KANSAS

Wyandotte	$0.94	All other counties	$0.83

KENTUCKY

All counties	$1.01

LOUISIANA—PARISH

East Baton Rouge	$1.11	West Baton Rouge	$1.11
Jefferson	1.11	All other counties	.92
Orleans	1.11		
St. Charles	1.11		

MAINE

All counties	$1.01

MARYLAND

Baltimore City	$1.17	All other counties	$1.01

MASSACHUSETTS

All counties	$1.01

MICHIGAN

All counties	$0.88

MINNESOTA

County	Rate per bushel	County	Rate per bushel
Aitkin	$0.95	Martin	$0.93
Anoka	.95	Meeker	.95
Becker	.89	Mille Lacs	.95
Beltrami	.91	Morrison	.94
Benton	.95	Mower	.95
Big Stone	.91	Murray	.91
Blue Earth	.95	Nicollet	.95
Brown	.95	Nobles	.90
Carlton	.95	Norman	.87
Carver	.95	Olmsted	.95
Cass	.94	Otter Tail	.91
Chippewa	.94	Pennington	.87
Chisago	.95	Pine	.95
Clay	.88	Pipestone	.90
Clearwater	.90	Polk	.87
Cottonwood	.93	Pope	.94
Crow Wing	.95	Ramsey	.95
Dakota	.95	Red Lake	.87
Dodge	.95	Redwood	.94
Douglas	.93	Renville	.95
Faribault	.94	Rice	.95
Fillmore	.92	Rock	.87
Freeborn	.95	Roseau	.83
Goodhue	.95	Saint Louis	.96
Grant	.92	Scott	.95
Hennepin	.95	Sherburne	.95
Houston	.91	Sibley	.95
Hubbard	.91	Stearns	.95
Isanti	.95	Steele	.95
Itasca	.95	Stevens	.92
Jackson	.93	Swift	.94
Kanabec	.95	Todd	.94
Kandiyohi	.95	Traverse	.90
Kittson	.82	Wabasha	.95
Koochiching	.91	Wadena	.92
Lac Qui Parle	.92	Waseca	.95
Lake of the Woods	.87	Washington	.95
Le Seur	.95	Watonwan	.94
Lincoln	.90	Wilkin	.90
Lyon	.92	Winona	.95
McLeod	.95	Wright	.95
Mahnomen	.88	Yellow Medicine	.93
Marshall	.85		

MISSISSIPPI

All counties	$1.01

MISSOURI

St. Louis	$1.02	All other counties	$0.94

MONTANA

All counties	$0.74

NEBRASKA

County	Rate per bushel	County	Rate per bushel
Adams	$0.90	Douglas	$0.94
Antelope	.92	Dundy	.81
Arthur	.82	Fillmore	.92
Banner	.77	Franklin	.88
Blaine	.87	Frontier	.85
Boone	.92	Furnas	.87
Box Butte	.79	Gage	.94
Boyd	.90	Garden	.81
Brown	.87	Garfield	.89
Buffalo	.89	Gosper	.87
Burt	.94	Grant	.82
Butler	.94	Greeley	.91
Cass	.94	Hall	.90
Cedar	.92	Hamilton	.92
Chase	.81	Harlan	.88
Cherry	.84	Hayes	.83
Cheyenne	.78	Hitchcock	.83
Clay	.91	Holt	.90
Colfax	.94	Hooker	.84
Cuming	.94	Howard	.91
Custer	.87	Jefferson	.93
Dakota	.93	Johnson	.94
Dawes	.78	Kearney	.89
Dawson	.87	Keith	.82
Deuel	.81	Keyapaha	.87
Dixon	.92	Kimball	.78
Dodge	.94	Knox	.92

NEBRASKA—Continued

County	Rate per bushel	County	Rate per bushel
Lancaster	$0.94	Rock	$0.87
Lincoln	.84	Saline	.93
Logan	.85	Sarpy	.94
Loup	.88	Saunders	.94
McPherson	.84	Scotts Bluff	.77
Madison	.93	Seward	.94
Merrick	.92	Sheridan	.81
Morrill	.78	Sherman	.89
Nance	.92	Sioux	.77
Nemaha	.94	Stanton	.94
Nuckolls	.90	Thayer	.92
Otoe	.94	Thomas	.85
Pawnee	.94	Thurston	.93
Perkins	.81	Valley	.89
Phelps	.88	Washington	.94
Pierce	.93	Wayne	.93
Platte	.93	Webster	.89
Polk	.93	Wheeler	.91
Red Willow	.85	York	.93
Richardson	.94		

NEVADA

All counties	$0.82

NEW HAMPSHIRE

All counties	$1.01

NEW JERSEY

All counties	$1.01

NEW MEXICO

All counties	$0.81

NEW YORK

Albany	$1.17	All other counties	$1.02
New York City	1.17		

NORTH CAROLINA

All counties	$1.07

NORTH DAKOTA

Adams	$0.74	McLean	$0.73
Barnes	.83	Mercer	.74
Benson	.76	Morton	.76
Billings	.72	Mountrail	.70
Bottineau	.71	Nelson	.81
Bowman	.73	Oliver	.74
Burke	.70	Pembina	.82
Burleigh	.77	Pierce	.74
Cass	.86	Ramsey	.78
Cavalier	.77	Ransom	.86
Dickey	.84	Renville	.70
Divide	.68	Richland	.89
Dunn	.73	Rolette	.73
Eddy	.79	Sargent	.87
Emmons	.78	Sheridan	.75
Foster	.80	Sioux	.76
Golden Valley	.71	Slope	.74
Grand Forks	.84	Stark	.74
Grant	.75	Steele	.83
Griggs	.82	Stutsman	.81
Hettinger	.74	Towner	.74
Kidder	.78	Traill	.84
La Moure	.83	Walsh	.82
Logan	.80	Ward	.71
McHenry	.73	Wells	.78
McIntosh	.81	Williams	.68
McKenzie	.69		

OHIO

All counties	$0.92

OKLAHOMA

All counties	$0.87

OREGON

Clatsop	$1.10	All other counties	$1.01
Multonomah	1.10		

PENNSYLVANIA

Philadelphia City	$1.17	All other counties	$1.01

RHODE ISLAND

All counties	$1.01

SOUTH CAROLINA

County	Rate per bushel	County	Rate per bushel
Charleston	$1.17	All other counties	$1.07

SOUTH DAKOTA

County	Rate per bushel	County	Rate per bushel
Aurora	$0.83	Jackson	$0.79
Beadle	.85	Jerauld	.83
Bennett	.79	Jones	.82
Bon Homme	.86	Kingsbury	.87
Brookings	.89	Lake	.86
Brown	.85	Lawrence	.72
Brule	.83	Lincoln	.86
Buffalo	.83	Lyman	.83
Butte	.72	McCook	.84
Campbell	.80	McPherson	.82
Charles Mix	.84	Marshall	.87
Clark	.87	Meade	.73
Clay	.87	Mellette	.82
Codington	.88	Miner	.84
Corson	.76	Minnehaha	.86
Custer	.74	Moody	.88
Davison	.83	Pennington	.75
Day	.87	Perkins	.74
Deuel	.90	Potter	.83
Dewey	.76	Roberts	.89
Douglas	.84	Sanborn	.83
Edmunds	.83	Shannon	.77
Fall River	.74	Spink	.86
Faulk	.84	Stanley	.82
Grant	.90	Sully	.83
Gregory	.84	Todd	.82
Haakon	.79	Tripp	.83
Hamlin	.88	Turner	.85
Hand	.84	Union	.88
Hanson	.83	Walworth	.81
Harding	.72	Washabaugh	.79
Hughes	.83	Yankton	.86
Hutchinson	.85	Ziebach	.75
Hyde	.83		

TENNESSEE

County	Rate per bushel	County	Rate per bushel
Shelby	$1.04	All other counties	$1.02

TEXAS

County	Rate per bushel	County	Rate per bushel
Galveston	$1.11	San Patricio	$1.11
Harris	1.11	All other counties	.92
Jefferson	1.11		
Nueces	1.11		

UTAH

All counties	$0.77

VERMONT

All counties	$1.01

VIRGINIA

Chesapeake (Norfolk)	$1.17	All other counties	$1.01

WASHINGTON

Clark	$1.10	Pierce	$1.10
Cowlitz	1.10	All other counties	1.01
King	1.10		

WEST VIRGINIA

All counties	$1.01

WISCONSIN

Milwaukee	$1.02	All other counties	$0.96

WYOMING

All counties	$0.80

(b) *Discounts.* The basic support rate shall be adjusted by discounts as follows: Rye containing more than three-tenths of 1 percent ergot (ergoty rye containing in excess of 1 percent is not eligible for warehouse-storage loans).

Ergot content (percent):	Discount (cents per bushel)
0.31–0.40	1
0.41–0.50	2
0.51–0.60	3
0.61–0.70	4
0.71–0.80	5
0.81–0.90	6
0.91–1.00	7

Rye grading U.S. No. 4 on the factor of test weight only:

Test weight (pounds):	Discount (cents per bushel)
51.0–51.9	5
50.0–50.9	10
49.0–49.9	15

Rye grading U.S. No. 3 on account of being "thin".

"Thin" rye (percent):	Discount (cents per bushel)
15.1–17.0	1
17.1–19.0	2
19.1–21.0	3
21.1–23.0	4
23.1–25.0	5

Rye grading U.S. No. 4 on account of being "thin".

The discounts shall be 5 cents per bushel plus 1 cent for each 2 percent of "thin" rye or fraction thereof, in excess of 25 percent.

Weed control discount (where required by § 1421.25) 10

Other factors: Amounts determined by CCC to represent market discounts for quality factors not specified above which affect the value of rye, such as (but not limited to) moisture, weevily, ergoty, stones, musty, sour, and heating. Such discounts will be established approximately 1 month prior to the loan maturity date for rye and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors and discounts and adjustments thereof at county ASCS offices approximately 1 month prior to the loan maturity date or as soon thereafter as practicable.

Effective date: Upon publication in the FEDERAL REGISTER (5–27–71).

Signed at Washington, D.C., on May 19, 1971.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.71–7337 Filed 5–26–71; 8:45 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

DEDUCTIBILITY OF TREBLE DAMAGE PAYMENTS UNDER THE ANTITRUST LAWS, FINES AND PENALTIES, AND ILLEGAL BRIBES AND KICKBACKS

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC: LR: T, Washington, D.C. 20224, by June 28, 1971. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by June 28, 1971. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) under sections 162, 212, and 471 of the Internal Revenue Code of 1954 to section 902 of the Tax Reform Act of 1969 (Public Law 91-172, 83 Stat. 710), such regulations are amended as follows:

PARAGRAPH 1. Section 1.162 is amended by revising section 162(c), by redesignating section 162(f) as section 162(h), by inserting after section 162(e) new section 162 (f) and (g), and by revising the historical note. These amended and added provisions read as follows:

§ 1.162 Statutory provisions; trade or business expenses.

SEC. 162. *Trade or business expenses.* * * *

(c) *Bribes and illegal kickbacks*—(1) *Illegal payments to government officials or employees.* No deduction shall be allowed under subsection (a) for any payment made, directly or indirectly, to an official or employee of any government, or of any agency or instrumentality of any government, if the payment constitutes an illegal bribe or kickback or, if the payment is to an official or employee of a foreign government, the payment would be unlawful under the laws of the United States if such laws were applicable to such payment and to such official or employee. The burden of proof in respect of the issue, for the purposes of this paragraph, as to whether a payment constitutes an illegal bribe or kickback (or would be unlawful under the laws of the United States) shall be upon the Secretary or his delegate to the same extent as he bears the burden of proof under section 7454 (concerning the burden of proof when the issue relates to fraud).

(2) *Other bribes or kickbacks.* If in a criminal proceeding a taxpayer is convicted of making a payment (other than a payment described in paragraph (1)) which is an illegal bribe or kickback, or his plea of guilty or nolo contendere to an indictment of information charging the making of such a payment is entered or accepted in such a proceeding, no deduction shall be allowed under subsection (a) on account of such payment or any related payment made prior to the date of the final judgment in such proceeding.

(3) *Statute of limitations.* If a taxpayer claimed a deduction for a payment described in paragraph (2) which is disallowed because of a final judgment entered after the close of the taxable year for which the deduction was claimed, and if the proceeding was based on an indictment returned or an information filed prior to the expiration of the period for the assessment of any deficiency for such taxable year, the period for the assessment of any deficiency attributable to the deduction of such payment shall not expire prior to the expiration of one year from the date of such final judgment, and such deficiency may be assessed prior to the expiration of such one-year period notwithstanding the provision of any other law or rule of law which would otherwise prevent such assessment.

* * * * *

(f) *Fines and penalties.* No deduction shall be allowed under subsection (a) for any fine or similar penalty paid to a government for the violation of any law.

(g) *Treble damage payments under the antitrust laws.* If in a criminal proceeding a taxpayer is convicted of a violation of the antitrust laws, or his plea of guilty or nolo contendere to an indictment or information charging such a violation is entered or accepted in such a proceeding, no deduction shall be allowed under subsection (a) for two-thirds of any amount paid or incurred—

(1) On any judgment for damages entered against the taxpayer under section 4 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (commonly known as the Clayton Act), on account of such violation or any related violation of the antitrust laws which occurred prior to the date of the final judgment of such conviction, or

(2) In settlement of any action brought under section 4 on account of such violation or related violation.

The preceding sentence shall not apply with respect to any conviction or plea before January 1, 1970, or to any conviction or plea on or after such date in a new trial following an appeal of a conviction before such date.

(h) *Cross reference.* * * *

(Sec. 162 as amended by sec. 5, Technical Amendments Act 1958 (72 Stat. 1608); secs. 7(b) and 8, Act of Sept. 14, 1960 (Public Law 86-779, 74 Stat. 1002, 1003); sec. 3(a), Revenue Act 1962 (76 Stat. 973); sec. 902, Tax Reform Act 1969 (83 Stat. 710))

PAR. 2. Paragraph (a) of § 1.162-1 is amended to read as follows:

§ 1.162-1 Business expenses.

(a) *In general.* Business expenses deductible from gross income include the ordinary and necessary expenditures directly connected with or pertaining to the taxpayer's trade or business, except items which are used as the basis for a deduction or a credit under provisions of law other than section 162. The cost of goods purchased for resale, with proper adjustment for opening and closing inventories, is deducted from gross sales in computing gross income. See paragraph (a) of § 1.61-3. Among the items included in business expenses are management expenses, commissions (but see section 263 and the regulations thereunder), labor, supplies, incidental repairs, operating expenses of automobiles used in the trade or business, traveling expenses while away from home solely in the pursuit of a trade or business (see § 1.162-2), advertising and other selling expenses, together with insurance premiums against fire, storm, theft, accident, or other similar losses in the case of a business, and rental for the use of business property. No such item shall be included in business expenses, however, to the extent that it is used by the taxpayer in computing the cost of property included in its inventory or used in determining the gain or loss basis of its plant, equipment, or other property. See section 1054 and the regulations thereunder. A deduction for an expense paid or incurred after December 30, 1969, which would otherwise be allowable under section 162 shall not be denied on the grounds that allowance of such deduction would frustrate a sharply defined public policy. See section 162 (c), (f), and (g) and the regulations thereunder. The full amount of the allowable deduction for ordinary and necessary expenses in carrying on a business is deductible, even though such expenses exceed the gross income derived during the taxable year from such business. In the case of any sports program to which section 114 (relating to sports programs conducted for the American National Red Cross) applies, expenses described in section 114(a)(2) shall be allowable as deductions under section 162(a) only to the extent that

such expenses exceed the amount excluded from gross income under section 114(a).

* * * * *

PAR. 3. Section 1.162–18 is amended to read as follows:

§ 1.162–18 Illegal bribes and kickbacks.

(a) *Illegal payments to government officials or employees*—(1) *In general.* No deduction shall be allowed under section 162(a) for any amount paid or incurred, directly or indirectly, to an official or employee of any government, or of any agency or other instrumentality of any government, if—

(i) In the case of a payment made to an official or employee of a government other than a foreign government described in subparagraph (3) (ii) or (iii) of this paragraph, the making of the payment constitutes an illegal bribe or kickback, or

(ii) In the case of a payment made to an official or employee of a foreign government described in subparagraph (3) (ii) or (iii) of this paragraph, the making of the payment would be unlawful under the laws of the United States (if such laws were applicable to the payment and to the official or employee at the time the expenses were paid or incurred).

No deduction shall be allowed for an accrued expense if the eventual payment thereof would fall within the prohibition of this section. The place where the expenses are paid or incurred is immaterial. For purposes of subparagraph (ii) of this paragraph, lawfulness or unlawfulness of the payment under the laws of the foreign country is immaterial.

(2) *Indirect payment.* For purposes of this paragraph, an indirect payment to an individual shall include any payment which inures to his benefit or promotes his interests, regardless of the medium in which the payment is made and regardless of the identity of the immediate recipient or payor. Thus, for example, payment made to an agent, relative, or independent contractor of an official or employee, or even directly into the general treasury of a foreign country of which the beneficiary is an official or employee, may be treated as an indirect payment to the official or employee, if in fact such payment inures or will inure to his benefit or promotes or will promote his financial or other interests. A payment made by an agent or independent contractor of the taxpayer which benefits the taxpayer shall be treated as an indirect payment to the official or employee.

(3) *Official or employee of a government.* Any individual officially connected with—

(i) The Government of the United States, a State or territory of the United States, or the District of Columbia,

(ii) The government of a foreign country, or

(iii) A political subdivision of, or a corporation or other entity serving as an instrumentality of, any of the above,

in whatever capacity, whether on a permanent or temporary basis, and whether or not serving for compensation, shall be included within the term "official or employee of a government", regardless of the place of residence or post of duty of such individual. An independent contractor would not ordinarily be considered to be an official or employee. For purposes of section 162(c) and this paragraph, the term "foreign country" shall include any foreign nation, whether or not such nation has been accorded diplomatic recognition by the United States. Individuals who purport to act on behalf of or as the government of a foreign nation shall be treated under this section as officials or employees of a foreign government, whether or not such individuals in fact control such foreign nation, and whether or not such individuals are accorded diplomatic recognition. Accordingly, a group in rebellion against an established government shall be treated as officials or employees of a foreign government, as shall officials or employees of the government against which the group is in rebellion.

(4) *Laws of the United States.* The term "laws of the United States", to which reference is made in paragraph (a)(1)(ii) of this section, shall be deemed to include only Federal statutes, including State laws which are assimilated into Federal law by Federal statute, and legislative and interpretative regulations thereunder. The term shall also be limited to statutes which prohibit some act or acts, for the violation of which there is a civil or criminal penalty.

(5) *Burden of proof.* In any proceeding involving the issue of whether, for purposes of section 162(c)(1), a payment made to a government official or employee constitutes an illegel bribe or kickback (or would be unlawful under the laws of the United States) the burden of proof in respect of such issue shall be upon the Commissioner to the same extent as he bears the burden of proof in civil fraud cases under section 7454 (i.e., he must prove the illegality of the payment by clear and convincing evidence).

(6) *Example.* The application of this paragraph may be illustrated by the following example:

Example. X Corp. is in the business of selling hospital equipment in State Y. During 1970, X Corp. employed A who at the time was employed full time by State Y as Superintendent of Hospitals. The purpose of A's employment by X Corp. was to procure for it an improper advantage over other concerns in the making of sales to hospitals in respect of which A, as Superintendent, had authority. X Corp. paid A $5,000 during 1970. The making of this payment was illegal under the laws of State Y. Under section 162(c)(1), X Corp. is precluded from deducting as a trade or business expense the $5,000 paid to A.

(b) *Other bribes or kickbacks*—(1) *In general.* If a taxpayer is convicted in a criminal proceeding of making a payment which is an illegal bribe or kickback (other than a payment described in paragraph (a) of this section), or if a taxpayer's plea of guilty or nolo contendere to an indictment or information charging the making of such a payment is entered or accepted in such a proceeding, no deduction shall be allowed under section 162(a) on account of the payment or any payment related thereto made prior to the date of final judgment in such criminal proceeding. The preceding sentence applies only to payments made after December 30, 1969.

(2) *Conviction.* For purposes of subparagraph (1) of this paragraph, a taxpayer is convicted if a judgment of conviction has been entered against him (whether or not a final judgment), provided a subsequent final judgment of acquittal has not been entered or criminal prosecution with respect to the alleged illegal bribe or kickback terminated without a final judgment of conviction. During the pendency of an appeal or other action directly contesting a judgment of conviction, the taxpayer may file a protective claim for credit or refund to avoid being barred by the period of limitations on credit or refund under section 6511.

(3) *Statute of limitations.* If a taxpayer claimed a deduction for a payment described in subparagraph (1) of this paragraph which is disallowed because of a final judgment entered after the close of the taxable year for which the deduction was claimed, and if the proceeding was based on an indictment returned or an information filed prior to the expiration of the period for the assessment of any deficiency for such taxable year under section 6501, the period for the assessment of any deficiency attributable to the deduction of such payment shall not expire prior to the expiration of 1 year from the date of entry of such final judgment, and such deficiency may be assessed prior to the expiration of such 1-year period notwithstanding the provision of any other law or rule of law which would otherwise prevent such assessment.

(4) *Example.* The application of this paragraph may be illustrated by the following example:

Example. X Corp., a calendar-year taxpayer, is engaged in the ship-repair business in State Y. During 1970, repairs on foreign ships accounted for a substantial part of its total business. It was X Corp.'s practice to kickback approximately 10 percent of the repair bill to the captain and chief engineer of all foreign-owned vessels. During 1970, X Corp. paid $50,000 in such kickbacks. On X Corp.'s return for 1970, a deduction under section 162 was taken for the $50,000. In January 1973 X Corp. was indicted under Y's Commercial Bribery Law for making such kickbacks during 1970. On June 1, 1974, a final judgment of conviction was entered against X Corp. for making the illegal kickbacks during 1970. The deduction of the $50,000 of illegal kickbacks during 1970 is disallowed under section 162(c)(2). Under section 162(c)(3) an assessment of deficiency with respect to that deduction may be made any time prior to June 2, 1975.

PAR. 4. The following new sections are inserted immediately after § 1.162–20.

§ 1.162–21 Fines and penalties.

(a) *In general.* No deduction shall be allowed under section 162(a) for any fine or similar penalty paid to—

(1) The Government of the United States, a State or territory of the United States, or the District of Columbia,

(2) The government of a foreign country, or

(3) A political subdivision of, or corporation or other entity serving as an instrumentality of, any of the above.

(b) *Definition.* For purposes of this section a fine or similar penalty includes an amount—

(1) Paid pursuant to a judgment of conviction or a plea of guilty or nolo contendere for a crime (felony or misdemeanor) in a criminal proceeding;

(2) Paid as a civil penalty imposed by Federal, State, or local law, including additions to tax and additional amounts and assessable penalties imposed by chapter 68 of the Internal Revenue Code of 1954;

(3) Paid in settlement of the taxpayer's liability for a fine or penalty (civil or criminal); or

(4) Forfeited as collateral posted in connection with a proceeding which could result in imposition of such a fine or penalty.

Such amount does not include legal fees and related expenses paid or incurred in the defense of a prosecution or civil action arising from a violation of the law imposing the fine or civil penalty, nor court costs assessed against the taxpayer, or stenographic and printing charges. Compensatory damages (including damages under section 4A of the Clayton Act (15 U.S.C. 15a), as amended) paid to a government do not constitute a fine or penalty.

(c) *Example.* The application of this section may be illustrated by the following example:

Example. In 1970, X Corp. was indicted under section 1 of the Sherman Anti-Trust Act (15 U.S.C. 1) for fixing and maintaining prices of certain electrical products. X Corp. was convicted and was fined $50,000. The United States sued X Corp. under section 4A of the Clayton Act (15 U.S.C. 15A) for $100,000 in actual damages resulting from the price fixing of which X Corp. was convicted. Pursuant to a final judgment entered in the civil action, X Corp. paid the United States $100,000 in damages. Section 162(f) precludes X Corp. from deducting the fine of $50,000 as a trade or business expense. Section 162(f) does not preclude it from deducting the $100,000 paid to the United States as damages.

§ 1.162–22 **Treble damage payments under the antitrust laws.**

(a) *In general.* In the case of a taxpayer who after December 31, 1969, either is convicted in a criminal action of a violation of the Federal antitrust laws or enters a plea of guilty or nolo contendere to an indictment or information charging such a violation, and whose conviction or plea does not occur in a new trial following an appeal of a conviction on or before such date, no deduction shall be allowed under section 162(a) for two-thirds of any amount paid or incurred after December 31, 1969, with respect to—

(1) Any judgment for damages entered against the taxpayer under section 4 of the Clayton Act (15 U.S.C. 15), as amended, on account of such violation or any related violation of the Federal antitrust laws, provided such related violation occurred prior to the date of the final judgment of such conviction, or

(2) Settlement of any action brought under such section 4 on account of such violation or related violation.

For the purposes of this section, where a civil judgment has been entered or a settlement made with respect to a violation of the antitrust laws and a criminal proceeding is based upon the same violation, the criminal proceeding need not have been brought prior to the civil judgment or settlement. Attorney's fees, court costs, and other amounts paid or incurred in connection with a controversy under such section 4 which meet the requirements of section 162 are deductible under that section. For purposes of subparagraph (2) of this paragraph, the amount paid or incurred in settlement shall not include amounts attributable to the plaintiff's costs of suit and attorney's fees, to the extent that such costs or fees have actually been paid.

(b) *Conviction.* For purposes of paragraph (a) of this section, a taxpayer is convicted of a violation of the antitrust laws if a judgment of conviction (whether or not a final judgment) with respect to such violation has been entered against him, provided a subsequent final judgment of acquittal has not been entered or criminal prosecution with respect to such violation terminated without a final judgment of conviction. During the pendency of an appeal or other action directly contesting a judgment of conviction, the taxpayer should file a protective claim for credit or refund to avoid being barred by the period of limitations on credit or refund under section 6511.

(c) *Related violation.* For purposes of this section, a violation of the Federal antitrust laws is related to a subsequent violation if (1) with respect to the subsequent violation the United States obtains both a judgment in a criminal proceeding and an injunction against the taxpayer, and (2) the taxpayer's actions which constituted the prior violation would have contravened such injunction if such injunction were applicable at the time of the prior violation.

(d) *Settlement following a dismissal of an action or amendment of the complaint.* For purposes of paragraph (a) (2) of this section, an amount may be considered as paid in settlement of an action even though the action is dismissed or otherwise disposed of prior to such settlement or the complaint is amended to eliminate the claim with respect to the violation or related violation.

(e) *Antitrust laws.* The term "antitrust laws" as used in section 162(g) and this section shall include the Federal acts enumerated in paragraph (1) of section 1 of the Clayton Act (15 U.S.C. 12), as amended.

(f) *Examples.* The application of this section may be illustrated by the following examples:

Example (1). In 1970, the United States instituted a criminal prosecution against X Co., Y Co., A, the president of X Co., and B, the president of Y Co., under section 1 of the Sherman Anti-Trust Act, 15 U.S.C. 1. In the indictment, the defendants were charged with conspiring to fix and maintain prices of electrical transformers from 1965 to 1970. All defendants entered pleas of nolo contendere to these charges. These pleas were accepted and judgments of conviction entered. In a companion civil suit, the United States obtained an injunction prohibiting the defendants from conspiring to fix and maintain prices in the electrical transformer market. Thereafter, Z Co. sued X Co. and Y Co. for $300,000 in treble damages under section 4 of the Clayton Act. Z Co.'s complaint alleged that the criminal conspiracy between X Co. and Y Co. forced Z Co. to pay excessive prices for electrical transformers. X Co. and Y Co. each paid Z Co. $85,000 in full settlement of Z Co's action. Of each $85,000 paid, $10,000 was attributable to court costs and attorney's fees actually paid by Z Co. Under section 162(g), X Co. and Y Co. are each precluded from deducting as a trade or business expense more than $35,000 of the $85,000 paid to Z Co. in settlement

$$\left($10,000+\frac{$85,000-$10,000}{3}\right)$$

Example (2). Assume the same facts as in example (1) except that Z Co.'s claim for treble damages was based on a conspiracy to fix and maintain prices in the sale of electrical transformers during 1963. Although the criminal prosecution of the defendants did not involve 1963 (a year barred by the applicable criminal statute of limitations when the prosecution was instituted), Z Co.'s pleadings alleged that the civil statute of limitations had been tolled by the defendants' fraudulent concealment of their conspiracy. Since the United States has obtained both a judgment in a criminal proceeding and an injunction against the defendants in connection with their activities from 1965 to 1970, and the alleged actions of the defendants in 1963 would have contravened such injunction if it were applicable in 1963, the alleged violation in 1963 is related to the violation from 1965 to 1970. Accordingly, the tax consequences to X Co. and Y Co. of the payments of $85,000 in settlement of Z Co.'s claim against X Co. and Y Co. are the same as in example (1).

Example (3). Assume the same facts as in example (1) except that Z Co.'s claim for treble damages was based on a conspiracy to fix and maintain prices with respect to electrical insulators for high-tension power poles. Since the civil action was not based on the same violation of the Federal antitrust laws as the criminal action, or on a related violation (a violation which would have contravened the injunction if it were applicable), X Co. and Y Co. are not precluded by section 162(g) from deducting as a trade or business expense the entire $85,000 paid by each in settlement of the civil action.

PAR. 5. Section 1.212–1 is amended by adding a new paragraph (p) to read as follows:

§ 1.212–1 **Nontrade or nonbusiness expenses.**

* * * * *

(p) *Frustration of public policy.* The deduction of a payment will be disallowed under section 212 if the payment is of a type for which a deduction would be disallowed under section 162 (c), (f), and (g) and the regulations thereunder in the case of a business expense.

PAR. 6. Section 1.471–3 is revised to read as follows:

§ 1.471–3 Inventories at cost.

Cost means:

(a) In the case of merchandise on hand at the beginning of the taxable year, the inventory price of such goods.

(b) In the case of merchandise purchased since the beginning of the taxable year, the invoice price less trade or other discounts, except strictly cash discounts approximating a fair interest rate, which may be deducted or not at the option of the taxpayer, provided a consistent course is followed. To this net invoice price should be added transportation or other necessary charges incurred in acquiring possession of the goods.

(c) In the case of merchandise produced by the taxpayer since the beginning of the taxable year, (1) the cost of raw materials and supplies entering into or consumed in connection with the product, (2) expenditures for direct labor, (3) indirect expenses incident to and necessary for the production of the particular article, including in such indirect expenses a reasonable proportion of management expenses, but not including any cost of selling or return on capital, whether by way of interest or profit.

(d) In any industry in which the usual rules for computation of cost of production are inapplicable, costs may be approximated upon such basis as may be reasonable and in conformity with established trade practice in the particular industry. Among such cases are: (1) Farmers and raisers of livestock (see § 1.471–6); (2) miners and manufacturers who by a single process or uniform series of processes derive a product of two or more kinds, sizes, or grades, the unit cost of which is substantially alike (see § 1.471–7); and (3) retail merchants who use what is known as the "retail method" in ascertaining approximate cost (see § 1.471–8).

Notwithstanding the other rules of this section, cost shall not include an amount which is of a type for which a deduction would be disallowed under section 162 (c), (f), and (g) and the regulations thereunder in the case of a business expense.

[FR Doc.71–7439 Filed 5–26–71;8:52 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 934]

[Docket No. AO–372]

SPEARMINT OIL PRODUCED IN CERTAIN STATES

Notice of Recommended Decision and Opportunity To File Written Exceptions With Respect to a Proposed Marketing Agreement and Order

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to a proposed marketing agreement and order regulating the handling of spearmint oil produced in the States of Washington, Idaho, and Oregon and designated part of California, Nevada, Utah, and Montana, to be effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601–674), hereinafter referred to as the "act". Interested parties may file written exceptions to this recommended decision with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the close of business of the 10th day after publication of this recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

All such communications will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Preliminary statement. The public hearing, on the record of which the proposed marketing agreement and order (hereinafter referred to collectively as the "order") were formulated, was held at Richland, Wash., February 24–26, 1971, pursuant to a notice thereof which was published in the February 2, 1971, issue of the FEDERAL REGISTER (36 F.R. 1535). Such notice set forth a proposed marketing agreement and order which had been presented to the Department of Agriculture by the Northwest Spearmint Marketing Association, with a petition for a hearing thereon.

Material issues. The material issues presented on the record of the hearing are as follows:

(1) The existence of the right to exercise Federal jurisdiction in this instance;

(2) The need for the proposed regulatory program to effectuate the declared policy of the act;

(3) The definition of the commodity and determination of the production area to be affected by the order;

(4) The identity of the persons and transactions to be regulated; and

(5) The specific terms and provisions of the order including:

(a) Definition of terms used therein which are necessary and incidental to attain the declared objectives of the act, and including all those set forth in the notice of hearing, among which are those applicable to the following additional terms and provisions;

(b) The establishment, maintenance, composition, powers, and duties of a committee which shall be the administrative agency for assisting the Secretary in administration of the order;

(c) The incurring of expenses and the levying of assessments;

(d) The method for regulating the handling of spearmint oil produced in the production area, including the establishment of a setaside of spearmint oil and providing for its disposition;

(e) The establishment of handler reporting and related record keeping requirements;

(f) The requirements of compliance with all provisions of the order and with regulations issued pursuant thereto; and

(g) Additional terms and conditions as set forth in §§ 934.71 through 934.80 and published in the FEDERAL REGISTER (36 F.R. 1535) on February 2, 1971, which are common to marketing agreements and orders, and certain other terms and conditions as set forth in §§ 934.81 through 934.83, and also published in the said issue of the FEDERAL REGISTER, which are common to marketing agreements only.

Findings and conclusions. The findings and conclusions on the aforementioned material issues, all of which are based on the evidence adduced at the hearing and the record thereof, are as follows:

(1) Spearmint oil is produced commercially in Washington, Idaho, and Oregon in the Pacific Northwest and in Michigan, Indiana, and Wisconsin in the Great Lakes area. Most of the U.S. production of spearmint oil centered in and around the Great Lakes area until about 1940. The acreage of spearmint in this area began to decline after that date due to verticillum wilt. Because of the similarity of the soils, experimental plantings of mint were made in the Pacific Northwest. Spearmint oil is now produced commercially in Washington, Idaho, and Oregon. Washington is the leading State of production of spearmint oil within the production area—the States of Washington, Idaho, and Oregon and designated part of California, Nevada, Utah, and Montana.

In Washington, in 1970, there was produced 1,267,000 pounds of spearmint oil from about 14,900 acres of spearmint plants. Much less quantities are produced in Idaho and Oregon and the acreage involved is also less. It is estimated that there was in 1970 about 3,000 acres of spearmint plants in Idaho, and 800 acres in Oregon.

Spearmint oil produced in the production area is marketed locally throughout the United States and in foreign countries. Most of the spearmint oil produced in the production area is handled by four major handlers. However, there are some producers who handle oil of their own production. Such persons may handle the oil for domestic use or place it in the export channels of trade. There are also a few handlers who handle spearmint oil in a manner similar to that of the four major handlers but in smaller amounts. The oil when delivered to the handlers is segregated into classes on the basis of species, time of cutting of the plants (first cutting or second cutting), or whether or not it is from the first distillation. All spearmint oil is handled in the same manner whether it is for use within the production area, for use elsewhere in the continental United States, or for use in export. There are no differences in the manner in which the plants are grown, in the way the oil is extracted therefrom, or in the handling thereof as to whether such oil will be handled in interstate or intrastate markets.

Spearmint oil is generally delivered to handlers in standard size containers—drums holding 400 pounds of spearmint oil. After classifying the oil as to class, and recording its flavor, odor and other characteristics, handlers survey all market outlets in order to obtain the greatest return for the commodity they have for sale. A considerable portion of the spearmint oil may be, and usually is, initially sold to other than the ultimate consumer. Such oil may be blended with other oil produced within or without the production area to obtain oil possessing the specific characteristics desired by the end user. Therefore, all spearmint oil is in competition in the market and handlers generally sell oil at comparable prices both within the State of production and in interstate commerce.

The order contemplates certain restrictions which would be made applicable to spearmint oil delivered to handlers for handling. Such restrictions would require each handler to set aside and hold for the account of the producer a portion of each delivery of spearmint oil equal to the product of the total amount in the delivery multiplied by the set-aside percentage fixed by the Secretary. In this manner, the total quantity of spearmint oil which handlers may acquire and freely handle would be limited to the volume which is determined to be necessary to supply commercial requirements. At the time spearmint oil is acquired by handlers, no distinction is made between lots as to which of the markets they will ultimately be sent. To attempt to separate the handling of spearmint oil for intrastate commerce from that for interstate and foreign commerce, would burden unduly handler operation because as each lot of spearmint oil is received by handlers from producers, handlers would have to make a determination, after classifying the oil as to class, as to the market in which the oil would be marketed. Since no segregation of oil is made on this basis, and there appears to be no practical way to make such segregation, the imposition of such a requirement would be unduly burdensome.

In these circumstances, it is found and determined that all handling of spearmint oil, produced in the production area, is in the current of interstate commerce or directly burdens, obstructs, or affects such commerce, and it is necessary for all spearmint oil, produced in the production area, to be subject to the order so as to regulate effectively the interstate and foreign commerce thereof.

(2) The hearing record shows that the production of spearmint oil in the United States and in the production area is trending upward. The average production of spearmint oil in the United States during the period 1965–69 was 1,273,000 pounds. This production is more than double the average production of 631,000 pounds during the period 1955–59. The 1970 production of spearmint oil was 1,794,000 pounds. In Washington, during the period 1960–64, average production of spearmint oil was 710,000 pounds and during the period 1965–69 such production averaged 1,061,000 pounds. In 1970, production totalled 1,267,000 pounds. Separate data are not readily available for production of spearmint oil produced elsewhere in the production area. However, record evidence shows that in 1970, there was approximately 3,000 acres of spearmint in Idaho and such acreage produced an average of about 70 pounds of oil per acre. In 1970, there was about 800 acres of spearmint in Oregon and the yield of spearmint oil was about 100 pounds per acre.

The need for the order arises due to the increased production at a rate greater than the market can utilize at a fair return to the producers. Currently, producers have on hand approximately 800,000 pounds of spearmint oil. No offers to purchase at reasonable prices had been received for a large percentage of this oil at the time the hearing was held. Many of the offers to purchase, even though for limited quantities, were at prices considerably below the cost of producing the oil. The fact that handlers and buyers of spearmint oil know that this quantity of oil is available to be marketed tends to prevent establishment of orderly marketing conditions. At times some producers, because of their credit situation or other reasons, may find it necessary to sell spearmint oil even at depressed prices and this action contributes to the reluctance of buyers to purchase oil at fair prices on such occasions.

While some producers have sold all the spearmint oil they produced, many of such sales may have been at prices below the cost of production. Cost of production data on the basis of figures from individual producer's records or from research conducted by educational institutions in the production area are in the hearing record. These production costs are higher than the prices at which much of the 1970 production was sold. The refusal of producers of approximately 800,000 pounds of oil to sell at below cost of production prices undoubtedly has prevented the price from reaching even lower levels.

Even though production is trending upward, the record shows that there are some fluctuations in production. For example, in 1966 production totalled 912,000 pounds. In 1967, production was 1,432,000 pounds. In 1968, production was 1,124,000 pounds. The variations in production may be due to several factors. Weather conditions may greatly influence total production. Also, producers of spearmint oil may alter their rotation system in accordance with market demands. Spearmint oil, unlike many commodities, can be stored with little or no deterioration indefinitely. Thus, the removal of the excess amount of spearmint oil from the market by requiring handlers to set aside a portion of the oil delivered to them for handling for the account of the producer would reduce the market supply and tend to increase returns to producers. The spearmint oil set aside for the account of producers would be released when marketing conditions warrant or on the first of July of each calendar year. The order should set forth a procedure whereby producers could dispose of the oil in the set-aside. Oil in the set-aside could be disposed of whenever the Secretary modifies the set-aside percentage for any class of oil by releasing all or part of such oil for disposition as salable oil. This may be accomplished at any time throughout the marketing year whenever conditions warrant. As hereinafter discussed, the order should require the committee to meet during the first week in October and February or such other weeks as the committee may recommend and the Secretary approve and at such other times as the committee deems appropriate to consider modification of the salable and set-aside percentages.

At the present time there are no secondary outlets for spearmint oil. Thus, the oil in the set-aside if not disposed of in normal marketing channels must be stored indefinitely as set-aside or dumped. It was testified at the hearing that set-aside oil could be disposed of in a satisfactory manner if such oil is released to the producers each July 1. In this way they could decide on the quantity of oil they want to sell during each marketing year and adjust their production which, added to the quantity of oil in the set-aside from 1 year, would equal the desired amount. Thus, the oil in the set-aside could be used during the next year. This would tend to utilize the oil in the set-aside in an effective manner and at minimal cost to the producers.

The proposed order, hereinafter set forth, provides a means to eliminate some of the basic causes of disorderly marketing within the industry by providing for restriction of the marketable supply of spearmint oil when supplies are burdensome. The industry should be benefited, and returns to the producers of spearmint oil improved, by controlling and marketing in an orderly manner whatever supply of spearmint oil is produced.

In view of the foregoing, it is concluded that a marketing order providing for restrictions on the volume of spearmint oil marketed is needed to effectuate the declared policy of the act.

(3) The term "spearmint oil" should be defined in the order to identify the commodity to be regulated thereunder. Such term, as used in the order, should refer to the product (oil) obtained by distillation of plants (1) of the genus Mentha, species cardiaca, commonly referred to as Scotch spearmint, (2) of the genus Mentha, species spicata, commonly referred to as native spearmint, or (3) of the genus Mentha, any and all other species which upon distillation produce oil which has a flavor, odor, and other characteristics of spearmint oil. Presently, only scotch and native spearmint are grown in the production area for the commercial production of oil. However, it is probable that through research, plants may be developed which upon distillation produce oil having the characteristics of spearmint oil. Also, through importation, plants other than those of the species cardiaca or spicata may be

introduced and grown in the production area which upon distillation produce oil having the characteristics of spearmint oil. Regardless of the source of the plants or the species in which the plants are classified, the oil produced therefrom should be included under the definition of spearmint oil, if such oil possesses the flavor, odor, and other characteristics of spearmint oil. All such oil should be subject to regulations under the order.

Such term should not include oil extracted from plants of the genus Mentha which produce oil having characteristics dissimilar to spearmint oil. Peppermint oil, for example, should not be included under the term "spearmint oil," even though peppermint oil is produced from plants of the genus Mentha. It is a different product, and, therefore, should not be considered as spearmint oil.

A definition of the term "production area" should be incorporated into the order to designate the specific area in which the spearmint oil to be regulated is produced. Such area should include all of the area in the continental United States north of the 37th parallel and west of the 111th meridian except Alaska. Such area would include all of the area where spearmint oil is produced commercially and all of the areas within the Western and Northwest States where spearmint oil is likely to be produced under present conditions. The production area should include all of the State of Washington, all of the State of Oregon, and all of the State of Idaho. It would also include the northern parts of California and Nevada—that portion of each State north of the 37th parallel, and that portion of Utah north of the 37th parallel and west of the 111th meridian, and that portion of Montana west of the 111th meridian.

It is recognized that at the present time all of the spearmint oil from this region is commercially produced in the States of Washington, Oregon and Idaho. It is further recognized that most of the production in Washington is in the lower Yakima Valley and the "Columbia Basin." The production in Idaho is generally confined to the Boise Valley, while production in Oregon is more scattered—some oil is produced in the Madras area, some in eastern Oregon, and some in the Willamette Valley, and some in other areas. However, it is known that there are other areas within these States where spearmint plants may be grown and oil distilled therefrom. No production of spearmint oil has been reported in California, Nevada, Utah, or Montana. However, there are considerable areas in each States which have soil, weather, topography and other conditions favorable for growing spearmint plants. It is well established that there are areas throughout the production area, where because of soil topography, water, or weather conditions, spearmint is not now or is not likely to be grown. However, it would not be practicable to exclude areas not producing spearmint which are within or adjacent to the commercial spearmint producing areas. Applying the order to any lesser production area than the one set forth in the order could materially decrease the effectiveness of the order. If Oregon were excluded from the production area, as requested at the hearing, only a small percentage of the total production of spearmint oil produced in the production area would be excluded from coverage under the order. However, spearmint oil produced in Oregon is marketed at the same time, in the same manner, and in direct competition with spearmint oil produced in other sections of the production area. Also, the acreage in Oregon could be expanded if that State were excluded from the order. Moreover, if any State or portion of any State within the production area were excluded from the order, the potential producers in the excluded portion would benefit from the operation of the order without making any contribution to its operation.

As heretofore stated, spearmint oil is also produced in the Great Lakes area—the States of Michigan, Indiana, and Wisconsin. These States are not included in the production area for the following reasons: (1) The oil produced in this area is claimed by some to possess some characteristics not present in oil produced in the production area; (2) even though the oil produced in the Great Lakes area competes in the market with oil produced in the production area, it is thought that such competition will not, at the present time, seriously interfere with the successful operation of the order in the production area; and (3) because of the distance which separates the two areas, administrative problems, under present conditions, would be considerable. Hence, it is concluded that the territory included within the production area, as hereinafter defined, constitutes the smallest regional production area that is practicable, consistently with carrying out the declared policy of the Act.

(4) The term "handler" should be defined in the order to identify the persons who would be subject to regulation under the order. Therefore, the term should apply to all persons who perform any of the activities within the scope of the term "handler," as hereinafter defined. In other words, any person who sells spearmint oil, uses oil commercially of own production, acquires, transports, or ships or otherwise places spearmint oil into the current of commerce within the production area or from the production area to any point outside thereof should be a handler under the order and be required to comply with the requirements of the order and the regulations issued thereunder. The transportation of oil by a common or contract carrier should not be considered as making such a carrier a "handler" as, in such instances, the carrier is performing a service for hire, and is not responsible otherwise for the spearmint oil being transported.

The preparation or the sale, or transportation of spearmint oil by a producer to a handler within the production area should not be considered as making such producer a "handler" as, in such instance, such preparation, sale, and transportation are preparatory steps preliminary to placing the oil into the current of commerce. In such instances, the handler within the production area should be the handler under the order and required to comply with the requirements of the order and the regulations issued thereunder. If the producer performs these functions with respect to a handler who is located outside of the production area, such producer should be considered the "handler" as he would be the person responsible for placing the spearmint oil into the current of commerce.

The term "handle" should be defined to identify those activities that it is necessary to regulate in order to effectuate the declared policy of the act. Such activity should include all phases of selling, transporting, shipping or otherwise placing spearmint oil into the current of commerce within the production area or from the production area to any point outside thereof. Handle should also include the commercial use of oil by the producer which has been produced by such producer. Here the producer would be performing a handling function the same as would be the case had the oil in question been produced by another person.

Following distillation spearmint oil is usually delivered to a handler for storage or sale. Some producers store spearmint oil on their own premises for later delivery and sale to a handler. Distillation is usually done on the farm by the producer or he has the oil custom distilled. As a matter of trade accommodation and courtesy, handlers have frequently, on a voluntarily basis, furnished producers with containers for storing oil and have, for many years, stored spearmint oil for producers. Also, handlers have fieldmen who have knowledge concerning specific spearmint fields and the oil produced therefrom. Upon the delivery of spearmint oil to the handler, a receipt is provided the person who delivers the oil. The receipt usually shows the number of containers, and the weight and identifying name and number of each container in the delivery. The class to which the oil is assigned may be shown on the receipt if the class was determined at the time of delivery. The handler may want to send a sample of the oil to his laboratory to determine the class of the oil. In such event, the class to which the oil belongs would be provided at a later date. It was testified at the hearing that oil should be classified into one of the following classes, as the facts warrant. Class 1 should comprise the oil produced by distillation of the first cutting of fields classified as scotch spearmint; Class 2, the oil produced by distillation of cuttings, other than the first cutting, of fields classified as scotch spearmint; Class 3, the oil produced by distillation of the first cutting of fields classified as native spearmint; Class 4, the oil produced by distillation of cutting; other than the first cutting, of fields classified as native spearmint; Class 5, the oil produced by redistillation of the condensate water obtained during the distillation of

any or all other classes of spearmint oil, and Class 6, the oil which is obtained by distillation from plants other than those belonging to the genus Mentha, species cardiaca or spicata, and which possess flavor, odor and other characteristics of spearmint oil.

Record evidence shows that the oil of each of the first five mentioned classes possess characteristics sufficiently different from the characteristics of the oil of any other class as to influence the price and use for such class of oil. Presently, there is no oil produced in the production area that falls within Class 6. Thus, the order should recognize the aforesaid six classes of oil and provide for the fixing of a salable and set-aside percentage for any or all classes of oil. Although it is not common practice in the industry to mix classes of oil, provision should be made to empower the committee to make appropriate rules and regulations in connection therewith.

The determination of the class for each delivery of oil is currently a matter to be settled by agreement between the handler and the producer. If agreement cannot be reached as to class, with a particular handler, the producer may negotiate with another handler in an attempt to obtain a more appropriate classification of his oil. The order should contain authority for the committee, with the approval of the Secretary, to establish rules and regulations with respect to classification of oil. For example, if handlers and producers classify oil as being of a specified class when such oil correctly belongs in another class, the committee may issue rules and regulations authorizing the committee to appoint a panel of experts to determine the class. Such rules and regulations may also require the handler to submit to the committee data used in classifying the oil.

Oil may be delivered to a handler or kept on the producers premises solely for the purpose of having the oil stored. Such oil is not to be confused with oil which is delivered to the handler for the purpose of handling. When the oil is delivered to a handler for the purpose of handling, the producer and handler enter into a contract for that oil or arrangements are made for the handler to handle the oil for the account of the producer. Thus, the oil is acquired by the handler. This transaction may take place at the time the oil is delivered, or it may take place at any time throughout the year. In some instances a producer and handler cannot agree on terms and the producer successfully negotiates a sale with another handler even though the oil is in storage with the first mentioned handler. Arrangements are made for the handler who purchased the oil to pick it up from the handler who is storing it.

It is when agreement is reached and the oil is handled in one of the ways set forth in the order that the oil becomes subject to the set-aside provisions of the order. Let us assume, for discussion purposes only, that a producer and handler have reached agreement and the handler will purchase all the available oil that the producer will deliver to him. In this instance, let us assume that the producer delivers 100 barrels of Class 1 oil. Let us further assume that the set-aside percentage for that class is 20 percent. The handler may acquire and freely handle 80 drums of Class 1 oil. He would be required to set-aside for the account of the producer 20 drums of Class 1 oil. The fact that the producer entered into a contract with a handler for the sale of spearment oil which was subject to a set-aside under the order attests to his willingness to have the handler set-aside the required quantity of oil for his account.

It is not intended that "acquire" be limited in its meaning to the purchase of oil. Acquire should include, in addition to oil that is purchased, oil that is obtained in any other way. A handler may acquire oil by reason that he produced the oil. He may acquire oil as a gift, for payments of debts, or in other ways. It is intended that all oil that is acquired in any manner be subject to all the provisions of the order.

Transportation of or shipping oil or otherwise placing spearmint oil into the channels of commerce are functions which should be considered as handling functions under the order.

It should not be necessary to regulate all handling functions in order to effectuate the declared policy of the act. The preparation, sale, or transportation of spearmint oil by the producer to a handler within the production area are handling functions which should not be subject to regulation under the order. Such activities are preliminary to the normal handling functions. To regulate such activities under the order would only complicate the administration of the program and increase the cost thereof. However, these same functions in relation to a handler outside the production area should be considered as handling and be subject to order provisions since such producers would be the persons who performed the handling function within the production area.

As all handling of spearmint is in interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce, it is concluded that, except as indicated herein and as specifically exempted by the act and the order, all handling of spearmint oil, as hereinafter set forth, within the production area or from the production area to any point outside thereof should be subject to the order and regulations issued pursuant thereto.

(5) (a) Certain terms applying to specific individuals, agencies, legislation, concepts, or things are used throughout the order. These terms should be defined for the purpose of designating specifically their applicability.

The definition of "Secretary" should include not only the Secretary of Agriculture of the United States, the official charged by law with the responsibility for programs of this nature, but also, in order to recognize the fact that it is physically impossible for him to perform personally all functions and duties imposed upon him by law, any officer or employee of the U.S. Department of Agriculture who is, or who may hereafter be, authorized to act in his stead.

The definition of "act" provides the correct legal citation for the statute pursuant to which the proposed regulatory program is to be operative and avoids the need for referring to these citations.

The definition of "person" should follow the definition of the term set forth in the act, which will insure that it will have the same meaning as it has in the act.

The term "marketing year" and "crop year" are synonymous and should be defined to set forth the period with respect to which financial records of the Spearmint Oil Administrative Committee, the administrative committee established by the order, are to be maintained.

The most desirable period at the present time is the 12 month period from July 1 to the following June 30. Such period would fix the beginning of each marketing year reasonably close to the time spearmint oil is distilled and handled. Since any oil in the set aside would be released to producers on July 1 of each year, such release would coincide with the beginning date of the new marketing year.

It may be that as new varieties are developed or new marketing practices may be adopted, or for some other reason, a different "marketing year" and "crop year" would be desirable. Therefore, the order should authorize the Secretary, on the basis of a committee recommendation, to change the beginning and ending dates of the "marketing year" and "crop year" whenever it is appropriate to do so.

A definition of "committee" should be incorporated in the order to identify the administrative agency established under the program. Such committee is authorized by the act and the definition thereof, as hereinafter set forth, is merely to avoid the necessity of repeating its full name each time it is used.

The term "producer" should be synonymous with "grower" and should be defined to include any person in the production area who produces oil or causes oil to be produced. A definition of the term "producer" is necessary to determine eligibility to vote for nominees and serve as members or alternate members of the Spearmint Oil Administrative Committee. The term "producer" should therefore be defined as hereinafter set forth.

"District" should be defined as set forth in the order to provide a basis for nomination and selection of the members of the committee. The districts (i.e., the geographical divisions of the production area) as hereinafter set forth represent a reasonable basis for providing a fair, adequate and equitable representation on the committee. The provisions for redistricting is desirable because it allows the committee and the Secretary to consider, from time to time, whether the basis for representation on the committee should be changed.

(b) It is desirable to establish an agency to administer the order under and pursuant to the act, as an aid to the Secretary in carrying out the purpose of the order and the declared policy of the act.

The term "Spearmint Oil Administrative Committee" is a proper identification of the agency and reflects the character thereof. It should be composed of 11 members, each of whom should be a producer, or an officer or employee thereof. An alternate member, having the same qualifications as the member, should be provided to act in the place and stead of the member. Such a committee would be large enough to provide representation to all segments of the industry. At the same time, it is of such size that it can operate effectively and efficiently.

A committee of 11 members, with a like number of alternates, should provide adequate industry representation on the committee to recommend regulations and to perform other administrative functions. Because of the size of the production area and the nature of the area involved, a committee of 11 is the least number which would allow good representation from all areas. An alternate should have the same qualifications as the member for whom he is an alternate since the alternate may be serving for the member. Some producers of spearmint oil are business units, either incorporated or otherwise, and a business unit as such, could not serve as a member or alternate member on the committee. However, each such business unit may have one or more employees who are well versed in the production and marketing of spearmint oil, and it is desirable, as evidenced by record testimony, that such persons be eligible to serve as members or alternate members of the committee.

For representation on the committee, the production area should be divided into districts as specified in the order. District 1 should include the area in the State of Washington west of the Okanogan River and west of the Columbia River below its confluence with the Okanogan River and be represented by five members and an alternate for each member. District 2 should include the area in the State of Washington not included in District 1. Representation on the committee from this district should be two members and their respective alternates. District 3 should include the State of Idaho, and that portion of the State of Montana and that portion of the State of Utah included in the production area. Representation from this district should be two members and their respective alternates. District 4 should include the State of Oregon, and that portion of the State of California, and that portion of the State of Nevada included in the production area. Representation from this district should be two members and their respective alternates. Such representation recognizes, to the extent practicable, the relative volume of production in the various districts, the number of producers in the various districts, and the geographic area represented within the districts. Provisions to redefine the districts and to reapportion membership on the committee among districts should be provided so that, if it becomes apparent through shifts in production, or other reasons, such district boundaries or such representation is inappropriate, the Secretary may, upon recommendation of the committee, redefine the districts into which the production area is divided, and make such reapportionment as he finds warranted. The committee, representing the industry from all the production area, should make a recommendation to the Secretary since it will have knowledge of any changes within the industry. The authority should not include changing the number of districts. Thus, there will continue to be four districts.

Each member of the committee and his alternate should be a producer or an officer or employee of a producer of spearmint oil in the district from which selected. Persons with such qualifications should be intimately acquainted with the problems of producing and handling spearmint oil produced in such district and may be expected to present to the committee and the Secretary solutions to the problems incident to the production and handling of spearmint oil in such district.

The term of office of committee members and alternates under the proposed program should be for 2 years beginning on the first day of April and continuing until March 31 of the next succeeding year. This will establish an orderly procedure for changing the membership on the committee. The term of office should be for 2 years so that members and alternates will have adequate time to familiarize themselves with the operation of the program and thus be in a position to render the most effective service in assisting the Secretary to carry out the declared policy of the act. The beginning of each term of office will occur prior to the commencement of handling during each crop year and hence will allow adequate time for the committee to organize and start operating.

It is probable that the order, if made effective, will not become effective before the summer of 1971—a date well past April 1, 1971, the beginning date for the term of office. Therefore, the order should provide that the initial term of office shall begin on the effective date of the order and end March 31, 1973. Successor members and alternates should be appointed for 2-year terms as hereinafter provided. Committee members and alternates should serve during the term of office for which selected, and until their successors are selected and have qualified, to insure continuity of committee operations.

A procedure for the election of nominees for membership on the committee should be prescribed in the order to assist the Secretary in his selection of members and alternate members on the committee. It is recognized that the Secretary is vested with authority under the act to select the committee members; but the nomination of prospective members and alternate members is a practical method of providing the Secretary with the names of the persons that the industry desires to serve on the committee.

As the administrative committee will not be in a position to act until after the selection by the Secretary of its initial members, the order should provide a procedure for the selection of the initial members. Record evidence shows that the industry desires that names of the nominees for appointment to the initial committee be obtained from nominations made at meetings of producers, or from lists submitted by individual producers. As a practical matter such nominations should be available to the Secretary within 15 days after the effective date of the order, if the order is to operate in an effective way for the 1971 crop year. If such nominations are not made available to the Secretary within 15 days after the effective date of the order, the Secretary should be free to appoint the committee without the formal nomination procedure. It was testified at the hearing that there are organizations, such as the Northwest Spearmint Marketing Association, the Idaho Mint Growers Association and others, which may be holding meetings in the production area and which producers of spearmint oil would normally attend, which may be utilized for obtaining the names of the initial nominees and such meetings would afford larger producer participation than if meetings were called solely for the purpose of obtaining the names of nominees. Thus, the nomination of prospective members and alternate members at such meetings of producers in the respective districts is a practical method of providing the Secretary with the names of the persons which the industry desires to serve on the initial committee.

Elections for the purpose of designating nominees for successor members of the committee and their alternates whose terms of office expire on the last day of March should be held during such year by the committee. Such meetings should be held prior to March 1 and at such places that may be designated by the committee so that the names and addresses of the nominees can be submitted to the Secretary in time for the committee to be appointed and functioning by the beginning of the term of office, April 1. At each such meeting, a chairman and a Secretary should be elected by the producers eligible to participate in the meeting. This is only good business practice and is the most practical way to proceed in an orderly manner. It is only proper that the person present should be made aware of the results of the voting. A practical way to do this would be for the chairman to announce the results at the conclusion of each voting. At the completion of the meeting, the chairman should prepare a report thereof and promptly submit it to the committee. This would provide a record of the action that took place at the meeting.

The order should provide that only producers, including duly authorized officers or employees of producers who are present at nomination meetings, may

participate in the nomination and election of members and their alternates because it is proper that producers nominate the persons who are to represent them. Each producer should be permitted only one vote for each nominee to be elected in the district in which he produces spearmint oil. To prevent producers who produce spearmint oil in more than one district from having a greater voice in nominating representatives than do producers who produce spearmint oil in only one district, no producer should be permitted to participate in the election of producer nominees in more than one district in any 1 fiscal year.

The order should provide that whenever the committee finds that it is impracticable to conduct nomination meetings, it may obtain the names of the nominees by means of balloting conducted by mail. Whenever the committee determines that nominations should be obtained by mail balloting in any district during any marketing year, the committee should give public notice and mail a ballot to all known producers of record. The ballot should contain the names of the candidates, and blank spaces in which the names of candidates for each or any position may be inserted. There should be mailed with each ballot complete instructions for voting including the place where the ballot must be mailed and the latest date the ballot may be received to be valid and be counted.

It is known that the producers in District 4, for example, are widely scattered over a large geographic area, whereas producers in District 1 are mostly located in the lower Yakima Valley, a relatively small, concentrated area. On this basis, the committee may determine that a mail balloting procedure should be followed in District 4 and a meeting be held in District 1. During another marketing year, due to weather or for some other reason, the committee may determine that a mail ballot procedure should be followed in all districts. This would provide greater flexibility, promote greater producer participation and tend to insure the appointment of those persons whom the industry prefers to serve on the committee, and the order should provide such authority to the committee.

In order that there will be an administrative committee in existence at all times to administer the order, the Secretary should be authorized to select committee members and alternate members without regard to nominations if, for some reason, nominations are not submitted to him in conformance with the procedure prescribed herein. Such selection should, of course, be on the basis of the representation provided in the order so that the composition of the committee will at all times continue as prescribed in the order.

It is advisable to establish an agency to serve in an advisory capacity to the committee to assist the committee in its administration of the program. The term "Spearmint Oil Marketing Advisory Board" is a proper identification of the agency and reflects the character thereof. Such agency should consist of five members with an alternate for each member. Each member and his alternate should be a handler or an officer or an employee of a handler. It is only proper that membership on this board be limited to handlers or officers or employees of handlers since handlers are usually closer to the marketing situation. Handlers have acquired experience and possess marketing information necessary to the development of economically sound salable and setaside percentages for spearmint oil.

The board should be composed of five members and an alternate for each member. It was testified at the hearing that there are four handlers who collectively handle approximately 90 percent of spearmint oil produced in the production area. A board of five would provide, as hereinafter discussed, representation from each of the four major handlers and provide one member and his alternate from the other handlers.

Some handlers of spearmint oil are companies, either incorporated or otherwise, and a company, as such, could not serve as a member or alternate member of the board. However, each such company may have one or more officers or employees who are well versed in the production and handling of spearmint oil, and the order should provide that such persons should be eligible to serve as member or alternate member of the board.

The term of office of board members and alternates under the proposed program should be for two years beginning on the first day of April and continuing until March 31 of the next succeeding year. This will establish an orderly procedure for changing the membership on the board. The beginning of each term of office will occur prior to the handling of spearmint oil during any crop year and hence will allow the board to organize and appraise the marketing situation prior to the committee making its recommendation with respect to the salable and set aside percentages.

It is probable that the order, if made effective, will not become effective before the summer of 1971—a date well past April 1, 1971, the beginning date for the term of office. Therefore, the order should provide that the initial term of office shall begin on the effective date of the order and end March 31, 1973. Successor members and alternates should be appointed for 2-year terms as hereinafter provided. Board members should serve during the term of office for which selected, and until their successors are selected and have qualified to insure continuity of Board operations.

A procedure for obtaining the nominees for membership on the board should be prescribed in the order to assist the Secretary in his selection of members and alternate members on the Board. It is recognized that the Secretary is vested with authority under the act to select the board members; but the procedure in the order provides a practical method of providing the Secretary with the names of the persons that the industry desires to serve on the Board.

As the Board will not be in a position to act until after the selection by the Secretary of its initial members, the order should provide a procedure for the selection of the initial members. Record evidence shows that each of the four major handlers—I. P. Callison & Sons, Inc.; Wm. Leman, Inc.; A. M. Todd Co. and M. Brown and Co. should each submit the name of the person it desires appointed to a member position and the name of the person it desires appointed to an alternate member position of the board. The names of these persons should be obtained by a resolution of the Board of Directors of the respective company, or in such other manner as the company deems appropriate, and submitted to the Secretary through the Northwest Marketing Field Office.

Nomination of the person for the fifth member position and the nomination of the person for the fifth alternate member position on the board should be obtained by a mail ballot sent to all handlers of spearmint oil, other than the four major handlers, by the Northwest Marketing Field Office.

All such nominations for the initial board should be available to the Secretary not later than 15 days after the effective date of the order, if the board is to be appointed and render service to the committee for the 1971 crop year. If such nominations are not made available to the Secretary within 15 days after the effective date of the order, the Secretary should be free to appoint the board without formal nomination procedure.

A similar procedure should be provided for obtaining the names of the persons for the successor member positions and the names of the persons for the successor alternate member positions on the board. During each odd numbered year, the four major handlers should each submit the name of the person it desires appointed to the member position and the name of the person it desires appointed to the alternate member position on the board. Such names should be submitted to the Spearmint Oil Administrative Committee not later than March 1 of such year. The committee should on or before March 1 of each odd numbered year, conduct a mail ballot among the handlers of spearmint oil, other than the four major handlers, to obtain the name of the person the industry desires appointed to the remaining member position and the name of the person the industry desires appointed to the remaining alternate member position on the board. No later than March 15 of such year, the committee should transmit the names of all such nominees to the Secretary, together with the ballots cast in the mail voting, and the material provided by the four major handlers.

In order that there will be a Spearmint Oil Marketing Advisory Board in existence at all times, the Secretary should be authorized to select the board members and alternate members without regard to nominations if, for some reason, nominations are not submitted to him

in conformance with the procedure prescribed herein.

From the persons nominated pursuant to the order, or from other qualified persons, the Secretary should select the members and alternate members of the committee and of the board, respectively.

Each person selected by the Secretary as a committee member or alternate or as a board member or alternate should qualify by filing with the Secretary a written acceptance of his willingness and intention to serve in such capacity. This requirement is necessary so that the Secretary will know whether or not positions have been filled. Such acceptance should be filed promptly after notification of appointment so that the compositions of the committee and of the board will not be delayed unduly.

Provisions should be made, as set forth in the order, for the filling of any vacancies on the committee, including selection by the Secretary without regard to nomination when such nominations are not made as prescribed, in order to provide for maintaining a full membership on the committee and on the board.

It may be desirable and the order should so provide for filling vacancies from the list of persons who were nominated at the previous nomination meeting but who were not appointed because they did not receive a sufficient number of votes. By keeping a record of such voting, the industry could indicate who it desires to be appointed to the committee without holding a meeting for that purpose.

The order should provide that an alternate member shall be selected for each member of the committee and of the board in order to insure that each district will generally have representation and that handler representation will be as provided in the order. Each alternate who is selected should have the same qualifications for membership as the member for whom he is an alternate so that, should the member be absent, die, resign, be removed from office for cause, or be disqualified, the representation on the committee or on the board, as the case may be, will remain unchanged. The alternate should serve until a successor to such member has been appointed and has qualified.

The committee should be given those specific powers which are set forth in § 8c(7)(C) of the act. Such powers are necessary to enable an administrative agency of this character to function.

The committee's duties, as set forth in the order, are necessary for the discharge of its responsibilities. These duties are generally similar to those specified for administrative agencies under other programs of this character. It is intended that any activities undertaken by the members of the committee will be confined to those which are reasonably necessary for the committee to carry out its responsibilities as prescribed in the program. It should be recognized that these specified duties are not necessarily all-inclusive, and that it may develop that there are other duties the committee may need to perform.

Nine members of the committee, or alternates acting for members, should be present at any meeting of the committee in order for the committee to make decisions; and any committee action should require an affirmative vote of at least eight of the members present.

The evidence of record shows that it is desirable to have a large percentage of the industry in support of any recommendation the committee may make to the secretary. To achieve this, it is only reasonable to require a large percentage of the committee members or alternates acting for members to be present before the committee may consider any matter. Thus, nine members or alternates acting as members should be present to constitute a quorum and any recommendation should require at least eight affirmative votes.

The committee should be authorized to vote by telephone, telegram, or other means of communication when a matter to be considered is so routine that it would be unreasonable to call an assembled meeting. Meetings for the formulation of a marketing policy, or for making recommendations with respect to salable and set-aside percentages are of such importance that such matters should not be voted except at assembled meetings. Any votes cast other than at assembled meetings should be confirmed promptly in writing to provide a written record of the votes cast. In the case of an assembled meeting, however, all votes should be cast in person.

The duties of the board should be those set forth in the order. It is intended that the board would provide the committee with market information and make recommendations by a majority vote of those present with respect to marketing policy matters and the salable and set-aside percentages.

It is appropriate that members and alternates when acting for members of the committee or of the board be reinbursed for actual out-of-pocket reasonable expenses incurred when performing committee business or board business, as the case may be, since it would be unfair for them to bear personally such expenses incurred in the interest of all spearmint oil producers and handlers in the production area.

Authority should be included in the order for the committee to prepare an annual report as soon as is practicable after the close of each marketing year. Handler reports and records for any marketing year can not be completed and submitted to the committee until after the close of the marketing year. Hence, it is not possible to prepare an accurate annual report until after the marketing year has ended. The annual report should contain at least a complete review of the regulatory operation of the program during that year, the effect of the regulatory program upon the spearmint oil industry, and any changes that would improve the operation of the program. Annual reports would provide the committee, the Secretary, and the industry with a record of the operations under the program. Such report would also provide a means for evaluation of the program and the need for any changes therein. No one should know better than the committee whether there should be changes in the program. Therefore, the annual report should contain any recommendations for any changes in the program that the committee believe appropriate.

The order should expressly provide that all funds received by the committee pursuant to the provisions of the order should be used solely for the purpose specified in the order. In this way there should be no misunderstanding as to why funds are needed or as to their ultimate use. Each member of the committee and the board should be required to account for all funds in his possession at such time and such manner as the Secretary may request.

Upon the expiration of the term of office of any member of the committee or upon the removal or resignation of any member of the committee or of any of its employees, such person should deliver all funds, or any and all property of the committee then in his possession to the committee or to his successor in office. This is only good business practice and will tend to insure full accountability and the continuity of operation within the program.

(c) The committee should be authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it, for its maintenance and functioning and to enable it to exercise its powers and perform its duties pursuant to the order. The funds to cover the expenses of the committee should be obtained through the levying of assessments on handlers. The act specifically authorizes the Secretary to approve the incurring of expenses by the administrative agency established under the order and requires that each order of this nature contain provisions requiring handlers to pay, pro rata, the necessary expenses. Moreover, in order to assure the continuance of the committee, as hereinafter set forth, the order should authorize collection of assessments even if particular provisions of the order are suspended or become inoperative.

The order should require each handler to pay to the committee, upon demand, his pro rata share of such expenses as the Secretary finds are reasonable and likely to be incurred by the committee during each marketing year. Each handler's share of such expenses should be equal to the ratio between the total quantity of spearmint oil handled by him as the first handler thereof during the applicable marketing year and the total quantity of spearmint oil so handled by all handlers during the same marketing year. In this way, payments by handlers of assessments would be proportionate to the respective quantities of spearmint oil handled by each handler and assessments would be levied on the same spearmint oil only once.

In order to provide funds for the administration of this program prior to the

time assessment income becomes available during the marketing year, the committee should be authorized to accept advance payments of assessments from handlers and also, when such action is deemed to be desirable, to borrow money for such purpose. The provision for the acceptance by the administrative agency of advance assessment payments is included in other marketing agreements and orders and has been found to be a satisfactory and desirable method of providing funds to cover costs of operation prior to the time when assessment collections are being made in an appreciable amount. During years of normal growing conditions, revenue available to the committee from assessments would provide the means of repaying any loans.

Should it develop that assessment income, during a fiscal year, plus any funds in reserve would not, at the previously fixed rate, provide sufficient income to meet expenses, the funds to cover such expenses should be obtained by means of increasing the rate of assessment. Since the act requires that the administrative expenses shall be paid by handlers, this is the only source of income to meet such expenses. The increased assessment rate should be applied to all spearmint oil handled during the particular marketing year so that the total payments by each handler during each marketing year will be proportional to the total volume of spearmint oil handled during that period.

Should the provisions of the order be suspended during any portion or all of a marketing year it will be necessary to secure funds to cover expenses during such period unless funds in the reserve are sufficient for such purpose. The committee will continue to have duties to perform and incur expenses each marketing year even though the order may be inoperative during a particular period. To cease incurring any expenses when operations under the order were suspended for short periods, it would be necessary to eliminate the payment of any salaries, rent, or utilities. Since such expenses will not always cease when the order is inoperative for a period, authorization should be provided to require the payment of assessments to meet any necessary expenses during such periods.

The assessment rates under the program would be set at the beginning of the season based on a crop of an estimated volume. Should crop failure or partial crop loss reduce the crop so that assessment income falls below expenses, in the absence of a reserve it would be necessary for handlers to cover the deficit. It would constitute an extra burden on the industry to increase the assessment rate after some disaster has materially reduced the crop.

It would be equitable, and far less burdensome, for handlers to contribute to the establishment of an operating reserve during years of normal production rather than to be required to pay an excessively high rate of assessment during a year when the crop is materially reduced. The reserve fund could be built up to the desirable amount rather slowly, over a period of time, as funds in excess of expenses may be available. In order that reserve funds not be accumulated beyond a reasonable amount, however, a limit of not to exceed approximately 1 marketing year's operational expenses should be provided. A reserve of that amount should be adequate to meet any foreseeable need. In view of the foregoing, it is concluded that authority should be provided, as hereinafter set forth, to permit the establishment and use of a reserve fund in the manner heretofore described.

Except as necessary to establish and maintain an operating reserve as set forth in the order, handlers who have paid part of any excess should be entitled to a proportionate refund of any excess assessments that remain at the end of a marketing year, after first offsetting any amounts due from the handler.

Upon termination of the order, any funds in the reserve that are not used to defray the necessary expenses of liquidation should, to the extent practicable, be returned to the handlers from whom such funds were collected. However, should the order be terminated after many years of operation, the precise equities of handlers may be difficult to ascertain, and any requirement that there be a precise accounting of the remaining funds could involve such costs as to nearly equal monies to be distributed. Therefore, it would be desirable to permit the unexpended reserve funds to be disposed of in any manner that the Secretary may determine to be appropriate in such circumstances.

Funds received by the committee pursuant to the levying of assessments should be used solely for the purposes of the order. The committee should be required as a matter of good business practice to maintain books and records clearly reflecting the true, up-to-date operation of its affairs so that its administration could be subject to inspection at any time by the Secretary. The committee should provide the Secretary with periodic financial reports at appropriate times, such as at the end of each marketing year or at such other times as may be necessary, to enable him to maintain appropriate supervision and control over the committee's activities and operations.

A modification of the proposal was submitted and supported with a proffer of proof which would have authorized the committee to establish production research, marketing research, and development projects designed to assist, improve, or promote the marketing, distribution and consumption or the efficient production of spearmint oil. This modification was based upon and was an enlargement of one of the specified duties of the committee—To investigate and assemble data on the growing, handling, and marketing conditions with respect to spearmint oil. The Hearing Examiner ruled that such proposed modification was outside the notice of hearing. Therefore, no authority for production research, marketing research and development projects is included in the order, in as much as it is determined that such modification is not within the scope of the notice of hearing.

(d) The declared policy of the act is to establish and maintain such orderly marketing conditions for spearmint oil, among other commodities, as will tend to establish parity prices to producers and be in the public interest. The regulation of the handling of spearmint oil, as authorized in the order, provides a means for carrying out such policy.

In order to facilitate the operation of the program, the committee should each year, before recommending any regulation applicable to spearmint oil produced that year or which is available for marketing that year, prepare and adopt a marketing policy for the marketing season in question. A report on such policy should be submitted to the Secretary and made available to producers and handlers of spearmint oil. The policy as so reported would serve to inform the Secretary and persons in the industry, in advance of the marketing of the crop of the committee's plans for regulation and the basis therefor. Handlers and producers should then plan their operations in accordance therewith. The policy also would be useful to the committee and the Secretary when specific regulatory action is being considered, in that it would provide basic information necessary to the evaluation of such regulation.

In order to plan a comprehensive and effective policy for regulating the handling of spearmint oil in any marketing year, it is necessary that all of the important economic factors having a bearing on the marketing of the crop be considered by the committee. Hence, the committee in preparing its marketing policy should give consideration to the supply and demand factors set forth in the order affecting marketing conditions for spearmint oil.

The marketing policy report should contain information regarding the quantity of each class of oil in the hands of producers that is likely to be marketed during the ensuing marketing year. The marketing policy should also include the desirable carryout of each class of oil at the end of the crop year and the estimated carryover of each class of salable oil by the handler. The carryover influences the available supply, and hence, prices for the crop. The amount of each class of oil in the set-aside is another important factor the committee should consider in formulating its marketing policy. The marketing policy should be considered by the committee each May. Under the program, all oil in the set-aside should be released to equity holders on July 1. Thus, all such oil on that date would become available for market and will influence the marketing situation.

Another important factor to be considered is the estimated demand for each class of oil. The demand for each class of oil should have a considerable influence in determining whether there should be a set-aside for that class of oil and, if so, how much. The marketing policy report should contain information

regarding the estimated or known total supply of spearmint oil expected during the approaching harvest and marketing season. Total production of spearmint oil is a key factor in the determination of annual prices. The current price being received and the probable general level of prices is a strong indication of the position of spearmint oil in the market place. The committee should give consideration to any recommendation of the Spearmint Oil Marketing Advisory Board.

The order should provide for regulations limiting the volume of spearmint oil handled during any marketing year to such quantity as is determined necessary to meet market demands at fair returns to growers. The evidence of record indicates the proposed order for spearmint oil as hereinafter set forth should provide an effective method of regulating the handling of spearmint oil.

The order should provide that the Spearmint Oil Administrative Committee as the local administrative agency should recommend to the Secretary such regulation of spearmint oil as it believes is needed. The members of the committee as representatives of producers and the board as representatives of handlers will have knowledge of the marketing situation. Consequently, it is only fitting that the committee should be given the responsibility for determining whether, and the extent to which, the available supplies of spearmint oil are excessive and whether, in the judgment of the committee, the quantity of spearmint oil which handlers may freely handle should be restricted to improve grower returns.

The committee should be required to make its recommendation for regulation for any crop to the Secretary not later than June 1. This is the latest date that such a recommendation should be made as the record indicates that, in some years, the distillation of spearmint oil often begins on or about June 15. This does not mean that the committee should or could wait in most years until June 1 to make its recommendations for regulation. The committee should, delay making its recommendation in order to have as much information as possible, including the official crop estimate if available, when it decides whether to recommend regulation for a particular year. However, it may need to proceed on the basis of the information its members have concerning the bloom and subsequent growing conditions and anticipated date of harvest and distillation in the various parts of the production area.

All assembled meetings of the committee should be open to producers and handlers and all other interested persons; such persons have a vital interest in the actions of the committee and should be afforded opportunity to hear the discussion and express their views at committee meetings. To inform producers and handlers and other interested persons of the time of committee meetings, the order should provide for the publication of notice in such newspapers as the committee deems appropriate for the purpose, and for mailing notice thereof to each producer and handler and any other person who files his name and address with the committee and requests such notice.

The order should authorize the Secretary, on the basis of recommendation of the committee or other available information, to issue regulations establishing such salable and set-aside percentages as will tend to establish more orderly marketing conditions for spearmint oil which, in turn, will tend to improve producers returns up to, but not in excess of, the parity level. The Secretary should not be precluded from using such information as he may have and which may or may not be available to the committee for consideration in issuing such regulations as may be necessary to effectuate the declared policy of the act. Also, the Secretary has responsibilities under the act which make it necessary that his actions should not be bound by those recommended by the committee and the order provisions should recognize this fact.

In as much as the committee is responsible for assisting the Secretary in the administration of the programs it follows that it should be notified immediately of any and all regulations issued. Similarly, it should be the responsibility of the committee to notify handlers promptly of each regulation issued by the Secretary.

The salable percentage of each class of spearmint oil specified in a regulation should represent the percentage of spearmint oil delivered to a handler for handling (acquired by the handler) which will fill the expected demand for that class of spearmint oil. Thus, this portion of the oil should be available for handling without restriction and all handlers should be afforded the opportunity to compete for the salable percentage spearmint oil and to use such spearmint oil in any manner they choose. The set aside percentage would represent the excess quantity of spearmint oil which should be withheld from the market in order to prevent the disorderly marketing conditions which result when excessive amounts are available for sale.

Record evidence attests that spearmint oil can be stored indefinitely with little or no deterioration in quality. Thus, spearmint oil in the set-aside could be removed from market without affecting its quality. This keeping characteristic also makes it possible for spearmint oil produced in a particular marketing year to be stored and successfully marketed during a later marketing year.

Set-aside spearmint oil should be held by the handler for the account of the producer. Since the handler and the producers will have agreed on the class of the oil prior to its acquisition by the handler, all that is needed to meet the set-aside requirement for any particular delivery of oil for handling and the acquisition thereof is for the handler to multiply the pounds of oil of a particular class by the set-aside percentage fixed for that class of oil. For example, should the set-aside obligation be equal to one drum of oil (400 pounds), such drum may be properly marked, and stored as the set-aside. Should the set-aside oil be less than one full drum of oil or be equal to one full drum of oil plus a portion of an additional drum of oil, such portion of a drum of oil should be stored in accordance with rules and regulations issued by the committee and approved by the Secretary.

During the first week in October and February or such other dates as may be recommended by the committee and approved by the Secretary, and at such other times as the committee deems appropriate, the committee should meet to review its recommendation of the free and restricted percentages and the percentages then in effect. The committee should be required to meet during the first week in October because records showing the total amount of oil that was distilled will be available to the committee by that time. All recommendations of the committee made prior thereto would have been made on the basis of anticipated production and estimated marketing conditions. During the first week of October the committee using actual production figures will be in position to recommend any appropriate modification with respect to the salable and set-aside percentages.

The committee should be required to meet during the first week in February; such week occurs about midway in the marketing year. A meeting during this week would permit the committee to review the movement of oil to market and provide a sufficient amount of time to permit any modification of the salable and set-aside percentages to allow the movement of any additional oil in an orderly manner. It would also provide timely information concerning the marketing situation to producers prior to the planting of the ensuing crop. The committee should be required to meet during the first week in October and during the first week in February or during such other 2 weeks as the committee may recommend and the Secretary may approve. At the present time, these 2 weeks appear to be the most logical for the reasons stated. However, the order should permit the Secretary, on the basis of a committe recommendation, to designate any other 2 weeks that would be more appropriate. It may be that records would become available at an earlier date so as to permit a meeting prior to first week in October and the order should permit such flexibility. Provisions should be included to permit the committee to meet at such other times as may be appropriate to review its recommendation concerning the free and restricted percentages. In this way, the committee can keep abreast of the marketing situation. If the committee finds that the current regulations do not appear to be carrying out the declared policy of the act, it should make an appropriate recommendation to modify the current regulation, and the order should provide authority for this action. However, any such recommendation for modification should be limited in its

scope to one, which make available for market a greater quantity of spearmint oil. Thus the salable percentage would be increased. The order should not contain authority for the committee to make a recommendation which would make available for market a lesser quantity of spearmint oil, for handlers who may have made market commitments under a regulation should not be expected to comply with a subsequent one curtailing the permissible salable quantity. The order should also contain authority to permit the Secretary to modify the regulations, in the manner hereinbefore discussed, whenever he finds, from a recommendation of the committee or other available information, that such modification would tend to effectuate the declared policy of the act.

(e) All spearmint oil in the hands of a producer or handler on the effective date of the order should be exempt from regulation under the order. In the absence of such an exemption an inequity would result in that it would be discriminatory as between growers who had already sold their oil from previous crops and growers who had not. Those growers who had not sold their oil, in the event of a set-aside would be subject thereto. Such oil should be reported to and identified to the committee within 30 days after the effective date of the order. In other words, any set-aside obligation would not be applicable to such oil. As heretofore discussed, spearmint oil is stored, handled, and marketed in drums usually containing 400 pounds of spearmint oil. Each drum bears its identification in the form of the name of an individual or business unit and a serial number permanently embossed thereon. A warehouse receipt provides the net weight of oil and the class. Thus, the requirement for identification and reporting should provide no undue burden to either the producer or handler who has oil on hand at the effective date of the order. Such reported oil should not be subject to any assessment rate fixed by the Secretary under the order. But such reported oil should be subject to reporting requirements. It is vital to the operation of the program to have a complete record of the disposition and disappearance of all spearmint oil. If spearmint oil in the hands of producers and handlers on the effective date of the order is not reported and identified to the committee within 30 days after the order becomes effective, such oil should be subject to all provisions of the order and the regulations issued pursuant to it. Unless such oil is reported and identified to the committee as aforesaid, there is no effective way to keep it separate and apart from oil distilled after the effective date of the order which would be subject to all of the provisions of the order. Thus, all such oil which is not reported and identified within the time provided and in the manner herein discussed, should be treated as oil produced after the effective date of the order and be subject to all the provisions of the order and regulations.

It was testified at the hearing that there may be spearmint oil which should not be subject to the assessment and set-aside provisions of the order because of the small volume involved. For example, a producer may have only one drum (400 pounds) of oil available. The set-aside applicable to such oil would be so small that its effect on the market would be negligible.

There are other situations which indicate a lack of need to apply regulations in order to effectuate the declared policy of the act. For example, the set-aside obligation for a particular quantity of oil may equal one drum and 15 pounds of oil. At that time there was not available a suitable container for storing the 15 pounds of oil. To require the 15 pounds of oil to be placed in the set-aside may impose an extra burden on the handler. Thus, the order should provide that the committee through rules and regulations approved by the Secretary may specify a minimum quantity of oil exempt from the provisions of the order. Such rules and regulations should also specify handler procedure in connection with exempt oil.

A proposal was made at the hearing which would have exempted from the provisions of the order all oil produced under a contract entered into prior to January 28, 1971, between the producer and a handler. Although the Hearing Examiner ruled that this proposal was outside the scope of the notice of hearing, she nevertheless permitted the submission of supporting evidence as well as cross examination relative to the proposal by way of an offer of proof. Therefore, this matter may properly be considered on its merits. To exempt oil under prior contract would render an order virtually ineffective in limiting the volume of oil that could be marketed in any given marketing season. It also would be inequitable to exempt some oil from regulation while, at the same time, fully regulating other oil produced in the same production season. Accordingly, the proposal to exempt oil under prior contract is rejected.

The notice of hearing contained a proposal which would have authorized the Secretary to prohibit handlers from using trade practices which the committee believed would interfere or tend to interfere with the objectives of the order. This provision is not included in the proposed order because it was not supported at the hearing.

Several other modifications were offered at the hearing. It is unnecessary to comment on each modification in view of this decision. Also, exception was taken to the ruling of the Hearing Examiner on certain matters. Before the Hearing Examiner announced her ruling she adequately explained the matter before her and following such ruling, announced the basis for her decision. Each such objection is overruled and each such ruling of the Hearing Examiner is affirmed.

(f) The committee should have authority, with the approval of the Secretary, to require that handlers submit to the committee such reports and information as may be needed for the performance of its functions under the order. Handlers have the necessary information in their possession. A requirement that they furnish such information to the committee in the form of reports would not constitute an undue burden.

One such report would be an inventory report which would require to specify the quantity of spearmint oil held by him on such date or dates as the committee may specify. Another such report would be a report showing certain information with respect to each lot of spearmint oil received. It is not known at the present time what information the committee will need. The order should require handlers to furnish such information to the committee as it may request. However, the committee should limit its requests for information to that which is necessary to the administration of the program. To assure this, all requests for information from handlers, except information with respect to inventory and receipts, should be made by the committee in accordance with procedures approved by the Secretary.

Any reports and records submitted by handlers should remain confidential and be disclosed to no person other than the Secretary and persons authorized by the Secretary. Under certain circumstances, the releases of information compiled from handlers' reports may be helpful to the committee and the industry generally in planning operations under the order during the marketing season. However, such reported information should not be released other than on a composite basis and such release of information should disclose neither the identity of handlers nor their individual operations. This is necessary to prevent the disclosure of information that may affect detrimentally the trade or financial position or the business operations of individual handlers.

Compliance and enforcement considerations require handlers to maintain for each marketing year complete records of their receipts, handling, and disposition of spearmint oil. These records should be retained for not less than 2 years after the termination of the marketing year in which the transaction occurred, so that if needed in connection with enforcement the requisite records will be available for the purpose.

The successful operation of a program of this type depends upon the degree of compliance with its provisions. In this connection, it is necessary that the Secretary and the committee, through its authorized employees, be given the authority to examine and verify records, check inventories of spearmint oil, and determine the quantity of spearmint oil received, handled, stored, and placed in the set-aside. Verification of records and reports, and inspection in connection therewith should be performed by the

Secretary or the committee during reasonable working hours and in such manner that normal operations of handlers will not be unreasonably interrupted.

(f) No handler should handle spearmint oil the handling of which is prohibited by the order; and no handler should handle spearmint oil except in conformity with the order. If the program is to operate effectively, compliance therewith is essential; no handler should be permitted to evade any of its provisions. An evasion on the part of even one handler could be demoralizing to the handlers who are in compliance and could tend to impair the effective operation of the program.

(g) The provisions of §§ 934.71 through 934.80, as hereinafter set forth, are similar to those which are included in other marketing agreements and orders now in operation. The provisions of §§ 934.81 through 934.83, as hereinafter set forth, also are common to other marketing agreements. All such provisions are incidental to and not inconsistent with the act and are necessary to effectuate other provisions of the recommended marketing agreement and order and to effectuate the declared policy of the act. Testimony at the hearing supports the inclusion of each such provision.

Those provisions which are applicable to both the proposed marketing agreement and the proposed order, identified by section numbers and headings, are as follows: § 934.71 *Right of the Secretary;* § 934.72 *Derogation;* § 934.73 *Agents;* § 934.74 *Personal liability;* § 934.75 *Duration of immimities;* § 934.76 *Separability;* § 934.77 *Effective time;* § 934.78 *Termination;* § 934.79 *Proceeding after termination;* and § 934.80 *Effect of termination or amendment.*

Those provisions which are applicable to the proposed marketing agreement only, identified by section numbers and headings, are as follows: § 934.81 *Counterparts;* § 934.82 *Additional parties;* § 934.83 *Order with marketing agreement.*

Rulings on proposed findings and conclusions. April 5, 1971 was set by the Hearing Examiner at the hearing as the latest date for filing briefs by interested parties with respect to facts presented in evidence at the hearing and the conclusions which should be drawn therefrom.

Briefs were filed by Thomas C. O'Hare of Bogle, Gales, Dobrin, Wakefield, and Long, Attorneys for I. P. Callison & Sons Inc.; by Herman Roskamp; Arvid A. Waite; Sam Kyle of Evans, Kyle, and Kropp, Attorneys for Wayne Chambers, Jerry Cooper, Don L. Turnidge, Bill Case, and Gordon Turnidge producers of spearmint oil in Oregon; El Reyo Farms, Inc., Don L. Turnidge, President; Peyton Smith of Davis, Wright, Todd, Riese, and Jones, Attorney for Beechnut, Inc.; Richard E. Williams of Perkins, Coie, Stone, Olsen & Williams, Attorney for Warner-Lambert Co.; William Leman Jr., Vice President, Wm. Leman, Inc.; and by Gerold H. Williams, Manager, Northwest Spearmint Marketing Association.

Some of the briefs merely expressed opposition to the proposed order, and one expressed support for it. Others took exception to various proposed provisions, including authorization for third party classification of oil, prohibition of unfair trade practices, and authorization for production and marketing projects. Except for the provision authorizing the committee to develop such rules and regulations as are deemed necessary by the committee and the Secretary to assure appropriate classification of oil, the proposed order does not include any of the foregoing provisions to which exception was taken.

Some of the briefs expressed opposition to a cooperative voting for its members in any grower referendum which may be held to ascertain if growers favor this proposed order. The act authorizes such voting, hence this is not a matter for determination in this proceeding.

Each point included in the briefs was fully and carefully considered along with the evidence of record in making the findings and reaching the conclusions herein set forth. To the extent that any suggested findings and conclusions contained in any of the briefs are inconsistent with the findings and conclusions contained herein, they are denied on the basis of the facts found and stated in connection with the decision.

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

(1) The marketing agreement and order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said marketing agreement and order regulate the handling of spearmint oil produced in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial or industrial activity specified in, a proposed marketing agreement and order upon which a hearing has been held;

(3) The said marketing agreement and order are limited in their applications to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of spearmint oil produced in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of spearmint oil produced in the production area, as defined in said marketing agreement and order, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Recommended marketing agreement and order. The following marketing agreement and order [1] are recommended as the detailed means by which the foregoing conclusions may be carried out:

Marketing Order Regulating the Handling of Spearmint Oil Produced in the States of Washington, Idaho, and Oregon, and Designated Part of California, Nevada, Utah, and Montana

DEFINITIONS

§ 934.1 Secretary.

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

§ 934.2 Act.

"Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended, and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

§ 934.3 Person.

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

§ 934.4 Spearmint oil or oil.

"Spearmint Oil" or "Oil" is a farm commodity and means the essential oil extracted by distillation from plants, grown in the production area, of the genus Mentha, species cardiaca (commonly referred to as Scotch spearmint), spicata (commonly referred to as native spearmint), or such other species, grown in the production area, that produce a spearmint flavored oil. Spearmint oil shall be segregated into classes according to the following terms and conditions:

"Class 1" shall include that oil produced, from the first cutting during any season, from fields classified as scotch spearmint.

"Class 2" shall include that oil produced, from cuttings other than the first cutting, made during any season, from fields classified as scotch spearmint.

"Class 3" shall include that oil produced, from the first cutting during any season, from fields classified as native spearmint.

"Class 4" shall include that oil produced, from cuttings other than the first cutting, made during any season, from fields classified as native spearmint.

"Class 5" shall include that oil produced by redistillation of the condensate water from any or all classes.

"Class 6" shall include that oil which has a spearmint flavor, extracted from plants, other than Mentha cardiaca or

[1] The provisions identified with asterisks (*) apply only to the proposed marketing agreement and not to the proposed order.

Mentha spicata, grown in the production area.

Classification of particular lots of oil including any mixture shall be determined in accordance with rules and regulations adopted by the committee.

§ 934.5 Production area.

"Production area" means all of the area in the continental United States north of the 37th parallel and west of the 111th meridian except Alaska. The area shall be divided into the following districts;

(a) "District 1" shall include the area in the State of Washington west of the Okanogan River and west of the Columbia River below its confluence with the Okanogan River.

(b) "District 2" shall include the area in the State of Washington not included in District 1.

(c) "District 3" shall include the State of Idaho, and that portion of the State of Montana and that portion of the State of Utah included in the production area.

(d) "District 4" shall include the State of Oregon and that portion of the State of California and that portion of the State of Nevada included in the production area.

§ 934.6 Producer.

"Producer" is synonymous with "grower" and means any person that produces spearmint oil or causes it to be produced.

§ 934.7 Handler.

"Handler" is synonymous with "shipper" and means any person who handles spearmint oil.

§ 934.8 Handle.

"Handle" means to sell spearmint oil, use oil commercially of own production, to acquire, transport or ship (except as a common or contract carrier of oil owned by another), or otherwise place spearmint oil into the current of commerce within the production area or from the production area to any point outside thereof following distillation, except that the preparation, sale, or transportation of spearmint oil by a producer to a handler within the production area shall not be construed as handling.

§ 934.9 Marketing year and crop year.

"Marketing Year" and "Crop Year" are synonymous and means the 12 months from July 1 to the following June 30, inclusive, or such other period as recommended by the committee and approved by the Secretary.

ADMINISTRATIVE BODIES

§ 934.20 Designation of administrative bodies.

A Spearmint Oil Administrative Committee and a Spearmint Oil Marketing Advisory Board are hereby established. The membership shall be selected in accordance with provisions of §§ 934.21 through 934.28, inclusive.

§ 934.21 Spearmint Oil Administrative Committee—membership and term of office.

(a) The Spearmint Oil Administrative Committee (hereinafter referred to as "Committee") shall consist of 11 members, each of whom shall have an alternate who shall have the same qualifications as the member for whom he is an alternate. Five (5) of the members and their respective alternates shall each be a producer, or an officer or employee thereof, in District 1; two (2) members and their respective alternates shall each be a producer, or an officer or employee thereof in District 2; two (2) members and their respective alternates shall each be a producer, or an officer or employee thereof, in District 3; and two (2) members and their respective alternates shall be a producer, or an officer or employee thereof, in District 4.

(b) The term of office of committee members and their respective alternates shall be for 2 years beginning April 1 and ending March 31; *Provided*, That the initial term of office shall begin on the effective date of the order and shall end March 31, 1973.

§ 934.22 Nominations for Spearmint Oil Administrative Committee members.

(a) *Initial members.* Nominations for each of the initial members and alternate members may be submitted to the Secretary, not later than 15 days after the effective date of this part, by individual producers, including officers or employees thereof, or groups of producers. Such nominations may be made by means of separate group meetings of the producers concerned in each district, which meetings shall be publicized and open to all producers. In the event nominations for initial members or alternate members of the committee are not submitted pursuant to and within the time specified in this paragraph, the Secretary may select such initial members or alternate members without regard to nominations, but selections shall be on the basis of the representation provided for in § 934.21.

(b) *Successor members.* (1) The committee shall hold or cause to be held, not later than March 1 of each odd-numbered year, meetings of producers in each district for the purpose of designating nominees for successor members and alternate members of the committee whose term of office expires on March 31 of that year. Such meetings shall be publicized and open to all producers. At each such meeting, a chairman and a secretary shall be elected by the producers eligible to participate therein. The eligible person receiving the highest number of votes for a member or alternate member position shall be the nominee for the respective position. The chairman shall announce at each meeting the results of nominations for members and alternate members and shall submit promptly to the committee a complete report concerning such meetings. Should the committee find it impracticable to conduct nomination meetings in one or more districts during any marketing year, nominations may be submitted to the Secretary based on the results of balloting by mail. Whenever ballots are to be cast by mail, the committee shall give public notice, and mail to all producers of record, ballots containing the names of the candidates, blank spaces in which names of candidates may be written for each position, and instructions as to the voting procedure. The committee shall submit all nominations to the Secretary on or before March 15 of such year. In the event nominations for successor members or alternate members of the committee are not submitted pursuant to and within the time specified in this paragraph, the Secretary may select such successor members or alternate members without regard to nominations; but selections shall be on the basis of the representation provided for in § 934.21.

(2) Only producers, including duly authorized officers or employees thereof, who are present at nomination meetings may participate in the nomination and election of nominees for committee members and alternate members. Each producer shall be entitled to cast only one vote for each position to be filled. No producer or any agent thereof shall participate in the election of nominees in more than one district. In case a person produces spearmint oil in more than one district, he shall select one district in which he will cast nominating votes and notify the committee as to the district in which he will, until further notice, cast nominating votes.

§ 934.23 Selection of Spearmint Oil Administrative Committee members.

(a) *Initial members.* From the persons nominated pursuant to § 934.22(a), or from other qualified persons, the Secretary shall select the initial members and alternate members for the committee on the basis of the district representation provided for in § 934.21.

(b) *Successor members.* From the nominations made pursuant to § 934.22 (b), or from other qualified persons, the Secretary shall appoint the successor members and alternate members on the basis of the district representation provided for in § 934.21.

§ 934.24 Spearmint Oil Marketing Advisory Board—membership and term of office.

The Spearmint Oil Marketing Advisory Board (hereinafter referred to as "board") shall consist of five members, each of whom shall have an alternate, all of whom shall be handlers or officers or employees of handlers. The term of office of board members and their respective alternate shall be for 2 years beginning April 1 and ending March 31: *Provided*, That the term of office of the initial members and their alternates

shall end March 31, 1973. Members and alternate members shall serve in such capacities for the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified.

§ 934.25 Nomination for Spearmint Oil Marketing Advisory Board.

(a) *Initial members.* Nominations for each of the initial members and alternate members of the board may be submitted to the Secretary not later than 15 days after the effective date of this part, by individual handlers or groups of handlers, as appropriate. The four handlers who individually handled the greatest quantity of spearmint oil during the past marketing year (hereinafter the four major handlers) shall each furnish the name of a person for one of the four members and the name of a person for one of the four alternate member's position on the board. All other handlers shall nominate an individual for the remaining member position and another individual for the remaining alternate member position on the board. Such nomination shall be by means of a mail ballot conducted by the Northwest Marketing Field Office. In the event nominations for initial members or alternate members of the board are not submitted pursuant to and within the time specified by this paragraph, the Secretary may select such initial members and alternate members without regard to nominations.

(b) *Successor members.* Nominations for successor members and alternate members of the board shall be made in the following manner: The four handlers who individually handled the greatest quantity of spearmint oil during the past marketing year (hereinafter the four major handlers), shall each furnish the name of a person for one of the four member and the name of a person for one of the four alternate member positions on the board. All other handlers shall nominate an individual for the remaining member position and another individual for the remaining alternate member position on the board. Such nominations shall be by means of a mail ballot conducted by the committee. The names of all such nominees shall be submitted to the committee for transmission to the Secretary not later than March 15 of each odd-numbered year, together with such information deemed pertinent, including the ballots cast in the mail voting, or requested by the Secretary. In the event nominations for successor members or alternate members of the board are not submitted pursuant to and within the time specified in this paragraph, the Secretary may select such successor members or alternate members without regard to nominations.

§ 934.26 Selection of Spearmint Oil Marketing Advisory Board Members.

(a) *Initial members.* The Secretary shall select the initial members and alternate members for the board from the persons nominated pursuant to § 934.25 (a), or from other qualified persons.

(b) *Successor members.* The Secretary shall select the successor members and alternate members for the board from persons nominated pursuant to § 934.25 (b), or from other qualified persons.

§ 934.27 Acceptance.

Any persons selected by the Secretary as a member or alternate member of the committee or the board shall qualify by filing a written acceptance with the Secretary promptly after being notified of such selection.

§ 934.28 Vacancies.

To fill any vacancy occasioned by the failure to qualify of any person selected as a member or as an alternate member of the administrative committee or of the advisory board or in the event of the death, removal, resignation, or disqualification of any member or alternate member of either the administrative committee or of the advisory board, a successor for the unexpired term of such member or alternate shall be nominated and selected in the manner specified in §§ 934.22 and 934.23 or §§ 934.25 and 934.26, as applicable. If the names of nominees to fill any such vacancy are not made available to the Secretary within a reasonable time after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, except that selections to fill vacancies shall be made on the basis of representation provided for in § 934.21 or in § 934.25.

§ 934.29 Alternate members.

An alternate member of the committee or of the board, during the absence or at the written request of the member for whom he is an alternate, shall act in the place and stead of such member. In the event of the death, removal, resignation, or disqualification of any member, his alternate shall act for him until a successor for such member is selected and has qualified. In the event that both a member and his alternate are unable to attend a meeting, the administrative body may designate any other alternate member from the same body and the same district, where applicable, to serve in such member's place and stead.

§ 934.30 Powers of the Spearmint Oil Administrative Committee.

The committee shall have the following powers:

(a) To administer the provisions of this part in accordance with its term;

(b) To make rules and regulations to effectuate the terms and provisions of this part;

(c) To receive, investigate, and report to the Secretary complaints of violations of this part; and

(d) To recommend to the Secretary amendments to this part.

§ 934.31 Duties of the Spearmint Oil Administrative Committee.

The Committee shall have, among others, the following duties:

(a) To select from among its membership such officers and adopt such rules or bylaws for the conduct of its meetings as it deems necessary;

(b) To appoint such employees as it may deem necessary, and to determine the compensation and to define the duties of each employee;

(c) To appoint such subcommittees or other committees as it may deem necessary;

(d) To keep minutes, books, and records which will reflect all of the acts and transactions of the Committee and which shall be subject to examination by the Secretary;

(e) To prepare periodic statements of financial operations of the Committee and to make copies of each such statement available to producers and handlers for examination at the office of the Committee;

(f) To cause its books to be audited by a certified public accountant at least once each marketing year and at such other times as the Committee may deem necessary, or as the Secretary may request, to submit two copies of each such audit report to the Secretary and to make available a copy which does not contain confidential data, for inspection by producers and handlers at the offices of the Committee;

(g) To act as intermediary between the Secretary and any producer or handler;

(h) To investigate and assemble data on the growing, handling, and marketing conditions with respect to spearmint oil;

(i) To submit to the Secretary such available information as he may request or the Committee may deem desirable and pertinent;

(j) To notify producers and handlers of all meetings of the Committee to consider recommendations for regulations and of all regulatory actions taken affecting producers and handlers;

(k) To give the Secretary the same notice of meetings of the committee and its subcommittees or other committees as is given to its members;

(l) To investigate compliance with the provisions of this part;

(m) With the approval of the Secretary, to redefine the districts into which the production area is divided and to reapportion the representation of any district on the committee; *Provided*, That any such changes shall reflect, insofar as practicable, shifts in spearmint oil production within the districts and the production area; and

(n) To consult, cooperate and exchange information with other marketing agreement committees and other individuals or agencies in connection with all proper committee activities and objectives under this part.

§ 934.32 Procedure of the Spearmint Oil Administrative Committee.

At any assembled meeting, nine members of the committee shall constitute a quorum and all votes shall be cast in person. Decisions of the committee at assembled meetings shall require the concurring vote of at least eight members. The committee may vote by mail, telephone, or other means of communication on matters other than the formulation of marketing policies and recommendation of regulation; *Provided*, That

each proposition is explained accurately and fully to each member available and all such votes shall be confirmed in writing. Eight concurring votes shall be required for approval of a committee action by such method of voting.

§ 934.33 Duties of the Spearmint Oil Marketing Advisory Board.

The duties of the board shall consist of selecting from its members such officers, establishing such by-laws as it deems necessary for performing its functions, making such recommendations with respect to marketing policies, and considering and recommending such other matters as it may deem advisable or the committee may request.

§ 934.34 Compensation and expenses.

Members and alternate members of the committee and of the board shall serve without compensation but shall be reimbursed for necessary expenses incurred in connection with their duties under this part.

§ 934.35 Annual report.

The committee shall, as soon as practicable after the close of each marketing year, prepare and mail an annual report to the Secretary and make a copy available to each handler and producer who requests it. This annual report shall contain at least:

(a) A complete review of the regulatory operations during the marketing year;

(b) A review of the effect upon the spearmint oil industry of the regulatory operations; and

(c) Any recommendations for changes in the program.

§ 934.36 Funds and other property.

(a) All funds received by the committee, pursuant to the provisions of this part shall be used solely for the purpose specified in this part; and the Secretary may require the committee and its members to account for all receipts and disbursements.

(b) Upon the resignation, removal, or expiration of the term of any member or employee of the committee, all books, records, funds, and other property in his possession belonging to the committee shall be delivered to the committee or to his successor in office; and such assignments and other instruments shall be executed as may be necessary to vest in the committee full title to all the books, records, funds, and other property in the possession or under the control of such member or employee, pursuant to the provisions of this part.

EXPENSES AND ASSESSMENTS

§ 934.40 Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred to carry out the functions of said committee and of the board under this part during each marketing year. The funds to cover such expenses shall be acquired by levying of assessments as prescribed in § 934.41. The committee shall submit to the Secretary a budget for each marketing year, including an explanation of the items appearing therein, and a recommendation as to the rate of assessment for such year.

§ 934.41 Assessments.

(a) *Requirements for payment.* Each person who first handles spearmint oil shall pay to the committee upon demand, his pro rata share of the expenses authorized by the Secretary for each marketing year. Each such person's pro rata share shall be the rate of assessment fixed by the Secretary times the salable quantity of spearmint oil which he handles as first handler thereof. The payment of assessments for the maintenance and functioning of the committee and the board may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) *Rate of assessment.* The Secretary shall fix the rate of assessment to be paid by each first handler. At any time during or after the marketing year, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses which may be incurred. Such increase shall be applied to all spearmint oil handled during the applicable marketing year. In order to provide funds for the administration of the provisions of this part during the first part of a marketing year before sufficient operating income is available from assessments on the current year's shipments, the committee may accept the payment of assessments in advance, and may also borrow money for such purpose.

§ 934.42 Accounting.

(a) *Excess funds.* At the end of a marketing year, funds in excess of the year's expenses shall be placed in an operating reserve not to exceed approximately 1 marketing year's operational expenses or such lower limits as the committee, with the approval of the Secretary, may establish. Funds in such reserve shall be available for use by the committee for expenses authorized pursuant to § 934.40. Funds in excess of those placed in the operating reserve shall be refunded to handlers: *Provided,* That any sum paid by a first handler in excess of his pro rata share of the expenses during any marketing year may be applied by the committee at the end of such marketing year to any outstanding obligations due the committee from such person. Each handler's share of such excess funds shall be the amount of assessments he paid in excess of his pro rata share.

(b) *Disposition of funds upon termination of order.* Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate; *Provided,* That to the extent practicable, such funds will be returned pro rata to the first handler from whom such funds were collected.

REGULATION

§ 934.43 Marketing policy.

(a) Each season, prior to May 31, the committee shall hold such meetings as necessary for it to adopt a marketing policy for the ensuing crop year: *Provided,* That with respect to the initial marketing year the committee shall hold such meetings as soon as practicable after the effective date of this part. The committee shall submit such marketing report to the Secretary prior to making any recommendation pursuant to § 934.44. Such marketing policy report shall contain information relative to:

(1) The estimated pounds of each class of oil in the hands of producers.

(2) The desirable carryout of each class of oil at the end of crop year.

(3) The amount of each class of oil in the set-aside.

(4) The estimated carryover of each class of salable oil by handlers.

(5) The estimated demand for each class of oil.

(6) The estimated production in the ensuing crop year by class or the known production in the current crop year, as applicable.

(7) The current prices being received and the probable general level of prices to be received for each class of oil.

(8) The recommendation of the Advisory Board and the information submitted in support thereof.

§ 934.44 Recommendations for regulations.

(a) Whenever the considerations enumerated in § 934.43 indicate a need for limiting the quantity of any class of spearmint oil marketed, the Committee shall not later than June 1 recommend to the Secretary a salable percentage and a set-aside percentage of the currently available oil of that class: *Provided,* That with respect to any recommendation for the initial marketing year, the Committee shall make its recommendation as soon as practicable after the effective date of this part.

(b) The failure of the Advisory Board to make a recommendation with respect to regulation authorized by § 934.45, after having received notice of the intention of the Committee to meet for the purpose of receiving such recommendations, shall not preclude the Committee from submitting recommendations and supporting information to the Secretary.

(c) All assembled meetings of the Committee shall be open to growers and handlers and other interested persons. The Committee shall publish notice of such meetings in such newspapers as it deems appropriate and shall mail notice of such meetings to producers and handlers and any other person who has filed his name and address with the Committee for such purpose.

§ 934.45 Issuance of regulations.

(a) When the Secretary finds, but no later than June 15 of each year, or such later date as may be appropriate during the initial marketing year, on the basis of the committee's recommendations or other information, that the anticipated

supply of spearmint oil by class produced by producers in the production area is in excess of the market demand for that class, he shall establish a salable percentage and a set-aside percentage which shall be used to determine the amount of spearmint oil of each class that may be purchased from or handled on behalf of each producer by all handlers.

(b) Each producer's salable quantity of oil of any class for any marketing year shall be that oil the quantity of which equals the product obtained by multiplying the quantity of spearmint oil delivered to a handler for handling (such delivered quantity may be composed of oil produced by the producer during the marketing year in question, oil produced during any prior marketing year(s) but which was not purchased by a handler or handled on his behalf by handlers, or set-aside oil that was released to him on July 1 of any calendar year) by the salable percentage for that class. The remaining balance shall be the set-aside oil for that class. Handlers may acquire and freely handle the salable quantity of each producer: *Provided*, That there is set-aside from each delivery, in the name of the producer, the appropriate set-aside quantity.

§ 934.46 Modification of volume regulation.

(a) During the first week in October and February, or such other dates as recommended by the committee and approved by the Secretary, and at such other times as the committee deems appropriate, the committee shall review its recommendations of the set-aside percentages for each class of spearmint oil. If it is determined that such percentage did not result in an adequate salable quantity of any class of oil, it shall recommend a reduction of the set-aside percentage for that class of oil.

(b) Whenever the Secretary finds, from the recommendation and information submitted by the Committee or from other available information, that a regulation for any class of oil should be modified in order to effectuate the declared policy of the act, he shall modify such regulation: *Provided*, That no such modification shall increase the set-aside percentage for any class of oil previously established for the then current marketing year.

§ 934.47 Set-aside.

(a) Whenever the Secretary has fixed the set-aside percentage for any marketing year as provided in § 934.45, each handler shall set aside in the name of each producer at such time and in such manner and form as the Committee may prescribe, a portion of the spearmint oil he acquired during such period that will fulfill the set-aside requirements. Such set-aside portion shall be equal to the product obtained by multiplying the quantity of spearmint oil of each class acquired from each producer during the marketing year by the set-aside percentage as fixed by the Secretary after a recommendation therefor by the Committee.

(b) Set-aside spearmint oil shall be held by the handler for the account of the producer until such oil is released to the owner thereof on the next following July 1 or until relieved of such responsibility by the Committee. Handlers shall store set-aside spearmint oil in suitable containers, apart from other spearmint oil, in accordance with good commercial practices, and maintained the same as when acquired except for normal and natural deterioration, loss through fire, acts of God, or other conditions beyond the handler's control. The Committee may, with the approval of the Secretary, establish rules and regulations to effectuate the provisions of this § 934.47. Such rules and regulations may be with respect to, but not limited to, such matters as storage of the set-aside, transfer of the set-aside from one handler to another, transfer of the set-aside from one location to another and identification of set-aside spearmint oil and minimum quantity exemptions.

§ 934.48 Exempt spearmint oil.

Oil held in the hands of a producer or handler on the effective date of this order shall be free of regulations under this order if reported to and identified to the committee not later than 30 days after the effective date of the order. If not so reported and identified to the committee, it shall be presumed that such oil was produced after the effective date of this order.

REPORTS AND RECORDS

§ 934.60 Reports.

(a) *Inventory.* Each handler shall file with the committee a certified report showing such information as the committee may specify with respect to any spearmint oil held by him on such dates as the committee may designate.

(b) *Receipts.* Each handler shall, upon request of the committee, file with the committee a certified report showing for each lot of spearmint oil received the identifying marks, class, weight, place of production, and the producer's name and address.

(c) *Other reports.* Upon the request of the committee, as approved by the Secretary, each handler shall furnish to the committee such other information as may be necessary to enable it to exercise its powers and perform its duties under this part.

§ 934.61 Records.

Each handler shall maintain such records pertaining to all spearmint oil handled under the provisions of this part as will substantiate the required reports. All such records shall be maintained for at least 2 years after the termination of the marketing year to which the records relate.

§ 934.62 Verification of reports and records.

For the purpose of assuring compliance with record keeping requirements and verifying reports filed by handlers the Secretary and the committee, through its duly authorized employees, shall have access of any premises where applicable records are maintained, where spearmint oil is received or held, and, at any time during reasonable business hours, shall be permitted to inspect oil on hand and any or all records of such handlers with respect to matters within the purview of this part.

§ 934.63 Confidential information.

All reports and records furnished or submitted by handlers to, or obtained by the employees of, the committee which contain data or information constituting a trade secret or disclosing the trade position, financial conditions, or business operations of the particular handler from whom received, shall be treated as confidential and the reports and all information obtained from the records shall at all times be kept in the custody and under the control of one or more employees of the committee who shall disclose such information to no person other than the Secretary.

MISCELLANEOUS PROVISIONS

§ 934.70 Compliance.

No person shall handle spearmint oil, the handling of which has been prohibited by the Secretary in accordance with the provisions of this part; and no person shall handle spearmint oil except in conformity with the provisions and the regulations issued under this part.

§ 934.71 Rights of the Secretary.

Members of the committee and of the board, and any agent, employee, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every decision, determination, and other act of the committee shall be subject to the continuing right of disapproval by the Secretary at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance there or in accordance therewith prior to such disapproval by the Secretary.

§ 934.72 Derogation.

Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the Act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 934.73 Agents.

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

§ 934.74 Personal liability.

No member or alternate member of the committee and no employee or agent of the committee shall be held personally responsible, either individually or jointly

with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, employee or agent, except for acts of dishonesty, willful misconduct or negligence.

§ 934.75 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this part shall cease upon its termination, except with respect to acts done under and during the existence of this part.

§ 934.76 Separability.

If any provision of this part is declared invalid or the applicability thereof to any person, circumstance or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance or thing shall not be affected thereby.

§ 934.77 Effective term.

The provisions of this part, and of any amendment thereto, shall become effective at such time as the Secretary may declare above his signature and shall continue in force until terminated in one of the ways specified in § 934.78.

§ 934.78 Termination.

(a) *Failure to effectuate.* The Secretary shall terminate or suspend the operation of any or all of the provisions of this order whenever he finds that such provisions obstruct or do not tend to effectuate the declared policy of the act.

(b) *Referendum.* The Secretary shall terminate the provisions of this part at the end of any marketing year whenever he finds that such termination is favored by a majority of the producers who, during a representative period determined by the Secretary, produced for market more than 50 percent of the volume of spearmint oil so produced in the production area.

(c) *Termination of act.* The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ 934.79 Proceedings after termination.

Upon termination of the provisions of this part the committee shall, for the purpose of liquidating the affairs of the committee, continue as trustees of all the funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination. The said trustees shall (a) continue in such capacity until discharged by the Secretary; (b) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such persons as the Secretary may direct; and (c) upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant thereto. Any person to whom funds, property, or claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligation imposed upon the committee and upon the trustees.

§ 934.80 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this part or of any regulation issued pursuant to this part, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provisions of this part or any regulation issued hereunder, or (b) release or extinguish any violation of this part or any regulation issued hereunder, or (c) affect or impair any rights or remedies of the Secretary or any other person with respect to any such violation.

§ 934.81 Counterparts.

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.*

§ 934.82 Additional parties.

After the effective date thereof, any handler may become a party to this agreement if a counterpart is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such new counterpart is delivered to the Secretary, and benefits, privileges and immunities conferred by this agreement shall then be effective as to such new contracting party.*

§ 934.83 Order with marketing agreement.

Each signatory handler hereby requests the Secretary to issue, pursuant to the act, an order providing for regulating the handling of spearmint oil in the same manner as is provided for in this agreement.*

Dated: May 21, 1971.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.71-7424 Filed 5-26-71;8:51 am]

[7 CFR Part 987]

[Docket No. AO 269-A 5]

DOMESTIC DATES PRODUCED OR PACKED IN DESIGNATED AREA OF CALIFORNIA

Notice of Recommended Decision and Opportunity To File Written Exceptions With Respect to Proposed Amendment of the Marketing Agreement and Order, as Amended

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk, U.S. Department of Agriculture, of this recommended decision with respect to a proposed amendment of the marketing agreement, as amended, and Order No. 987, as amended (7 CFR Part 987), regulating the handling of domestic dates produced or packed in a designated area of California (hereinafter collectively referred to as the "order"). The order is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674), hereinafter referred to as the "act", and any amendment which may result from this proceeding also will be effective pursuant to the act.

Interested persons may file written exceptions to this recommended decision with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, DC 20250, not later than the close of business on the 10th day after publication of this recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Preliminary statement. The public hearing on the record of which the proposed amendment of the order is formulated was held in Coachella, California, on January 15, 1971, pursuant to a notice thereof which was published in the FEDERAL REGISTER on January 5, 1971 (36 F.R. 112). The notice of hearing included proposals submitted by the Date Administrative Committee (hereinafter referred to as the "Committee"), the administrative agency established pursuant to the order.

Material issues. The material issues presented on the record of the hearing involve amendatory action relating to:

(1) Reducing the "area of production" to Riverside County, Calif.;

(2) The movement of dates by a handler to storage facilities within the reduced area of production (Riverside County), or to storage facilities in particular counties adjoining such area of production, for his account, without having such movement construed as handling;

(3) Changing the period of time covered by the "crop year" and certain deadline dates specified in the order;

(4) Changing the name of the administrative agency of the order from "Date Administrative Committee" to "California Date Administrative Committee";

(5) Realigning representation on the Committee and improving Committee operation;

(6) Changing the voting requirements of the Committee for the adoption of any program of paid advertising or any major program of marketing promotion;

(7) Providing for transfer among handlers of credits arising from dispositions

of dates in export or for use in date products in excess of the transferring handler's restricted obligation; and

(8) Expressing the right of the Secretary to have access to handlers' premises, dates, and records.

Findings and conclusions. The findings and conclusions on the aforementioned material issues, all of which are based upon evidence adduced at the hearing and the record therof, are as follows:

(1) The present area of production, defined in § 987.4, covers the counties of Riverside, Orange, Los Angeles, and that portion of San Bernardino County lying west of 116°W. longitude, located within the State of California. This area should be reduced to cover only Riverside County, Calif. No dates are produced commercially, nor are handlers of dates other than repackers located, in the counties proposed for exclusion. Inasmuch as Riverside County is the only county in California where dates are commercially produced or initially packed in volume, no practical purpose, including compliance with marketing program provisions, would be served by including other territory in the area of production. Moreover, the recommended reduction in area would limit application of the program to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act.

Section 987.20 should be revised to define "part" as the order regulating the handling of domestic dates produced or packed in Riverside County, Calif., and all rules, regulations and supplementary orders issued thereunder. This would conform the definition to the reduced area of production that is limited to Riverside County.

(2) Under the present definitions of "handle" and "area of production", a handler may move dates to storage for his account within the present area of production or Imperial County without having such movement considered as handling. Also, the Committee, with the approval of the Secretary, is permitted to modify this exception to handling to allow such movement to storage in counties (including that part of San Bernardino County not included in the area of production) adjoining the area of production.

The definition of "handle" (§ 987.9) should be revised so that the exception from handling for storage will cover Riverside County (the proposed reduced area of production), Imperial County and San Bernardino County, and such other counties adjoining Riverside County as the Committee may prescribe with the approval of the Secretary.

This recommended revision would continue to afford handlers desirable freedom from order obligations (inspection, withholding, and assessment requirements) as to the movement of dates to storage in the area of production and some nearby territory. Because date storage facilities in Riverside County and its adjoining counties of Imperial and San Bernardino are now adequate to meet handler storage needs, handlers should be permitted to move dates freely to storage, as aforesaid, in such counties. At the present time, handlers do not need to use storage facilities in other nearby counties. However, they do foresee a possible future need to permit similar movement to storage or dates free from handling in Orange and San Diego Counties which also adjoin Riverside County. No useful purpose would be served by specifying the latter two counties in the order as an additional area where such storage movement could freely occur because handlers do not now need to use storage facilities located there. However, in the event additional storage capacity available in either one or both of these counties should be needed for dates, provision should be made in the order to authorize such free movement of dates to either or both counties.

(3) The term "crop year" defined in § 987.6 should be changed to mean the 12-month period beginning October 1 of each year and ending September 30 of the following year, except that the crop year ending September 30, 1971, should begin August 1, 1970.

Most of the date crop is now mechanically harvested. This has delayed substantial harvesting until mid or late October, which is 1 to 2 months later than when dates are harvested by hand. It is desirable that the commencement of a crop year conform as closely as possible to the early harvest of dates of such crop year to serve as an aid to the Committee in developing more accurate estimates for preparing marketing policies. This should enable the Committee to prepare marketing policies which better reflect the supply and marketing conditions for the respective crops.

The current 1970–71 crop year under the order began August 1, 1970, and ends July 31, 1971. Under the changed definition of "crop year", a crop year commencing in 1971 would begin October 1. The changed definition of "crop year" should provide that the current crop year ending July 31, 1971, should extend through September 30, 1971, to cover the 2-month period of August and September 1971, which would not otherwise be covered by either the current or changed definition of "crop year". Inclusion of this period in the 1970–71 crop year should permit order regulations and requirements of the 1970–71 crop year to remain in effect until October 1, 1971 (the beginning of the changed crop year) and make available for such crop year the amendatory modifications, if approved and made effective, thereby providing for orderly transition of program operations from one crop year to the next.

Certain deadline dates in the order should be changed consistent with the changed "crop year" period.

The date of August 1 in the first sentence of § 987.34, regarding the submission by the Committee of its marketing policy, should be changed to October 15. Such date generally comes at the end of the period when adverse weather conditions are most likely to seriously affect the quality and size of a date crop. Thus, the later date would permit the Committee to meet early enough in the crop year and develop its marketing policy based on more realistic estimates as to the quality and size of the current date crop and trade demand than would be available at an earlier date.

The date of July 31 (the end of the present crop year) in § 987.34(b), dealing with the Committee's estimate of handler carryover, should be changed to September 30 to coincide with the end of the proposed new crop year.

The date of July 31—corresponding with the end of the "crop year" under the order—in § 987.45(e) relates to the deferment of meeting any portion of a handler's withholding obligation by setting aside graded dates until the end of the crop year. Such date in § 987.45(f) relates to the satisfaction of all or part of a handler's withholding obligation by setting aside or disposing of field-run dates, or both. This date also should be changed to September 30 to coincide with the ending date of the proposed new crop year.

The provisions of § 987.61 should be amended by changing the June 1 and August 1 dates for submission of handler carryover reports to September 1 and September 30, respectively. Thus, the handler carryover reports would be as of January 1, September 1, and September 30. The September 1 report should replace the June 1 report, and would be necessary to provide handler carryover information for use by the Committee at its marketing policy meeting to be held by October 15. The September 30 carryover report should replace the August 1 report and would be needed to give end of crop year statistics.

Section 987.82(b)(2) provides that any termination of the provisions of this part when favored by growers must be announced on or before June 1 of the then current crop year for it to be effective at the end of the crop year. The announcement by June 1 gives the industry 2 months time before the beginning of a new crop year to prepare for such termination. Changing the June 1 date to August 1 will continue to provide the industry with 2 months' notice of any termination.

(4) The name of the administrative agency of the order should be changed from "Date Administrative Committee" to "California Date Administrative Committee." Adding the word "California" to the current name of the agency would more specifically identify the Committee with the commodity covered by the program. This should be particularly beneficial when the Committee conducts marketing promotion and paid advertising projects for California dates. Such change should be accomplished as hereinafter set forth.

(5) The provisions of §§ 987.21 and 987.22, dealing with the establishment and membership of the Date Administrative Committee (proposed herein to be named the California Date Administrative Committee) should be revised to assure adequate and equitable repre-

sentation of all segments of the date industry on the Committee. Moreover, such revisions are needed to reflect the changes that have occurred and may occur in the relative importance of these segments, to recognize that a cooperative association of producers does not presently provide handler representatives on the Committee, and to reduce the likelihood of need for amendment of the program due to changes that may occur in the industry affecting representation.

Accordingly, § 987.21 should be revised to increase the membership of the Committee from seven to eight, with the proviso that the Committee can be expanded from eight to nine members or decreased from nine to eight members pursuant to the proposed revised provisions of § 987.22(b). The larger number of members will permit broader representation on the Committee.

The second sentence of § 987.21 makes the provisions of the program dealing with the number, nomination and selection of members applicable to alternate members. An exception should be added to this sentence to make it compatible with the proposed revision of § 987.22(b) which will provide for selecting a producer-handler representative. When independent producers are entitled to only one member, a producer-handler must be either the member or alternate. Thus, selection of the member will be on a different basis than the selection of his alternate.

Section 987.22(a) now provides for representation of three industry groups on the Committee—certain producer-handlers and producers delivering to such handlers, cooperative marketing associations, and all other handlers and producers. Paragraph (b) provides for determining the number of members to represent each group based on the proportion of the dates handled in each such group.

Section 987.22(a) should be revised to specify that five members of the Committee shall be individuals who are producers or officers or employees of producers (referred to as "producer members") and three shall be individuals who are handlers or officers or employees of handlers (referred to as "handler members"). This representation will provide appropriate balance between the two groups in program administration. It recognizes producer interest in program objectives and the need for handler marketing experience in achieving them. Permitting officers or employees of producers and of handlers to be members of the Committee conforms with current practice and provides desirable latitude in the nomination and selection of individuals to serve on the Committee.

To provide equitable producer representation for each of its two important segments currently recognized in the industry, § 987.22(b) should be revised to provide apportionment between the group of producers affiliated with cooperative associations of producers (referred to as "cooperative producers") and the group of producers having no such affiliation (referred to as "independent producers"). The apportionment for a term of office ending in the ensuing crop year should be according to the respective total quantities of field-run dates delivered to handlers by the producers thereof in the respective groups during the then current crop year through April, as determined by the Committee on the basis of its applicable records. Most of the date crop produced in a year is delivered by producers to handlers during the period October through April. Hence, this period would fairly reflect the relative tonnages delivered by each group. The end of the period should coincide with the end of April to permit the Committee adequate time to compile the tonnage data needed for the determinations as to the representation of each group before the producer nominations are made not later than June 15 of the crop year, as hereinafter discussed.

Each such producer group should have one producer member for each portion of the total quantity of dates so delivered by the producers in such group that represents 20 percent of the combined total quantities delivered by both groups plus one additional producer member for any major fraction thereof (more than one-half of the 20 percent), but each such group should have at least one member as long as it operates. In this way, a definite means would be provided for maintaining approximate proportional representation as between the two groups based on dates delivered by producers in each group. Neither group would be denied representation even if such date deliveries declined drastically but the group continued to operate. The revision of § 987.22(b) should assure a member for each group for any major fractional part of the basic 20 percent (more than 10 percent of the applicable field-run deliveries) and at least one member for each group by permitting the Secretary to increase the total number of Committee members to nine and, if changed to nine, to reduce the number of members to eight if nine members are not required. For example, one of the producer groups might deliver only 5 percent of the total deliveries and the second group 95 percent. Under the proposed aforesaid provisions, the first group would be entitled to the minimum of one member and the second group to five members, based on the respective deliveries. Increasing the number of producer members to six plus the three handler members would result in a Committee of nine members.

Section 987.22(b) should further be revised to specify that when the independent producers group is entitled to two or more members, at least one independent producer member and his alternate shall be a producer-handler, each of whom produced during the then current crop year through April at least 51 percent of the dates handled by him during such period; and when the independent producers group is entitled to one member, either the member or the alternate member shall be such a producer-handler. There are a number of producer-handlers in the date industry who produce more than one-half of the dates which they handle. Their views on program matters may vary from those of other industry representatives and such views need to be reflected in Committee deliberations.

Section 987.22(b) should be further revised to provide for changing producer representation for the ensuing term of office in conformity with the revised provisions of such paragraph. Any such changes should be made by the Secretary on the basis of information submitted by the Committee, and other available information. This would assure that representation of the independent producers group and the cooperative producers group will continue to reflect the approximate, relative deliveries by the producers in each group.

Paragraph (c) of § 987.22 should be deleted. The first two sentences of the paragraph are obsolete and the provisions of the third sentence, pertaining to changing representation on the Committee, are to be contained in revised § 2987.22(b).

Section 987.19, which defines the term "cooperative marketing association", should be deleted from the order. The term is used only in §§ 987.22 and 987.24 of the order, which deal with representation on the Committee, but such sections, as proposed to be revised herein, do not include the term. It was proposed in the notice of hearing that the term be replaced in § 987.19 with a definition of the term "cooperative association of producers". The latter term is used in §§ 987.22 and 987.24, as proposed to be revised herein, but there is no need to define it as its meaning is clearly apparent in the context of those revised sections. The one cooperative association of producers in the date industry does not now provide handler representation on the Committee since its grower members deliver their dates to independent handlers for marketing. Hence, it is appropriate to refer to such an association as a cooperative association of producers rather than a cooperative marketing association. Moreover, pursuant to the proposed revisions of §§ 987.22 and 987.24, the association will be given appropriate representation on the Committee as long as it remains functional and whether or not it handles dates.

The term of office for Committee members and alternates should be changed in § 987.23 from 1 year ending on May 14 to one year beginning August 1. This change is desirable in view of the proposed change in the beginning date of the crop year from August 1 to October 1. The newly elected members and alternates would thus have a reasonable time prior to October 1—the beginning of the ensuing crop year—to acquaint themselves with their duties and responsibilities. In connection with the foregoing, § 987.23 should be amended to provide

for the incumbent membership serving on the Date Administrative Committee to continue in office and serve as the membership of the California Date Administrative Committee during the applicable term of office and to the extent permitted thereafter. The authority in the order for members and alternate members to continue to serve until the respective successors have been selected and have qualified should be carried over into the amendatory provisions. However, in view of the new provisions authorizing a reduction in the number of Committee members from nine to eight (thereby resulting in a reduction in the number of producer members from six to five), it is recognized that each of the six producer members during a particular term of office will not always have successors. To meet this eventuality, the amendment should authorize the Secretary to limit the period of time beyond the expiration of the term of office that a particular producer member or alternate member may continue to serve as such.

Section 987.24 should be revised to provide that nomination for members of the California Date Administrative Committee shall be made not later than June 15 of each year. Currently, such nominations are to be made on or before April 15. This would allow sufficient time to permit a realignment of Committee representation, if required, and to make the new Committee appointments effective by August 1, when the revised term of office would begin. In the event the recommended amendatory action becomes effective and such occurs subsequent to June 15, it is apparent that provision should be made to permit nominations in 1971 after June 15. Accordingly, the section should be amended as hereinafter set forth to provide a reasonable time for such nominations. Such a provision would afford ample opportunity for nomination meetings even prior to an amendment provided the selection by the Secretary is pursuant thereto.

Section 987.24 should be further revised to provide that a cooperative association of producers shall, by a resolution adopted by its board of directors, nominate the applicable number of individuals to serve as producer-members representing cooperative producers. Historically, the board of directors of the cooperative marketing association (as defined in § 987.19 of the order) has nominated individuals to serve on the Committee and this practice should be specified and continued as the acceptable means for a cooperative association of producers to provide such nominees.

If there should be two or more cooperative marketing associations, § 987.24 now provides, in stated circumstances, for weighting a cooperative's vote for each position afforded the cooperatives by the tonnage of its dates. This should be changed to provide for weighting the vote of each cooperative association of producers by the number of its producer members during the applicable crop year through April 30, and to provide that the individual receiving the highest number of such votes for a position shall be the nominee. Such a change is desirable to conform the method of voting of such associations to that provided for independent producers—one vote by each producer for each position to be filled. The date, April 30, is specified to allow adequate time to determine the number of cooperative producers before nominations are to be made.

Section 987.24 should be further revised to specify, in effect, that: (1) A meeting or meetings of independent producers shall be held in the area of production to nominate the applicable number of individuals to serve as independent producer members on the Committee; (2) each such producer, regardless of the number and locations of his date gardens, shall be entitled to one vote for each producer member position to be filled; and (3) the individual receiving the highest number of votes for a position shall be the nominee. This method for nominating independent producer representatives will give each independent producer a vote equal in weight to that of every other producer as is customary under this type of regulatory program. As to the eligibility of independent producers to vote for nominees, whether they are voting for an individual who is a producer but not a producer-handler, or is a producer-handler, all independent producers should be permitted to vote, with no distinction being made between producer-handlers and producers who are not producer-handlers. Thus, the producer interest should be reflected in the nomination of the candidates to represent all independent producers.

Section 987.24 should also be revised to provide that a minimum of three handlers shall constitute a quorum for a meeting or meetings of handlers to be held in the area of production for nominating three individuals to serve as handler members of the Committee. Each handler should be entitled to vote for only one handler position to be filled. Since each handler would be limited to voting for one position, a quorum of at least three handlers is necessary to complete the nomination of three handlers at one meeting. By allowing a handler to vote for only one of the three positions, a better cross-section of the handler segment of the industry would be represented. In the absence of this requirement in the order, the handler handling the largest volume of dates could fill all three handler positions. The vote of each handler should be weighted by the tonnage of dates the handler acquired (or, if a cooperative association of producers, by the tonnage received) from producers and had certified for handling or for further processing during the then current crop year through April. The individual receiving the highest number of votes for a handler member position should be the nominee for that position. It is customary in programs of this nature to weigh the votes of the handlers by the tonnages of the particular commodity which they handle during a specified period ending reasonably close to the time of voting. Since the nomination meetings are to be held not later than June 15, the aforesaid ending date of April 30 is reasonable from a timing standpoint and the period covered would include the bulk of the date crop handled during the crop year. The inclusion of cooperative associations in these provisions recognizes the possibility that such an association or associations may handle dates and, if so, should be entitled to participate in the handler phase of voting.

Any producer-handler should be permitted to vote for candidates both for independent producer member positions and handler member positions since he would have economic interests as both a producer and a handler.

The revision of § 987.24 should further specify that promptly after the completion of the nomination meetings, a report shall be filed, either by the Committee or an employee of the Department, with the Secretary including the details of the proceedings of the meetings, the names of the nominees for each position to be filled, together with the tonnage data and other information requested by the Secretary. Such provisions will enable continuation of the present practice of a local representative of the Department holding and reporting on the nomination meetings but would permit the Committee to do so if a change in current practice should be deemed necessary or desirable. Moreover, these provisions should continue to assure that the Secretary will receive the information he needs to select the membership of the Committee. So that the selection will be made in accordance with the order as proposed to be amended, revised § 987.24 should specify that the Secretary shall select, from the nominees elected or from other eligible persons, the Committee members from the groups, and on the basis, prescribed in § 987.22 as hereinafter set forth. The Secretary should continue to have this discretion of choosing from other eligible persons in the event a person nominated was determined to be ineligible or for other reasons.

New provisions should be added to § 987.27 to alleviate the situation where both the member and his alternate do not attend a Committee meeting. It should be provided that if a member and his alternate are both unable to attend a Committee meeting, such member or alternate, in that order, may designate an alternate from the group (producer group or handler group, as the case may be) he represents to act in his place. If neither the member nor his alternate has designated an alternate to act as his replacement, or such designated alternate is unable to serve on the Committee, the chairman of the Committee may, with the concurrence of the majority of the members, including alternates acting as members, representing such group, designate an alternate from such group, who is present at the meeting and not acting as a member, to act in the place and

stead of the absent member or his alternate. In the past, a quorum has occasionally been difficult to obtain, preventing the Committee from conducting important business. The new provisions would assist in remedying such a situation and tend to assure representation of all producers and handlers in the Committee's conduct of its business. As only alternates from the producer group could be designated to represent producers and only alternates from the handler group could be designated to represent handlers, the views expressed in the meetings of the Committee should continue to reflect those of the respective producer and handler groups.

Section 987.31, dealing with Committee procedure should be revised, and reorganized as to format for clarity.

New paragraph (a) should require that five members, including alternates acting as members, of the Committee shall constitute a quorum. The date industry considers that the presence of five of the total of eight or nine members, including alternates acting as members, is the minimum sufficient to be representative and to conduct business. This would replace the present ratio quorum requirement of two-thirds of the members.

New paragraph (b) should continue in effect the current practice reflecting the intent of the present provisions regarding Committee selection of its chairman and other officers, and adoption of rules for the conduct of its business.

New paragraph (c) should specify that for any decision of the Committee to be valid, at least five members including alternates acting as members, must cast a concurring vote. Such a majority vote would reflect substantial industry support of any proposition adopted by the Committee. An exception should be made to this requirement by including the clause "except as provided under § 987.33 for any program of paid advertising or major program of marketing promotion". This exception is discussed later in this recommended decision under material issue (6). New paragraph (c) should continue the present requirement that each vote shall be cast in person at all assembled meetings of the Committee.

New paragraph (d) of § 987.31 should retain the present authority permitting the Committee to vote by mail, telephone, or telegram. However, instead of specifying, as in the present provisions, that one dissenting vote shall prevent adoption of a proposition presented to voting by this method, it should be provided that any such action shall not be considered valid unless unanimously approved by all members, including alternates acting as members, of the Committee. This would make it clear that all such members must concur. Thus, it also would be clear that if a member or his alternate does not vote, the proposition cannot be adopted by this method of voting. A new provision should be added to require voting by telephone to be confirmed in writing within 2 weeks by the members voting to prevent any misunderstanding as to how they voted. Such period of time would be adequate to obtain the confirmations.

(6) The third sentence of § 987.33 should be revised to prescribe that no program of paid advertising nor major program of marketing promotion shall be adopted unless favored by at least six Committee members, including alternates acting as members.

Current voting requirements prescribed in § 987.33 for the adoption of such programs require six affirmative votes when the total Committee membership is seven, and seven affirmative votes when the total is eight. The proposed revision of § 987.21 of the order would increase Committee membership from the present seven to eight and, if circumstances warrant, to nine members pursuant to the proposed revision of § 987.22. Thus, seven affirmative votes would be required under § 987.33, as presently written.

Programs of paid advertising and major marketing promotion could involve the expenditure of large sums of money. Such decisions should require a greater percentage of approval than other Committee decisions. However, requiring seven affirmative votes for a Committee of eight or nine members is, according to the evidence of record, believed too restrictive; and six affirmative votes are adequate to reflect wide industry approval of the program involved.

(7) The last sentence of paragraph (d) of § 987.45 should be revised to permit any handler who during a crop year disposes in restricted outlets of a quantity of marketable dates in excess of his restricted obligation to have a part or all of such excess transferred, by the Committee, to such other handler or handlers as he may name, for crediting such other handlers' restricted obligations incurred in that crop year.

Such a provision would make credits arising from such excess disposition in restricted outlets (i.e., export and diversion to products) negotiable among handlers. This would better relate the date supply positions of the individual handlers to their respective outlets and demands for dates. Some handlers have little or no export business and at times must divert their better quality dates (which could otherwise be sold as whole or pitted dates in the domestic markets) into products to meet their restricted obligations. Product outlets return much lower prices for dates than domestic and export markets. Other handlers have the ability to export their better quality dates in addition to disposing of product grade dates for products. In so doing, they may dispose of more dates in such restricted outlets than are required to meet their restricted obligations which arise from shipping dates to domestic markets.

The proposed provision would enable the handlers with excess disposition credits to increase their returns from their excess disposition in the export and product outlets by selling the credits to other handlers. The buying handlers could apply the credits to their restricted obligation in lieu of diverting better quality dates to the low-return product outlets and ship such dates to the higher-return domestic markets. The record indicates that the buying handlers would be able to buy the credits for an amount less than the loss they would suffer by putting their better quality dates into the products category. In view of the foregoing, both the selling and buying handlers would have greater flexibility in meeting the commercial requirements of their individual markets and increase their sales returns. This should result in greater financial benefits to producers.

The handler desiring to transfer such credits should be required to deliver a written request to the Committee to do so, as is currently required with respect to having excess dispositions credited to a subsequent crop year, to enable it to make the transfer in its records, adjusting the respective obligations of the selling and buying handlers to withhold restricted dates accordingly. September 30 should be the final date for such requests because it is the last day of the crop year and the Committee should have such information as soon as possible for evaluating the extent to which the restricted obligations of handlers have been met.

Paragraph (d) of § 987.45 now provides in part that any handler who during a crop year disposes in restricted outlets of a quantity of marketable dates in excess of his restricted obligation for such crop year may have such excess quantity credited to his restricted obligation of the subsequent crop year within limits established by the Committee with the approval of the Secretary as a percentage of such restricted obligation. This provision should be slightly modified to recognize that a handler's excess disposition credits available for such crediting in the subsequent crop year would be only those, if any, remaining after transfers of credits to other handlers had occurred during the crop year in which the credits were generated.

(8) The first sentence of § 987.68 should be revised to expressly state the Secretary's right, for the purpose of checking compliance with recordkeeping requirements and verifying reports filed by handlers, to have access to any premises where dates are held and, at any time during reasonable business hours, to be permitted to examine any dates held and any and all records with respect to matters within the purview of this part. This right of the Secretary is vested in him by the act, is implicit in the current provisions of the order which confer such a right on the Committee—the Secretary's agency for administration of the regulatory program—and has been so construed since the inception of the program. Also, the heading of § 987.68 should be changed from "Verification of reports" to "Verification of reports and records" to more accurately reflect the expressed contents of the section.

Ruling on proposed findings and conclusions. The period during which interested persons might file briefs with the Hearing Clerk of the Department

with respect to testimony presented at the hearing and the findings and conclusions to be drawn therefrom expired on February 5, 1971. No such briefs were filed.

General findings. (1) The findings hereinafter set forth are supplementary, and in addition, to the previous findings and determinations which were made in connection with the issuance of the marketing agreement and order and each subsequent amendment thereof; and all of the said previous findings and determinations are hereby ratified and affirmed except insofar as such previous findings and determinations may be in conflict with the findings and determinations set forth herein (for prior findings and determinations see 20 F.R. 5056; 23 F.R. 6904; 27 F.R. 6817; 29 F.R. 9706; 32 F.R. 12594);

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

(3) The marketing agreement and order, as amended and as hereby proposed to be further amended, regulate the handling of domestic dates produced or packed in the production area of California, in the same manner as, and are applicable only to persons in the respective classes of industrial or commercial activity specified in, the marketing agreement and order upon which hearings have been held;

(4) The marketing agreement and order, as amended and as hereby proposed to be further amended, are limited in their application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several marketing agreements and orders applicable to subdivisions of the area of production would not effectively carry out the declared policy of the act;

(5) There are no differences in the production and marketing of domestic dates in the area of production covered by the marketing agreement and order, as amended and as hereby proposed to be further amended, which require different terms applicable to different parts of such area; and

(6) All handling of dates produced or packed in the designated area of production is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Recommended amendment of the order. The following amendment of the order is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. Section 987.4 is revised to read:

§ 987.4 Area of production.

"Area of production" means Riverside County, Calif.

2. Section 987.6 is revised to read:

§ 987.6 Crop year.

"Crop year" means the 12-month period beginning October 1 of each year and ending September 30 of the following year, except that the crop year ending September 30, 1971, shall begin on August 1, 1970.

3. Section 987.9 is revised to read:

§ 987.9 Handle.

"Handle" means to sell, consign, transport, or ship (except as a common or contract carrier of dates owned by another person) or in any other way to put dates into the current of commerce including the shipment or delivery of substandard dates or cull dates into nonhuman consumption outlets, except that sales or deliveries, by producers, of other than cull dates, to a handler within the area of production, or the movement of dates by a handler to storage for his account within the area of production, the counties of San Bernardino and Imperial in the State of California, and such other counties in the State of California adjoining the area of production as the Committee may prescribe with the approval of the Secretary shall not be considered as handling.

4. Section 987.18 is revised to read:

§ 987.18 Committee.

"Committee" means the California Date Administrative Committee established pursuant to § 987.21.

§ 987.19 [Deleted]

5. Section 987.19 is deleted.

6. Section 987.20 is revised to read:

§ 987.20 Part and subpart.

"Part" means the order regulating the handling of domestic dates produced or packed in Riverside County, Calif., and all rules, regulations, and supplementary orders issued thereunder. The aforesaid order shall be a "subpart" of such part.

7. The center heading "Date Administrative Committee" immediately preceding § 987.21 is changed to "California Date Administrative Committee" and § 987.21 is revised to read:

§ 987.21 Establishment of California Date Administrative Committee.

A California Date Administrative Committee consisting of eight members is hereby established to administer the terms and conditions of this part: *Provided*, That the number of members may be increased to nine or decreased from nine to eight as provided in § 987.22(b). For each member there shall be an alternate member, and the provisions of this part applicable to the number, nomination, and selection of the members shall apply to alternate members except as provided in § 987.22(b) for the selection of a producer-handler representative.

8. Section 987.22 is revised to read:

§ 987.22 Membership representation.

(a) Five members of the Committee shall be individuals who are producers, or officers or employees of producers; and such members are referred to in this part as "producer members". Three members shall be individuals who are handlers, or officers or employees of handlers; and such members are referred to in this part as "handler members".

(b) The producer members shall be apportioned, as provided in this section, between the group of producers affiliated with cooperative associations of producers (referred to in this part as "cooperative producers") and the group of producers having no such affiliation (referred to in this part as "independent producers"). The apportionment for a term of office ending in the ensuing crop year shall be according to the respective total quantities of field-run dates delivered to handlers by the producers thereof in the respective groups during the then current crop year through April, as determined by the Committee on the basis of its applicable records. Each such group shall have one producer member for each portion of the applicable total quantity of such dates delivered by the producers in such group that represents 20 percent of the combined total quantities delivered by both groups plus one additional producer member for any major fraction thereof (more than one-half of the 20 percent): *Provided*, That each such group shall have at least one member as long as it operates. To provide a member for each such major fractional part and at least one member for each group, the Secretary shall increase the total number of members of the Committee to nine and, if changed to nine members, to reduce the number of members to eight if nine members are no longer required to conform with the requirement of this sentence. When the independent producers group is entitled to two or more members, at least one independent producer member and his alternate shall be a producer-handler, each of whom produced during the then current crop year through April at least 51 percent of all the dates handled by him during such period; and when the independent producers group is entitled to one member, either the member or the alternate member shall be such a producer-handler. Whenever it is determined, pursuant to this paragraph, that a change in producer representation is required for the ensuing term of office, the Secretary shall, on the basis of information submitted by the Committee, and other available information, revise the representation consistent with the provisions of this paragraph.

9. Section 987.23 is revised to read:

§ 987.23 Term of office.

The term of office for members and alternate members shall be 1 year beginning August 1, but each such member and alternate member shall, unless otherwise ordered by the Secretary, continue to serve until his successor has been selected and has qualified: *Provided*, That the incumbent members and alternate members serving on the Date Administrative Committee immediately prior to the effective date of this amended subpart shall serve as members and alternate members, respectively, of the California Date Administrative Committee until such time as the successor producer members and handler members selected by the Secretary in accordance with § 987.24 of this amended subpart to

serve on the California Date Administrative Committee have qualified.

10. Section 987.24 is revised to read:

§ 987.24 **Nomination and selection.**

(a) Nominations for members of the Committee shall be made not later than June 15 of each year, except that in 1971 the latest date for such nominations shall be not later than a reasonable time after the effective date of the amended subpart.

(b) A cooperative association of producers shall, by a resolution adopted by its board of directors, nominate the applicable number of individuals to serve through the ensuing term of office as producer members representing cooperative producers as provided in § 987.22. Whenever there are two or more cooperative associations of producers, the vote by each such association shall be weighted by the number of its cooperative producers during the applicable crop year through April 30. The individual receiving the highest number of votes for a position shall be the nominee.

(c) A meeting or meetings of independent producers shall be held in the area of production for the purpose of nominating individuals to serve as independent producer members on the Committee. Such producers shall nominate the applicable number of individuals for producer member positions in conformity with § 987.22. Each such producer, regardless of the number and locations of his date gardens, shall be entitled to one vote for each producer member position to be filled. The individual receiving the highest number of votes for a position shall be the nominee.

(d) Three handlers shall constitute a quorum for a meeting or meetings of handlers to be held in the area of production for the purpose of nominating three individuals to serve as handler members on the Committee. Each handler shall be entitled to vote for only one handler member position to be filled. The vote of each handler shall be weighted by the tonnage of dates the handler acquired (or, if a cooperative association of producers, by the tonnage received) from producers and had certified for handling or for further processing during the applicable crop year through April. The individual receiving the highest number of votes for a handler member position shall be the nominee for that position.

(e) Promptly after the completion of the meetings required by this section, a report shall be filed, either by the Committee or an employee of the Department, with the Secretary including details of the proceedings of the meetings, the names of the nominees for each position to be filled, together with necessary tonnage data and other information requested by the Secretary. From such nominees or from other eligible persons, the Secretary shall select the Committee members from the groups, and on the basis, prescribed in § 987.22.

§ 987.27 [Amended]

11. The following sentence is added at the end of § 987.27: "In the event a member and his alternate are unable to attend a meeting of the Committee, such member or alternate, in that order, may designate an alternate from the group (producers or handlers, as the case may be) they represent to act in his place. If neither a member nor his alternate has designated an alternate as his replacement, or such designated alternate is unable to serve as the replacement, the chairman may, with the concurrence of a majority of the members, including alternates acting as members, representing such group, designate an alternate from such group who is present at the meeting and is not acting as a member to act in the place and stead of the absent member."

12. Section 987.31 is revised to read:

§ 987.31 **Procedure.**

(a) Five members, including alternates acting as members, of the Committee, shall constitute a quorum.

(b) The Committee shall, from among its members, select a chairman and such other officers and adopt such rules for the conduct of its business as it may deem advisable.

(c) For any decision of the Committee to be valid, at least five members must cast a concurring vote, except as provided under § 987.33 for any program of paid advertising or major program of marketing promotion. At all assembled meetings each vote shall be cast in person.

(d) The Committee may vote upon any proposition by mail, or telephone when confirmed in writing within two weeks, or telegram, upon due notice and full and identical explanation to all members, including alternates acting as members, but any such action shall not be considered valid unless unanimously approved.

§ 987.33 [Amended]

13. The third sentence of § 987.33 is revised to read: "However, no program of paid advertising nor major program of marketing promotion shall be adopted unless favored by at least six members, including alternates, acting as members."

§ 987.34 [Amended]

14. The first sentence in § 987.34 is revised to read: "As early as practicable, but no later than October 15, the Committee shall prepare and submit to the Secretary a report setting forth its marketing policy, including the data on which it is based, for the regulation of dates in the crop year."

15. The date "July 31" in § 987.34(b) is revised to read "September 30".

§ 987.45 [Amended]

16. The last sentence of paragraph (d) of § 987.45 is revised to read: "Any handler who during a crop year disposes in restricted outlets of a quantity of marketable dates in excess of his restricted obligation of such year may: (1) On written request delivered to the Committee not later than September 30 of such crop year have a part or all of such excess transferred, by the Committee, to such other handler or handlers as he may name, for crediting such other handler's restricted obligations incurred in that crop year; and in addition (2) have a part or all of the remainder of such excess credited to his restricted obligation of the subsequent crop year: *Provided*, That the amount of any such credit shall not exceed that established by the Committee, with the approval of the Secretary, as the percentage of such restricted obligation."

17. The date "July 31" in § 987.45 (e) and (f) is revised to read "September 30".

§ 987.61 [Amended]

18. The dates "June 1" and "August 1" in § 987.61 are revised to read "September 1" and "September 30", respectively.

19. The heading and first sentence of § 987.68 are revised to read:

§ 987.68 **Verification of reports and records.**

For the purpose of checking compliance with recordkeeping requirements and verifying reports filed by handlers, the Secretary and the Committee, through its duly authorized employees, shall have access to any premises where dates are held and, at any time during reasonable business hours, shall be permitted to examine any dates held and any and all records with respect to matters within the purview of this part. * * *

§ 987.82 [Amended]

20. The date "June 1" in § 987.82(b) (2) is revised to read "August 1".

Dated: May 21, 1971.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.71-7422 Filed 5-26-71;8:51 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 71-CE-35]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Albert Lea, Minn.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications

should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106. All communications received within 45 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 Regional Air Traffic Division Chief. 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.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106.

A new public use instrument approach procedure has been developed for the Albert Lea Municipal Airport, Albert Lea, Minn. In addition, the criteria for designation of transition areas have been changed. Accordingly, it is necessary to alter the Albert Lea transition area to adequately protect the aircraft executing the new approach procedure and to comply with the new transition area criteria.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

ALBERT LEA, MINN.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of the Albert Lea Airport (latitude 43° 40'52" N., longitude 93°22'04" W.); within 3 miles each side of the 356° bearing from the Albert Lea Municipal Airport extending from the 5½-mile radius to 8 miles north of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles east and 9½ miles west of the 356° and 176° bearings from Albert Lea Municipal Airport extending from 18½ miles north of the airport to 6 miles south of the airport and 5 miles each side of the 176° bearing from Albert Lea Municipal Airport from the airport to 12 miles south of the airport.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on May 4, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

[FR Doc.71-7411 Filed 5-26-71;8:50 am]

[14 CFR Part 71]

[Airspace Docket No. 71-CE-58]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Washington, Ind.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106. All communications received within 45 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 Regional Air Traffic Division Chief. 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 charged in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106.

A new public use instrument approach procedure has been developed for Daviess County Airport, Washington, Ind. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a 700-foot transition area at Washington, Ind. The new procedure will become effective concurrently with the designation of the transition area.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (36 F.R. 2140), the following transition area is added:

WASHINGTON, IND.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Daviess County Airport (latitude 38°41'-58" N., longitude 87°07'55" W.); within 3 miles each side of the 010° bearing from Daviess County Airport, extending from the 8-mile-radius are to 8½ miles north of the airport.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on May 6, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

[FR Doc.71-7412 Filed 5-26-71;8:50 am]

[14 CFR Part 71]

[Airspace Docket No. 71-CE-34]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Cloquet, Minn.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106. All communications received within 45 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 Regional Air Traffic Division Chief. 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.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106.

New public use instrument approach procedures have been developed for Cloquet-Carlton County Airport, Cloquet, Minn. Accordingly, it is necessary to alter the Cloquet, Minn., transition area to adequately protect the aircraft executing the new approach procedures.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

CLOQUET, MINN.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Cloquet-Carlton County Airport (latitude 46°42'10" N., longitude 92°30'20" W.); within 3 miles each side of the 355° bearing from Cloquet-Carlton

County Airport, extending from the 6½-mile radius to 8 miles north of the airport; within 3 miles each side of the 175° bearing from the Cloquet-Carlton County Airport extending from the 6½-mile radius area to 8 miles south of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles northwest and 9½ miles southeast of the Duluth, Minn., VORTAC 244° radial, extending from the Duluth VORTAC 34-mile radius to 41 miles southwest of the VORTAC.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on May 3, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

[FR Doc.71-7413 Filed 5-26-71;8:50 am]

[14 CFR Part 71]

[Airspace Docket No. 71-CE-29]

TRANSITION AREAS

Proposed Designation and Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at New Madrid, Mo., and alter the transition area at Malden, Mo.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106. All communications received within 45 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 Regional Air Traffic Division Chief. 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.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106.

A new instrument approach procedure has been developed for County Memorial Airport, New Madrid, Mo. In addition, the criteria for designation of controlled airspace have changed since the Malden, Mo., transition area was designated. Consequently, it is necessary to designate a transition area at New Madrid, Mo., and to alter the Malden, Mo., transition area to protect aircraft executing the new approach procedure and to comply with the new transition area criteria. Since the procedures at the two aforementioned locations overlap, the proposed rule making action is being handled by one docket.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

(1) In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

MALDEN, MO.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Malden Municipal Airport (latitude 36°36'20" N., longitude 89°59'20" W.), and within 3 miles each side of the Malden VOR 120° radial, extending from the 6½-mile radius area to 8 miles southeast of the VOR; and that airspace extending upward from 1,200 feet above the surface within an 18½-mile radius of Malden VOR, excluding the portions which overlie the Poplar Bluff, Mo., and Blytheville, Ark., transition areas.

(2) In § 71.181 (36 F.R. 2140), the following transition area is added:

NEW MADRID, MO.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of County Memorial Airport (latitude 36°32'10" N., longitude 89°35'50" W.); and within 2 miles each side of the Malden, Mo., VOR 95° radial, extending from the 5-mile radius area to 8 miles east of the VOR, excluding the portion which overlies the Malden, Mo., 700-foot floor transition area.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on May 4, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

[FR Doc.71-7414 Filed 5-26-71;8:50 am]

[14 CFR Part 71]

[Airspace Docket No. 71-EA-30]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is proposing to amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Selinsgrove, Pa., Transition Area (36 F.R. 2272).

The revised VOR-1 instrument approach procedure for Penn Valley Airport, Selinsgrove, Pa., will require alteration of the 700-foot floor transition area to provide controlled airspace for aircraft executing the instrument approach procedure.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views 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 Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Selinsgrove, Pa., proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Selinsgrove, Pa., 700-foot floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of the center, 40°49'04" N., 76°51'51" W. of Penn Valley Airport, Selinsgrove, Pa.; within 3.5 miles each side of the Selinsgrove, Pa., VORTAC 209° radial extending from the 10.5-mile radius area to 10.5 miles southwest of the VORTAC; within the arc of a 14-mile radius circle centered on Penn Valley Airport extending clockwise from 095° to 125°.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348), and section 6(c) of the DOT Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on May 12, 1971.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[FR Doc.71-7415 Filed 5-26-71;8:50 am]

[14 CFR Part 71]

[Airspace Docket No. 71-EA-31]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is proposing to amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Quakertown, Pa., Transition Area.

A new NDB Runway 29 instrument approach procedure for Upper Bucks County Airport, Quakertown, Pa., will require designation of a 700-foot floor transition area to provide protection for aircraft executing this procedure.

Interested persons may submit such written data or views as they may desire.

Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views 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 Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Quakertown, Pa., proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate the Quakertown, Pa. 700-foot floor transition area as follows:

QUAKERTOWN, PA.

That airspace extending upward from 700 feet above the surface within an 8-mile radius area of the center of Upper Bucks County Airport, Quakertown, Pa., 40°26'15" N., 75°22'45" W., and within 3.5 miles each side of a line bearing 099° from the Quakertown, Pa. RBN (40°25'20" N., 75°17'52" W.) extending from the 8-mile-radius area to 11 miles east of the RBN.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on May 12, 1971.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[FR Doc.71-7416 Filed 5-26-71;8:50 am]

[Airspace Docket No. 71-EA-33]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Alliance, Ohio Transition Area (36 F.R. 2144).

The U.S. Standard for Terminal Instrument Procedures requires alteration of the Alliance, Ohio 700-foot-floor transition area to provide controlled airspace protection for aircraft executing the instrument approach procedures for Miller Airport, Alliance, Ohio. In addition, the alteration will include controlled airspace protection for aircraft which will execute the instrument approach procedure developed for Tri-City Airport, Sebring, Ohio.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views 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 Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Alliance, Ohio, proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Alliance, Ohio, 700-foot floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 40°59'00" N., 81°02'30" W. of Miller Airport, Alliance, Ohio, and within a 5.5-mile radius of the center, 40°54'22" N., 81°00'02" W. of Tri-City Airport, Sebring, Ohio.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on May 12, 1971.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[FR Doc.71-7417 Filed 5-26-71;8:50 am]

[14 CFR Part 71]

[Airspace Docket No. 71-EA-35]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Akron, Ohio Control Zone (36 F.R. 2055) and Transition Area (36 F.R. 2141).

A review of the airspace requirements for the Akron, Ohio, terminal area for compliance with the U.S. Standards for Terminal Instrument Procedures indicates that alteration of the control zones and 700-foot floor transition area will be required. The proposed revision of the transition area will also include the airspace required to protect a new instrument approach procedure to Portage County Airport at Ravena, Ohio.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, NY 11430.

All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views 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 Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Akron, Ohio, proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Akron, Ohio (Akron-Canton Airport), control zone and insert the following:

Within a 5.5-mile radius of the center, 40°54'58" N., 81°26'32" W. of Akron-Canton Airport, Akron, Ohio, excluding the portion subtended by a chord drawn between the points of INT of the 5.5-mile-radius zone with the Akron, Ohio (Akron Municipal Airport), control zone.

2. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Akron, Ohio (Akron Municipal Airport), control zone and insert the following:

Within a 5.5-mile radius of the center, 41°02'18" N., 81°28'01" W. of Akron Municipal Airport, Akron, Ohio, excluding the portion subtended by a chord drawn between the points of INT of the 5.5-mile-radius zone with the Akron, Ohio (Akron-Canton Airport), control zone.

3. Amend § 71.181 of Part 71, Federal Aviation Regulations so as to delete the description of the Akron, Ohio, 700-foot-

floor transition area and insert the following:

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, 40°54'58" N., 81°26'32" W. of Akron-Canton Airport, Akron, Ohio, and within 5 miles each side of the Akron-Canton Airport south localizer course extending from the Akron-Canton Airport 8.5-mile-radius area to 11.5 miles south of the Akron-Canton Runway 1 OM; within a 10-mile-radius area of the center, 41°02'18" N., 81°28'01" W. of Akron Municipal Airport, Akron, Ohio; within 5 miles each side of the Akron VORTAC 255° radial extending from the Akron Municipal Airport 10-mile-radius area to the VORTAC; within a 6-mile radius of the center, 41°12'35" N., 81°14'55" W. of Portage County Airport, Ravena, Ohio; within 1.5 miles each side of the Akron VORTAC 340° radial extending from the Portage County Airport 6-mile-radius area to the VORTAC; within a 5-mile-radius area of the center of 41°08'45" N., 81°25'00" W. of Andrew W. Paton of Kent State University Airport, Kent, Ohio; within a 7-mile radius of the center, 41°08'06" N., 81°45'36" W. of Freedom Field, Medina, Ohio, and within 4.5 miles south and 6.5 miles north of the Medina, Ohio, RBN (41°08'29" N., 81°38'46" W.) 084° and 264° bearings extending from 5.5 miles west to 11.5 miles east of the RBN.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y. on May 12, 1971.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[FR Doc.71-7418 Filed 5-26-71;8:50 am]

[14 CFR Part 71]

[Airspace Docket No. 71-EA-36]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Windsor Locks, Conn., control zone (36 F.R. 2138), and Hartford, Conn., transition area (36 F.R. 2200).

The ILS RWY 6, NDB RWY 6, and Radar 1 instrument approach procedures for Bradley International Airport, Windsor Locks, Conn., have been revised in accordance with the U.S. Standard for Terminal Instrument Procedures. These changes will require alteration of the control zone and 700-foot-floor transition area to provide controlled airspace protection for aircraft executing these revised procedures.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, NY 11430.

All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views 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 Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Windsor Locks, Conn., and Hartford, Conn., proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Windsor Locks, Conn., control zone as follows:

Delete all before: "southwest of the OM", and insert the following in lieu thereof: "Within a 5-mile radius of the center 41°56'19" N., 72°41'00" W., of Bradley International Airport, Windsor Locks, Conn.; within 3.5 miles each side of the Bradley International Airport ILS localizer southwest course, extending from the 5-mile-radius zone to 11.5 miles."

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Hartford, Conn., 700-foot floor transition area as follows:

Delete all before: "southwest of the OM", and insert the following in lieu thereof: "That airspace extending upward from 700 feet above the surface within an 11.5-mile radius of the center 41°56'19" N., 72°41'00" W. of Bradley International Airport, Windsor Locks, Conn.; within 4.5 miles northwest and 9.5 miles southeast of the Bradley International Airport ILS localizer southwest course, extending from the 11.5-mile-radius area to 18.5 miles."

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on May 12, 1971.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[FR Doc.71-7419 Filed 5-26-71;8:50 am]

[14 CFR Part 71]

[Airspace Docket No. 71-EA-38]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Cumberland, Md., transition area (36 F.R. 2173).

The NDB instrument approach procedure for Cumberland Municipal Airport, Cumberland, Md., has been revised in accordance with the U.S. Standard for Terminal Instrument Procedures. The revised procedure will require alteration of the 700-foot-floor transition area to provide controlled airspace protection for aircraft executing the procedure.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, NY 11430.

All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views 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 Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, NY.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Cumberland, Md., proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Cumberland, Md., 700-foot-floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface with an 8.5-mile radius of the center (39°37'02" N., 78°45'45" W.) of Cumberland Municipal Airport, Cumberland, Md.; and within 3.5 miles each side of the 022° bearing from the Cumberland RBN (39°39'00" N., 78°44'48" W.) extending from the 8.5-mile-radius area to 11.5 miles north of the RBN.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on May 12, 1971.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[FR Doc.71-7420 Filed 5-26-71;8:50 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 71-10; Notice No. 1]

NEW PNEUMATIC TIRES—PASSENGER CARS

Proposed Motor Vehicle Safety Standard

The National Highway Traffic Safety Administration (NHTSA) is considering rulemaking which would amend Federal Motor Vehicle Safety Standard No. 109 to clarify the language describing what comprises a failure of the high speed and endurance tests required by the tire standard.

Presently the standard requires passenger car tires to complete laboratory tests for endurance and high speed without having any "tread, ply, cord, or bead separation; chunking; or broken cords". These requirements have given rise to questions concerning what constitutes a failure of a test, with respect to such conditions as tread-groove or sidewall separations, or damage in such areas as the tire liner. It appears desirable, therefore, to phrase the failure conditions more broadly and comprehensively.

It is the intent of NHTSA that when testing for compliance with the high speed and endurance phases of Standard No. 109, liner separations and cracks in grooves or breaks in the sidewalls, whether in the tire before or after testing, constitute a test failure. Similarly, if the tire loses air after being tested this should be considered a failure. These are conditions which might have an effect on the performance capabilities of the tires. It is therefore proposed that the language of S4.2.2.5 and S4.2.2.6 be amended, and new sections S5.4.2.4 and S5.5.5 be added to the test procedure, in Standard No. 109.

Interested persons are invited to submit written data, views or arguments pertaining to the proposed rule. Comments should identify the docket and notice number (No. 71-10; Notice No. 1), and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5217, 400 Seventh Street SW., Washington, DC 20591. Ten copies are requested but not required.

All comments received before the close of business on August 25, 1971, will be considered and will be available for examination in the Docket Section, at the above address, before and after the closing date for comments. Comments filed after the above date will be considered by NHTSA. The rulemaking action may, however, proceed at anytime after that date, and comments received too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material, as it becomes available, in its docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

In consideration of the foregoing, the National Highway Traffic Safety Administration proposed to amend S4.2.2.5 and S4.2.2.6 and add new sections S5.4.2.4 and S5.5.5 to the test procedures in Federal Motor Vehicle Safety Standard No. 109 as set forth below, effective January 1, 1972.

S4.2.2.5 *Tire endurance.* After completion of the laboratory test wheel endurance test specified in S5.4, there shall be no separation, splitting, or breaking of any portion or component of the tire.

In addition, the second tire inflation pressure measurement specified in S5.4.2.4 shall be within 2 p.s.i. of the first inflation pressure measurement.

S4.2.2.6 *High speed performance.* After completion of the laboratory high speed test performance test specified in S5.5, there shall be no separation, splitting, or breaking of any portion or component of the tire.

In addition, the second tire inflation pressure measurement specified in S5.5.5 shall be within 2 p.s.i. of the first tire inflation pressure measurement.

S5.4.2.4 After running the tire for the required distance, allow the tire-rim assembly to cool under ambient conditions, without readjusting inflation pressure, until the tire shoulder temperature reaches 100° F. or until 2 hours elapse, whichever occurs last. Determine the tire shoulder temperature by inserting a temperature probe three-eighths of an inch into a raised tread element one-half inch from the outer edge of the tread, or if there is no raised element at this point, at the center of the outermost raised element, measuring the tire inflation pressure at the end of the cooling period, and again 15 minutes later.

S5.5.5 After running the tire for the required distance, allow the tire-rim assembly to cool under ambient conditions, without readjusting inflation pressure, until the tire shoulder temperature reaches 100° F. or until 2 hours elapse, whichever occurs last. Determine the tire shoulder temperature by inserting a temperature proble three-eighths of an inch into a raised tread element one-half inch from the outer edge of the tread, or if there is no raised element at this point, at the center of the outermost raised element, measuring the tire inflation pressure at the end of the cooling period, and again 15 minutes later.

Proposed effective date: January 1, 1972.

This notice of proposed rule making is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1407) and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8

Issued on May 21, 1971.

ROBERT L. CARTER,
Acting Associate Administrator,
Motor Vehicle Programs.

[FR Doc.71-7440 Filed 5-26-71;8:52 am]

[49 CFR Part 571]

[Docket 70-29; Notice No. 2]

NEW PNEUMATIC TIRES—PASSENGER CARS

Withdrawal of Proposed Motor Vehicle Safety Standard

The purpose of this notice is to state the National Highway Traffic Safety Administration's position with respect to the proposed amendment to Standard No. 109 published December 29, 1970 (35 F.R. 19638). That proposal would have amended the passenger car tire standard with respect to the number of times a tire may be retreaded.

As indicated in the preamble of the proposal, section 206 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1426) directs the Secretary to "establish safety standards * * * setting limits on the age of tire carcasses which can be retreaded * * * based on the extent to which the carcass was designed and constructed to be retreaded, the rate of deterioration of the materials in such tire, and such other factors as he determines necessary to carry out the purposes of this Act". To carry out the intent of section 206, this agency proposed that the passenger car tire standard be amended to require new tire manufacturers to label each tire made by them with information indicating whether or not the tire could be retreaded and, if so, whether it could be retreaded once or twice. The criteria for determining whether the tire could be retreaded were to be based on combinations of existing tests that new tires are presently required to meet. The proposed effective date of the amendment was May 22, 1971.

Comments received were generally opposed to the proposed rule. The major objection of the commenters was that, at the present time, the only reasonable way to determine whether a tire is capable of being retreaded is by inspection of each casing by the retreader. Many commenters objected to the proposal because it required new tire manufacturers to predetermine whether the tire casing could be retreaded, arguing that such a requirement would give new-tire manufacturers the power to put retreaders out of business. Many new-tire manufacturers objected to the proposed rule on the grounds that it would subject them to product liability suits. Finally, many commenters considered the tests proposed to be an unrealistic method of projecting casing life for retreading purposes.

It was suggested that the intent of section 206 could be more appropriately met by establishing a calendar age limit for passenger car tires and a calendar age limit for heavy-duty commercial-type tires. The age suggested for passenger car tires varied for 6 to 10 years.

Some commenters noted that, while the design and construction of new tires may influence their retreadability, there is no known technically sound new-tire

laboratory test for predicting the retreadability of the tire. To make such a prediction additional research and development would be necessary.

Based on the comments received, and expressed legislative intent, that aspect of the proposed rule requiring the labeling of sidewalls of a new tire to indicate the number of times the tire may be retreaded will not be pursued further. However, the National Traffic Safety Administration is still considering the establishment of an age beyond which casings may not be used for retreading. The subject will be considered in connection with the standard for retreaded tires (No. 117), published in the FEDERAL REGISTER on April 17, 1971 (36 F.R. 7315). In addition, the National Highway Traffic Safety Administration intends to pursue a research program and to determine the impact of aging on the retreadability of a casing, in order to find the best method of issuing a standard in this area.

This notice is issued under the authority of sections 103 and 119 of the National Highway Traffic Safety Act, 15 U.S.C. 1392, 1407, and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on May 21, 1971.

ROBERT L. CARTER,
Acting Associate Administrator,
Motor Vehicle Programs.

[FR Doc.71-7441 Filed 5-26-71;8:52 am]

Office of Pipeline Safety

[49 CFR Part 192]

[Notice 71-16; Docket No. OPS-3]

MINIMUM FEDERAL SAFETY STANDARDS FOR TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE

Definition of Service Line

The Department of Transportation is considering an amendment to Part 192 that would broaden the definition of the term "service line" contained in § 192.3. This would have the effect of extending the applicability of those provisions of the regulations that use the term "service line".

On August 11, 1970, the Department issued Part 192 containing the minimum Federal safety standards for the transportation of gas by pipeline (35 F.R. 13248). These standards were based on a series of notices of proposed rule making which had been developed from various State regulations. In § 192.3 of the minimum Federal standards, "service line" was defined as "a distribution line that transports gas to a customer meter set assembly from a common source of supply". This definition is essentially the same as that used in the B31.8 Code and was well understood by industry and other persons affected by the regulations.

However, this definition does not appear to cover all types of lines that are generally considered to be service lines. The present definition does not indicate that the regulations covering service lines apply to a distribution line on which there is no meter (i.e., where gas is sold at a flat rate), or to a distribution line which is downstream of the meter (such as where the meter is installed at the curb or at some distance from the customer's building). Similar problems also arise with a pipeline such as a "farm tap" which may be unmetered or may be metered at the point of tie-in with a very long line downstream of the meter.

Other situations involve the owner of an apartment complex or a housing authority who is supplied gas by a public utility through a master meter, and then provides gas through various pipelines to housing units within the housing complex or the operator of a mobile home park who purchases gas from a public utility through a single master meter and then redistributes it to various tenants in the trailer park. As already indicated to State agencies having jurisdiction over intrastate gas facilities, the Department considers the owner or operator to be the operator of an unmetered distribution system which is subject to the minimum Federal safety standards. However, the extent to which the safety standards apply to the service lines in these systems is not clear due to the way in which that term is defined.

It is apparent that all of these pipelines are just as involved in the distribution of gas under the Natural Gas Pipeline Safety Act, and just as potentially dangerous to the public, as lines that are metered in the individual customer's basement. Accordingly, it is proposed to amend the definition of "service line" to clarify the status of service lines in master distribution systems and unmetered service lines and to assure that service lines downstream of an outside meter are covered by the minimum Federal standards.

Although not specifically mentioned, this definition is intended to cover lines which serve mobile homes and outdoor utilization equipment. Comments are requested as to whether specific language is needed to make this point clear.

Revision of the service line definition may accentuate somewhat a problem with respect to the responsibility for assuring that service lines are installed and maintained in accordance with the safety standards. In some States, ownership of service lines rests, by law, with the customer and the gas system operator has no legal authority to enter on the customer's property to inspect, conduct leak surveys, or take other steps required by the standards. The existence of this problem and the effect this revision would have are recognized and the Department is considering several methods of resolving it. Therefore, at this time, comments should be addressed only to the change in service line definition.

Interested persons are invited to participate by submitting written comments on the proposal contained in this notice. Communications should identify the regulatory docket and notice numbers and be submitted in duplicate to the Office of Pipeline Safety, Department of Transportation, Washington, D.C. 20590. Communications received before July 23, 1971 will be considered before taking final action on the notice. All comments will be available for examination by interested persons at the Office of Pipeline Safety before and after the closing date for comments. The proposal contained in this notice may be changed in the light of comments received.

In consideration of the foregoing, the Department proposes to amend the definition of "service line" in § 192.3 of Part 192 of the Code of Federal Regulations to read as set forth below:

"Service line" means a distribution line that transports gas from a common source of supply to a customer, to and including whichever of the following is further downstream:

(1) The customer meter set assembly.
(2) The service line valve.
(3) The service regulator.
(4) The point at which the line enters the customer's building.

This notice is issued under the authority of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. § 1671 et seq.), Part 1 of the Regulations of the Office of the Secretary of Transportation (49 CFR Part 1) and the delegation of authority to the Director, Office of Pipeline Safety, dated November 6, 1968 (33 F.R. 16468).

Issued in Washington, D.C., on May 24, 1971.

JOSEPH C. CALDWELL,
Acting Director,
Office of Pipeline Safety.

[FR Doc.71-7466 Filed 5-26-71;8:54 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Government National Mortgage Association

[24 CFR Part 1665]

[Docket No. R-71-112]

GUARANTY OF MORTGAGE-BACKED SECURITIES

Proposed Revision of Net Worth Requirements

The Department of Housing and Urban Development proposes to amend Title 24 of the Code of Federal Regulations by revising § 1665.3 of Part 1665, "Guaranty of mortgage-backed securities." The proposed revision, issued pursuant to section 309(a) of the National Housing Act, 12 U.S.C. 1728(a), would permit greater participation by mortgage bankers having a net worth of less than $500,000.

Under the proposed revision: 1. A mortgagee must have a minimum net worth of $100,000 for issuance of straight pass-through securities. 2. The issuance of modified pass-through securities based on and backed by mortgages on one- to

four-family residences, would require a net worth representing at least 2 percent of the first $5 million of modified pass-through securities outstanding after the issuance plus 1 percent of all outstanding modified pass-through securities in excess of $5 million, but in no case need the net worth exceed $250,000. 3. The issuance of modified pass-through securities other than those based on and backed by mortgages on one- to four-family residences, would require a net worth representing at least 3 percent of the first $5 million of modified pass-through securities outstanding after the issuance plus at least 2 percent of all modified pass-through securities in excess of $5 million but not in excess of $10 million plus at least 1 percent of all modified pass-through securities in excess of $10 million, but in no case need the net worth exceed $500,000.

Interested persons are invited to participate in the making of the proposed rule by submitting written data, views, or statements with regard to the proposed regulation. Communications should identify the proposed rule by the above docket number and title and should be filed in triplicate with the President, Government National Mortgage Association, Department of Housing and Urban Development, Washington, D.C. 20410. All relevant material received on or before June 28, 1971, will be considered by the President of GNMA before taking action on the proposal. Copies of comments submitted will be available during business hours, both before and after the specified closing date, at the above address, for examination by interested persons.

The proposed rule is issued pursuant to section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

The proposed § 1665.3 reads as follows:

§ 1665.3 Eligible issuers of securities.

Any mortgagee, including a State or local governmental instrumentality, which has been approved by the Federal Housing Administration and which has adequate experience and facilities to issue mortgage-backed securities may be approved for a guaranty by the Association, except that no guaranty shall be made of any security which is tax exempt under the Internal Revenue Code of 1954. No issue of securities will be approved for guaranty unless the issuer has net worth, in assets acceptable to the Association, in the following amounts:

(a) For straight pass-through securition, $100,000.

(b) For modified pass-through securities based on and backed by mortgages upon one- to four-family residences, (1) not less than 2 percent of the first $5 million of modified pass-through securities outstanding after such issue, and (2) not less than 1 percent on all such securities outstanding over $5 million, but in no case need such net worth exceed $250,000.

(c) For modified pass-through securities other than those described in paragraph (b) of this section, (1) not less than 3 percent of the first $5 million of modified pass-through Securities outstanding after such issue, and (2) not less than 2 percent on the succeeding $5 million of such securities, and (3) not less than 1 percent on all over $10 million but in no case need such net worth exceed $500,000.

(Sec. 309, 82 Stat. 540, 12 U.S.C. 1723a; Bylaws of the Association, 35 F.R. 2606, Feb. 5, 1970)

WOODWARD KINGMAN,
President, Government National Mortgage Association.

[FR Doc.71-7438 Filed 5-26-71;8:52 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 210, 249]

[Release Nos. 33-5149, 34-9175]

FINANCIAL STATEMENTS OF BANKS AND LIFE INSURANCE COMPANIES

Deletion of Existing Exemptions From Certification

Notice is hereby given that the Securities and Exchange Commission has under consideration certain proposed amendments to its Regulation S-X (17 CFR Part 210) and Forms 10 (17 CFR 249.210) and 10-K (17 CFR 249.310). Regulation S-X prescribes the form and content of financial statements filed with the Commission. Form 10 is a general form for registration of securities pursuant to section 12 of the Securities Exchange Act of 1934, and Form 10-K is a general form for annual reports filed pursuant to section 13 or 15(d) of that Act.

Article 9 of Regulation S-X (17 CFR 210.9) which prescribes the form and content of financial statements for bank holding companies and banks, includes Rule 9-05 (17 CFR 210.9-05(a)) relating to statements of banks which in paragraph (a) thereof provides that "Statements of banks need not be certified." Under this rule bank holding companies subject to the Acts have been permitted to use accountants' opinions qualified with respect to the holding companies' investment in bank subsidiaries and equity in earnings of these subsidiaries reported in the income statements. The effect is that only a very minor portion of the financial statements has been covered by the auditors' opinion. Furthermore, in these situations combined statements for the banks have been included in filings on an unaudited basis. The exemption is of long standing. In recent years an increasing number of bank holding companies and banks have provided unqualified opinions of accountants as to their financial statements. In light of this development the Commission deems it timely to remove the exemption. As to Regulation S-X this is accomplished by deleting paragraph (a) of Rule 9-05.

Consistent with this change, exempting instructions as to financial statements in Forms 10 and 10-K would be deleted. These instructions also include an exemption for life insurance companies under the Securities Exchange Act of 1934 which likewise would be removed. This exemption is not available under the Securities Act of 1933. It is proposed, therefore, to delete Instructions 13 and 7 of the Instructions as to Financial Statements from Forms 10 and 10-K respectively. These are identical instructions and now read as follows:

Statements of Banks and Life Insurance Companies. Notwithstanding the requirements of the foregoing instructions, financial statements filed for banks and life insurance companies need not be certified.

All interested persons are invited to submit their views and comments on the proposed amendments, in writing, to Andrew Barr, Chief Accountant, Securities and Exchange Commission, Washington, D.C. 20549, on or before June 18, 1971. All such communications will be available for public inspection.

By the Commission, May 17, 1971.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-7379 Filed 5-26-71;8:47 am]

[17 CFR Parts 249, 274]

[Release Nos. IC-6522, 34-9174]

ANNUAL REPORT BY REGISTERED MANAGEMENT INVESTMENT COMPANIES

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposed revision of Form N-1R [17 CFR 249.330, 274.101] for annual reports filed with the Commission by most registered management investment companies pursuant to section 30 of the Investment Company Act of 1940 (Act) (15 U.S.C. 80a-29) and section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)).

Under the proposal, certain items of Form N-1R and the EDP attachments to the form (17 CFR 274.101a-1, 274.101a-2) would be revised to reflect changes in reporting consistent with changes made in the Act by the Investment Company Amendments Act of 1970, Public Law 91-547 (84 Stat. 1413) ("1970 Act"), enacted December 14, 1970. Some of the changes in the Act became effective upon the enactment of the 1970 Act. Other changes, such as the new term "interested person," defined in a new paragraph (19) in section 2(a) of the Act, will be effective in various sections of the Act on December 14, 1971, 1 year from the date of enactment.

Annual reports on Form N-1R for any fiscal year beginning before, and ending after, December 14, 1971, will involve the reporting, in some of the items, of information relating to the requirements of the Act before and after the effective

date of certain amendments of the Act. The primary purposes of the proposed revision of the form are to effect changes in the items consistent with the amendments to the Act and to provide a means of reporting information for the fiscal year within which the amendments become effective. To accomplish this, there would be, in addition to the revision of items of the form, a general instruction applicable only to the annual report for the one fiscal year of each registrant beginning before, and ending after, December 14, 1971.

The test of the new proposed general instruction to Form N–1R and the text of the proposed revision of the items of Form N–1R with the new matter and deleted matter is set forth in Release No. IC–6522, copies of which have been filed with the Office of the Federal Register. Copies of the release may be obtained on request from the Securities and Exchange Commission, Washington, D.C. 20549.

Commission Action. The proposed revision would be adopted pursuant to sections 30, 31, 38, and 45(a) of the Act and sections 13, 15(d), and 23(a) of the Securities Exchange Act of 1934. The revision would be made effective for fiscal years ending on and after December 31, 1971. All interested persons are invited to submit views and comments with respect to the proposed revision. Written statements of views and comments should be submitted to the Securities and Exchange Commission, Washington, D.C. 20549, on or before June 15, 1971. All communications with respect to the proposed revisions should refer to Investment Company Act Release No. 6522. Such communications will be available for public inspection.

(Secs. 30, 31, 38, 45(a); 54 Stat. 836, 838, 841; 15 U.S.C. 80a–29, 80a–30, 80a–37, 80a–44(a); Public Law 91–547, 84 Stat. 1413; Secs. 13, 15(d), 23(a); 48 Stat. 894, 895, 901; 15 U.S.C. 78m, 78o(d), 78w)

By the Commission, May 14, 1971.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71–7380 Filed 5–26–71;8:47 am]

Notices

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-333; NDA No. 8-858 etc.]

COOPER LABORATORIES ET AL.

High Molecular Weight Dextran 6 Percent; Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Applications

In a notice (DESI 8564) published in the FEDERAL REGISTER of April 8, 1969 (34 F.R. 6662-6663) the Commissioner of Food and Drugs announced his conclusions pursuant to evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group on the subject drugs, stating that these drugs are regarded as effective, possibly effective, and lacking substantial evidence of effectiveness for the various labeled indications. The possibly effective indications have been reclassified as lacking substantial evidence of effectiveness in that no new evidence of effectiveness of these drugs has been submitted within the period provided, nor have the applications listed below been satisfactorily supplemented in accordance with the April 8, 1969, announcement.

Therefore, notice is given to the holders of the new drug applications listed below, and to any interested person who may be adversely affected, that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the listed new drug applications and all amendments and supplements thereto on the grounds that new information evaluated together with the evidence available when the applications were approved, shows there is a lack of substantial evidence that the drugs will have all the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

1. NDA 11-951, 6 Percent Dextran; Cooper Laboratories, Inc., Roosevelt Avenue, Mystic, Conn. 06355. (The former holder was Sherman Laboratories, 5031 Grandy Avenue, Detroit, Michigan 48211.)

2. NDA 9-310, Plasran 6 Percent; Mead Johnson and Co., 2404 Pennsylvania Street, Evansville, Indiana 47721.

3. NDA 8-858, Dextran Injection 6 Percent; The Wm. S. Merrell Co., Division Richardson-Merrell, Inc., 110 East Amity Road, Cincinnati, Ohio 45215.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the applicants and any interested person who would be adversely affected by an order withdrawing such approval, an opportunity for a hearing to show why approval of the new drug applications should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Maryland, 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the new drug applications. Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file within 30 days after the publication of the notice in the FEDERAL REGISTER a written appearance requesting the hearing, giving the reasons why approval of the new drug application should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition to this notice. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the withdrawal of approval of the application, the Commissioner will enter an order on these data, making findings and conclusions on such data.

If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence (35 F.R. 7250, May 8, 1970; 35 F.R. 16631, Oct. 27, 1970).

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-53, as amended; 21 U.S.C. 355) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: May 3, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-7374 Filed 5-26-71;8:46 am]

[Docket No. FDC-D-336; NDA 10-999, etc.]

DORSEY LABORATORIES ET AL.

Certain Steroid Combination Preparations for Oral Use; Notice of Opportunity for Hearing on Proposal to Withdraw Approval of New Drug Applications

In a notice published in the FEDERAL REGISTER of August 29, 1970 (35 F.R. 12803) (DESI 10493), the holders of the new drug applications listed below and any interested person who may be adversely affected by removal of the drugs from the market were invited to submit pertinent data bearing on the intentions to initiate proceedings to withdraw approval of the applications.

NDA No.	Drug	NDA holder
10-999	Triaminic HC Tablets containing hydrocortisone, phenylpropanolamine hydrochloride, pheniramine maleate, and pyrilamine maleate.	Dorsey Laboratories, Division, The Wander Co., Northeast U.S. 6 and Interstate 80, Lincoln, Neb. 68501.
12-735	Toldex Tablets containing dexamethasone and phenyltoloxamine citrate.	The Dow Chemical Co., Research Center, Box 10, Zionsville, Ind. 46077.
12-040	Medrol with Orthoxine Tablets containing methylprednisolone and methoxyphenamine.	The Upjohn Co., 7171 Portage Rd., Kalamazoo, Mich. 49001.
11-988	Polanil Tablets containing dexamethasone, dexchlorpheniramine maleate, and ascorbic acid.	Schering Corp., 60 Orange St., Bloomfield, N.J. 07003.
11-686	Aristomin Capsules containing triamcinolone, chlorpheniramine maleate, and ascorbic acid.	Lederle Laboratories, Division, American Cyanamid Co., Post Office Box 500, Pearl River, N.Y.
11-729	Prednaman Tablets containing prednisone, chlorpheniramine maleate, and ascorbic acid.	Dome Laboratories, Division of Miles Laboratories, Inc., 125 West End Ave., New York, N.Y. 10023.

Lederle Laboratories submitted information concerning Aristomin Capsules on September 25, 1970. The submission was reviewed and found not to provide substantial evidence of effectiveness of the drug as a fixed combination. There was no other comment concerning any of the above-listed drugs.

Therefore, notice is given to each of the above firms, and to any interested person who may be adversely affected, that the Commissioner of Food and Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of said new drug applications and all amendments and supplements thereto on the grounds that new information before him with respect to such drugs, evaluated together with the evidence available to him when the applications were approved, shows that there is a lack of substantial evidence that the fixed combination drugs will have all the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the applicants, and any interested person who would be adversely affected by an order withdrawing such approval, an opportunity for a hearing to show why approval of the new drug applications should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–65, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing the Commissioner without further notice will enter a final order withdrawing approval of the new drug applications. Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing they must file, within 30 days after publication of this notice in the FEDERAL REGISTER, a written appearance requesting the hearing, giving the reasons why approval of the new drug application should not be withdrawn, together with a well-organized and full factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the withdrawal of approval of the application, the Commissioner will enter an order on these data, making findings and conclusions on such data.

If a hearing is requested and justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence (35 F.R. 7250, May 8, 1970; 35 F.R. 16631, Oct. 27, 1970.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–53, as amended; 21 U.S.C. 355) and under the authority delegated to the Commissioner (21 CFR 2.120).

Dated: May 6, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71–7373 Filed 5–26–71;8:46 am]

[Docket No. FDC–D–195; NADA No. 8–741V]

SALSBURY LABORATORIES

Tinostat Medicated Premix; Order Vacating Opportunity for Hearing

A notice of opportunity for hearing proposing to withdraw approval of the new animal drug application for Tinostat Medicated Premix (NADA No. 8–741V) was published in the FEDERAL REGISTER of July 21, 1970 (35 F.R. 11652).

Salsbury Laboratories, 500 Gilbert Street, Charles City, Iowa 50616, holder of new animal drug application No. 8–741V, has submitted a supplemental new animal drug application with revised labeling, and the Commissioner of Food and Drugs concludes that the labeling, evaluated together with the evidence available when the application was approved, shows that said drug is effective for animals under the conditions of use prescribed, recommended, or suggested in the proposed labeling.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343–51; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120), the notice of opportunity for hearing proposing to withdraw approval of new animal drug application No. 8–741V for Tinostat Medicated Premix is vacated.

Dated: April 30, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71–7372 Filed 5–26–71;8:46 am]

Public Health Service

FOOD AND DRUG ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 6, formerly part 10 (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare (35 F.R. 3685–92 et seq., Feb. 25, 1970) is amended as follows:

Paragraph (h) *Office of the assistant commissioner for field coordination* is superseded by the following:

SEC. 6B *Organization.* * * *

(h) *Executive Director of regional operations.* Executes direct line authority over all FDA field operations; develops, issues, approves, or clears proposals and instructions affecting the field activities, and provides a central point within FDA to which headquarters officers can turn for field support services.

Provides direction and counsel to Regional Food and Drug Directors in the execution of the policies and operational guidelines which form the framework for management of FDA field activities.

Develops or recommends to the Commissioner policy, programs, and plans for activities between FDA, State, and local agencies; administers the Agency's overall State-Federal program policy.

Evaluates the overall management and capabilities of the field forces of the Food and Drug Administration; assesses and initiates action to improve the management posture of field activities, and coordinates the formulation and management of career development plans.

Implements information storage and retrieval systems for data originating in the field offices.

(h–1) *Division of Field Operations.* Provides for day-to-day coordinative management of the total field investigative, consultant, inspectional, scientific, and compliance efforts; directs all of the FDA foreign inspection programs.

Serves as the focal point of field headquarters operational relations, and provides for coordination between field and headquarters units; represents the Executive Director of Regional Operations in top level operational policy and program matters.

Assists the Division of Planning and Analysis in identifying field goals and objectives; directs and coordinates the development of all field technical and program operational policies and procedures.

Coordinates the field management review program and quality control procedures as they relate to operational practices; evaluates the adequacy and effectiveness of field investigative, consultant, inspectional, scientific, and compliance activities.

Identifies the need for, and tests, evaluates, and arranges for the adoption of new field equipment, techniques, and

methodology; develops long and short range field facility needs.

Participates in the formulation and evaluation of training and career development plans for field program staffs.

Operates the field emergency preparedness and civil defense programs, and coordinates FDA's total field effort during periods of natural disaster or national emergency.

(h–2) *Division of Planning and Analysis.* Assists the Executive Director of Regional Operations regarding planning, analysis, and recommendations on program policy development, solutions to operational problems and related system demands, and identification and evaluation of program priorities.

Develops and applies effectiveness measures to field programs both with regard to internal effectiveness as well as with regard to impact upon the regulated industries and the various other professional and consumer clientele.

Identifies operational goals, and designs program management and control systems relevant to both short and long range objectives.

Advises and assists the Executive Director of Regional Operations and key field officials by providing overall planning and analytical support to mobilize resources to accomplish primary and secondary management objectives.

Represents the Executive Director of Regional Operations, in matters related to planning and management support, with the offices in the Office of the Commissioner, the Bureaus, the Department, other Federal agencies, and regulated industries.

Directs the development of scientific and management information systems for the field, and provides guidance and direction to the fields utilization of electronic and other data processing systems and facilities.

(h–3) *Division of Federal-State Relations.* Provides an Agency focal point for all FDA programmatic and operational relationships with counterpart State and local officials to assure a cohesive and uniform Agency policy.

Provides leadership and guidance in the development, coordination, and evaluation of the FDA Federal-State program activities.

Makes recommendations to the Executive Director of Regional Operations on matters regarding FDA Federal-State program policy.

Serves as the day-to-day FDA liaison with organizations of State, local, and Federal officials whose interests correspond to those of FDA.

Paragraph (n) *Office of the Regional Food and Drug Director* is superseded as follows:

(n) *Office of the Regional Food and Drug Director.* The Regional Food and Drug Director serves as the primary FDA official in each of the FDA Regions and is directly accountable to the Executive Director of Regional Operations The overall functions of the Regional Food and Drug Director are as follows:

Provides managerial direction to the total field investigative, consultant, inspectional, scientific, and compliance efforts within each Region.

Informs the public on the purposes of FDA programs, and on the provisions of the laws and regulations enforced by FDA, and their rights thereunder.

Serves as the primary advisor and informant to the DHEW Regional Director on all matters pertaining to FDA programs, and coordinates FDA activities with related operations of the DHEW Regional Director. Develops and maintains liaison with State and local officials, and represents FDA in dealings with officials and public and private organizations; encourages improved State and local food and drug consumer protection programs, and fosters State and local participation in FDA cooperative efforts.

Coordinates the provision of FDA assistance to States and localities in the event of a national disaster or other emergency requiring FDA assistance.

Paragraph (o) *District Offices* is superseded as follows:

(o) *Field Organization.* The Food and Drug Administration's field operations are organized into 10 Regional Field Offices, each under the direction of a Regional Food and Drug Director. When warranted by workload or geographic size, a Region may be further organized into District Offices, Branch Offices, and Resident Posts. A field office, depending on whether it is a Regional Field Office, a District Office, a Branch Office, or a Resident Post, may execute some or all of the following functions, as assigned by the RFDD:

Obtains compliance with the laws and regulations enforced by FDA, and initiates and conducts educational and voluntary compliance programs.

Conducts investigations and inspections, and analyzes samples of food, drugs, and other commodities for which FDA has regulatory responsibility.

Conducts administrative hearings on alleged violations, and initiates appropriate enforcement action.

Recommends legal action to the RFDD, to the Office of General Counsel, DHEW, or to the responsible U.S. attorney (when such direct reference is authorized), and assists in implementing approved action.

Provides analytical and inspectional support in programs for which FDA has responsibility.

Provides assistance to States and localities in the event of a national disaster or other emergency requiring FDA assistance.

Approved: May 20, 1971.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.71–7437 Filed 5–26–71;8:52 am]

Social and Rehabilitation Service

PROJECT GRANTS ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 5 of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare, Social and Rehabilitation Service (35 F.R. 8712 and 8713, June 4, 1970) is hereby further amended to reflect the centralization of project grants administration for all project grants awarded by the Social and Rehabilitation Service.

For such purposes Part 5–B is amended as follows:

1. Delete from the first sentence of the statement titled "Associate Administrator for Planning, Research and Training" the words: ", and grants management".

2. Delete from the first sentence of the statement titled "Office of the Assistant Administrator, Research and Demonstrations" the words: "grants management,".

3. Delete the Division of Grants Management from the statement titled "Office of the Assistant Administrator, Research and Demonstrations".

4. After the paragraph headed "Division of Finance" in the statement titled "Office of the Assistant Administrator, Financial Management" add the following:

DIVISION OF PROJECT GRANTS ADMINISTRATION

Develops and publishes SRS project grants administration policies and procedures including the implementation of HEW grants policy. Coordinates with other SRS elements on policy that affects both formula and project grants.

Provides grants administration services for all project grants awarded by the SRS Central Office, which include: Receiving applications; operating the project referral system; reviewing financial and expenditure reports; participating in review of applications; obtaining required clearances; preparing grant awards and correspondence; maintaining records for fund control; maintaining grant files; providing information required for management and budgetary purposes; providing consultation to grantees, program elements, and regions; and resolving problems related to payment systems.

Develops audit policies and standards for SRS and provides for the resolution of audit exceptions. Maintains a centralized project grants information system for all SRS project grants. Develops SRS forms and procedures to be utilized by SRS in coordination with the program elements. Establishes and maintains necessary obligation and expenditure control systems in coordination with program elements.

Effective date. This amendment shall be effective upon publication in the FEDERAL REGISTER (5–27–71).

Approved: May 20, 1971.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.71–7436 Filed 5–26–71;8:52 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-384]

GULF OIL CORP.

Notice of Issuance of Facility Export License

Please take notice that no request for a formal hearing having been filed following publication of notice of proposed action in the FEDERAL REGISTER on March 5, 1971 (36 F.R. 4438), the Atomic Energy Commission has issued License No. XR-78 to Gulf Oil Corp., authorizing the export of certain essential components to be used to increase the steady-state power level of an existing TRIGA Mark II nuclear research reactor from 250 kilowatts thermal to 1 megawatt thermal. The export will be made to the Bandung Institute of Technology, Bandung, Indonesia. The export of these components to Indonesia is within the purview of the present Agreement for Cooperation between the Governments of the United States and Indonesia.

Dated at Bethesda, Md., this 12th day of May 1971.

For the Atomic Energy Commission.

EBER R. PRICE,
Director, Division of State and Licensee Relations.

[FR Doc.71-7364 Filed 5-26-71;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23352; Order 71-5-98]

BUCKEYE AIR SERVICE, INC.

Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority, May 20, 1971.

The Postmaster General filed a notice of intent April 30, 1971, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air taxi operator, a final service mail rate of 90.8 cents per great circle aircraft mile for the transportation of mail by aircraft between Bradford and Harrisburg, Pa., via Du Bois, Indiana, and Pittsburgh, all in Pennsylvania, based on five round trips per week.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Hamilton HT-3 aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Buckeye Air Service, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 90.8 cents per great circle aircraft mile between Bradford and Harrisburg, Pa., via Du Bois, Indiana, and Pittsburgh, all in Pennsylvania, based on five round trips per week.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16(f),

It is ordered, That:

1. Buckeye Air Service, Inc., the Postmaster General, Allegheny Airlines, Inc., Trans World Airlines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Buckeye Air Service, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 20 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR

5. This order shall be served on Buckeye Air Service, Inc., the Postmaster General, Allegheny Airlines, Inc., and Trans World Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-7450 Filed 5-26-71;8:53 am]

[1] As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

[Docket No. 23350; Order 71-5-99]

COMBS AIRWAYS, INC.

Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority, May 20, 1971.

The Postmaster General filed a notice of intent April 30, 1971, pursuant to 14 CFR, Part 298, petitioning the Board to establish for the above-captioned air taxi operator, a final service mail rate of 65.36 cents per great circle aircraft mile for the transportation of mail by aircraft between Baltimore, Md., and Erie, Pa., via Pittsburgh and Oil City, Pa., based on five round trips per week.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beechcraft 18 aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Combs Airways, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 65.36 cents per great circle aircraft mile between Baltimore, Md., and Erie, Pa., via Pittsburgh and Oil City, Pa., based on five round trips per week.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16(f),

It is ordered, That:

[1] As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

1. Combs Airways, Inc., the Postmaster General, Allegheny Airlines, Inc., American Airlines, Inc., Eastern Air Lines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Combs Airways, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the Rules of Practice (14 CFR 302.307); and

5. This order shall be served on Combs Airways, Inc., the Postmaster General, Allegheny Airlines, Inc., American Airlines, Inc., Eastern Air Lines, Inc., Trans World Airlines, Inc., and United Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-7451 Filed 5-26-71;8:53 am]

[Docket No. 23423; Order 71-5-100]

EASTERN AIR LINES, INC.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of May 1971.

Eastern Air Lines, Inc. (Eastern), has filed several new tariffs containing off-season round-trip excursion fares between major northeast and midwest cities, and Florida points. The tariffs, which are marked to become effective in June 1971, vary in duration from 1 month to 6½ months. The basic purpose of these proposals is to stimulate new travel during the off-season and to correct traffic imbalances. Specifically, the proposals are as follows:[1]

1. A "Senior Citizen" fare[2] for persons 65 years and older at a 40-percent discount in the New York-Tampa market. Travel is permitted Tuesday through Thursday and there is a maximum stay limitation of 21 days. The fare is marked to expire December 15, 1971.

2. Weekend round-trip fares[3] to Florida during the month of June 1971, for passengers originating in 10 northeast and midwest U.S. cities at discounts ranging from 16 percent to 33 percent below regular coach fares. There is a 1-day minimum-stay requirement and travel from the northern point can begin no earlier than midnight Thursday, with return no later than noon Monday.

3. Dual level (midweek and weekend) family round-trip excursion fares[4] to Florida from 14 northeast and midwest U.S. cities at discounts which could range up to 60 percent or more below existing family fares depending on the size and composition of the group. The fares are subject to a minimum-stay requirement of 7 days, and a maximum stay of 21 days. These fares are marked to expire September 15, 1971.[5]

In support of its Senior Citizen fare, Eastern asserts that, in light of current economic conditions and the reduced discretionary spending power of persons over 65, a 40-percent discount should provide adequate travel impetus for senior citizens and result in a positive contribution to profit, particularly since it has selected the market on its system with the highest concentration of persons 65 and over. The carrier estimates an annual profit contribution from this proposal of $138,000.

Delta Air Lines, Inc. (Delta), National Airlines, Inc. (National), Northeast Airlines, Inc. (Northeast), and Northwest Airlines, Inc. (Northwest), have filed complaints against this fare alleging that there is ample Board precedent against such fares; that limiting the proposal to one market serves only to compound the discriminatory aspect; and that the high incidence of senior citizens travel in this market at present would indicate that a fare inducement is not necessary. Eastern answers that if discrimination inherent in the youth fare can be justified by the beneficial economic effect of that fare, the very same type of discrimination involved in its senior citizen fare can likewise be so justified. The carrier believes that by limiting its proposal to one market and restricting the period of travel it has adequately differentiated its proposal from those submitted in the past, and that the "discrimination" involved is justified.

With respect to the weekend excursion fares Eastern alleges that there is a growing population of northern U.S. residents who are property owners in Florida who would use the fare to spend weekends in Florida, and that young people will also find this low, short-duration fare attractive. The carrier believes that in addition to stimulating new travel the fares will correct current directional traffic imbalances. Eastern estimates that this proposal will yield a profit of $64,000 for the month of June.

National and Northeast have filed complaints asserting, inter alia, that substantial diversion of regular-fare traffic will result since the conditions of travel fit a significant portion of current traffic in these markets, and that the proposal will aggrevate the present weekend peaking problem. In answer, Eastern asserts that potential diversion is substantially limited since the fares are southbound only, have a 3-day length of stay restriction, and are limited to weekend usage and to night coach on Saturdays and Sundays.

Eastern alleges that its family excursion fare proposal is intended to attract vacationing families currently traveling by automobile, and that this market represents a large and to a great extent untapped source of potential revenue. Eastern estimates that the proposal will result in a net contribution to overhead of $541,000 for the 3½-month period of applicability of the fares.

Delta, National, Northeast, and Northwest have filed complaints, the essential thrust being that the discounts are unnecessarily deep, particularly since other excursion fares offering excellent discounts are available, and that the proposal will result in significant revenue dilution. The complainants further assert that Eastern's generation estimate is overstated. Eastern answers that it is the larger family group which has in the past traveled by auto that it is attempting to attract for the first time and it is because of the economic advantages of the automobile that a deep discount must be offered if it is to be successful. The carrier further alleges that evidence developed in the Domestic Passenger-Fare Investigation showing the generative effect of larger family groups using regular family fares clearly indicates that the generation estimate used in its proposal is reasonable.

The Southern Florida Hotel and Motel Association has filed an answer to the

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[1] In addition to the proposals listed, Eastern has also filed 7-21-day off-season round-trip excursion fares from eight midwest U.S. cities to Miami/Fort Lauderdale. The fares are essentially the same as 7-21-day fares presently in effect between a number of northeastern U.S. cities and Florida, and are comparable to excursion fares offered in the past during the off-season period. No complaints have been filed against this proposal and we will permit the fares to become effective.

[2] Eastern Air Lines, Inc. Tariff CAB No. 341.

[3] Eastern Air Lines, Inc. Tariff CAB No. 334.

[4] Eastern Air Lines, Inc. Tariff CAB No. 335.

[5] Delta, TWA, and United filed family excursion fare tariffs matching Eastern. Northeast, with National matching, filed a family excursion fare proposal containing different fares and rules from those proposed by Eastern which be dealt with in a separate order.

complaints. It asserts that the downturn in the general economy has adversely affected the Florida tourist industry, and that new promotional fares are a necessary part of this industry's recovery. It urges the Board to permit the proposed fares and let the market place determine their economic viability.

As indicated, the weekend excursion fares are proposed for very limited effectiveness during an off-peak period for Florida travel. The Board has long recognized the unique characteristics of this market which it believes warrant experimentation with special promotional fares and we conclude that experimentation with these weekend fares is likewise warranted. Under the controlled conditions proposed in terms of markets involved and particularly the very short duration of the fares, the carriers should be able to gauge their promotional effectiveness with minimum risk of significant revenue dilution. Nevertheless, we will expect the carriers to bear the risk of this experiment and to maintain records of traffic, revenues, and expenses sufficient for a full evaluation of profit impact. Such reports will be filed before August 1, 1971.

The family excursion fares involve substantially greater discounts and will result in significant yield erosion at a time when considerable industry concern has been expressed over maintaining or increasing yields. Such extreme discounts result in fares which we believe may be unreasonably low and should not be permitted without investigation. Further, we are not convinced that Eastern's family excursion fare proposal would divert present automobile travelers to air to the extent envisioned by the carrier.

Turning to the senior citizen fare, we conclude that this proposal raises a question of unjust discrimination against other travelers in the New York-Tampa market which is not overcome by limiting availability of the fare to certain days of the week and requiring return travel within 21 days. In addition, offering the fare in one market only would appear to raise an issue of undue preference and prejudice vis-a-vis other destinations of comparable interest to elderly citizens.

Upon consideration of the tariff proposals, the complaints, the answers thereto, and other relevant matters, the Board finds that the proposals to establish a fare for persons 65 years of age and older in the New York-Tampa market, and family excursion fares in various markets may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful and should be investigated. The Board further concludes that the tariffs should be suspended pending investigation. With respect to the proposed weekend excursion fares the Board finds that on the basis of the facts and information before us, the complaints do not set forth sufficient facts to warrant investigation, and the requests therefor and, accordingly, the requests for suspension will be denied and the complaints dismissed.

Accordingly, pursuant to the provisions of the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof,

It is ordered, That:

1. An investigation is instituted to determine whether the fares and provisions described in Appendix A hereto,[6] and rules, regulations, and practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, or practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in Appendix A hereto[6] are suspended and their use deferred to and including August 29, 1971, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The complaints of National Airlines, Inc., in Docket 23339 and Northeast Airlines, Inc., in Docket 23338 are hereby dismissed;

4. Except to the extent granted herein, the complaints of Delta Air Lines, Inc., in Docket 23344 and 23362, National Airlines, Inc., in Dockets 23340 and 23363, Northeast Airlines, Inc., in Dockets 23349 and 23360, and Northwest Airlines, Inc., in Dockets 23342, are hereby dismissed;

5. The proceeding ordered herein be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated; and

6. Copies of this order be filed with the aforesaid tariffs and be served upon Delta Air Lines, Inc., Eastern Air Lines, Inc., National Airlines, Inc., Northeast Airlines, Inc., and Northwest Airlines, Inc., which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[7]

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-7448 Filed 5-26-71;8:53 am]

[Docket No. 23351; Order 71-5-92]

EASTERN AIR TAXI

Order To Show Cause Regarding Service Mail Rate

MAY 19, 1971.

Issued under delegated authority.

The Postmaster General filed a notice of intent April 30, 1971, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above captioned air taxi operator, a final service mail rate of 94 cents per great circle aircraft mile for the transportation of mail by aircraft between Scranton and Harrisburg, Pa., via Lehigh Valley, Pa., and Newark, N.J., based on five round trips per week.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beechcraft B-99 aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Monmouth Airlines, Inc., doing business as Eastern Air Taxi, in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 94 cents per great circle aircraft mile between Scranton and Harrisburg, Pa., via Lehigh Valley, Pa., and Newark, N.J., based on five round trips per week.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16(f),

It is ordered, That:

1. Monmouth Airlines, Inc., doing business as Eastern Air Taxi, the Postmaster General, Allegheny Airlines, Inc., Eastern Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Monmouth Airlines, Inc., doing business as Eastern Air Taxi;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

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[6] Appendix A filed as part of the original document.

[7] Concurring and dissenting statements of Members Minetti and Murphy filed as part of the original document.

[1] As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served on Monmouth Airlines, Inc., doing business as Eastern Air Taxi, the Postmaster General, Allegheny Airlines, Inc., and Eastern Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Dos.71-7453 Filed 5-26-71;8:54 am]

[Docket No. 23335; Order 71-5-96]

EASTERN AIR TAXI

Order To Show Cause Regarding Service Mail Rate

Issued under delegated authority May 20, 1971.

The Postmaster General filed a notice of intent April 28, 1971, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above captioned air taxi operator, a final service mail rate of 92 cents per great circle aircraft mile for the transportation of mail by aircraft between Philadelphia and Pittsburgh, Pa., based on five round trips per week.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beechcraft B-99 aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Monmouth Airlines, Inc., doing business as Eastern Air Taxi, in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 92 cents per great circle aircraft mile between Philadelphia and Pittsburgh, Pa., based on five round trips per week.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16(f),

It is ordered, That:

1. Monmouth Airlines, Inc., doing business as Eastern Air Taxi, the Postmaster General, Allegheny Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Monmouth Airlines, Inc., doing business as Eastern Air Taxi;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served on Monmouth Airlines, Inc., doing business as Eastern Air Taxi, the Postmaster General, Allegheny Airlines, Inc., Trans World Airlines, Inc., and United Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-7454 Filed 5-26-71;8:54 am]

[Docket No. 22628; Order 71-5-101]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Delayed Inaugural Flights

Issued under delegated authority, May 21, 1971.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Joint Conference 3-1 of the International Air Transport Association (IATA), and adopted by mail vote. The agreement has been assigned the above-designated CAB Agreement number.

The agreement permits Northwest Airlines to postpone to dates not later that December 14, 1971, the performance of its inaugural flights in connection with the introduction of its new 747 service between San Francisco and Hong Kong via Honolulu, Tokyo, and Taipei.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found, on a tentative basis, that Resolution JT31(Mail 199) 200h, which is incorporated in the above-indicated agreement, is adverse to the public interest or in violation of the Act.

Accordingly, it is ordered, That:

Action on Agreement CAB 22430 is deferred with a view toward eventual approval.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 3385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-7449 Filed 5-26-71;8:53 am]

[Docket No. 20415; Order 71-5-106]

LATIN AMERICAN SERVICE MAIL RATES

Order To Show Cause Regarding Rate for Priority Mail

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of May 1971.

By Order 70-12-161, December 18, 1970, the Board approved the merger of Trans Caribbean Airways, Inc., into American Airlines, Inc., and the transfer to American of Trans Caribbean's certificate of public convenience and necessity, subject to certain conditions. The merger was completed and Trans Caribbean's certificate was transferred to American, effective March 2, 1971.[1] By

[1] As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

[1] Order 71-3-44, Mar. 8, 1971.

petition filed February 1, 1971, American has requested that the rate established pursuant to Order 69–10–149, October 30, 1969, for the transportation of mail by Trans Caribbean over its Latin American routes be made applicable to the services to be provided by American over those routes upon completion of the merger. On February 8, 1971, the Postmaster General filed an answer supporting American's petition.

American is currently operating under a system mail rate for priority mail pursuant to Order E–25610, dated August 28, 1967, as amended, subject to adjustment upon final decision in Docket 23080.[2] The current domestic priority mail rate would be applicable to American's newly authorized services in the absence of a further Board order establishing separate rates for domestic services and the new Latin American services. Under these circumstances, it is appropriate to reestablish the domestic rate for American's domestic services and to establish a rate for its Latin American services at the same levels as those previously established for other carriers performing such services.

Since it is appropriate the American's service mail rates be the same as those applicable to other carriers providing competitive services, the Board proposes to issue an order including the following findings and conclusions:

(1) On and after March 2, 1971, the fair and reasonable service mail rate to be paid American Airlines, Inc., for the transportation of priority mail by aircraft over its domestic routes, the facilities used and useful therefor, and the services connected therewith, is the service mail rate established by Order E–25610, as amended, subject to adjustment upon final decision in Docket 23080.

(2) On and after March 2, 1971, the fair and reasonable final service mail rate to be paid American Airlines, Inc., for the transportation of priority mail by aircraft over its Latin American routes, the facilities used and useful therefor, and the services connected therewith, is the current final service mail rate established for Latin American services by Order 69–10–149, as amended.

(3) The foregoing findings and conclusions shall be implemented by the following amendments to Board orders:

(a) Order E–25610, dated August 28, 1967, as amended, shall be further amended by deleting "American Airlines, Inc." from the list of carriers appearing on the bottom of page 1 thereof and adding "American Airlines, Inc." to the list of carriers appearing at the top of page 2 thereof.

(b) Order 69–10–149, dated October 30, 1969, as amended, shall be further amended by deleting subparagraph (b) of paragraph 1 on page 2 thereof and substituting the following subparagraph:

"b. A rate of 32.5 cents per ton-mile for the Latin American services of Braniff International Airways, Inc., Caribbean-Atlantic Airlines, Inc., Delta Air Lines, Inc., and Pan American World Airways, Inc., for the period on and after June 1, 1969; and of American Airlines, Inc., for the period on and after March 2, 1971, except for service between the 48 contiguous States and the District of Columbia, on the one hand, and San Juan, P.R., the Virgin Islands, and Acapulco, Merida, Mexico City, and Monterrey, Mexico, on the one hand, and between points in Puerto Rico, on the one hand, and St. Croix and St. Thomas, V.I., on the other, between points in Puerto Rico, and between St. Croix and St. Thomas, V.I. This rate shall be applied in accordance with the terms and conditions set forth below."

(4) The service mail rates here fixed and determined are to be paid in their entirety by the Postmaster General.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and pursuant to regulations promulgated in 14 CFR Part 302,

It is ordered, That:

1. All interested persons, and particularly American Airlines, Inc., and the Postmaster General, are directed to show cause why the Board should not fix, determine, and publish the final rates specified above as the fair and reasonable rates of compensation to be paid American Airlines, Inc., for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above.

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and if there is any objection to the rates or to the other findings and conclusions proposed herein, notice thereof shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days, after the date of service of this order.

3. If notice of objection is not filed within 10 days, or if notice is filed and answer is not filed within 30 days, after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rates specified herein.

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable rates shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307).

5. This order shall be served upon American Airlines, Inc., and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71–7452 Filed 5–26–71;8:53 am]

[2] By Order 70–12–48, dated Dec. 8, 1970, the Board reopened the mail rates established by Order E–25610, and instituted an investigation to determine new final service mail rates for the carriers named in Order E–25610.

CIVIL SERVICE COMMISSION

CARD PUNCH OPERATOR, BOSTON, MASS., AREA

Notice of Establishment of Minimum Rates and Rate Ranges

Under the authority of 5 U.S.C. 5303 and Executive Order 11073, the Civil Service Commission has established special minimum salary rates as follows:

GS-356 CARD PUNCH OPERATION SERIES

Geographic Coverage: Boston, Mass., Standard Metropolitan Statistical Area (Includes Essex County (part), Middlesex County (part), Norfolk County (part), Plymouth County (part), and Suffolk County).
Effective date: First day of the first pay period beginning on or after May 30, 1971.

PER ANNUM RATES

Grade	1	2	3	4	5	6	7	8	9	10
GS–2	$5,386	$5,549	$5,712	$5,875	$6,038	$6,201	$6,364	$6,527	$6,690	$6,853
GS–3	5,892	6,076	6,260	6,444	6,628	6,812	6,996	7,180	7,364	7,548
GS–4	6,409	6,616	6,823	7,030	7,237	7,444	7,651	7,858	8,065	8,272

All new employees in the specified occupational levels will be hired at the new minimum rates.

As of the effective date, all agencies will process a pay adjustment to increase the pay of employees on the rolls in the affected occupational levels. An employee who immediately prior to the effective date was receiving basic compensation at one of the statutory rates shall receive basic compensation at the corresponding numbered rate authorized by this notice on or after such date. The pay adjustment will not be considered an equivalent increase within the meaning of 5 U.S.C. 5335.

Under the provisions of section 3–2b, Chapter 571, FPM, agencies may pay the travel and transportation expenses to first post of duty under 5 U.S.C. 5723 of new appointees to positions cited.

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

[FR Doc.71–7427 Filed 5–26–71;8:51 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Notice of Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of President, Government National Mortgage Association, Office of the Assistant Secretary for Housing Production and Mortgage Credit.

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

[FR Doc.71-7393 Filed 5-26-71;8:48 am]

FEDERAL MARITIME COMMISSION

AMERICAN PRESIDENT LINES, LTD. AND P. T. SAMUDERA INDONESIA

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. D. J. Morris, Manager, Rates and Conferences, American President Lines, Ltd., 601 California Street, San Francisco, CA 94108.

Agreement No. 9949 between American President Lines, Ltd., and P. T. Samudera Indonesia establishes a through billing arrangement for the movement of cargo from ports on the Pacific Coast of the United States to ports in Indonesia with transshipment at ports in Japan or Taiwan in accordance with the terms and conditions as set forth in said agreement.

Dated: May 24, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-7459 Filed 5-26-71;8:54 am]

[Docket No. 71-60 (Sub. I)]

PACIFIC AUSTRALIA DIRECT LINE AND PACIFIC COAST AUSTRALASIAN TARIFF BUREAU

Order To Show Cause

On May 19, 1971, the Commission denied a motion of Rederiaktiebolaget Transatlantic (Pacific Australia Direct Line, PAD) for an order to show cause directed to the Pacific Coast Australasian Tariff Bureau. PAD has petitioned for reconsideration of that denial.

The Bureau, again on May 19, 1971, filed a petition for an order to show cause directed to PAD. The controversy between PAD and the Bureau centers around the efforts of PAD to inaugurate an "intermodal" operation with its roll-on/roll-off (roro) ships. The essential facts as asserted by PAD are:

1. PAD filed on March 17, 1971, a tariff of through rates, effective April 16, 1971, on specified items moving from stated inland origins in the United States to specified ports in Australia via specified U.S. Pacific Coast ports.

2. PAD's tariff of through rates covers heavy and bulky items of mobile equipment best carried on roro ships, which only PAD, among members of the respondent conference, operates in the conference trade.

3. PAD's tariff of through rates was issued (1) in accordance with this Commission's decision in Docket 68-8 and Amendment 4 of General Order 13, and (2) only after the Conference had refused to adopt rates or rules which would permit mobile equipment in setup condition to move on PAD's roro service. Such refusal operated to frustrate a major purpose of such service, and to deprive shippers of one of its chief advantages.

4. In consequence of PAD's carriage under its through tariff of two tractors on the first voyage in the conference trade of PAD's new roro vessel PARALLA, the respondent conference inaugurated disciplinary proceedings against PAD under the self-policing provisions (Article XVIII) of the conference agreement. By notice of April 26, 1971, to the conference members, the conference secretary charged PAD with breach of the conference agreement and recommended a fine of $7,762.57 as an "appropriate sanction" for carrying the tractors under PAD's through tariff. A conference meeting is scheduled for May 27, 1971, to consider the charge and impose the penalty.

5. The proposed conference action is beyond the scope of the conference agreement, contrary to this Commission's decision in Docket 68-8, and in violation of section 15 of the Shipping Act, 1916.

On the basis of those assertions, PAD prayed for an order directing the Bureau to cease and desist from all attempts "to punish PAD for acting under a lawful tariff * * *." The motion was denied on the ground that the real dispute was whether a particular shipment preceded the effective date of the tariff and thus was unlawful under the Bureau's tariff—an essentially intraconference dispute best settled by conference self-policing machinery.

In asking for reconsideration, PAD urges that the question it wants settled is whether its "intermodal" tariff is lawful and an order directing the Bureau to refrain from any future attempts to penalize PAD for operations under it. PAD also reiterates its previous request for an order directing the Bureau to cease and desist from its efforts to collect penalties for the controversial shipment already made, and for a determination of the merits of that controversy.

On the day that PAD's motion was denied, the Bureau petitioned for an order directing PAD to show cause why Article II of Agreement No. 50, the basic conference agreement under which the Bureau operates, should not be modified by the insertion of the language indicated below:

II. Trade covered by this agreement: This agreement covers the transportation of all cargo by the parties, whether carried by direct vessel or by transshipment, from United States or Canadian Pacific Coast ports (not including Alaska) and ports in the State of Hawaii, including cargo moving under intermodal conditions from inland points, to ports in the States of Queensland, New South Wales, Victoria, South Australia, and Tasmania, in the Commonwealth of Australia and the Dominion of New Zealand; also, by transshipment, to ports in Cook Islands, Fiji Islands, New Caledonia, New Guinea, New Hebrides, Norfolk Island, British Samoa, Solomon Islands, Tahiti, Thursday Islands, Tonga Islands, and Gilbert Islands. It is understood that the trades covered include the movement of cargoes westbound only.

In voting against the Bureau's proposed amendment, PAD indicated a willingness to agree with the proposal, provided the following additional language were included at some unspecified place in the agreement:

In the adoption of rates and conditions, the Conference shall impartially recognize

and respect the inherent characteristics of specialized vessel types and equipment used by member lines. Any rates and conditions granted to one member line under the foregoing provision shall be available on the same basis for cargo in the same physical shipping condition to any other member line. Disputes as to whether a particular vessel or item of equipment constitute a type qualifying for the particular rate or condition, and the propriety of conference action in granting or denying a request therefor shall be settled by arbitration.

The pleadings before the Commission clearly indicate that at the heart of the quarrel between PAD and the remaining Bureau members lies the lack of rate differential on certain commodities between PAD's roro vessels and the other members of breakbulk operations. The Bureau asserts that the additional modification urged by PAD and quoted above is really an attempt to write into the agreement "a preferred position" for PAD—an attempt which the Bureau asserts is of questionable legality under the "equal terms and conditions concept" of conference membership. The Commission is of the opinion that issues presented should be resolved. Accordingly, a proceeding looking to their resolution will be instituted. As a part of their participation in the proceeding ordered below, both PAD and the Bureau will be expected to inform the Commission of their respective positions, accompanied, of course, by appropriate authority, concerning a rate differential which takes into account the operational differences if any between PAD's roro operation and the operations of the remaining members.

Therefore, it is ordered, That pursuant to sections 15, 18(b), and 22 of the Shipping Act, 1916, the Pacific Coast Australasian Tariff Bureau and its member lines, as set forth in Appendix A below, are hereby made respondents in this proceeding and are directed to show cause why they should not cease and desist from all attempts to penalize the Pacific Australia Direct Line from conducting operations under its Through Intermodal Freight Tariff No. 6, FMC–5.

It is further ordered, That the Pacific Australia Direct Line is hereby made a respondent in this proceeding and is directed to show cause why Article II of Agreement No. 50 should not be modified in the manner proposed by the Bureau and set forth above.

It is further ordered, That this proceeding shall be limited to the submission of affidavits of fact and memoranda of law, replies, and oral argument. Should any party feel that an evidentiary hearing be required, that party must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, and why such proof cannot be submitted through affidavit. Requests for hearing shall be filed on or before June 3, 1971. Affidavits of fact and memoranda of law shall be filed by respondents and served upon all parties no later than the close of business June 3, 1971. Reply affidavits and memoranda shall be filed by the Commission's Bureau of Hearing Counsel and intervenors, if any, no later than close of business June 9, 1971. Oral argument will be scheduled at a later date if requested and/or deemed necessary by the Commission.

It is further ordered, That a notice of order be published in the FEDERAL REGISTER and that a copy thereof be served upon respondent.

It is further ordered, That persons other than those already party to this proceeding who desire to become parties to this proceeding and to participate therein shall file a petition to intervene pursuant to Rule 5(1) of the Commission's rules of practice and procedure (46 CFR 502.72) no later than close of business May 28, 1971.

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in an original and 15 copies as well as being mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

APPENDIX A

Pacific Coast Australasian Tariff Bureau, 635 Sacramento Street, San Francisco, CA 94111.
Columbus Lines, Captain K. Wedekind, Owner's Representative, Bakke Steamship Corp., 650 California Street, San Francisco, CA 94108.
Crusader Line, Monitor Steamship Agency, Inc., 2 Pine Street, San Francisco, CA 94111.
Karlander Kangaroo Line, Transpacific Transportation Corp., 650 California Street, San Francisco, CA 94108.
Orient Overseas Lines, c/o Orient Maritime Agencies, 311 California Street, San Francisco, CA 94104.
Pacific Far East Lines, 141 Battery Street, Street, San Francisco, CA 94111.
Peninsular & Oriental Steam Navigation Co., 155 Post Street, San Francisco, CA 94108.

[FR Doc.71–7460 Filed 5–26–71;8:54 am]

[Docket No. 71–30, etc.]

TRANSAMERICAN TRAILER TRANSPORT, INC., ET AL.

Order of Consolidation and Modification of Orders of Investigation

Transamerican Trailer Transport, Inc., Docket No. 71–30; Sea-Land Service, Inc., Docket No. 71–42; Seatrain Lines, Inc., Docket No. 71–43.

Respondents in the captioned proceedings have moved to consolidate them, alleging that the issues of fact and law will be identical; that they have a common interest in all of the issues and that, by virtue of the close competitive relationship existing among them, none can assess rates higher than the other and participate in the movement of traffic. These motions were denied by the Chief Examiner, but have been referred to us for disposition.

We believe that, contrary to the position asserted by the Commonwealth of Puerto Rico in its opposition to consolidation, consolidation of these proceedings is necessary in that it should save time and expense and that it will better enable an examination of the competitive relationships between the parties, which is a necessary subject of examination in these proceedings. We agree with the suggestions made by Hearing Counsel in their reply to the motions for consolidation that certain conditions be placed upon the conduct of the consolidated proceedings.

Therefore, it is ordered, That the captioned proceedings be, and they hereby are, consolidated;

It is further ordered, That the orders of investigation and suspension in Dockets Nos. 71–30, 71–42, and 71–43 be amended by inserting after the first ordering paragraphs in such orders the following:

It is further ordered, That this proceeding shall include an examination of the need for a requirement that the overall rates of carriers in the U.S. Atlantic/Puerto Rico trade be maintained, in the interests of adequate, varied, and modern service, at a higher level than if the operations of such carriers were considered separately, and the utilization of such requirement, if appropriate, in the establishment of rates of return;

It is further ordered, That the order of investigation and suspension in Docket No. 71–30 be modified by the deletion of the paragraph reading:

It is further ordered, That a briefing schedule be arranged so that an initial decision can issue on a date which will afford sufficient time for the Commission to issue its decision prior to August 24, 1971;

It is further ordered, That access to data or information shall not be denied by Transamerican Trailer Transport, Inc., on the basis that such data relate solely to its Puerto Rican operations; and

It is further ordered, That the right of Hearing Counsel and Interveners to seek discovery under Rule 12 of our rules of practice and procedure prior, as well as subsequent, to the presentation of respondents' direct cases be, and it hereby is, preserved.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.71–7461 Filed 5–26–71;8:54 am]

KOMMANDITTSELSKAPET SEA VENTURE A/S & CO. AND FLAGSHIP CRUISES LTD.

Notice of Issuance of Casualty Certificate

Security for the protection of the public; financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability

Incurred for Death or Injury to Passengers or Other Persons or Voyages pursuant to the provisions of section 2, Public Law 89–777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540):

Kommandittselskapet Sea Venture A/S & Co., Drammensveien 30, Oslo 2, Norway.
And
Flagship Cruises Ltd., Queen Street, Hamilton, Bermuda.

Dated: May 21, 1971.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71–7462 Filed 5–26–71;8:54 am]

FEDERAL POWER COMMISSION

[Docket No. RP71–106]

CITIES SERVICE GAS CO.

Order Providing for Hearing, Rejecting Proposed Revised Tariff Sheets, Accepting and Suspending Proposed Alternate Revised Tariff Sheets, and Providing Hearing Procedures

MAY 21, 1971.

On April 22, 1971, Cities Service Gas Co. (Cities Service), tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1, to become effective May 23, 1971. The proposed rate changes would increase charges for jurisdictional sales and services by approximately $17,946,398, based on sales for the 12 months ended December 31, 1970, as adjusted for known changes through September 30, 1971.

In addition to the proposed increase in overall rate level, Cities Service's rate filing proposes the following changes in its tariff: (1) Addition of a purchased gas cost rate adjustment provision and an interrelated provision for flow-through of gas supplier refunds; (2) addition of an advance payments rate adjustment provision; (3) a change in tariff format for statement of rates; (4) a change in the applicability and character of service provisions related to Rate Schedule LVS–2; and (5) clarification of the provisions of Article 12 of the general terms and conditions regarding firm service to large commercial or industrial consumers. Cities Service also seeks Commission authorization to utilize liberalized tax depreciation with normalization for accounting and rate purposes.

Cities Service's filing consists of two alternate sets of revision to Second Revised Volume No. 1, the first one set forth in Appendix A thereto containing provisions for (1) addition of a purchased gas cost rate adjustment and an interrelated provision for flow-through of gas supplier refunds; and (2) addition of an advance payments rate adjustment.[1] Cities Service states that if the Commission finds that the proposed purchased gas and advance payments adjustment provisions are prohibited by § 154.38(d)(3) of the Commission's regulations under the Natural Gas Act and does not waive the terms of that section for purposes of Cities Service's filing, the company has filed alternative revised tariff sheets in Appendix B of its filing which are identical to those in Appendix A except that the Appendix B sheets eliminate any reference to the changes set forth in (1) and (2) above as well as the change in tariff format for statement of rates.[2] Cities Service further states that if waiver is not granted, it proposes to show in any hearing in this proceeding that the proposed purchased gas and advance payments adjustment provisions and related tariff changes should be incorporated into its tariff as proposed in the aforesaid Appendix A.

Cities Service states that the increase in rate level is necessary to offset a revenue deficiency of approximately the same amount. The principal reasons for the revenue deficiency enumerated by Cities Service are substantial increases in the cost of virtually all aspects of the company's pipeline operations, including rate of return (9.5 percent), purchased gas, plant, operation and maintenance, various taxes, employee benefits, change to normalization for liberalized tax depreciation, and amortization of a court judgment entered against the company.

Review of the rate filing indicates that the issues therein raised require development in evidentiary proceedings. The proposed increased rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

At the prehearing conference hereinafter ordered, we contemplate that all parties will be fully prepared to discuss the stipulation of noncontroverted facts and the definition of issues to be tried as well as any other substantive and procedural problems involved in this proceeding. The parties are expected to effectuate fully the intent of § 2.59 of the Commission's rules of practice and procedure.

The Commission finds:

It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that:

(1) The Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Cities Service's FPC Gas Tariff, as proposed to be amended herein, and that the proposed tariff sheets listed in footnote (2) above be suspended, and the use thereof be deferred as herein provided;

(2) The disposition of this proceeding be expedited in accordance with the procedures set forth below.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the Regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held commencing with a prehearing conference on August 3, 1971, at 10 a.m., e.d.t., in a hearing rom of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, concerning the lawfulness of the rates, charges, classifications, and services contained in Cities Service's FPC Gas Tariff, as proposed to be amended herein.

(B) Pending such hearing and decision thereon, Cities Service's alternate set of revised tariff sheets not containing purchased gas and advance payments adjustment provisions described in footnote (2) above are hereby suspended and the use thereof is deferred until October 23, 1971, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Cities Service's revised tariff sheets proposing purchased gas and advance payments adjustment provisions are hereby rejected for filing. These proposed tariff sheets may be made a part of the record herein to be considered, along with any modifications thereof or alternative provisions submitted by the parties or the Commission Staff, as a proposed purchased gas or advance payments adjustment provision to be included in Cities Service's tariff.

(D) A Presiding Examiner to be designated by the Chief Examiner for that purpose (see Delegation of Authority, 18 CFR, 3.5(d)) shall preside at, and control this proceeding in accordance with the policies expressed in section 2:59 of the Commission's rules of practice and procedure and the purposes expressed in this order.

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[1] The revised tariff sheets with Cities Service's proposed purchased gas and advance payments rate adjustment provisions are 5th Revised Sheet No. 3A; 18th Revised Sheets Nos. 4, 5, 7, 8, and 10; 19th Revised Sheet No. 12; 18th Revised Sheet No. 14; 21st Revised Sheet No. 16; 7th Revised Sheets Nos. 17A and 17B; 1st Revised Sheet No. 17C; 18th Revised Sheet No. 19; 7th Revised Sheets Nos. 22 and 24E; 1st Revised Sheet No. 24F; 4th Revised Sheet No. 31; 5th Revised Sheets Nos. 32 and 33; and Original Sheets Nos. 37B, 37C, 37D, 37E, 37F, 37œ, 37H, and 37I.

[2] The alternate revised tariff sheets without Cities Service's proposed purchased gas and advance payments adjustment provisions are 18th Revised Sheets Nos. 4, 5, 7, 8, and 10; 19th Revised Sheet No. 12; 18th Revised Sheet No. 14; 21st Revised Sheet No. 16; 7th Revised Sheets Nos. 17A and 17B; 1st Revised Sheet No. 17C; 18th Revised Sheet No. 19; 7th Revised Sheets Nos. 22 and 24E; 4th Revised Sheet No. 31; and 5th Revised Sheets Nos. 32 and 33.

(E) On or before August 24, 1971, the Commission's Staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of intervenors shall be served on or before September 3, 1971. Any rebuttal evidence by Cities Service shall be served on or before September 24, 1971. Cross-examination of witnesses shall commence October 12, 1971.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-7429 Filed 5-26-71;8:51 am]

[Docket No. CP71-269]

CITIES SERVICE GAS CO.

Notice of Application

MAY 20, 1971.

Take notice that on May 10, 1971, Cities Service Gas Co. (applicant), Post Office Box 25128, Oklahoma City, OK 73125, filed in Docket No. CP71-269 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas purchase facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant proposes to construct 27.3 miles of 16-inch pipeline from the Rodman Corp.'s North Gasoline Plant, located in Garfield County, Okla., to applicant's Canadian-Blackwell 26-inch pipeline, located in Alfalfa County, Okla. Applicant states that it has contracted to purchase natural gas produced by The Rodman Corp. et al. (Rodman), from acreage to be developed in Garfield, Major, and Blaine Counties, Okla. The amount of this purchase is estimated to be 30,000 Mcf per day. Applicant states that the gathering facilities, to receive these volumes of natural gas, will be constructed pursuant to budget-type authorization heretofore issued by the Commission in Docket No. CP71-65, but that its South Blackwell System cannot handle the increased pressure and volume of the natural gas to be purchased from Rodman. Accordingly, Applicant proposes the aforementioned facilities to eliminate any pressure problems and to facilitate the receipt of the additional volumes of natural gas into its pipeline system. The estimated cost of the facilities proposed herein is $1,385,000, which cost applicant states will be financed from treasury cash.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 11, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-7430 Filed 5-26-71;8:51 am]

[Docket No. E-7530]

LONG ISLAND LIGHTING CO.

Notice of Application

MAY 21, 1971.

Take notice that on May 10, 1971, Long Island Lighting Co. (applicant) filed an application seeking authority pursuant to section 204 of the Federal Power Act to issue its unsecured promissory notes in a principal amount not to exceed $50 million and its commercial paper in a principal amount not to exceed $25 million, both promissory notes and commercial paper to have maturity dates 12 months or less from the date of issuance but in any event not later than June 30, 1972 and aggregating more than 5 percent of the sum of the par value of the outstanding securities of the applicant having a par value and for a further order, continuing the exemption of the proposed issuance of short-term securities from the competitive bidding requirements of § 34.1a (b) and (c) of the regulations under the Federal Power Act, if deemed applicable.

Applicant, incorporated under the laws of the State of New York, with its principal business office at Mineola, N.Y., is authorized to do business in the State of New York.

The interest rate applicable to the promissory notes will be at an annual rate equal to the prime rate of First National City Bank to substantial and responsible commercial borrowers. The interest rate applicable to the commercial paper will be the rate in effect at the time of issuance, to be determined in the manner customary for commercial paper. The promissory notes will each mature 3 months from the date of issuance but in no event no later than December 22, 1971. The maturity of the commercial paper will vary from day to day but in no event will any of the commercial paper mature more than 270 days after issuance.

The proceeds will be used to reimburse the treasury of the applicant to finance expenditures against which other securities have not as yet been issued and for construction purposes.

The Commission had, by its Order in Docket No. E-7530 issued May 7, 1970, found the proposed issuance of similar securities aggregating $65 million to be exempt from the competitive bidding requirements of § 34.1a of the Federal Power Commission's regulations under the Federal Power Act and authorized the issuance of the securities expressly conditioned upon their final maturity not being later than July 30, 1971.

Any person desiring to be heard or to make any protest with reference to the application should, on or before June 3, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-7431 Filed 5-26-71;8:51 am]

[Dockets Nos. RP71-87, RP71-111]

MISSISSIPPI RIVER TRANSMISSION CORP.

Order Consolidating Proceedings and Authorizing Use of Liberalized Depreciation With Normalization

MAY 21, 1971.

On April 26, 1971, in Docket No. RP71-111, Mississippi River Transmission Corp. (Mississippi) filed a petition requesting permission to adopt normalized accounting of liberalized depreciation for book and rate purposes with respect to all of its pre-1970 utility property and post-1969 nonexpansion utility property, effective July 1, 1971. At the time of the filing, there was pending, and there is still pending, Docket No. RP71-87, an application to increase rates filed by Mississippi. By order issued January 29, 1971, the Commission suspended the proposed increased rates in said docket until July 1, 1971. In support of its proposed rate increase, Mississippi submitted cost of service exhibits which reflect the use of normalization with respect to all of Mississippi's depreciable properties. Since the subject of the petition is contained within Docket No. RP71-87, it is appropriate to consolidate the proceedings in Docket No. RP71-111 with the Docket No. RP71-87 proceedings for hearing and

decision. However, by ordering this consolidation we are not determining the proper accounting and rate treatment to be accorded with respect to eligible utility property as of July 1, 1971. Our approval of such accounting and rate treatment as of July 1, 1971, is expressly subject to further Commission orders in these proceedings, in which the action here taken may be modified and refunds ordered back to July 1, 1971.

The Commission finds:

(1) It is appropriate and in the public interest that the proceedings in Dockets Nos. RP71–87 and RP71–111 be consolidated for hearing and decision.

(2) It is appropriate and in the public interest to approve the utilization of liberalized depreciation with normalization for accounting and rate-making purposes as of July 1, 1971, subject to further Commission orders modifying and ordering refunds, if any, back to July 1, 1971.

The Commission orders:

(A) The proceedings in Dockets Nos. RP71–87 and RP71–111 are consolidated for hearing and decision.

(B) Mississippi is authorized to utilize liberalized depreciation with normalization for eligible property as of July 1, 1971, for accounting and rate-making purposes, subject to further Commission orders herein modifying such authorization and ordering refund, if any, back to July 1, 1971.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71–7432 Filed 5–26–71;8:51 am]

[Docket No. CP68–323]

TIDAL TRANSMISSION CO.

Notice of Petition To Amend

MAY 21, 1971.

Take notice that on May 14, 1971, Tidal Transmission Co. (petitioner), 2817 One Main Place, Dallas, TX 75250, filed in Docket No. CP68–323 a petition to amend the Commission's order heretofore issued in said docket on September 4, 1968 (40 FPC 395), as amended by order issued on July 7, 1969 (42 FPC 48), granting a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act, by authorizing the construction and operation of an extension to its existing offshore natural gas pipeline system, and an increase in the contract demand volumes transported for Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The orders heretofore issued in Docket No. CP68–323 authorized, inter alia, the construction and operation of pipeline facilities for the transportation of natural gas from various areas in offshore Louisiana to an onshore delivery point in Cameron Parish, La., for and on behalf of Natural. Petitioner seeks authorization herein for an extension of its facilities by the construction of 11.7 miles of 10-inch pipeline for the receipt of additional volumes purchased by Natural from The Superior Oil Co. in the Block 14 Field of the High Island Area of offshore Texas. Petitioner proposes to transport the natural gas available from Superior through its facilities to Natural's facilities in Cameron Parish. Petitioner also seeks authorization to increase the contract demand for the transportation service pursuant to Tidal Transmission Co. FPC Gas Tariff, Original Volume No. 1 from 117,750 Mcf per day to 145,750 Mcf per day.

The estimated cost of the facilities proposed herein is $2,020,700, which cost petitioner states will be financed initially through short-term loans and permanently through the issuance of long-term secured notes.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 14, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71–7433 Filed 5–26–71;8:51 am]

[Docket No. CP71–271]

VALLEY GAS TRANSMISSION, INC.

Notice of Application

MAY 20, 1971.

Take notice that on May 12, 1971, Valley Gas Transmission, Inc. (applicant), Post Office Box 1188, Houston, TX 77001, filed in Docket No. CP71–271 an application pursuant to section 7(c) of the Natural Gas Act as implemented by § 157.7(b) of the regulations under said Act, for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing May 1, 1971, and operation of certain natural gas facilities to enable applicant to take into its pipeline system supplies of natural gas which will be purchased from producers in the general area of applicant's existing pipeline system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas in various producing areas generally coextensive with said system.

The total cost of the facilities proposed herein is not to exceed $250,000, with no single project costing in excess of $50,000 which cost applicant states will be financed with internally generated funds or short-term loans. Applicant requests waiver of the requirements of § 2.58(a) of the Commission's general policies and interpretations and states that because of the relatively small size of its utility plant, a literal application of the formula prescribed in § 2.58(a) would result in investment limits too low to be practical.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 14, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71–7434 Filed 5–26–71;8:52 am]

[Dockets Nos. RP71–29, RP71–41]

UNITED GAS PIPE LINE CO.

Order Suspending Proposed Tariff Revision, Consolidating Issues in Pending Proceedings and Denying Petition To Intervene and Motion To Reject

MAY 18, 1971.

On March 10, 1971, United Gas Pipe Line Co. (United) submitted for filing Second Revised Tariff Sheet No. 72 to its FPC gas tariff with a request that it be allowed to become effective as of June 1, 1971. United states the purpose is to clarify existing section 12.1 of the

General Terms and Conditions in United's tariff. In addition United proposes to add a new section 12.3 under which United will be relieved of the obligation to reduce any demand charge by virtue of proration or interruption of deliveries under section 12 of the tariff. The currently effective provision obligates United to reduce a buyer's demand charge whenever the buyer does not receive the volume of gas desired by the buyer, up to the Maximum Daily Quantity contracted for. In connection with United's proposal that the revised tariff be accepted for filing to become effective on June 1, 1971, it has requested waiver of § 154.22 of the Commission's regulations under the Natural Gas Act to permit filing more than 60 days in advance of the proposed effective date. Alternatively, United proposed an effective date of 30 days after filing in the event of a suspension of the effectiveness proposed.

Presently pending and soon to proceed to hearing is United's general rate increase application (Docket No. RP71–41), the effectiveness of which has been suspended until June 1, 1971. The issues relating to the proposed revision of United's tariff by the addition of a new § 12.3 to the General Terms and Conditions are appropriately matters for consideration in the Docket No. RP71–41 proceeding. We are therefore consolidating such issues for hearing and determination in the Docket No. RP71–41 proceeding.

There is also presently pending a proceeding involving United's petition filed on October 26, 1970 (and subsequently amended and supplemented) for a declaratory order relating to the interpretation and implementation of section 12 of the General Terms and Conditions of United's tariff entitled "Impairment of Deliveries." (Docket No. RP71–29) The issues relating to the proposed revision of § 12.1 of the General Terms and Conditions in United's tariff are appropriately matters for consideration in the Docket No. RP71–29 proceeding and accordingly we are consolidating such issues for hearing and determination in that proceeding.

Under the circumstances we consider it appropriate to suspend the effectiveness of the proposed revised tariff sheet for 1 day from June 1, 1971. We also consider it appropriate to grant the requested waiver of the requirements of § 154.22 of the Commission's regulations under the Natural Gas Act.

On March 24, 1971 Clarke-Mobile Counties Gas District, Mississippi Valley Gas Co. and Mobile Gas Service Corp. (Clarke-Mobile et al.) made a filing (a) petitioning to intervene "in opposition" to United's submittal of the revised tariff sheet, (b) objecting to the acceptance of the revision for filing, and (c) moving for its summary rejection. For the reasons hereinafter set forth, the relief requested by Clarke-Mobile et al., is denied.

With respect to the petition to intervene for the purpose of opposing the revised tariff sheet, we point out that Clarke-Mobile et al., are already intervenors in both the Dockets Nos. RP71–41 and RP71–29 proceedings. Since we are consolidating in those proceedings the relevant issues relating to the proposed revised tariff sheet, Clarke-Mobile et al., will have full opportunity to take any positions they choose respecting the same in those proceedings. Consequently there is no need to grant the requested intervention here.

The motion of Clarke-Mobile et al., to reject the filing is based on objections thereto which they raise, contending that the filing as it relates to § 12.3 is a "major rate increase" within the meaning of § 154.63(a)(2) (ii) and (iii) of the Commission's regulations under the Natural Gas Act. It is also claimed that the filing is prohibited by § 154.66(c) of the regulations since the filing was made during the suspension period in Docket No. RP71–41. We do not agree that the subject filing is a "major rate increase" within the meaning of our regulations. Moreover, as we have stated, we believe the issues relating to the subject filing can be appropriately considered in the Docket No. RP71–41 proceeding which involves a major rate increase application filed in accordance with our regulations. The contention relating to § 154.66(c) of the regulations likewise lacks merit as we do not consider that such provision prohibits this filing.

The objections of Clarke-Mobile et al., to the filing as it relates to the proposed clarification of § 12.1 of the General Terms and Conditions seems to be based on the claim that said section is under consideration in the Docket No. RP71–29 proceeding. Since we have concluded that the issues relating to the proposed revision of § 12.1 can appropriately be considered in that proceeding, we find that the objections raised would not justify a rejection of the filing.

Clarke-Mobile et al., have requested oral argument on their motion. We find no justification for an oral argument and we therefore deny the request.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission consolidate the issues relating to the subject filing with the pending Dockets Nos. RP71–41 and RP71–29 proceedings for hearing and decision and that the proposed tariff sheet be suspended and use thereof deferred as herein provided.

(2) It is appropriate to grant the requested waiver of the requirements of § 154.22 of the Commission's regulations under the Natural Gas Act.

(3) The aforesaid motion to reject the filing and the request for oral argument should be denied.

The Commission orders:

(A) The issues relating to United's proposed revision of its tariff by the addition of a new § 12.3 to its General Terms and Conditions are consolidated for hearing and decision with the pending Docket No. RP71–41 proceeding.

(B) The issues relating to United's proposed revision of § 12.1 of the General Terms and Conditions of its tariff are consolidated for hearing and decision with the pending Docket RP71–29 proceeding.

(C) Pending such hearings and decisions on the said issues, United's proposed Second Revised Tariff Sheet No. 72 is hereby suspended and the use thereof deferred until June 2, 1971, and such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(D) The requirements of § 154.22 of the Commission's regulations under the Natural Gas Act are waived with respect to the subject filing.

(E) The aforesaid petition to intervene, motion to reject the subject filing, and request for oral argument made by Clarke-Mobile et al., are denied.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71–7435 Filed 5–26–71;8:52 am]

FEDERAL RESERVE SYSTEM

FIRST UNION, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of First Union, Inc., St. Louis, Mo., for approval of acquisition of 80 percent or more of the voting shares of The First National Bank of West Plains, West Plains, Mo.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by First Union, Inc., St. Louis, Mo., a registered bank holding company, for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of The First National Bank of West Plains, West Plains, Mo.

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 recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on February 4, 1971 (36 F.R. 2429), 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.

It is hereby ordered, For the reasons set forth in the Board's statement[1] of

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of St. Louis.

this date, that said application be and hereby is approved: *Provided*, That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order unless such time be extended for good cause by the Board, or by the Federal Reserve Bank of St. Louis pursuant to delegated authority.

By order of the Board of Governors,[2] May 20, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-7365 Filed 5-26-71;8:45 am]

NJN BANCORPORATION

Order Approving Action To Become a Bank Holding Company

In the matter of the application of NJN Bancorporation, Trenton, N.J., for approval of action to become a bank holding company through the acquisition of 100 percent (less director's qualifying shares) of the voting shares of New Jersey National Bank, Trenton, N.J.

There has come before the Board of Governors, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by NJN Bancorporation, Trenton, N.J. (Applicant), for the Board's prior approval of action whereby Applicant would become a bank holding company through the acquisition of 100 percent (less directors' qualifying shares) of the voting shares of New Jersey National Bank, Trenton, N.J. (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 April 17, 1971 (36 F.R. 7329), 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 future prospects of the Applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant is a nonoperating corporation formed for the purpose of acquiring Bank (deposits $467.1 million). As it has no present operations or subsidiaries, consummation of the proposal would eliminate neither existing nor potential competition. Neither does it appear that there would be adverse effects on any bank in the area involved.

The financial and managerial resources and prospects of Bank are satisfactory, as would be those of Applicant upon consummation of the proposal, and are consistent with approval. Consummation of the proposal would have no immediate effect on the convenience and needs of the community involved. Considerations under these factors are consistent with approval. 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 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, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Philadelphia pursuant to delegated authority.

By order of the Board of Governors,[1] May 20, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-7366 Filed 5-26-71;8:46 am]

TRUST COMPANY OF GEORGIA

Order on Petition for Reconsideration

In the matter of the application of Trust Company of Georgia, Atlanta, Ga., for approval of acquisition of assets and assumption of liabilities of Peachtree Bank and Trust Co., Chamblee, Ga.

On February 22, 1971, the Board of Governors issued an Order pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), approving an application by Trust Company of Georgia, Atlanta, Ga., for prior approval of the merger of Trust Company with Peachtree Bank and Trust Co., Chamblee, Ga., by means of Trust Company's purchase of assets and assumption of liabilities of Peachtree Bank.

In order to permit study of th complex procedural and substantive issues raised by a petition by the U.S. Department of Justice for reconsideration of that order, the Board, on March 19, 1971, stayed its operation.

After study of those issues, the Board finds that reconsideration of its order of February 22, 1971 would be appropriate and in the public interest.

It is hereby ordered, For the reasons set forth in the accompanying statement[1] and in the Board's order of February 22, 1971, that the orders of March 19 and February 22, 1971, be and hereby are vacated: *And it is further ordered*, That the application be and hereby is approved: *Provided*, That the merger so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegate authority.

By order of the Board of Governors,[2] May 20, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-7367 Filed 5-26-71;8:46 am]

TORONTO-DOMINION BANK

Order Approving Action To Become a Bank Holding Company

In the matter of the application of The Toronto-Dominion Bank, Toronto, Ontario, Canada, for approval to become a bank holding company through the acquisition of 100 percent (less directors' qualifying shares) of the voting shares of Toronto Dominion Bank of California, San Francisco, Calif., a proposed new bank.

There has come before the Board of Governors, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), the application of The Toronto-Dominion Bank, Toronto, Ontario, Canada (Applicant), for the Board's prior approval to become a bank holding company through the acquisition of 100 percent (less directors' qualifying shares) of the voting shares of Toronto Dominion Bank of California, San Francisco, Calif. (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 California Superintendent of Banks and requested his views and recommendation. The Superintendent recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on March 25, 1971 (36 F.R. 5641), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application

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

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Maisel, Brimmer, and Sherrill.

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Atlanta. Dissenting Statement of Governor Robertson also filed as part of the record and available upon request.

[2] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Maisel, Brimmer, and Sherrill. Voting against this action (on the merits of the application): Governor Robertson.

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 future prospects of the Applicant and the Bank, and the convenience and needs of the community to be served, and finds that:

Applicant is a Canadian commercial bank with $5 billion in deposits and 769 banking offices located throughout Canada. In the United States, Applicant has agencies in New York City and San Francisco and representative offices in Chicago, Los Angeles, and Houston. Additionally, it owns a trust company in New York City which does not accept demand deposits.

Within the immediate area of Bank are head offices of three of the five largest banks in California as well as branch offices of the remaining two largest banks. Based on the record before it, the Board concludes that Bank's entry into this area will have no adverse effects on existing or potential competition. Rather, the addition of Bank will provide increased banking facilities and competition.

The financial and managerial resources and prospects of Applicant and Bank are satisfactory and consistent with approval of the application. Considerations relating to the convenience and needs of the community to be served lend some weight toward approval, due to the addition to the area of a new bank and another international banking link to Canada.

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) Toronto Dominion Bank of California 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 San Francisco pursuant to delegated authority.

By order of the Board of Governors,[1] May 20, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-7368 Filed 5-26-71;8:46 am]

VALLEY BANCORPORATION

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Valley Bancorporation, Appleton, Wis., for approval of acquisition of 80 percent or more of the voting shares of Badger, State Bank, Denmark, Wis.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Valley Bancorporation, Appleton, Wis. (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 Badger State Bank, Denmark, Wis. (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 Wisconsin and requested his views and recommendation. The Commissioner offered no objection to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on April 6, 1971 (36 F.R. 6543), 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 future prospects of the Applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant, the seventh largest registered bank holding company and banking organization in Wisconsin, controls 10 banks holding aggregate deposits of $123 million which represent 1.4 percent of commercial bank deposits in the State of Wisconsin. (All banking data are as of June 30, 1970, and reflect bank holding company acquisitions approved by the Board to date.) Upon acquisition of Bank ($7.5 million in deposits), Applicant's control of deposits in the State of Wisconsin would increase to 1.5 percent.

Bank, located in the southeast section of Brown County, is the 11th largest of 16 banking organizations in the Green Bay SMSA, holding 2.3 percent of deposits in that area. Applicant's closest subsidiary is Reedsville State Bank which is located in Reedsville, Manitowoc County, 22 miles southwest of Denmark. There is no present competition between Bank and that bank or any other of Applicant's subsidiaries. In light of the low population of the area, and the fact that Wisconsin law prohibits branching into or within 3 miles of communities already having a bank or branch, the possibility of such competition arising in the future appears remote. No existing competition would be eliminated by consummation of the proposal, nor would significant potential competition be foreclosed. Neither would there be any adverse effects on any bank in the area.

There is no evidence that significant banking needs of the community are going unserved; however, affiliation with Applicant would allow Bank to provide additional services such as data processing and trust services. Considerations relating to the convenience and needs of the communities to be served are thus consistent with approval. The prospects and financial condition of Bank are regarded as satisfactory. Bank's management is nearing retirement age and affiliation with Applicant would facilitate management succession; this factor lends some weight toward approval. 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 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, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[1] May 20, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-7369 Filed 5-26-71;8:46 am]

SECURITIES AND EXCHANGE COMMISSION

[812-2923]

AMERICAN VARIABLE ANNUITY LIFE ASSURANCE CO. AND AMERICAN VARIABLE ANNUITY FUND

Notice of Application for Exemption From Certain Provisions

MAY 20, 1971.

Notice is hereby given that American Variable Annuity Life Assurance Company (Company) and American Variable Annuity Fund (Fund), 440 Lincoln Street, Worcester, MA 01605 (hereinafter collectively "Applicants"), have filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (Act) for an order exempting Applicants from the provisions of section 22(d) of the Act to the extent described below. The Company, an Arkansas stock insurance company, is a wholly owned subsidiary of the State Mutual Life Assurance Company of America (State Mutual), a Massachusetts mutual life insurance company. The Hanover Life Insurance Co. (Hanover), a New Jersey stock insurance company, is 99 percent owned by State Mutual. The Fund, an open-end, diversified, management investment company registered under the

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Maisel, Brimmer, and Sherrill.

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Maisel, Brimmer, and Sherrill.

Act was established by the Company for the purpose of setting aside, separate from the Company's general assets, assets used to fund the variable portions of variable annuity contracts sold by the Company. All interested persons are referred to the application on file with the Commission for a complete statement of the representations contained therein which are summarized below.

Section 22(d) provides, in pertinent part, that no registered investment company or principal underwriter shall sell any redeemable security issued by it to any person except at a current offering price described in the prospectus.

Applicants request exemption from section 22(d) to permit the application of amounts payable under insurance and annuity contracts written by State Mutual and Hanover such as death benefits, maturities under endowment contracts, and surrender values (collectively referred to as "insurance and annuity proceeds") to purchase individual single payment variable annuity contracts offered by Applicants (contracts) with a reduced charge for sales and administrative expense.

Applicants' contracts provide for deductions for sales and administrative expense in the following amounts:

Portion of total payments	Percentage deduction	Portion representing sales charge	Portion representing administrative and other expense charge
	Percent	*Percent*	*Percent*
First $10,000	7.0	6.0	1.0
Next $15,000	6.0	5.0	1.0
Next $25,000	5.0	4.0	1.0
Next $25,000	4.0	3.5	0.5
Next $25,000	3.0	2.6	0.4
Balance	2.0	1.7	0.3

With respect to a purchase payment made with insurance and annuity proceeds, Applicants propose to provide for deductions for sales and administrative expense as follows:

Portion of total payments	Percentage deduction	Portion representing sales charge	Portion representing administrative and other expense charge
	(*Percent*)	(*Percent*)	(*Percent*)
First $10,000	4.0	3.0	1.0
Next $15,000	3.0	2.2	0.8
Next $25,000	2.0	1.5	0.5
Balance	1.0	0.8	0.2

Applicants assert that since the contracts are bilateral agreements and their maturity and terms of payment during the annuity period depend, among other things, on the age, sex, and longevity of a particular annuitant, there is no market in the contracts and no way in which the requested exemption could lead to disruption of their orderly distribution.

Applicants further assert that the requested exemption will not create unfair discrimination since the premiums on State Mutual and Hanover's insurance and annuity contracts will already have been subject to sales and administrative charges and applying insurance and annuity proceeds to purchase the contracts will not involve such substantial additional sales and administrative activities as to require imposition of an additional full charge. Reducing the charge for sales and administrative expenses in the manner proposed will avoid an unnecessary accumulation of charges to the persons entitled to the insurance and annuity proceeds.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any persons or transactions from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than June 10, 1971 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service by affidavit (or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in the matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[F.R. Doc.71–7382 Filed 5–26–71;8:47 am]

[Files Nos. 7–3779—7–3785]

AMERICAN BAKERIES CO. ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

MAY 24, 1971.

In the matter of applications of the Boston Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
American Bakeries Company	7–3779
Augat, Inc.	7–3780
Katy Industries, Inc.	7–3781
Midland-Ross Corp.	7–3782
Morse Shoe, Inc.	7–3783
National-Standard Co.	7–3784
Public Service Co. of New Hampshire	7–3785

Upon receipt of a request, on or before June 8, 1971, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] THEODORE L. HUMES,
Secretary.

[FR Doc.71–7383 Filed 5–26–71;8:47 am]

[Files Nos. 7–3773—7–3778]

INLAND STEEL CO. ET AL.

Notice of Applications for Unlisted Trading and of Opportunity for Hearing

MAY 24, 1971.

In the matter of applications of the Cincinnati Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Inland Steel Co.	7–3773
International Telephone & Telegraph Corp.	7–3774
Liggett & Meyers, Inc.	7–3775

	File No.
Marcor, Inc	7-3776
Merck & Co., Inc	7-3777
Safeway Stores, Inc	7-3778

Upon receipt of a request, on or before June 8, 1971, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] THEODORE L. HUMES,
Secretary.

[FR Doc.71-7384 Filed 5-26-71;8:47 am]

[Files Nos. 7-3764—7-3772]

ATLANTIC RICHFIELD CO. ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

MAY 24, 1971.

In the matter of applications of the Cincinnati Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Atlantic Richfield Co	7-3764
Avon Products, Inc	7-3765
Cleveland Electric Illuminating Co	7-3766
Consolidated Edison Co. of New York	7-3767
Continental Can Co., Inc	7-3768
Delta Air Lines, Inc	7-3769
The Detroit Edison Co	7-3770
General Mills, Inc	7-3771
Honeywell, Inc	7-3772

Upon receipt of a request, on or before June 8, 1971, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] THEODORE L. HUMES,
Secretary.

[FR Doc.71-7385 Filed 5-26-71;8:47 am]

[70-5024]

CONNECTICUT LIGHT AND POWER CO. AND HARTFORD ELECTRIC LIGHT CO.

Notice of Proposed Acquisition of Long-Term Notes of Nonassociate Community Development Corporation

MAY 20, 1971.

Notice is hereby given that The Connecticut Light and Power Co. (CL&P), Selden Street, Berlin, CT 06037, and The Hartford Electric Light Co. (HELCO), 176 Cumberland Avenue, Wethersfield, CT 06109, public-utility subsidiary companies of Northeast Utilities, a registered holding company, have filed an application and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 9(c)(3) of the Act as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

CL&P and HELCO propose to acquire subordinated promissory notes of The Greater Hartford Community Development Corp. (DEVCO), a nonassociate and nonutility company, in an aggregate principal amount of up to $90,000 and $22,500, respectively. The application states that in 1969, various business and community representatives in the Greater Hartford, Conn., area formed The Greater Hartford Process, Inc. (Process), a community-oriented, nonprofit, charitable, and educational corporation to provide a technical staff to pool the various resources in the region in order to establish a program to implement needed community growth and change to improve the quality of life in that area. DEVCO, a nonstock corporation with Process as its sole member, was organized in Connecticut to assist in carrying out proposals of Process related to real estate development.

DEVCO proposes to issue and sell to various business organizations in the Greater Hartford community up to $2 million aggregate principal amount of its subordinated promissory notes in order to cover its initial expenses and working capital needs as well as to provide funds for other purposes. Each note will be dated the date of issue, will mature on March 1, 1986, and will bear interest at a rate 1½ percent above the prime rate for short-term commercial loans in effect from time to time in Hartford, Conn. Interest is payable initially on March 1, 1976, and semiannually thereafter. In addition, the notes are subject to a 10 percent annual sinking fund commencing on March 1, 1977. The timing of the issue of the notes is to be determined by DEVCO, except that no further notes may be issued after December 31, 1973. HELCO and CL&P both distribute electricity to portions of the Greater Hartford area, and the relation between the amount of the notes to be purchased by HELCO and CL&P is approximately the same as the relation between the amount of business they do, respectively, in the Greater Hartford area.

Fees and expenses to be incurred by CL&P and HELCO are estimated at $1,500. It is stated that the Connecticut Public Utilities Commission has jurisdiction over the acquisition of the notes and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than June 18, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended or as it may be further amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-7386 Filed 5-26-71;8:47 am]

[Files Nos. 7-3786, 7-3787]

SCHERING-PLOUGH CORP. AND LOEWS CORP.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

MAY 24, 1971.

In the matter of applications of the Midwest Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Schering-Plough Corp.	7-3786
Loews Corp.	7-3787

Upon receipt of a request, on or before June 8, 1971, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-7387 Filed 5-26-71;8:47 am]

[811-1266]

MUTUAL INCOME FUND

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

MAY 20, 1971.

Notice is hereby given that Mutual Income Fund (Applicant), 717 Travis Street, Houston, TX 77002, a Texas corporation, registered as an open-end diversified management investment company under the Investment Company Act of 1949 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of representations contained therein which are summarized below.

The Applicant filed Form N-8A Notification of Registration and Registration Statements on Form N-8B-1 under the Act and Form S-5 under the Securities Act of 1933. The Applicant's Registration Statement under the Securities Act of 1933 was declared effective on December 31, 1964, and the Applicant commenced the public offering of its shares.

The Applicant represents that on September 20, 1968, its board of directors determined that it had not attained sufficient size to permit the most efficient and effective management of the company's investment portfolio and the board therefore approved the dissolution and liquidation of the company, subject to approval by at least two-thirds of the outstanding shares of stock. The dissolution was approved by 77 percent of the stockholders at the annual meeting on December 10, 1968. Thereafter the company liquidated its investment portfolio and on March 24, 1969, distributed the net proceeds thereof to the stockholders of the company. Articles of Dissolution were filed with the Secretary of the State of Texas on April 22, 1969.

Notice is further given that any interested person may, not later than June 24, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the Applicant at the address set forth above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be requested or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-7388 Filed 5-26-71;8:48 am]

[812-2867]

UNITED FUNDS, INC., ET AL.

Notice of and Order for Hearing on Application for Exemption

MAY 19, 1971.

Notice is hereby given that United Funds, Inc., United Vanguard Fund, Inc., United Continental Growth Fund, Inc., United Continental Income Fund, Inc. (collectively the "Funds"), and Waddell and Reed, Inc. (Waddell) 20 West 9th Street, Kansas City, MO 64105 (referred to with Funds as "Applicants"), have filed an application pursuant to Section 6(c) of the Investment Company Act of 1940 (Act) for an order exempting Applicants and the transactions described below from the provisions of section 22(d) of the Act and Rule 22d-1 thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein which are summarized below.

Applicants state that the shares of the Funds, each of which is a registered open-end, diversified management investment company, are offered to the public on a continuous basis at net asset value plus varying sales charges depending on the amount purchased. Waddell is the principal underwriter of the Funds. Applicants request an exemption from section 22(d) of the Act and Rule 22d-1 thereunder to enable each of the Funds to sell its shares at the net asset value per share to persons who have caused their shares to be redeemed within the previous 15 days. Applicants state that such sale will be limited to the exact amount of the redemption proceeds (or to the nearest full share if fractional shares are not purchased), and that a written order to purchase the shares must be received by the particular Fund or Waddell within 15 days after the request for redemption was received. Applicants state that the purchase will be at the net asset value per share after receipt of the written order and that no sales commission will be received by Waddell or any sales representative on such purchase.

Applicants state that the requested exemption, if granted, would permit a shareholder who had made a hasty or uninformed decision to redeem his shares, and who has changed his mind, to reestablish his investment without paying an additional sales charge. Applicants state that shareholders often redeem shares for reasons which are temporary in nature and that shareholders are often not aware of certain adverse consequences in regard to the payment of additional sales loads and capital gains taxes when shares are redeemed and the proceeds applied to the purchase of shares of another investment company.

Applicants state that the privilege of reinvesting the proceeds of a redemption at net asset value will be limited to persons who have not previously exercised such privilege as to any of the Funds. Applicants contend that because of this limitation and because wire redemption

requests and wire orders will not be permitted, the proposed privilege will not afford an opportunity for speculative short-term trading in shares of Funds.

Applicants state that to advise shareholders of the reinvestment privilege, Waddell may, at its expense, probably by a statement inserted with the redemption check, advise the shareholder of the right to reinvest at net asset value; such notice would be in addition to the disclosure of the privilege in the prospectus of each Fund.

Section 22(d) of the Act provides that registered open-end investment companies may sell their shares only at the current public offering price as described in the prospectus.

It appears to the Commission that it is appropriate in the public interest that a hearing be held with respect to the application pursuant to section 6(c) of the Act.

It is ordered, Pursuant to section 40(a) of the Act, that a hearing on the aforesaid application under the applicable provisions of the Act and the rules of the Commission thereunder be held on the 21st of June 1971, at 10 a.m. in the offices of the Commission, 500 North Capitol Street NW., Washington, DC 20549. At such time, the Hearing Room Clerk will advise as to the room in which such hearing will be held. Any person, other than Applicants, desiring to be heard or otherwise wishing to participate in the proceedings is directed to file with the Secretary of the Commission, on or before the 16th day of June 1971, his application pursuant to Rule 9(c) of the Commission's rules of practice. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address noted above, and proof of service (by affidavit, or, in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request.

It is further ordered, That any officer or officers of the Commission to be designated by it for that purpose shall preside at said hearing. The officer so designated is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42(b) of the Act, and to a hearing officer under the Commission's rules of practice.

The Division of Corporate Regulation has advised the Commission that it has made a preliminary examination of the application and that upon the basis thereof the following matters are presented for consideration, without prejudice to the specification of additional matters upon further examination.

(1) Whether the requested exemption is consistent with the purpose of section 22(d) of the Act.

(2) Whether the requested exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

It is further ordered, That the Secretary of the Commission shall give notice of the aforesaid hearing by mailing copies of this notice and order by certified mail to the Applicant, and that notice to all persons shall be given by publication of this notice and order in the FEDERAL REGISTER; and that a general release of this Commission in respect of such notice and order be distributed to the press and mailed to the mailing list for releases.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-7389 Filed 5-26-71;8:48 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 828; Class B]

MASSACHUSETTS

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of April 1971, because of the effects of a certain disaster, damage resulted to residences and business property located in the State of Massachusetts;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitutes a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in the city of Lowell, Mass., suffered damage or destruction resulting from a fire occurring on April 24, 1971.

OFFICE

Small Business Administration Regional Office, John Fitzgerald Kennedy Federal Building, Government Center, Boston, MA 02203.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to November 30, 1971.

Dated: May 20, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-7376 Filed 5-26-71;8:46 am]

TARIFF COMMISSION

[337-28]

LIGHTWEIGHT LUGGAGE

Notice of Hearing

Notice is hereby given that on June 21, 1971, the U.S. Tariff Commission will hold a public hearing in connection with Investigation No. 337-28, regarding alleged unfair methods of competition and unfair acts in the importation and sale of lightweight luggage which are embraced within the claims of U.S. Patents Nos. 3,298,480 and Re. 26,443 both of which are owned by the complainant, Atlantic Products Corporation of Trenton, N.J. Notice of institution of the investigation was published in the FEDERAL REGISTER of May 1, 1971 (36 F.R. 8275).

The hearing will be held on June 21, 1971, at 10 a.m., e.d.s.t., in the Hearing Room of the Tariff Commission, Eighth and E Streets NW., Washington, DC. All parties concerned will be afforded an opportunity to be present, to produce evidence, and to be heard concerning the subject matter of the investigation. Interested parties desiring to appear and give testimony at the hearing should notify the Secretary of the Commission in writing at least 5 days in advance of the opening of the hearing.

Issued: May 24, 1971.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.71-7426 Filed 5-26-71;8:51 am]

INTERSTATE COMMERCE COMMISSION

[Notice 43]

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

MAY 21, 1971.

The following applications are governed by Special Rule 1000.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with 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

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

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 (1) 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.

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

No. MC 2900 (Sub-No. 212), filed May 3, 1971. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, FL 32203. Applicant's representative: Robert H. Cleveland, Post Office Box 2408, Jacksonville, FL. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, (1) between the junction of U.S. Highway 40 and U.S. Highway 33 and the junction of U.S. Highway 21 and U.S. Highway 60, serving no intermediate points as an alternate route for operating convenience only, from the junction of U.S. Highways 40 and 33 over U.S. Highway 33 to the junction with U.S. Highway 21, thence over U.S. Highway 21 to its junction with U.S. Highway 60 and return over the same route; (2) between the junction of U.S. Highway 23 and U.S. Highway 40 and the junction of U.S. Highway 35 and U.S. Highway 21, serving no intermediate points as an alternate route for operating convenience only, from the junction of U.S. Highway 23 and U.S. Highway 40 over U.S. Highway 23 to its junction with U.S. Highway 35, thence over U.S. Highway 35 to its junction with U.S. Highway 21 and return over the same route; (3) between the junction of U.S. Highway 23 and U.S. Highway 40 and the junction of U.S. Highway 60 and U.S. Highway 21, serving no intermediate points as an alternate route for operating convenience only, from the junctions of U.S. 23 and U.S. 40 over U.S. Highway 23 to its junction with U.S. Highway 60 thence over U.S. Highway 60 to its junction with U.S. Highway 21 and return over the same route, and (4) between the junction of U.S. Highway 60 and U.S. Highway 21 and the junction of U.S. Highway 60 and U.S. Highway 360, serving no intermediate points as an alternate route for operating convenience only, from the junction of U.S. Highways 60 and 21 over U.S. Highway 60 to its junction with U.S. Highway 360 and return over the same route. In each of the above described routes, applicant seeks service at the terminal for purposes of joinder only. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it to be held at Washington, D.C. or Jacksonville, Fla.

No. MC 4705 (Sub-No. 2), filed April 30, 1971. Applicant: LAWRENCE NEPPL, Halbur, Iowa 51444. Applicant's representative: Lawrence Neppl (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Linseed meal and linseed pellets*, from Minneapolis, Minn., to points in Carroll, Calhoun, and Sac Counties, Iowa. 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 Sioux City, Iowa.

No. MC 5619 (Sub-No. 3), filed May 3, 1971. Applicant: CLEVELAND GENERAL TRANSPORT CO., INC., One Van Street, Staten Island, NY. Applicant's representative: Edward F. Bowes, 744 Broad Street, Newark, NJ 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ores, iron pyrites, welding compounds, foundry sand, ferro alloys*, in bags, from Wilmington, Del., to points in Connecticut, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and Virginia, for the account of C. E. Minerals Division, Combustion Engineering, Inc. NOTE: Applicant has pending under MC 127742 an application for common carrier authority, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Newark, N.J.

No. MC 9644 (Sub-No. 1), filed May 3, 1971. Applicant: B. T. L., INC., 1508 Woodswether, Kansas City, MO. Applicant's representative: John E. Jandera, 641 Harrison, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, livestock, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Kansas City, Mo.-Kans. commercial zone and Rushville, Mo., from Kansas City, Mo., in a northwesterly direction over Missouri Highway 45 to its intersection with U.S. Highway 59, thence in a northeasterly direction to Rushville, Mo., with service to all intermediate points lying north of Weston, Mo., including Weston, Mo. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 11207 (Sub-No. 309), filed May 3, 1971. Applicant: DEATON, INC., 317 Avenue West, Post Office Box 938, Birmingham, AL 35201. Applicant's representative: A. Alvis Layne, 915 Pennsylvania Building, Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plumbers goods*, from Gadsden, Ala., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas. NOTE: Applicant states that the requested authority is restricted against tacking or joinder with its existing authority for the performance of a through service. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Birmingham, Ala.

No. MC 10761 (Sub-No. 253), filed April 30, 1971. Applicant: TRANS-AMERICAN FREIGHT LINES, INC., 1700 North Waterman Avenue, Detroit, MI 48209. Applicant's representative: L. G. Naidow (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractories and/or refractories products*, from points in Gascanade County, Mo., to points in Connecticut, Delaware, Georgia, Illinois, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, 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 did not specify a location.

No. MC 10761 (Sub-No. 254), filed April 30, 1971. Applicant: TRANS-AMERICAN FREIGHT LINES, INC., 1700 North Waterman Avenue, Detroit, MI 48209. Applicant's representative: L. G. Naidow (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and*

articles distributed by meat packinghouses (except hides and commodities in bulk), as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsites and warehouse facilities of Wilson-Sinclair Co., at Cedar Rapids, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, New York, New Hampshire, Pennsylvania, Rhode Island, Vermont, and the District of Columbia, restricted to the transportation of traffic originating at the above named points and destined to the above named destinations. NOTE: If a hearing is deemed necessary, applicant does not specify a location.

No. MC 21866 (Sub-No. 67), filed May 3, 1971. Applicant: WEST MOTOR FREIGHT, INC., 740 South Reading Avenue, Boyertown, PA 19512. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Polyethylene bags and polyethylene film, and commodities*, packaged in polyethylene bags, from the facilities of Boyertown Packaging Service Corp., in Boyertown and Harrisburg, Pa., and Colebrookdale Township, Berks County, Pa., to points in the United States east of the western boundaries of Wisconsin, Illinois, Kentucky, Tennessee, Mississippi, and Louisiana; and (2) *Materials* used or useful in the manufacture, processing or distribution of polyethylene bags and polyethylene film from points in the above described destination territory to the facilities of Boyertown Packaging Service Corp., at the origin points specified in the preceding paragraph. NOTE: Applicant states that the 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 points or territories which can be served through tacking. Persons interested in a tacking possibility 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 Philadelphia, Pa., or Washington, D.C.

No. MC 25399 (Sub-No. 7), filed April 19, 1971. Applicant: A-P-A TRANSPORT CORP., 2100 88th Street, North Bergen, NJ 07047. Applicant's representative: Herbert Burstein, 30 Church Street, New York, NY 10007. Authority sought to operate as a *common carried*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading); (1) between New Windsor, N.Y., and Meriden Conn.; and (2) between Glenmont, N.Y., and Meriden, Conn. NOTE: The purpose of the instant application is to enable applicant to transfer shipments directly from its New Windsor and Glenmont, N.Y., terminals to its terminal at Meriden, Conn., and avoid the necessity of having shipments transshipped from the former terminals to its terminal at North Bergen, N.J., and thereafter transported to the Meriden, Conn., terminal. Applicant states that the requested 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 30844 (Sub-No. 358), filed May 7, 1971. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 50704. Applicants' representatives: Paul Rhodes (same address as above), and Truman A. Stockton, Jr., 1650 Grant Street Building, Denver, CO. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Such merchandise* as dealt in by retail and discount department stores; (1) from New York City, N.Y. and commercial zone to Detroit, Mich., and Milwaukee, Wis., and their respective commercial zones; and (2) from Boston, Mass., and commercial zone to Detroit, Mich., Milwaukee, Wis., St. Louis, Mo., and their respective commercial zones and Waterloo, Iowa. 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 Washington, D.C.

No. MC 30884 (Sub-No. 16), filed May 3, 1971. Applicant: JACK COOPER TRANSPORT CO., INC., 3501 Manchester Trafficway, Kansas City, MO 63011. Applicant's representative: Warren A. Goff, 2111 Sterick Building, Memphis, TN 38103. Authority sought to operate as a *contract carrier*, by vehicle, over irregular routes, transporting: *Automobiles, trucks, chassis, buses, and tractors* (except farm tractors and crawler or track type tractors) in initial truckaway service, from the assembly plant of General Motors Assembly Division of General Motors Corp in Janesville, Wis., to Kansas City, Mo., under contract with General Motors Corp. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Detroit, Mich.

No. MC 34227 (Sub-No. 5) (Amendment), filed April 9, 1971, published in the FEDERAL REGISTER issue of May 13, 1971, and republished, as amended, this issue. Applicant: PACIFIC INLAND TRANSPORTATION COMPANY, a corporation, 15 South Broadway, Cortez, CO 81321. Applicant's representative: A. Jack Hamilton (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, *equipment, materials, and supplies*, used in the conduct of such business, and exempt commodities as defined in section 203(b)(6) of the Interstate Commerce Act, when moving in mixed loads with the aforementioned nonexempt commodities, from points in California to points in New Mexico and Colorado, under contract with Associated Grocers of Colo., Inc., and Jafar Brokerage Co. NOTE: The purpose of this republication is to reflect a change in the commodity description. If a hearing is deemed necessary, applicant requests it be held at Albuquerque, N. Mex.

No. MC 34975 (Sub-No. 5), filed May 5, 1971. Applicant: TREDWAYS EXPRESS, INC., 512 Myrtle Avenue, Boonton, NJ 07005. Applicant's representative: Bert Collins, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Boonton, N.J., on the one hand, and, on the other, points in Rockland, Orange, Westchester, Putnam, Ulster, and Dutchess Counties, N.Y. NOTE: Applicant states that the requested authority is to be tacked at Boonton, N.J., with applicant's present authority as described in MC 39475. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 51146 (Sub-No. 217), filed April 29, 1971. Applicant: SCHNEIDER TRANSPORT & STORAGE, INC., 817 McDonald Street, Green Bay, WI 54306. Applicant's representatives: D. F. Martin (same address as above), and Charles W. Singer, 33 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Toilet preparations, and related products*, from Manitowoc, Wis., to points in the United States (excluding Hawaii and Alaska); and (2) *materials and supplies* used in the manufacture and distribution of commodities described in (1) above, from points in the United States (excluding Hawaii and Alaska), to Manitowoc, Wis. NOTE: Applicant states that it could tack with various subs in No. MC 51146 and where feasible in lead docket. Applicant further states that no duplicating authority is sought. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 51146 (Sub-No. 218), filed April 29, 1971. Applicant: SCHNEIDER TRANSPORT & STORAGE, INC., 817 McDonald Street, Green Bay, WI 54306. Applicant's representatives: D. F. Martin (same address as above), and Charles W. Singer, 33 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, between South Bend, Ind., on the one hand, and,

on the other, points in Alabama, Colorado, Florida, Georgia, Kansas, Missouri, Nebraska, and North Carolina. NOTE: Applicant states that it could tack with various subs in No. MC 51146 and where feasible in lead docket. Applicant further states that no duplicating authority is sought. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 51146 (Sub-No. 219), filed May 4, 1971. Applicant: SCHNEIDER TRANSPORT & STORAGE, INC., 817 McDonald Street, Green Bay, WI 54306. Applicant's representatives: D. F. Martin (same address as above) and Charles W. Singer, 33 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and metal container ends and accessories, and equipment* used in connection with the distribution of metal containers and metal container ends when moving with metal containers, from La Porte, Ind.; Lenexa, Kans.; and Colliersville, Tenn.; to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that it could tack with various subs in No. MC 51146 and where feasible in lead docket. Applicant further states that 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 52110 (Sub-No. 122), filed May 4, 1971. Applicant: BRADY MOTOR-FRATE, INC., 2150 Grand Avenue, Des Moines, IA. Applicant's representative: Cecil L. Goettsch, 11th Floor, Des Moines Building, Des Moines, Iowa 50309. 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 Emporia, Kans., and West Point, Nebr., to points in Indiana, Michigan, Ohio, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Maryland, and the District of Columbia, restricted to traffic originating at the plantsites and storage facilities of Iowa Beef Processors. 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 Des Moines, Iowa; Omaha, Nebr.; or Kansas City, Kans.

No. MC 59150 (Sub-No. 61), filed May 7, 1971. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, FL 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum products and accessories* used in the installation thereof; (a) from the plantsite of Georgia-Pacific Corp. at Brunswick, Ga., to points in Alabama, North Carolina, South Carolina, Tennessee, and Virginia; and (b) from the plantsite of Georgia-Pacific Corp. at Marietta, Ga., to points in Alabama, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and 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 Atlanta, Ga., or Jacksonville, Fla.

No. MC 61231 (Sub-No. 59), filed May 10, 1971. Applicant: ACE LINES, INC., 4143 East 43d Street, Des Moines, IA 50317. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from New Castle, Wyo., to points in Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Nebraska, 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 Denver, Colo.

No. MC 61592 (Sub-No. 213), filed May 5, 1971. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, IA 52722. Applicant's representative: Jack Davis, 1100 IBM Building, Seattle, WA 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products;* (1) from points in Oregon to points in California, Nevada, and Arizona; and (2) from points in Washington to points in California, Nevada, and Arizona. 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 Portland, Oreg.

No. MC 61592 (Sub-No. 214), filed May 7, 1971. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, IA 52722. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Doors, windows, and sash, stair work, composition wood paneling*, with or without plastic lamination lumber, *wood products, window units, room units*, including all component parts and accessories for installation, from Oshkosh, Wis., to points in Illinois, Indiana, Michigan, Pennsylvania, Maryland, Delaware, Virginia, and the District of Columbia; and (2) *material, equipment, and supplies* used in the manufacture of commodities named in (1) above, from points in Illinois, Indiana, Michigan, Pennsylvania, Maryland, Delaware, Virginia, and the District of Columbia to Oshkosh, Wis. 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 Chicago, Ill.

No. MC 61592 (Sub-No. 215), filed May 10, 1971. Applicant: JENKINS TRUCK LINES, INC., 3708 Elm Street, Bettendorf, IA 52722. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dairy products*, fom Louisville, Ky., to points in West Virginia, Virginia, Illinois, Kentucky, Indiana, and Ohio; and (2) *cheese, cheese foods, and cheese spreads*, from Marshfield, Wis., to points in Georgia, Illinois, North Carolina, South Carolina, Virginia, Tennessee, and Mississippi. 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 Madison, Wis.

No. MC 67450 (Sub-No. 39), filed April 30, 1971. Applicant: PETERLIN CARTAGE CO., a corporation, 9651 South Ewing Avenue, Chicago, IL. Applicant's representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products and blends*, in bulk, from Cedar Rapids, Iowa, to points in the United States (except Hawaii). 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 67646 (Sub-No. 66), filed April 30, 1971. Applicant: HALL'S MOTOR TRANSIT COMPANY, a corporation, 6060 Carlisle Pike, Mechanicsburg, PA 17055. Applicant's representative: John E. Fullerton, 407 North Front Street, Harrisburg, PA 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, dangerous explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Alcan Aluminum Corp. at or near Oswego, N.Y., as an offroute point in connection with applicant's presently authorized regular-route operations. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be heard at Washington, D.C.

No. MC 84098 (Sub-No. 1), filed May 5, 1971. Applicant: SHELDON TRANSFER & STORAGE COMPANY, INC., 647 Main Street, Holyoke, MA 01040. Applicant's representative: Douglas L. Agan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, between Holyoke, Mass., and Brattleboro,

Bellows Falls, and Putney, Vt., and between Holyoke, Mass., and Claremont and Hinsdale, N.H. NOTE: Applicant states tacking at Holyoke, Mass., would allow Sheldon Transfer & Storage Co., to offer service between Brattleboro, Bellows Falls, and Putney, Vt., and Claremont and Hinsdale, N.H., on paper and paper products. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 85465 (Sub-No. 36), filed April 23, 1971. Applicant: WEST NEBRASKA EXPRESS, INC., Post Office Box 952, Scottsbluff, NE 69361. Applicant's representative: Truman A. Stockton, The 1650 Grant Street Building, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, packinghouse products, and commodities* used by packinghouse as described in Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Denver, Greeley, and Sterling, Colo., to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, 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 Denver, Colo.

No. MC 88826 (Sub-No. 4), filed May 3, 1971. Applicant: CELLUS STRATMAN, doing business as STRATMAN TRUCK SERVICE, Vienna, Mo. 65582. Applicant's representative: Thomas P. Rose, Jefferson Building, Jefferson City, Mo. 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Treated and untreated wood mine blocks and props*, from Vienna, Mo., to points in Illinois. NOTE: Applicant states that the requested authority cannot be tacked with its exising authority. If a hearing is deemed necessary, applicant requests it be held at Jefferson City, Mo., or St. Louis, Mo.

No. MC 95540 (Sub-No. 805), filed May 10, 1971. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, FL 33801. Applicant's representative: Paul E. Weaver (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, 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 (except hides and skins), from the plantsite and warehouse facilities of Swift Fresh Meats Co. at Brownwood, Tex., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to shipments originating at the Brownwood, Tex., plantsite and destined to the above named States. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., Dallas, Tex., or Washington, D.C.

No. MC 96697 (Sub-No. 5), filed May 3, 1971. Applicant: CITY TRANSFER, INC., 13901 Mica Street, Santa Fe Springs, CA 90670. Applicant's representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities requiring special equipment, and commodities in bulk), between the Los Angeles International Airport, at Los Angeles, Calif., and the Lockheed Air Terminal at Burbank, Calif., on the one hand, and, on the other, Saugus, Newhall, Palmdale, Lancaster, Edwards, Boron, and the Edwards Air Force Base, Calif. Restriction: The authority sought herein is restricted to shipments having an immediate prior or subsequent movement by air, rail, or water. NOTE: Applicant states it proposes to tack the authority sought with all authorities held by applicant at Los Angeles International Airport and at Lockheed Air Terminal to provide a through service between the Los Angeles Basin Area, Calif., and the San Francisco Territory, Calif. Applicant further states it holds authority in its Sub-No. 2 certificate to provide the proposed service restricted to shipments having a prior or subsequent movement by air. The purpose of this application is to amend the restriction so as to also authorize the transportation of shipments having a prior or subsequent movement by rail or water. Applicant proposes to surrender its Sub-No. 2 certificate for cancellation. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 98952 (Sub-No. 25), filed April 30, 1971. Applicant: GENERAL TRANSFER COMPANY, a corporation, 2880 North Woodford Street, Decatur, IL 62526. Applicant's representative: Kirkwood Yockey, Suite 501, Union Federal Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Confectioneries, and potatoes* (cooked and shredded), *dessert preparations, advertising matter, premiums, and display material* when shipped in the same vehicle with confectioneries, from Chicago, Ill., to points in Indiana and Pudacah, Henderson, Owensboro, and Louisville, Ky.; and (2) *confectioneries and advertising matter, premiums, and display material*, when shipped in the same vehicle with confectioneries, from Chicago, Ill., to points in Illinois. 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., or Indianapolis, Ind.

No. MC 100449 (Sub-No. 26), filed May 10, 1971. Applicant: MALLINGER TRUCK LINE, INC., Otho, Iowa 50569. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common 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 the plantsite and storage facilities of Needham Packing, Inc., at Omaha, Nebr., and Sioux City, Iowa, to points in Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota. 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 Omaha, Nebr.

No. MC 102567 (Sub-No. 143), filed May 7, 1971. Applicant: EARL GIBBON TRANSPORT, INC., 4295 Meadow Lane, Post Office Drawer 5357, Bossier, LA 71010. Applicant's representative: Jo E. Shaw, 816 Houston First Savings Building, Houston, TX 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from points in East Baton Rouge Parish, La., to points in Louisiana (except points in Catahoula, Concordia, East Carroll, Franklin, La Salle, Madison, Morehouse, Ouachita, Richland, Tensas, Union, and West Carroll Parishes). NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority 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. If a hearing is deemed necessary, applicant requests it be held at Forth Worth, Tex., or New Orleans, La.

No. MC 103993 (Sub-No. 631), filed April 29, 1971. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings and sections, building panels, building parts and accessories*, from points in Hartford and Litchfield Counties, Conn., 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 Boston, Mass.

No. MC 103993 (Sub-No. 632), filed May 3, 1971. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Recreational vehicles, including campers, camp coaches, and motor homes*, in truckaway service and trailers designed to be drawn by passenger automobiles in initial movements, from points in Guilford County, N.C., to points in the United States. 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 Greensboro, N.C.

No. MC 105813 (Sub-No. 182), filed April 28, 1971. Applicant: BELFORD TRUCKING CO., INC., 3500 Northwest 79th Avenue, Miami, FL 33148. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite and storage facilities utilized by Illini Beef Packers, Inc., at or near Joslin, Ill., to points in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee (except Memphis and points in the commercial zone thereof), restricted to traffic originating at the named origin and destined to the named territory. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 106398 (Sub-No. 542), filed April 23, 1971. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, OK 74151. Applicant's representatives: Irvin Tull (same address as applicant) and Leonard A. Jaskiewicz, Suite 501, 1730 M Street, NW., Washington, DC 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, from points in Durham County, N.C., to points in the United States (except Alaska and Hawaii). NOTE: Common control dual operations 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 Jackson, Miss.

No. MC 107107 (Sub-No. 410), filed April 21, 1971. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 Northwest 42d Avenue, Opa Locka, FL 33054. Applicant's representative: Ford W. Sewell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, from New York, N.Y.; Elizabeth, N.J., and Hagerstown, Md., to points in North Carolina, South Carolina, and Georgia. Restricted to traffic originating at plantsite or storage facilities of Breakstone Sugar Creek Foods—Division Kraftco Corp. 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 107173 (Sub-No. 12), filed May 3, 1971. Applicant: MARVIN HAYES LINES, INC., Guthrie Highway, Hayes Circle, Clarksville, TN. Applicant's representative: Walter Harwood, 1822 Parkway Towers, Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and articles requiring special equipment), between Guthrie, Ky., and Louisville, Ky.; from Guthrie over U.S. Highway 41 to Hopkinsville, Ky., thence over U.S. Highway 68 to Bowling Green, Ky., thence over U.S. Highway 31W to Louisville, Ky., and return over the same route, serving all intermediate points between Guthrie and Dennis, Ky. NOTE: Applicant states no duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Hopkinsville, Ky., or Nashville, Tenn.

No. MC 107515 (Sub-No. 744) (Correction), filed March 8, 1971, published in the FEDERAL REGISTER issue of April 8, 1971, and republished as corrected this issue. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, 3901 Jonesboro Road, Forest Park, GA 30050. Applicant's representatives: B. L. Gundlach (same address as applicant) and Paul M. Daniell, Post Office Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fruit and vegetable crystals*, from Lake Wales, Fla., to points in Alabama, Georgia, Tennessee, Mississippi, North Carolina, South Carolina, Louisiana, Kentucky, Oklahoma, Texas, Missouri, Ohio, Indiana, Illinois, Arkansas, Michigan, Wisconsin, and Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to correct the commodity description from that which was erroneously shown in the previous publication. If a hearing is deemed necessary, applicant requests it be held at Tampa, Fla.

No. MC 108053 (Sub-No. 104), filed April 28, 1971. Applicant: LITTLE AUDREY'S TRANSPORTATION COMPANY, INC., Post Office Box 129, Fremont, NE 68025. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats*, cooked, cured or preserved, with or without vegetable, milk, egg, fruit or other ingredients, other than frozen, from Fort Madison, Iowa to points in California, Arizona, Utah, and Oregon, restricted to traffic originating at Fort Madison, Iowa. 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 Fort Madison, Iowa.

No. MC 108053 (Sub-No. 105), filed April 28, 1971. Applicant: LITTLE AUDREY'S TRANSPORTATION COMPANY, INC., Post Office Box 129, Fremont, NE 68025. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, between the plantsites and storage facilities utilized by Illini Beef Packers, Inc., at or near Joslin, Ill., to points in Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, restricted to traffic originating at the named origin and destined to the named territory. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 108676 (Sub-No. 40), Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue NE., Knoxville, TN 37917. 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: *Off highway truck bodies and chassis; parts, attachments, and accessories* for off highway truck bodies and chassis, from Woodbridge, N.J., and Allentown, Pa., to points in Alabama, Florida, Georgia, Kentucky, North Carolina, South Carolina, Tennessee, 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 Knoxville, Tenn.

No. MC 109397 (Sub-No. 257), filed May 3, 1971. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, Post Office Box 113, Joplin, MO 64801. Applicant's representatives: A. N. Jacobs (same address as applicant), and Wilburn L. Williamson, 280 National Foundation Life Building, 3535 Northwest 58th Street, Oklahoma City, OK 73113. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated metal products*, from Roseville, Mich., to points in the United States (except Alaska and Hawaii). NOTE: Applicant holds contract authority under MC 128814 (Sub 5 through 9), therefore dual operations and 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 Washington, D.C., or Detroit, Mich.

No. MC 110563 (Sub-No. 67), filed May 5, 1971. Applicant: COLDWAY FOOD EXPRESS, INC., Ohio Building, Sidney, OH 45365. Applicant's representative: Joseph M. Scanlan, 111 West Washington, Chicago, IL 60602. 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, pelts, and commodities in bulk), from Joslin, Ill., to points in Massachusetts, Pennsylvania, New Jersey, New York, and Rhode Island, and Washington, D.C., Connecticut, and Maryland. Restriction: Restricted to the plantsite and warehouse facilities of Illini Beef Packers, Inc., at or near Joslin, Ill. 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., or Springfield, Ill.

No. MC 111302 (Sub-No. 67), filed April 28, 1971. Applicant: HIGHWAY TRANSPORT, INC., Post Office Box 79, Powell, TN 37849. Applicant's representative: George W. Clapp, Post Office Box 10188, Greenville, SC 29603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime and limestone products*, from points in Knox County, Tenn., to points in Ohio on and south of U.S. Highway 40 and points in West Virginia. 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 Washington, D.C.

No. MC 112520 (Sub-No. 241), filed May 10, 1971. Applicant: McKENZIE TANK LINES, INC., Post Office Box 1200, Tallahassee, FL 32302. Applicant's representative: W. Guy McKenzie, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Circus equipment*, between the campus of Florida State University, Tallahassee, Fla., on the one hand, and, on the other, 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 may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 112750 (Sub-No. 282), filed May 3, 1971. Applicant: AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, NY 11040. Applicant's representatives: John M. Delany (same address as applicant), and Russell S. Bernhard, 1625 K Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, written instruments, and business records* (except currency and negotiable securities) as are used in the business of banks and banking institutions, between Sturgis, Mich., and Fremont, Ohio, under contract with banks and banking institutions. NOTE: Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 112801 (Sub-No. 120), filed May 3, 1971. Applicant: TRANSPORT SERVICE CO., a corporation, Post Office Box 50272, Chicago, IL 60650. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products and blends*, in bulk, from Cedar Rapids, Clinton, and Keokuk, Iowa 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 Omaha, Nebr.

No. MC 113024 (Sub-No. 110), filed May 10, 1971. Applicant: ARLINGTON J. WILLIAMS, Rural Delivery No. 2, South Du Pont Highway, Smyrna, DE 19977. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, DC 20423. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rubber hose*, from Wilmington, Del., to points in Anderson, Dallas, and Tarrant Counties, Tex., for the account of Electric Hose & Rubber Co., Wilmington, Del. NOTE: Applicant holds pending common carrier applications under MC 135046 and Subs. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 113535 (Sub-No. 19), filed April 22, 1971. Applicant: A & W TRUCKING CO., INC., Route 5, Box 900, Mosinee, WI 54455. Applicant's representative: John J. Altenburg, Route 2, Box 370, Mosinee, WI 54455. 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 Dubuque, Iowa to points in Illinois and Indiana. 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 or St. Paul, Minn.

No. MC 113666 (Sub-No. 57), filed April 28, 1971. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Refractory products;* (2) *brick;* and (3) *Materials and supplies* used in the installation and production of refractory products; (1) from Baltimore, Jennings, Leslie, and Poplar, Md.; E. Plastine, Parral, Windham, and Portsmouth, Ohio; Ludington, Mich.; Hammond, Ind.; Cape May, N.J.; Newell, W. Va., and points in Pennsylvania, to the ports of entry on the international boundary between the United States and Canada located in the States of New York, Michigan, Vermont, New Hampshire, Maine, and Minnesota; and (2) from ports of entry on the international boundary between the United States and Canada located in the States of Maine, New Hampshire, Vermont, New York, Michigan, and Minnesota, to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, New Jersey, Delaware, Maryland, West Virginia, Virginia, North Carolina, Tennessee, Kentucky, Ohio, Indiana, Illinois, Michigan, Wisconsin, Missouri, Iowa, and Minnesota. 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 Pittsburgh, Pa.

No. MC 113666 (Sub-No. 58), filed April 28, 1971. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street, NW., Suite 501, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry animal and poultry feed and feed ingredients*, from the international boundary between the United States and Canada located on the Niagara River to points in Connecticut, Delaware, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, and from the international boundary between the United States and Canada located on the Detroit and St. Clair Rivers to points in Indiana, Kentucky, Michigan, and Ohio; (2) *xanthate*, dry, from the international boundary between the United States and Canada located on the Niagara River to points in Arizona, California, Colorado, Delaware, Georgia, Illinois, Michigan, Missouri, Montana, Nevada, New York, Oklahoma, Pennsylvania, Utah, Virginia, and Washington, and from the international boundary between the United States and Canada located on the Detroit and St. Clair Rivers to points in Arizona, California, Colorado, Georgia, Illinois, Michigan, Missouri, Montana, Nevada, Oklahoma, Utah, and Washington; (3) *dry animal and poultry feed and feed ingredients*, from Pearl River, N.Y., and Willow Island, W. Va., to Kansas City, Mo., Des Moines, Iowa, and Muncie,

Kans.; and (4) *dry animal and poultry feed and feed ingredients,* from the plant of the American Cyanamid Co. at South River, Mo., to points in New York. 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 113678 (Sub-No. 423), filed May 4, 1971. Applicant: CURTIS, INC., Post Office Box 16004, Stockyards Station, Denver, CO 80216. Applicant's representatives: Duane W. Acklie and Richard Peterson, Post Office Box 806, Lincoln, NE 68501. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Adhesives and linoleum paste,* from the plantsite of Roman Adhesives, Inc., at or near Newark, N.J., to points in California, Colorado, Florida, Illinois, Indiana, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Texas, 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 Omaha, Nebr., or Denver, Colo.

No. MC 113678 (Sub-No. 424), filed May 4, 1971. Applicant: CURTIS, INC., Post Office Box 16004, Stockyards Station, Denver, CO 80216. Applicant's representatives: Duane W. Acklie and Richard Peterson, Post Office Box 806, Lincoln, NE 68501. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats,* cooked, cured, or preserved, with or without vegetable, milk, egg, or fruit ingredients, other than frozen, from Fort Madison, Iowa, to points in Colorado, California, Arizona, and Utah. 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 Denver, Colo.

No. MC 113784 (Sub-No. 42), filed May 3, 1971. Applicant: LAIDLAW TRANSPORT LIMITED, 65 Guise Street, Hamilton 21, ON Canada. Applicant's representative: William J. Hirsch, 35 Court Street, Buffalo, NY 14202. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Regenerator oxide,* in bulk, in pneumatic tank vehicles, from ports of entry on the international boundary line between the United States and Canada on the Niagara River in New York to Kane, Pa., and returned shipments on return. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant seeks no duplicating authority. If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. 113855 (Sub-No. 240), filed April 28, 1971. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road, SE., Rochester, MN 55901. Applicant's representative: Alan Foss, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier,* by vehicle, over irregular routes, transporting: (1) *Antipollution systems and equipment;* (2) *liquid cooling and vapor condensing systems and equipment;* (3) *environmental control and protective systems and equipment;* (4) *parts, equipment, materials, and supplies* for the commodities named in (1), (2), and (3) above; and (5) *machinery, equipment, and materials and supplies* used in the construction, installation, operations, and maintenance of items named in (1), (2), and (3) above, between points in 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 Dallas, Tex., Kansas City, Mo., or Denver, Colo.

No. MC 114045 (Sub-No. 354), filed April 28, 1971. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, TX 75222. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles* distributed by meat packinghouses, as described in Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, from the plantsite and storage facilities utlilized by Illini Beef Packers, Inc., at or near Joslin, Ill., to points in Arkansas, Louisiana, Kansas, Oklahoma, and Texas, restricted to traffic originating at the named origin and destined to the named territory. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114273 (Sub-No. 89), filed May 3, 1971. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., Post Office Box 68, 3930 16th Avenue SW., Cedar Rapids, IA 52406. Applicant's representatives: Gene R. Prokuski (same address as applicant), and Robert E. Konchar, Suite 315 Commerce Exchange Building, 2720 First Avenue, Cedar Rapids, IA 52402. Authority sought to operate as a *common 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, commodities in bulk, in tank vehicles), from the plantsite and/or storage facilities utilized by Aristo Kansas Meat at Holton and Topeka, Kans., to points in Maine, New Hamsphire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Maryland, Delaware, Ohio, Michigan, Indiana, Wisconsin, Illinois, and the District of Columbia. 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 Kansas City, Mo.

No. MC 114284 (Sub-No. 51), filed May 10, 1971. Applicant: FOX-SMYTHE TRANSPORTATION CO., a corporation, Post Office Box 82307, Stockyards Station, Oklahoma City, OK. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Chocolate and chocolate candies, candies and confectionery products* when moving with chocolate and chocolate candies, from the plantsite and warehouse facilities of Bunte Candies, Inc., at Oklahoma City, Okla., to points in New Mexico and Arizona, and points in El Paso and Hudspeth Counties, Tex., and to points in that part of Texas on and north of a line beginning at the junction of U.S. Highway 80 and the east boundary of Hudspeth County, Tex., and extending along U.S. Highway 80 to junction of U.S. Highway 83, and thence on and west of U.S. Highway 83 to junction with Red River, approximately 8 miles north of Childress, Tex., and thence along the north bank of the Red River to the Texas-Oklahoma State line. 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 Oklahoma City, Okla.

No. MC 114301 (Sub-No. 66), filed May 3, 1971. Applicant: DELAWARE EXPRESS CO., a corporation, Post Office Box 97, Elkton, MD 21921. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Liquid fish products,* in bulk, from Wildwood, N.J., to points in New York, Pennsylvania, Ohio, Virginia, Delaware, and Maryland; and (2) *Lime and limestone products* in bulk, in tank vehicles, from Canaan, Conn., and Adams, Mass., to points in Delaware, Maryland, New Jersey, New York, and Pennsylvania. 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 114457 (Sub-No. 108) (Correction), filed April 12, 1971, published in the FEDERAL REGISTER issue of May 6, 1971, and republished as corrected this issue. Applicant: DART TRANSIT COMPANY, a corporation, 780 North Prior Avenue, St. Paul, MN 55104. Applicant's representative: James C. Hardman, 127 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Frozen foods,* from Chicago Heights, Ill., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and the District of Columbia; and (2) *equipment, materials, and supplies used in the sale, distribution, and*

manufacture of frozen foods, from the above named destinations to Chicago Heights, Ill. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. NOTE: The purpose of this republication is to reflect the origin point as Chicago Heights, Ill., in lieu of Chicago, Ill. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114734 (Sub-No. 24), filed May 3, 1971. Applicant: D AND J TRANSFER CO., a corporation, Sherburn, MN 56171. Applicant's representative: Richard A. Peterson, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses* (except hides and commodities in bulk, in tank vehicles), from the plantsite and storage facilities of Spencer Foods, Inc., at Schuyler and Fremont, Nebr.; Spencer, Hartley, and Cherokee, Iowa; Sioux Falls, S. Dak.; and Worthington, Minn., to points in Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Delaware, Virginia, West Virginia, and the District of Columbia, under continuing contract with Spencer Foods, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Minneapolis, Minn.

No. MC 115162 (Sub-No. 226), filed May 6, 1971. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, AL 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* (except commodities in bulk), from Florence, Ky., to points in Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee, Mississippi, Arkansas, 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 Tampa, Fla., or Washington, D.C.

No. MC 115162 (Sub-No. 227), filed May 6, 1971. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, AL 36401. Applicant's representative: Robert E. Tate (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing pitch in drums; rolled roofing felt*, tar or asphalt saturated; *roofing cement; and creosote oil in drums*, from Woodward, Ala., to points in Arkansas, Florida, Georgia, Kentucky, Louisiana, Missouri, Mississippi, North Carolina, South Carolina, Tennessee, 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 Birmingham or Montgomery, Ala.

No. MC 115331 (Sub-No. 310), filed May 10, 1971. Applicant: TRUCK TRANSPORT, INCORPORATED, 1931 North Geyer Road, St. Louis, MO 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats*, cooked cured, or preserved, with or without vegetable, milk, egg or fruit ingredients, other than frozen, from Fort Madison, Iowa, to points in Missouri, Illinois, and Tennessee. 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 St. Louis, Mo.; Chicago, Ill., or Des Moines, Iowa.

No. MC 115841 (Sub. No. 410), filed April 19, 1971. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 West Bankhead Highway, Post Office Box 10327, Birmingham, AL 35202. Applicant's representatives: C. E. Wesley (same address as above), and E. Stephen Heisley, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen bakery products*, from Downers Grove, Ill., to points in Alabama, Arkansas, Georgia, Florida, Louisiana, Oklahoma, North Carolina, South Carolina, Tennessee, and Texas, restricted to traffic originating at the plantsite and warehouse facilities of Pepperidge Farm, Inc., at or near Downers Grove, Ill. NOTE: Applicant states that the 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 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. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Memphis, Tenn.

No. MC 115904 (Sub-No. 24), filed April 19, 1971. Applicant: LOUIS GROVER, 1710 Broadway, Idaho Falls, ID 83401. Applicant's representative: Irene Warr, 419 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products*, including plywood, laminated beams, wallboard or hard board or boards or sheets consisting of sawdust or ground wood with binder, and shingles, between points in Montana, Idaho, Utah, and Arizona. NOTE: Applicant does not seek duplicating authority. Applicant further states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Missoula, Mont., or Boise, Idaho.

No. MC 116073 (Sub-No. 166), filed April 30, 1971. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Post Office Box 919, 1825 Main Avenue, Moorhead, MN 56560. Applicant's representative: Robert G. Tessar (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, complete, knocked down, or in sections, and *trailers* designed to be drawn by passenger automobiles, from Winston County, Ala., to points in the United States (including Alaska but excluding 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 Birmingham, Ala.

No. MC 116077 (Sub-No. 309), filed May 3, 1971. Applicant: ROBERT TANK LINES, INC., 2000 West Loop South, Suite 1800, Houston, TX 77001. Applicant's representative: Pat H. Robertson, Suite 401, First National Life Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar*, dry, in bulk, from New Orleans, La., to points in Alabama, Mississippi, Louisiana, and Tennessee. NOTE: Applicant states that the requested authority can be tacked with its existing authority in MC–116077, but indicates that it has no present intention to tack 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. Applicant seeks no duplicating authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Houston, Tex.

No. MC 116077 (Sub-No. 310), filed May 4, 1971. Applicant: ROBERTSON TANK LINES, INC., 200 West Loop South, Suite 1800, Houston, TX 77001. Applicant's representative: Pat H. Robertson, Suite 401, First National Life Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solutions*, in bulk, in tank vehicles, from the storage facilities of Allied Chemical Corp. located at or near Pine Bluff, Ark., to points in Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, and Texas. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicated that it has no present intention to tack 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. Applicant seeks no duplicating authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Houston, Tex.

No. MC 117304 (Sub-No. 22), filed May 10, 1971. Applicant: DON PAFFILE, doing business as PAFFILE TRUCK LINES, 2906 29th Street, Lewiston, ID 83501. Applicant's representative: Don Paffile (same address as applicant). Authority

sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the plantsite and storage facilities of Potlatch Forest Industries, Inc., at Lewiston, Idaho, to points in Spokane County, Wash., ports of entry on the U.S. border between the United States and Canada in the States of Washington and Idaho and points in Oregon and Washington on and west of U.S. Highway 97. 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 Spokane, Wash.

No. MC 117574 (Sub-No. 202), filed May 3, 1971. Applicant: DAILEY EXPRESS, INC., Post Office Box 39, Carlisle, PA 17013. Applicant's representatives: E. S. Moore, Jr. (same address as above) and James W. Hagar, 100 Pine Street, Post Office Box 1166, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Antipollution systems and equipment;* (2) *liquid cooling and vapor condensing systems and equipment;* (3) *environmental control and protective systems and equipment;* (4) *parts, equipment, materials, and supplies* for the commodities named in (1), (2), and (3) above; and (5) *machinery, equipment, and materials, and supplies* used in the construction installation, operation and maintenance of the items named in (1), (2), and (3) above, between points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the authority sought herein can be tacked with existing authority held by applicant, however, applicant has no present intention to tack, therefore, the tackable authorities are not identified herein. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Applicant further states no duplicating authority is sought. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 117799 (Sub-No. 12), filed May 10, 1971. Applicant: BEST WAY FROZEN EXPRESS, INC., 3033 Excelsior Boulevard, Minneapolis, MN 55416. Applicant's representatives: Patrick M. Porritt (same address as above) and Val Higgins 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic laminates and plastic laminated products*, from Auburn, Maine, to points in California. NOTE: Common control and dual operations 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 Portland, Maine, or Boston, Mass.

No. MC 118831 (Sub-No. 79), filed May 3, 1971. Applicant: CENTRAL TRANSPORT, INCORPORATED, Post Office Box 5044, High Point, NC. Applicant's representative: Richard E. Shaw (same address as above) and E. Stephen Heisley, 666 11th Street NW., Washington, DC. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from Murray, Ky., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: Applicant states that the 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 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. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Louisville, Ky.

No. MC 119049 (Sub-No. 4) (amendment), filed October 15, 1970, published in the FEDERAL REGISTER issue of November 13, 1970, and republished in part as amended this issue. Applicant: T.E.K. VAN LINES, INC., 9123 East Garvey Avenue, Rosemead, CA 91770. Applicant's representative: Robert J. Gallagher, 1776 Broadway, New York, NY 10019. NOTE: The purpose of this partial republication is to (1) reflect the tacking information as follows: Applicant states that the 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 points or territories which can be served through tacking, and (2) to reflect applicant intends to retain (not cancel) its present authority if the application is granted. The rest of the application remains as previously published.

No. MC 119226 (Sub-No. 79), filed May 10, 1971. Applicant: LIQUID TRANSPORT CORP., 3901 Madison Avenue, Indianapolis, IN 46227. Applicant's representatives: Don A. Thome (same address as applicant) and/or Loser & Loser, 1001 Chamber of Commerce Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products and blends thereof*, in bulk, from Cedar Rapids, Clinton, Keoku, and Muscatine, Iowa, to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant seeks no duplicating authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Chicago, Ill.

No. MC 113666 (Sub-No. 58), filed 3, 1971. Applicant: TEMPCO TRANSPORTATION, INC., 546 South 31A, Columbus, Ind. Applicant's representative: William J. Boyd, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* as described in Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 from Louisville, Ky., to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia, Maryland, Delaware, Pennsylvania, New Hampshire, New Jersey, Connecticut, Rhode Island, Massachusetts, Vermont, Wisconsin, Washington, D.C., and New York. 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 119934 (Sub-No. 172), filed May 5, 1971. Applicant: ECOFF TRUCKING, INC., 625 East Broadway, Fortville, IN 46040. Applicant's representative: Robert W. Loser, 1001 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar*, dry, in bulk, from St. Bernard Parish, La., to points in Alabama, Louisiana, Mississippi, and Tennessee. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority under MC 128161, therefore, dual operations and common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.; New Orleans, La.; or Washington, D.C.

No. MC 119968 (Sub-No. 5), filed May 5, 1971. Applicant: A. J. WEIGAND, INC., Post Office Box 130, Dover, OH 44622. Applicant's representative: Paul F. Beery, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Spent activated carbon*, in bulk, from Dover, Ohio, to the plantsite of Westavaco Chemical, Inc., located at or near Covington, 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 120080 (Sub-No. 4), filed April 28, 1971. Applicant: MORGAN EXPRESS, INC., 3817 Irving Boulevard, Dallas, TX 75247. Applicant's representative: Max G. Morgan, 600 Leininger Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, moving in express service, except classes A and B explosives, (1) between Dallas, Tex., and Shreveport, La., serving no intermediate points and serving Marshall for purposes of interline only,

from Dallas over U.S. Highway 80 to Shreveport and return over the same route; (2) between Shreveport, La., and Junction U.S. Highway 71 and U.S. Highway 190, serving all intermediate points, from Shreveport, La., over U.S. Highway 71 to its junction with U.S. Highway 190 near Krotz Springs and return over the same route; (3) between Dallas and Houston, Tex., serving no intermediate points and serving Houston for purposes of joinder only, from Dallas to Houston over U.S. Highway 75 and return over the same route; (4) between Houston, Tex., and New Orleans, La., serving all intermediate points in Louisiana; service between Houston and Orange, Tex., restricted to interline at Orange, from Houston over U.S. Highway 90 to New Orleans and return over the same route; (5) between Tallulah, La., and Junction U.S. Highways 165 and 90 near Iowa, serving all intermediate points, from Tallulah, La., over U.S. Highway 65 to its junction with State Highway 2, thence to Mer Rouge over State Highway 2; thence over U.S. Highway 165 to its Junction with U.S. Highway 90 near Iowa, and return over the same route; (6) between Shreveport and Vicksburg, serving all intermediate points, from Shreveport, La., over U.S. Highway 80 to Vicksburg, Miss., and return over the same route; (7) between Sulphur, La., and Junction U.S. Highway 190 and U.S. Highway 11, near Slidell, serving all intermediate points, from Sulphur, La., to De Quincy over State Highway 27, thence to Ragley over U.S. Highway 190; thence to Junction U.S. Highways 190 and 11 near Slidell and return over the same route;

(8) Between Baton Rouge and New Orleans, serving all intermediate points, from Baton Rouge and New Orleans over U.S. Highway 61 and return over the same route; (9) between Shreveport and Lake Charles, serving all intermediate points, from Shreveport to Lake Charles over U.S. Highway 171 and return over the same route; (10) between Minden and Junction City, serving all intermediate points, from Minden over U.S. Highway 79 to Homer; thence over State Highway 9 to Junction City and return over the same route; (11) between Junction City and Lafayette, serving all intermediate points, from Junction City over U.S. Highway 167 to Lafayette and return over the same route; (12) between Many, La., and Natchez, Miss., serving all intermediate points, from Many over State Highway 6 to Clarence; thence over U.S. Highway 84 to Natchez and return over the same route; (13) between Alexandria and Junction of U.S. Highway 90 and State Highway 1 near Raceland, serving all intermediate points, from Alexandria over State Highway 1 to its Junction with U.S. Highway 90 near Raceland and return over the same route; (14) between Lafayette and Jennings, serving all intermediate points, from Lafayette over State Highways 94 and 31 to New Iberia; thence over State Highway 14 to Lake Arthur; thence over State Highway 26 to Jennings and return over the same route; (15) between New Orleans and Kentwood, La., serving all intermediate points, from New Orleans over U.S. Highway 11 to Pearl River, La., thence over State Highway 41 to Bogalusa, La.; thence over State Highways 10, 25, and 38 to Kentwood, La.; thence over U.S. Highway 51 to La Place, La.; and (16) between Baton Rouge, Clinton, and St. Francisville, La., serving all intermediate points, from Baton Rouge, La., over State Highway 19 to its Junction with State Highway 10, near McManus, La.; thence over State Highway 10 to Clinton, La.; and return; thence over State Highway 10 to St. Francisville and thence over U.S. Highway 61 to Baton Rouge, La. NOTE: If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., New Orleans or Shreveport, La.

No. MC 120249 (Sub-No. 8), filed April 22, 1971. Applicant: GEORGE A. HORTON, doing business as ASHLAND-HARLO FREIGHT LINES, 1023 Delphinium Drive, Billings, MT 59102. Applicant's representative: Jerome Anderson, Post Office Box 1215, Billings, MT 59103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities injurious or contaminating to other lading, commodities in bulk, and commodities, which, because of their size and weight require special equipment), between White Sulphur Springs, Mont., and Helena, Mont., over U.S. Highways 12 and 287, serving the intermediate and off-route points of Townsend and East Helena, Mont. NOTE: Applicant states it would tack the requested authority with its existing authority at White Sulphur Springs, Mont., and further would provide joint line service with other carriers at service points which applicant has in common with other carriers. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant request it be held at Helena, Mont., or Billings, Mont.

No. MC 123407 (Sub-No. 82), filed May 7, 1971. Applicant: SAWYER TRANSPORT, INC., 2424 Minnehaha Avenue South, Minneapolis, MN 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: *Composition board, composition tile, flooring, building and roofing materials; and materials and accessories* used in the installation thereof, (1) from Meridian, Miss., and New Orleans, La., to points in Alabama, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, North Carolina, Ohio, South Carolina, Tennessee, and Wisconsin, and (2) between New Orleans, La., Chillicothe, Ohio, and Chicago Heights, Ill. 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., or Washington, D.C.

No. MC 124174 (Sub-No. 85), filed May 9, 1971. Applicant: MOMSEN TRUCKING CO., a corporation, Highways 71 and 18 North, Spencer, Iowa 51301. Applicant's representatives: Marshall Becker, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106, and Karl E. Momsen, 6801 L Street, Omaha, NE 68117. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides, skins, chromes and pieces therefrom, and tannery products, supplies, and byproducts* (except liquids and chemicals in bulk, in tank trucks) between points in Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Texas, Vermont, Virginia, Wisconsin, Buford, Ga.; New Orleans, La.; Clovis, N. Mex., and West Virginia. NOTE: Common control may be involved. Applicant states tacking or joinder may be possible but is not anticipated. 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 Omaha, Nebr.

No. MC 124947 (Sub-No. 11), filed May 5, 1971. Applicant: MACHINERY TRANSPORTS, INC., 617 Chicago Street, East Peoria, IL 61611. Applicant's representative: J. G. Dail, Jr., 1111 E Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Road construction, paving, and concrete finishing accessories, and attachments, motor graders, excavators, and sprayers*, between Oklahoma City, Okla., on the one hand, and, on the other, points in the United States (except Hawaii); (2) *hydraulic hammers, cutters, and portable power units*, between Denver, Colo., on the one hand, and, on the other, points in the United States (except Hawaii); (3) *grading, paving, and finishing machinery, equipment, parts, accessories, and attachments*, between Canton, S. Dak., on the one hand, and, on the other, points in the United States (except Hawaii); (4) *asphalt producting, storage, and heating systems and components, and asphalt plant erection machinery and equipment*, between Chattanooga, Tenn., on the one hand, and, on the other, points in the United States (except Hawaii); and (5) *concrete producing and storage plants systems, and components, and batching controles*, between Santa Clara, Calif., on the one hand, and, on the other, points in the United States (except Hawaii). NOTE: Applicant states if any of the involved commodities also qualify as "size-or-weight" commodities, limited tacking might be permitted from applicant's existing authority for the latter; however, tacking is not foreseen. Applicant further states no duplicating authority sought. If a hearing is deemed necessary, applicant

requests it be held at Oklahoma City, Okla.

No. MC 125996 (Sub-No. 19), filed April 21, 1971. Applicant: ROAD RUNNER TRUCKING, INC., Post Office Box 37491, Millard, NE 68137. Applicant's representative: George Bacon (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cooling devices*, other than those requiring special equipment, from Montebello, Calif., to points in Iowa, Kansas, Minnesota, Missouri, Nebraska, and South Dakota. 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 126422 (Sub-No. 5), filed May 3, 1971. Applicant: QUALITY TRANSPORT, INC., 1200 Simons Building, Dallas, Tex. 75201. Applicant's representative: Wm. E. Livingstone, III, 4555 First National Bank Building, Dallas, Tex. 75202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from New Orleans, La., to points in Mississippi. 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 Orleans, La.

No. MC 126514 (Sub-No. 32), filed April 27, 1971. Applicant: HELEN H. SCHAEFFER AND EDWARD P. SCHAEFFER, a partnership, 5200 West Bethany Home Road, Glendale, AZ 85301. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in mechanical refrigerated equipment, from Kennett Square, Pa., and Tiffin, Ohio, to points in Oregon, Washington, California, Nevada, Arizona, New Mexico, 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., or Washington, D.C.

No. MC 127042 (Sub-No. 83), filed May 3, 1971. Applicant: HAGEN, INC., 4120 Floyd Boulevard, Post Office 98, Leeds Station, Sioux City, IA 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: *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 the plantsite and storage facilities utilized by Illini Beef Packers, Inc., at or near Joslin, Ill., to points in Colorado, Idaho, Iowa, Kansas, Minnesota, Missouri, Montana, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming. Restriction: Restricted to traffic originating at the named origin and destined to the named destination States. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Chicago, Ill.

No. MC 127527 (Sub-No. 7), filed May 3, 1971. Applicant: CARL W. REAGAN, doing business as SOUTHEAST TRUCKING CO., 8372 C. H. East Route No. 6, Ravenna, OH 44266. Applicant's representative: Robert N. Krier, 88 East Broad Street, Columbus, OH. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Conduit and other pipe* (except iron and steel) *and attachments parts and fittings therefor*, from the plantsite of The Flintkote Co., Pipe Products Group, located at or near Ravenna, Ohio, in Rootstown Township, Portage County, Ohio, to points in Delaware, Michigan, Maryland, New Jersey, New York, Pennsylvania, West Virginia, Virginia, Kentucky, Illinois, Wisconsin, Indiana, and the District of Columbia; and damaged or rejected shipments on return. NOTE: Applicant states it proposes to conduct operations under the applied for authority under continuing contract with The Flintkote Co., Pipe Products Group. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio, or Washington, D.C.

No. MC 129387 (Sub-No. 10), filed April 29, 1971. Applicant: BILL PAYNE, doing business as BILL PAYNE TRUCKING COMPANY, Highway 14 East, Huron, SD 57350. Applicant's representative: Don A. Bierle, Suite 4, Law Building, 322 Walnut Street, Yankton, SD 57078. 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 Dakota City and West Point, Nebr.; Emporia, Kans.; Luverne, Minn.; Denison, Fort Dodge, LeMars, and Mason City, Iowa, to points in North Dakota, South Dakota, Minnesota, Iowa, Nebraska, Wisconsin, Illinois, and Missouri, restricted to traffic originating at the plantsites and storage facilities of Iowa Beef Processors, Inc., and destined to the named destinations. If a hearing is deemed necessary, applicant requests it be held at Huron or Sioux Falls, S. Dak., or Sioux City, Iowa.

No. MC 129387 (Sub-No. 11), filed April 29, 1971. Applicant: BILL PAYNE, doing business as BILL PAYNE TRUCKING COMPANY, Highway 14 East, Huron, S. Dak. 57350. Applicant's representative: Don A. Bierle, Suite 4, Law Building, 322 Walnut Street, Yankton, SD 57078. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *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, restricted against the transportation of commodities in bulk, in tank vehicles and hides, from the plantsite and public warehouse facilities utilized by Armour and Co., located at Huron, S. Dak., destined to points in Pennsylvania, Kentucky, Tennessee, North Carolina, South Carolina, Virginia, West Virginia, District of Columbia, Delaware, Maryland, New York, Connecticut, Rhode Island, New Hampshire, Vermont, Massachusetts, New Jersey, and Maine; and (2) *meats, meat products, meat byproducts and packinghouse products* as set forth 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 the plantsite and warehouse facilities of Flannery Meats and Rod Barnes Packing at or near Huron, S. Dak., to points in Connecticut, Delaware, Kentucky, Maine, Massachusetts, Maryland, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Georgia, Tennessee, Virginia, Vermont, West Virginia, and the District of Columbia, restricted to traffic originating at the above-named plantsites and destined to the above-named States in (1) and (2) above. NOTE: If a hearing is deemed necessary, applicant requests it be held at Huron or Sioux Falls, S. Dak., or Sioux City, Iowa.

No. MC 129387 (Sub-No. 12), filed April 30, 1971. Applicant: BILL PAYNE, doing business as BILL PAYNE TRUCKING COMPANY, Highway 14 East, Huron, SD 57350. Applicant's representative: Don A. Bierle, Suite 4, Law Building, 322 Walnut Street, Yankton, SD 57078. Authority sought to operate as a *common 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 commodities in bulk, in tank vehicles and hides), from the plantsite/warehouse facilities of Needham Packing Co., Inc., located at West Fargo and Fargo, N. Dak., Sioux City, Iowa, and Omaha, Nebr., to points in Minnesota, South Dakota, North Dakota, Iowa, Nebraska, Illinois, 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 Huron, S. Dak., Sioux Falls, S. Dak., or Sioux City, Iowa.

No. MC 129712 (Sub-No. 3) filed April 30, 1971. Applicant: GEORGE BENNETT, doing business as GEORGE BENNETT TRUCK LINES, 5194 Houston Road, Post Office Box 7154, Macon, GA 31206. Applicant's representative: T. Baldwin Martin, 700 Home Federal Building, Macon, GA 31201. Authority sought to operate as a *contract carrier*, by

motor vehicle, over irregular routes, transporting: *Bakery products, advertising matter, and Sunshine Biscuit Co. stationery*, from the plantsite of Sunshine Biscuit Co. at Columbus, Ga., to points in North Carolina, South Carolina, Alabama, Louisiana, Tennessee, and Mississippi, and on return, *raw material, rejected products and pallets* on which the bakery products were originally shipped, under contract with Sunshine Biscuit Co., Columbus, Ga. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus or Atlanta, Ga.

No. MC 133231 (Sub-No. 8), filed May 2, 1971. Applicant: ROBERT A. BRINKER, INC., 21 Diaz Street, Iselin, NJ. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paints, stains, varnishes*, (except in bulk, in tank vehicles), between New Brunswick and Newark, N.J., on one hand, and, on the other, Morrisville, Pa., and Baltimore, Md., under contract with Patterson Sargent/Vita-Var, Division of Textron. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 134134 (Sub-No. 9), filed April 23, 1971. Applicant: MAINLINER MOTOR EXPRESS, INC., 2002 Madison Street, Omaha, NE 68107. Applicant's representative: Robert W. Dwyer, Jr., 1601 Woodmen Tower, Omaha, NE 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from the plantsite and storage facilities used by Beefland International, Inc., at Council Bluffs, Iowa, and Omaha, Nebr., to points in Connecticut, Delaware, District of Columbia, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island. 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 Chicago, Ill.

No. MC 134426 (Sub-No. 1), filed April 23, 1971. Applicant: ROBERT E. McCORT, doing business as McCORT DRIVEAWAY, 7032 Barkwood Drive, Jacksonville, FL 32211. Applicant's representative: Sol H. Proctor, 2501 Gulf Life Tower, Jacksonville, FL 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Automobiles and trailers* (other than used) between points in the United States on the one hand, and, on the other, points on and south of U.S. Highway 60 in Virginia, West Virginia, and Kentucky, and points east of the Mississippi River; and (2) *boat trailers*, from Jacksonville, Fla., to points in Florida, Georgia, Alabama, Mississippi, Louisiana, Tennessee, North Carolina, 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 Jacksonville, Fla.

No. MC 134922 (Sub-No. 9), filed May 4, 1971. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Applicant's representatives: William J. Boyd, 29 South La Salle Street, Chicago, IL 60603, and George Harris, c/o B. J. McAdams, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and packaged animal and pet food, and canned and packaged foodstuffs*, from Siloam Springs and Gentry, Ark., and the plantsite of Allen Canning Co., located approximately 10 miles northeast of Siloam Springs, Ark., and Kansas, and Proctor, Okla., to points in Ohio, Pennsylvania, Maryland, New Jersey, New York, Delaware, West Virginia, Virginia, Connecticut, Massachusetts, Vermont, New Hampshire, Maine, Rhode Island, California, Arizona, 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 Little Rock, Ark., or Oklahoma City, Okla.

No. MC 135047 (Sub-No. 1), filed March 26, 1971. Applicant: GRADY MOVING & STORAGE, INC., Post Office Box 53, Jacksonville, NC 28540. Applicant's representative: Robert J. Gallagher, 1776 Broadway, New York, NY 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in North Carolina, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Raleigh, N.C., or Washington, D.C.

No. MC 135195 (Sub-No. 1), filed May 3, 1971. Applicant: JOSEPH L. STOVER, doing business as STOVER AIR CARGO, Quincy, Ill. 62301. 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: *General commodities* (except commodities in bulk), between Quincy, Ill., and Hannibal, La., Monroe City, and Troy, Mo., on the one hand, and, on the other, Lambert Field, St. Louis, Mo., on traffic having an immediately prior or subsequent movement by air. 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 Springfield, Ill., or Chicago, Ill.

No. MC 135244 (Sub-No. 1) (Correction), filed April 6, 1971, published in the FEDERAL REGISTER issue of May 6, 1971, and republished, as corrected, this issue. Applicant: NUTRITION PLUS, INC., 1000 Hillcrest Road, Wayne, NE 68787. Applicant's representative: Merle Sieler (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients*, from Malvern, Iowa, to points in Burt, Cumming, Dakota, Dixon, Platte, Colfax, Dodge, Thurston, and Wayne Counties, Nebr., under a continuing contract with Standard Chemical Manufacturing Co. NOTE: The purpose of this republication is to include the counties of Platte, Colfax, and Dodge, Nebr., inadvertently omitted in the previous publication. If a hearing is deemed necessary, applicant requests it be held at Sioux City, Iowa.

No. MC 135344 (Sub-No. 2), filed April 26, 1971. Applicant: COMET TRUCKING, INC., 249 East Fourth North, American Fork, UT 84003. Applicant's representative: Myrna Mae Nebeker, 212 Phillips Petroleum Building, Salt Lake City, UT 84101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron and steel furnace retorts and parts*, together with all fittings, electrical and mechanical, from Salt Lake City, Utah, to points in the United States (including Alaska and Hawaii), under contract with Envirotech Systems, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

No. MC 135353 (Sub-No. 1), filed May 4, 1971. Applicant: BARSTOW TRANSFER & STORAGE CO., INC., Post Office Box 639 Barstow-Daggert Airport, Barstow, CA 93211. Applicant's representative: Alan F. Wohlstetter, 1 Farragut Square South, Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in San Bernardino County, Calif., and between Barstow, Calif., and Long Beach, San Pedro Harbor, and Los Angeles International Airport, Calif., restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted in the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic. NOTE: If a hearing is deemed necessary, applicant did not specify a location.

No. MC 135399 (Sub-No. 2), filed April 30, 1971. Applicant: HASKINS TRUCKING, INC., 3735 Gouldburn Street, Houston, TX 77045. Applicant's

representative: J. L. Haskins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products, pulpboard;* and (2) *materials, equipment and supplies* used in the manufacture and distribution thereof (except commodities in bulk and commodities which, because of weight, require the use of special equipment); (b) (1) from the plantsite of Continental Can Co., Inc., Hodge, La., to points in Alabama, Mississippi, Tennessee, Kentucky, Virginia, North Carolina, South Carolina, Georgia, Florida, Texas (except points east of U.S. Highway 75 and except Dallas and Houston, Tex.), Phoenix, Mesa, and Tucson, Ariz., Albuquerque, Roswell, and Santa Fe, N. Mex.; and (2) from points in Alabama, Mississippi, Tennessee (except McMinn County), Kentucky (except the plantsite of West Virginia Pulp & Paper Co. located at or near Wickliffe, Ky.), Virginia, North Carolina, South Carolina, Georgia (except Richmond County), Florida, Texas (except points east of U.S. Highway 75 and except Dallas and Houston, Tex.), Phoenix, Mesa, and Tucson, Ariz.; and Albuquerque, Roswell and Santa Fe, N. Mex.; to the plantsite of Continental Can Co., Inc., Hodge, La. 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 Houston, Tex., or New Orleans, La.

No. 135430 (Clarification) filed March 15, 1971, published in the FEDERAL REGISTER issue of April 8, 1971, and republished as clarified this issue. Applicant: LEAVITTS FREIGHT SERVICE, INC., 3855 Marcola Road, Springfield, OR 97477. Applicant's representative: Earle V. White, 2400 Southwest Fourth Avenue, Portland, OR 97201. NOTE: The sole purpose of this partial republication is to reflect applicant presently operates as a contract carrier under MC 116470 and Subs thereunder, and herein proposes to convert those operations to that of a common carrier and will surrender its permits upon completion of the conversion. The rest of the application remains as previously published.

No. MC 135460 (Sub-No. 2) (Amendment), filed April 21, 1971, published in the FEDERAL REGISTER issue of May 13, 1971, and republished, as amended, this issue. Applicant: SOUTHERN TRANSPORT, INC., 1200 West Hillsboro, Post Office Box 488, El Dorado, AR 71730. Applicant's representative: Louis Tarlowski, 914 Pyramid Life Building, Little Rock, AR 72201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles; (1) from the terminals, storage and loading facilities utilized or operated by Mobil Oil Corp. at El Dorado, Ark., to points in Louisiana; and (2) from Cotton Valley, La., to Little Rock, Ark., under a continuing contract with Mobil Oil Corp. NOTE: The purpose of this republication is to redescribe the scope of the authority sought. Common control and dual operations may be involved. If hearing is deemed necessary, applicant requests it be held at Little Rock, Ark.

No. MC 135571, filed May 4, 1971. Applicant: EVERETT KENNEDY, LTD., Rural Route 1, Auld's Cove, NS, Canada. Applicant's representative: Kenneth B. Williams, 111 State Street, Boston, MA 02132. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bananas and fruit juices*, from points in the Boston, Mass., commercial zone to ports of entry on the international boundary line between the United States and Canada at or near Calais and Houston, Maine; (2) *frozen berries, frozen fish, salted, pickled, or smoked fish, and fresh fish* when moving in the same vehicle with shipments of salted, pickled, or smoked fish, from ports of entry on the international boundary line between the United States and Canada at or near Calais and Houston, Maine, to points in Massachusetts, New York, and New Jersey; (3) *machinery, equipment, cartons, wrappers, materials, and supplies* used in catching, processing, and packaging of fish, between points in the Boston, Mass., commercial zone and Gloucester, Mass., on the one hand, and, on the other, ports of entry on the international boundary line between the United States and Canada at or near Calais and Houston, Maine; and (4) *commodities* exempt from economic regulation under section 203(b)(6) of part II of the Interstate Commerce Act when moving in the same time and in the same vehicle with commodities named in (1) and (3) above, between points in the Boston, Mass., commercial zone and Gloucester, Mass., on the one hand, and, on the other, ports of entry on the international boundary line between the United States and Canada at or near Calais and Houston, Maine. NOTE: Applicant holds a pending contract application under MC 128560. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 135579, filed May 3, 1971. Applicant: "H" MOVING & STORAGE, INC., 5207½ East Highway 190, Killeen, TX 76541. Applicant's representative: Harwell Henderson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, as defined by the Commission, over irregular routes, between Killeen, Tex., on the one hand, and, on the other, points in Bell, San Saba, McCulloch, Wells, Hamilton, Coryell, Bosque, McLennan, Hill, Limestone, Falls, Burnet, Llano, Mason, Lampasas, Milam, Burleson, Washington, Waller, and Harris county, Tex. Restriction: The service herein sought is restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points named, and further restricted to the performance of pickup or delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic. NOTE: If a hearing is deemed necessary, applicant requests it be held at (1) Austin, (2) Waco, and (3) Fort Worth, Tex.

No. MC 135580, filed May 3, 1971. Applicant: LAMBERT TRANSFER & STORAGE CO., a corporation, 1448 Dalton Street, Cincinnati, OH 45214. Applicant's representative: Robert H. Kinker, Box 464, McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the Greater Cincinnati Airport, Boone County, Ky., on the one hand, and, on the other, points in Indiana, Illinois, Kentucky, Michigan, Ohio, Pennsylvania, Tennessee, and West Virginia, restricted to traffic having an immediately prior or subsequent movement by air. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Ohio.

No. MC 135581, filed April 30, 1971. Applicant: T & M TRUCKING CORPORATION, 110 Hoboken Avenue, Jersey City, NJ 07306. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Chocolate syrup, chocolate coating, flavoring syrup, chocolate liquor, cocoa butter, vegetable oils*, in bulk, in tank vehicles, and packed in barrels or pails, from Jersey City, N.J., to points in Birmingham, Sylacauga, and Tuscaloosa, Ala.; Jacksonville, Fort Lauderdale, Miami, Tampa, and West Palm Beach, Fla.; Augusta, Columbus, Eastman, Atlanta, and Macon, Ga.; Chicago, Bloomington and Robinson, Ill.; Fort Wayne and Indianapolis, Ind.; New Orleans, La.; Baltimore and Laurel, Md.; Detroit, Grand Rapids, and Pontiac, Mich.; St. Louis, Mo.; Utica, N.Y.; Asheville, Charlotte, Lexington, Hickory, Raleigh, Wilson, Greensboro, and High Point, N.C.; Columbus, Cleveland, Cincinnati, Toledo, and Bryan, Ohio; Dushore, Lancaster, Philadelphia, Reading, McKeesport, and Pittsburgh, Pa.; Dillon and Charleston, S.C.; Athens, Chattanooga, Greeneville, Knoxville, and Memphis, Tenn.; Brenham, Bryan, Dallas, Fort Worth, and Houston, Tex.; commodities used or useful in the manufacture and sale of the above commodities from the destination points shown above to Jersey City, N.J., under contract with Van Leer Chocolate Corp., Jersey City, N.J. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 135584, filed April 26, 1971. Applicant: W. A. ADAMS, doing business as ADAMS TRANSFER AND STORAGE, Box 1660, Deland, FL 32720. Applicant's representative: Robert J. O'Neil (same address as applicant). Authority sought to operate as a *common carrier*, by motor

vehicle, over irregular routes, transporting: *Containerized household goods and unaccompanied baggage*, between points in the counties of Orange, Volusia, Brevard, Lake, and Seminole in the State of Florida. NOTE: If a hearing is deemed necessary, applicant requests it be held at Orlando or Jacksonville, Fla.

No. MC 135586, filed April 26, 1971. Applicant: PRASSEL ENTERPRISES, INC., North McRaven Road, Post Office Box 8305, Jackson, MS 39204. Applicant's representative: Donald B. Morrison, 717 Deposit Guaranty Bank Building, Post Office Box 22628, Jackson, MS 39205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products, poles, posts, piling, pallets, cordwood, and cross-ties*, treated or untreated, between points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia, under continuing contracts with Prassel Furniture & Box Woods, Inc., Prassel Furniture & Box Woods of Alabama, Inc., Prassel Furniture & Box Woods of Texas, Inc., Prassel Lumber Co. of Alabama, Allen Prassel Lumber Co. of Texas, Prassel Lumber Co., and Prassel Investments, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss.

No. MC 135587, filed May 5, 1971. Applicant: OSCAR MARSH, 49 Canterbury Drive, Athen, OH 45701. Applicant's representative: Gerald P. Wadkowski, 85 East Gay Street, Room 606, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Soft drink beverages*, between Athens, Ohio, on the one hand, and Huntington, W. Va., on the other. NOTE: If a hearing is deemed necessary, applicant requests it be held at Huntington, W. Va.; Athens or Columbus, Ohio.

No. MC 135588, filed April 15, 1971. Applicant: JOHN CHABOT, doing business as ABCO MOVING & STORAGE, 900 West 11th Street, San Bernardino, CA 92410. Applicant's representative: Edward J. Hegarty, 100 Bush Street, 21st Floor, San Francisco, CA 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Los Angeles, Orange, Riverside, and San Bernardino Counties, Calif., restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic. NOTE: If a hearing is deemed necessary, applicant requests it be held at San Francisco or Los Angeles, Calif.

MOTOR CARRIERS OF PASSENGERS

No. MC 61335 (Sub-No. 13) (Correction), filed March 8, 1971, published in the FEDERAL REGISTER issue of April 22, 1971, corrected, and republished as corrected this issue. Applicant: TRANSBRIDGE LINES, INC., Post Office Box 146, Phillipsburg, NJ 08865. Applicant's representative: W. C. Mitchell, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations; (1) beginning and ending at points in Hunterdon and Warren Counties, N.J., to Liberty Bell Race Track, Philadelphia, Pa., and Pocono Downs Race Track, Wilkes Barre, Pa.; and (2) beginning and ending at points in Hunterdon and Warren Counties, N.J., Lehigh, Monroe, and Northampton Counties, Pa., and those in that part of Bucks County, Pa., on and east of U.S. Highway 611 from Doylestown, Pa., to the county line near Riegelsville, Pa., and on and north of U.S. Highway 202 from Doylestown, Pa., to New Hope, Pa., and extending to Aqueduct Race Track, New York, N.Y.; Belmont Park Race Track, Belmont, N.Y.; Monticello Raceway, Monticello, N.Y.; Roosevelt Raceway, Westbury, N.Y.; Saratoga Race Track, Saratoga, N.Y.; and Yonkers Raceway, Yonkers, N.Y. NOTE: Common control may be involved. The purpose of this republication is to redescribe the operations being sought. If a hearing is deemed necessary, applicant requests it be held at Allentown, Pa.

No. MC 115116 (Sub-No. 23), filed May 11, 1971. Applicant: SUBURBAN TRANSIT CORP., 750 Somerset Street, New Brunswick, NJ 08901. Applicant's representative: Michael J. Marzano, 17 Academy Street, Newark, NJ 07102. 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 points in Trenton, N.J., as follows: Over city streets, freeways, and highways to Princeton Avenue at the city of Trenton-Ewing Township-Lawrence Township, N.J., boundary line and return, serving all intermediate points; (2) between Trenton, N.J., and Lawrence Township, N.J., as follows: From Trenton, N.J., over Strawberry Street (U.S. Highway 1) to Brunswick Circle and junction of U.S. Highway 206, thence over Brunswick Circle and U.S. Highway 206 to junction Mercer County Highway 583 (Princeton Avenue) in Lawrence Township, N.J., and return over the same route, serving all intermediate points; and (3) between Brunswick Circle and junction of Strawberry Street (U.S. Highway 1) and U.S. Highway 206 at or near the city of Trenton-Lawrence Township, N.J., boundary line, and junction U.S. Highway 1 and New Road in South Brunswick Township, N.J., as follows: From Brunswick Circle and junction of Strawberry Street (U.S. Highway 1) and U.S. Highway 206 at or near the city of Trenton-Lawrence Township, N.J., boundary line, over Brunswick Circle and U.S. Highway 1 to junction U.S. Highway 1 and New Road in South Brunswick Township, N.J., and return over the same route, serving all intermediate points. NOTE: Applicant proposes to provide service to and from New York, N.Y., by joining the proposed routes with its existing authorized routes. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J.

APPLICATION FOR BROKERAGE LICENSE

No. MC 130144, filed April 26, 1971. Applicant: HARDMAN & STUCKEY TRAVEL INVESTMENTS, INC., doing business as HARDMAN TRAVEL INDUSTRIES, Suite 2512, Equitable Building, 100 Peachtree Street, Atlanta, GA 30303. For a license (BMC–5) to engage in operations as a *broker* at Atlanta, Ga., in arranging for transportation in interstate or foreign commerce of groups of *passengers and their baggage;* (1) beginning and ending at Atlanta, Ga., and extending to points in Georgia, Florida, Alabama, Tennessee, South Carolina, and North Carolina; and (2) between points in Georgia, Florida, Alabama, Tennessee, South Carolina and North Carolina.

APPLICATION OF FREIGHT FORWARDERS

No. FF–402 (SWIFT HOME-WRAP, INC., Freight Forwarder Application), filed May 14, 1971. Applicant: SWIFT HOME-WRAP, INC., Box 906, Irving, TX 75060. Applicant's representative: Max G. Morgan, 600 Leininger Building, Oklahoma City, OK 73112. Authority sought under section 410, part IV of the Interstate Commerce Act for a permit authorizing applicant to institute operation as freight forwarder in interstate or foreign commerce, transporting: *Household goods*, as defined by the Commission, between points in the United States (including Alaska and Hawaii) except North and South Dakota.

No. FF–403 (WINGS & WHEELS EXPRESS, INC., Freight Forwarder Application), filed May 14, 1971. Applicant: WINGS & WHEELS EXPRESS, INC., World Headquarters Building, John F. Kennedy International Airport, Jamaica, NY 11430. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Washington, DC 20036. Authority sought under section 410, part IV of the Interstate Commerce Act, for a permit to institute operation as a freight forwarder, in interstate or foreign commerce, through the use of the facilities of common carriers by railroad, express, water, air, or motor in the transportation of general commodities (except classes A and B explosives, household goods as defined by the Commission, commodities which because of size and weight require special equipment, unaccompanied baggage, commodities in bulk and motor vehicles), between points in the United States including Alaska and Hawaii, restricted to shipments having an immediately prior or subsequent movement by

air in the air forwarder service of Wings & Wheels Express, Inc.

By the Commission.

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

[FR Doc.71-7326 Filed 5-26-71;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

MAY 24, 1971.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42207—*Iron or steel articles to Alabama and Mississippi.* Filed by Traffic Executive Association-Eastern Railroads, agent (E.R. No. 3002), for interested rail carriers. Rates on iron or steel articles, in carloads, as described in the application, from points in New York and Pennsylvania, to points in Alabama and Mississippi.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 9 to Traffic Executive Association-Eastern Railroads, Agent, tariff ICC C-819. Rates are published to become effective on June 22, 1971.

FSA No. 42208—*Manganese metal from New Johnsonville, Tenn.* Filed by O. W. South, Jr., agent (No. A6257), for interested rail carriers. Rates on manganese metal, in carloads, as described in the application, from New Johnsonville, Tenn., to East Liverpool and Vancoram, Ohio, Gary, Ind., and South Chicago, Ill.

Grounds for relief—Barge competition.

Tariffs—Supplements 65 and 129 to Southern Freight Association, agent, tariffs ICC S-870 and S-800, respectively. Rates are published to become effective on July 1, 1971.

By the Commission.

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

[FR Doc.71-7446 Filed 5-26-71;8:53 am]

[Notice 300]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 21, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 10173 (Sub-No. 13 TA), filed May 11, 1971. Applicant: MARVIN HAYES LINES, INC., Guthrie Highway, Hayes Circle, Post Office Box 468, Clarksville, TN 37040. Applicant's representative: Walter Harwood, 404 James Robertson Parkway, Nashville, TN 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except household goods, classes A and B explosives, articles of unusual value, commodities in bulk, and those requiring special equipment) between Guthrie, and Hopkinsville, Ky., from Guthrie over U.S. Highway 41 to Hopkinsville and return over the same route, serving all intermediate points, for 150 days. NOTE: Applicant proposes to tack at Guthrie and Hopkinsville, Ky., and to interline traffic at Nashville and Memphis, Tenn., and Louisville, Ky., with other carriers. Supporting shippers: Price-Pembroke Rexall Drug Store, Pembroke, Ky.; Atlon H. Slaughter, Plant Manager, Kin-McGee Chem., Pembroke, Ky.; Tallas Allen Specialty Foods, Trenton, Ky.; W. F. Ware Co., Trenton, Ky.; Hurst Rexall Drug Store, Trenton, Ky. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 803—1808 West End Building, Nashville, TN 37203.

No. MC 51146 (Sub-No. 220 TA), filed May 14, 1971. Applicant: SCHNEIDER TRANSPORT & STORAGE, INC., 817 McDonald Street, 54303, Post Office Box 2298, Green Bay, WI 54306. Applicant's representative: D. J. Schneider (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs, between Fond du Lac, Viroqua, Oostburg, and town of Forest, Wis.; Newman Grove, Nebr., and Mitchell, S. Dak., on the one hand, and, on the other, points in the Continental United States (excluding Alaska and Hawaii), for 180 days. Supporting shipper: Tolibia Cheese Co., 919 North Michigan Avenue, Chicago, IL 60611 (Ron Klensch, Director of Marketing). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 64932 (Sub-No. 494 TA), filed May 14, 1971. Applicant: ROGERS CARTAGE CO., 1439 West 103d, Chicago, IL 60643. Applicant's representative: W. F. Farrell (same address as above). Authority sought to operate as a *common* routes, transporting: *Liquid fertilizer*, mixed in bulk, in tank vehicles, from the plantsite of Phillips Petroleum Co., Momence, Ill., to points in Indiana, Michigan, and Wisconsin, for 150 days. Supporting shipper: Phillips Petroleum Co., 222 East Ogden Avenue, Hinsdale, IL 60521. Send protests to: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 65285 (Sub-No. 16 TA), filed May 14, 1971. Applicant: HILMER LINDBURG AND L. D. LINDBURG, a partnership, doing business as LINDBURG TRUCK LINE, Post Office Box 156, Mackay, ID 83251. Applicant's representative: Hilmer Lindburg (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ore samples*, from Thompson Creek, Idaho, to Golden, Colo., for 180 days. NOTE: Applicant does not intend to tack or interline authority applied for. Supporting shipper: Tuscarora Mining Corp., 523 West Sixth Street, Los Angeles, CA 90014. Send protests to: C. W. Campbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 455 Federal Building and U.S. Courthouse, 550 West Fort Street, Boise, ID 83702.

No. MC 110563 (Sub-No. 68 TA), filed May 17, 1971. Applicant: COLDWAY FOOD EXPRESS, INC., Post Office Box 747, 113 North Ohio Avenue, Ohio Building, Sidney, OH 45365. Applicant's representative: John L. Maurer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles* distributed by meat packinghouses as described in Appendix I, Sections A and C to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (specifically excepting hides, pelts, and commodities in bulk shipped in tank vehicles), from Joslin, Ill., to points in Massachusetts, Pennsylvania, New Jersey, New York, Rhode Island, and Washington, D.C., Connecticut, and Maryland. Restriction: Restricted to the plantsite and warehouse facilities of Illini Beef Packers, Inc., at or near Joslin, Ill., for 150 days. Supporting shipper: Illini Beef Packers, Inc., Joslin, Ill. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5234 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 111401 (Sub-No. 336 TA), filed May 14, 1971. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Enid, OK 73701. Applicant's representative: Victor R. Comstock (same address as above). Authority sought to operate as a *common car-*

rier, by motor vehicle, over irregular routes, transporting: *Printing ink*, in bulk, from Tulsa, Okla., to Fort Smith, Ark., and Omaha, Nebr., for 180 days. Supporting shipper: J. Bolzak, Director of Traffic, Sun Chemical Corp., 631 Central Avenue, Carlstadt, NJ 07072. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 113587 (Sub-No. 5 TA), filed May 14, 1971. Applicant: WARD RUGH, INC., Post Office Box 68, Ellensburg, WA 98926. Applicant's representative: Joseph O. Earp, 411 Lyon Building, 607 Third Avenue, Seattle, WA 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery*, from Caldwell, Idaho, to Yakima, Kittitas, Benton, Adams, Franklin, Grant, Lincoln, and Douglas Counties, Wash., for 180 days. Supporting shipper: Ace Supply, Inc., Post Office Box 1098, 315 North Airport Avenue, Caldwell, ID 83605. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 116073 (Sub-No. 168 TA), filed May 11, 1971. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Post Office Box 919, 1825 Main Avenue, Moorhead, MN 56560. Applicant's representative: Robert G. Tessar (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from the plantsites and storage facilities of Marietta Homes, Crimson Homes, Winston Homes, and Monterey Mobile Homes, Inc., all divisions of Winston Industries, Inc., in Double Springs, Addison, and Guin, Ala., to points in Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and West Virginia, for 180 days. Supporting shippers: Winston Industries, Inc., Post Office Box 347, Double Springs, AL 35553; Monterey Mobile Homes, Inc., Post Office Box 489, Guin, AL 35563; Crimson Homes, Post Office Box 187, Double Springs, AL 35553; Winston Homes, Post Office Box 167, Addison, AL 35540; Marietta Homes, Post Office Box 346, Double Springs, AL 35553; Send protests to: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 2340, Fargo, ND 58201.

No. MC 117686 (Sub-No. 123 TA), filed May 11, 1971. Applicant: HIRSCHBACH MOTOR LINES, INC., Post Office Box 417, 3324 U.S. Highway 75 North, Sioux City, IA 51102. 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 *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Joslin, Ill., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, and Texas, for 180 days. Supporting shipper: Illini Beef Packers, Inc., Joslin, Ill. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 304, Post Office Building, Sioux City, IA 51101.

No. MC 117815 (Sub-No. 174 TA), filed May 11, 1971. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, IA 50317. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common 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 liquid commodities in bulk), from the plantsite and storage facilities utilized by Beefland International, Inc., at Council Bluffs, Iowa, and Omaha, Nebr., to points in Illinois, Indiana, Iowa, Michigan, Minnesota, and Wisconsin, for 180 days. Supporting shipper: Beefland International, Inc., 2700 23d Avenue, Council Bluffs, IA 55501. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, IA 50309.

No. MC 119928 (Sub-No. 11 TA), filed May 14, 1971. Applicant: C & E TRUCKING CORPORATION, 1818 West Sample Street, South Bend, IN 46619. Applicant's representative: Eugene L. Cohn, 1 North La Salle Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Elk Grove Village, Ill., to points in Indiana and Michigan, and return movements of foodstuffs, for 180 days. Supporting shipper: Borden, Inc., Foods Division Central Region, 1821 South Kilbourn Avenue, Chicago, IL 60623. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne Street, Room 204, Fort Wayne, IN 46802.

No. MC 126049 (Sub-No. 9 TA), filed May 17, 1971. Applicant: DODEN TRUCKING COMPANY, INC., Woden, Iowa 50484. Applicant's representative: Clayton L. Worson, 824 Brick & Tile Building, Mason City, IA 50401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salted sheepskins*, from Lexington, Ky., to Mason City, Iowa, for 180 days. Supporting shipper: Gallagher Overseas, Inc., 22 10th Street SW., Mason City, IA 50401. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, IA 50309.

No. MC 127719 (Sub-No. 2 TA) (Correction), filed April 29, 1971, published FEDERAL REGISTER issue May 13, 1971, and republished in part, as corrected this issue. Applicant: A. J. BENINATO & SONS, INC., 5618 Virginia Beach Boulevard, Norfolk, VA 23502. Applicant's representative: Alan F. Wohlstetter, 1 Farragut Square South, Washington, DC 20006. NOTE: The purpose of this partial republication is to redescribe the territorial scope of the application a portion of which was inadvertently omitted in the previous publication * * * "Between points in Norfolk, Newport News, Hampton, Williamsburg, Portsmouth, and Chesapeake, Va., and points in York, Isle of Wight, James City, Nanesmond, Sussex, Surry, Prince George, Charles City, New Kent, Henrico, Southampton, Greenville, Essex, Gloucester, Mathews, Middlesex, King William, King and Queen, Accomack, Northampton, Richmond, Lancaster, and Northumberland Counties, Va.,". The rest of the application remains as previously published.

No. MC 129323 (Sub-No. 1 TA), filed May 17, 1971. Applicant: MERCHANTS MOVING COMPANY OF FAYETTEVILLE, INC., 475 Robeson Street, Fayetteville, NC 28301. Applicant's representatives: Brodsky, Linett, and Altman, 1776 Broadway, New York, NY 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in North Carolina. Restriction: The service authorized herein is restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic, for 180 days. Supporting shippers: Karevan, Inc., Post Office Box 9240, Queen Anne Station, Seattle, WA 98109; Northwest Consolidators, Inc., Post Office Box 3583, Terminal Annex, Seattle, WA 98124. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 26896, Raleigh, NC 27611.

No. MC 133515 (Sub-No. 5 TA), filed May 11, 1971. Applicant: ART WILSON ENTERPRISES, INC., 3936 55th Street, Des Moines, IA 53010. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Snack dips, dairy products and vegetable fat products*, from Woodstock, Ill., to Des Moines, Iowa; and (2) *cartons for dairy products*, from Clinton, Iowa, to Woodstock, Ill., under a continuing contract, or contracts with Borden, Inc., for 150 days. Supporting shipper: Borden, Inc., 2341 Second Avenue, Des Moines, IA 50313. Send protests to: Ellis L. Annett,

District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, IA 50309.

No. MC 134145 (Sub-No. 4 TA), filed May 14, 1971. Applicant: NORTH STAR TRANSPORT, INC., Post Office Box 51, Thief River Falls, MN 56701. Applicant's representative: Robert P. Sack, Freight Traffic Management Bureau, Post Office Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Motor bikes, lawn mowers and attachments and snowmobiles*, from Omaha, Nebr., to points in the United States (except Alaska and Hawaii); and (2) *parts, materials, supplies, and equipment*, used in the manufacture of motor bikes, lawn mowers, and attachments, and snowmobiles, from points in Alabama, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, New Hampshire, New York, North Carolina, North Dakota, Ohio, Pennsylvania, South Carolina, Washington, and Wisconsin, to Omaha, Nebr., for 180 days. Supporting shipper: General Leisure Products Corp., Post Office Box 429, Downtown Station, Omaha, NE 68101. Send protests to: J. H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 2340, Fargo, ND 58102.

No. MC 135404 (Sub-No. 2 TA) (Correction), filed May 7, 1971, published FEDERAL REGISTER issue May 20, 1971, and republished in part as corrected this issue. Applicant: McBRIDE TRANSPORTATION, INC., Main Street, Post Office Box 430, Goshem, NY 10924. Applicant's representative: Martin Werner, 2 West 45th Street, New York, NY 10036. NOTE: The purpose of this partial republication is to reflect that *contract carrier* authority is sought, and that the proposed operations will be under contract with Reynolds Metal Co. The rest of the application remains as previously published.

No. MC 134599 (Sub-No. 18 TA), filed May 11, 1971. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, 12060 Sable Boulevard, Brighton, CO 80601. Applicant's representative: Oscar Mandel, Post Office Box 16407, Stockyard Station, Denver, CO 80216. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tire fabric*, from Scottsville, Va., Shelbyville, Tenn., and Winnsboro, S.C., and their commercial zones, to Los Angeles, Calif., and Eau Claire, Wis., and their commercial zones, for 180 days. Supporting shipper: Uniroyal, Inc., Rockefeller Center, 1230 Avenue of Americas, New York, NY 10020. Send protests to: District Supervisor, Roger L. Buchanan, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 135577 TA, filed May 11, 1971. Applicant: ROBERT E. CRAIG, doing business as DIRECT TRANSPORT, Dawnville Road, Dalton, Ga. 30720. Applicant's representative: Robert E. Craig (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bagging or cloth istle, burlap, gunny, jute, or sisal*, decorated, dyed, printed or surface coated, in packages, bales or rolls from points in Chatham County, Ga., to points in Whitfield, Floyd, Gordon, Catoosa, Bartow, Gilmer, and Murray Counties, Ga. On return movement request to transport *metal jute tubes* from above counties, to points in Chatham County, Ga., for 180 days. Supporting shippers: Queen Tufting Co., Whitfield County, Ga.; Salem Carpet Mills, Catoosa County, Ga.; Galaxy Carpet Mills, Murray County, Ga.; North Georgia Finishing Co., Whitfield County, Ga.; O. N. Jonas Co., Inc., Whitfield County, Ga.; Rogers Dye-Finishing Co., Whitfield County, Ga.; J & J Industries, Inc., Whitfield County, Ga.; World Carpet Mills, Whitfield County, Ga., and Mercury Mills, Inc., Whitfield County, Ga. Send protests to: William L. Scroggs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 135600 TA, filed May 17, 1971. Applicant: ELMER CARLSON, Rural Route No. 1, Byron, Ill. 61010. Applicant's repersentative: Robert T. Lawley, 306–308 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Industrial sand*, in bulk, (1) from Bridgeman, Mich., to points in Illinois, Indiana, and Ohio; (2) from Michigan City, Ind., to points in Illinois, Michigan, and Ohio; and (3) from Oregon; Ill., to points in Indiana, Iowa, Michigan, and Ohio for the account of Manley Sand, a division of Martin Marietta Corp., for 180 days. Supporting shipper: William F. Martin, Traffic Manager, Manley Sand, Division Martin Marietta Corp., 110 East Main Street, Rockton, IL 61072. Send protests to: Andrew J. Montgomery, District Supervisor, Bureau of Operation, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 135601 TA, filed May 17, 1971. Applicant: RESEARCH TRANSPORT COMPANY, INC., 1835 East North Street, Salina, KS 67401. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fumigants, insecticides, herbicides, flour bleaching, and maturing compounds*, (2) *equipment and supplies* used in the application and sale of fumigants, insecticides, herbicides, flour bleaching, and maturing componds, from Freeport, Tex., Salina, Kans., Claremore, Okla., and Burt, N.Y., to points in the United States (except Alaska and Hawaii), and (3) *Materials and supplies* used in the manufacture of (1) above, from points in the United States (except Alaska and Hawaii), to Salina, Kans., Claremore, Okla., and Burt, N.Y., under continuing contract with Research Products Co., Salina, Kans., Research Flour Service Products Co., Inc., Salina, Kans., The Weevil-Cide Co., Salina, Kans., and Grain Fumigation Co., Inc., Salina, Kans., for 180 days. NOTE: Carrier does not intend to tack the authority here applied for to other authority which may be granted it, or to interline with other carriers. Supporting shippers: Research Products Co., Research Flour Service Products Co., Inc., The Weevil-Cide Co., and Grain Fumigation Co., Inc., all of 1835 East North Street, Salina, KS 67401. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 234 Federal Building, Topeka, Kans. 66603.

MOTOR CARRIER OF PASSENGERS

No. MC 57795 (Sub-No. 5 TA), filed May 12, 1971. Applicant: WILLIAM C. BARDON, JR., doing business as CANYON TRANSPORTATION COMPANY, 4610 Montana Avenue North, Helena, MT 59601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter operations, between points in Montana on the one hand, and, on the other, points in Colorado, Idaho, Nevada, North Dakota, Oregon, Utah, Washington, and Wyoming, for 180 days. Supporting shippers: Northwest Airlines, Inc., City-County Airport, Helena, Mont.; Carroll College, Helena, Mont. 59601; Montana Salmon Fishing Club, 1029 Fifth Avenue, Helena, Mont. 59601; Rocky Mountain Development Council, Inc., Post Office Box 721, Helena, MT 59601 and Algeria Shrine Temple, Post Office Box 1721, Helena, MT 59601. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 251, U.S. Post Office Building, Billings, Mont. 59101.

No. MC 123432 (Sub-No. 9 TA), filed May 14, 1971. Applicant: WISCONSIN COACH LINES, INC., 901 Niagara Street, Post Office Box 1085, Waukesha, WI 53186. Applicant's representatives: Stanley E. Altenbern (same address as above) and Edw. G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, between Great Lakes, Ill., and Milwaukee, Wis., serving no intermediate points: From Great Lakes, Ill., over Illinois Highway 42 to junction Illinois Highway 137, thence over Illinois Highway 137 to junction U.S. Highway 41, thence over U.S. Highway 41 to junction Interstate Highway 94, thence over Interstate Highway 94 to Milwaukee and return over the same route, for 150 days. NOTE: Applicant states it would tack or interline at Milwaukee, Wis., to go to all points served by applicant or other points served by other carriers. Support-

ing shipper: Curtis L. Wagner, Jr., Chief, Regulatory Law Office, Department of the Army, Office of the Judge Advocate General, Washington, D.C. 20310. Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

By the Commission.

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

[FR Doc.71-7442 Filed 5-26-71;8:52 am]

[Notice 301]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 24, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 61403 (Sub-No. 212 TA), filed May 12, 1971. Applicant: THE MASON AND DIXON TANK LINES, INC., Eastman Road, Post Office Box 969, Kingsport, TN 37662. Applicant's representative: Charles E. Cox (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic granules*, in bulk, from plantsite of United States Steel Corp. at or near Haverhill, Ohio, to points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia Wisconsin, and the District of Columbia, for 180 days. Supporting shipper: United States Steel Corp., 600 Grant Street, Pittsburgh, PA 15230. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 803—1808 West End Building, Nashville, TN 37203.

No. MC 83217 (Sub-No. 53 TA), filed May 12, 1971. Applicant: DAKOTA EXPRESS, INC., 1217 West Cherokee, 57104, Post Office Box 1252, Sioux Falls, SD 57101. Applicant's representative: Henry J. Schuette (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles* distributed by meat packinghouses as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides) from the plantsite or storage facilities of Illini Beef Packers, Inc., to points in Connecticut, Delaware, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampsire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, for 180 days. Supporting shipper: Illini Beef Packers, Inc., Joslin, Ill., G. James Bonnette, Director of Traffic. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 95540 (Sub-No. 806 TA), filed May 12, 1971. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, FL 33801. Applicant's representative: Paul E. Weaver (same address as above). 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 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 207 and 766 (except hides and skins), from Brownwood, Tex., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, for 180 days. Supporting shipper: Swift Fresh Meats Co., 115 West Jackson Boulevard, Chicago, IL 60604. Send protests to: District Supervisor Joseph B. Tiechert, Bureau of Operations, Interstate Commerce Commission, 5720 Southwest 17th Street, Room 105, Miami, FL 33155.

No. MC 99149 (Sub-No. 8 TA), filed May 12, 1971. Applicant: MIDWAY MOTOR FREIGHT LINES, INC., 822 East Sixth Street, Post Office Box 2697, Little Rock, AR 72202. Applicant's representative: Charles J. Lincoln, 1550 Tower Building, Little Rock, AR 72201. Authority sought to operate as a *common carrier*, by motor over regular routes, transporting: *General commodities*, from Mena, Ark., to De Queen, Ark., over U.S. Highway 71, and return serving all intermediate points, for 180 days. NOTE: Applicant intends to tack authority here applied for to other authority held by it in MC 99149 Sub-No. 6. Supporting shippers: Blakes Plumbing & Building Supply, Hatfield, Ark.; Lewis Lumber Co., Cove, Ark.; Village Mill Building & Supply, Hatfield, Ark.; Wickes Telephone Co., Wickes, Ark.; Walker Construction Co., Cove, Ark.; Lane Poultry, Inc., Grannis, Ark.; Smith Pallet Co., Hatfield, Ark.; Wickes Grocery & Dry Goods, Wickes, Ark.; Walker Supply Co., Cove, Ark. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 107403 (Sub-No. 808 TA), filed May 12, 1971. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic granules*, in bulk, from plantsite of United States Steel Corp. at or near Haverhill (Scioto County), Ohio, to points in Alabama, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, Vermont, West Virginia, and Wisconsin, for 180 days. Supporting shipper: United States Steel Corp., 600 Grant Street, Pittsburgh, PA 15230. Send protests to: Ross A. Davis, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 108375 (Sub-No. 28 TA), filed May 14, 1971. Applicant: LEROY L. WADE & SON, INC., 1615 Izard Street, Omaha, NE 68102. Applicant's representative: Donald L. Stern, Suite 530, Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foreign-made motor vehicles*, in secondary movements, in truckaway service, from Council Bluffs, Iowa, to points in Iowa, Nebraska, and South Dakota, for 180 days. Supporting shipper: Southern Service Co., 10750 West Grand Avenue, Franklin Park, IL 60131. Send protests to: Carroll Russell, District Supervisor, 705 Federal Office Building, Interstate Commerce Commission, Bureau of Operations, Omaha, NE 68102.

No. MC 111672 (Sub-No. 4 TA), filed May 17, 1971. Applicant: R & M TRUCK LINE, INC., 1301 High Avenue West, Oskaloosa, IA 52577. Applicant's representative: Raymond E. Binns (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nitro carbo nitrate*, from Oskaloosa, Iowa, to points in Illinois, Minnesota, and Wisconsin, for 180 days. Supporting shipper: Binns & Stevens Explosives, Inc.,

Post Office Box 198, Oskaloosa, IA 52577. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, IA 50309.

No. MC 116077 (Sub-No. 311 TA), filed May 12, 1971. Applicant: ROBERTSON TANK LINES, INC., Post Office Box 1505, 5700 Polk Avenue, Houston, TX 77001. Applicant's representative: J. C. Browder (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum powder*, dry, in bulk, in tank vehicles, from Sandow (Milan County), Tex., to West Lake Charles, La., for 180 days. Supporting shipper: Aluminum Co. of America, 1501 Alcoa Building, Pittsburgh, Pa. 15219. Send protests to: District Supervisor, John C. Redus, Interstate Commerce Commission, Bureau of Operations, Post Office Box 612, Houston, TX 77061.

No. MC 117119 (Sub-No. 436 TA), filed May 12, 1971. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., Post Office Box 188, Elm Springs, AR 72728. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefinished laminated logs*, from Santa Rosa, Calif., to points in Benton County, Ark., for 180 days. Supporting shipper: Beaver Builders, Route 5, Beaver Shores, Rogers, AR 72756. Send protests to: District Supervisor William H. Land, Jr., 2519 Federal Office Building, Interstate Commerce Commission, Bureau of Operations, 700 West Capitol, Little Rock, AR 72201.

No. MC 117344 (Sub-No. 214 TA), filed May 12, 1971. Applicant: THE MAXWELL Co., 10380 Evendale Drive, Post Office Box 15010, Cincinnati, OH 45215. Applicant's representative: John G. Spencer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic granules*, in bulk, in tank vehicles, from the plantsite of United States Steel Corp. at or near Haverhill (Scioto County), Ohio, to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin, for 180 days. Supporting shipper: United States Steel Corp., 600 Grant Street, Pittsburgh, PA 15230. Send protests to: Emil P. Schwab, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5514B Federal Building 550 Main Street, Cincinnati, OH 45202.

No. MC 118202 (Sub-No. 5 TA), filed May 12, 1971. Applicant: SCHULTZ TRANSIT, INC., Post Office Box 503, 323 Bridge Street, Winona, MN 55987. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common 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 commodities in bulk, in tank vehicles and hides), from the plantsite or storage facilities of Illini Beef Packers, Inc., at or near Joslin, Ill., to points in Connecticut, Delaware, Indiana, Maine, Maryland, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at the named origin and destined to the named territory, for 180 days. Supporting shipper: Illini Beef Packers, Inc., Joslin, Ill. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building and U.S. Courthouse, 100 South Fourth Street, Minneapolis, MN 55401.

No. MC 127539 (Sub-No. 21 TA), filed May 12, 1971. Applicant: PARKER REFRIGERATED SERVICE, INC., 3533 East 11th Street, Tacoma, WA 98421. Applicant's representative: George R. LaBissoniere, 1424 Washington Building, Seattle, WA 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in Umatilla County, Oreg., and points in Grant, Benton, Franklin, and Walla Walla Counties, Wash., to points in Oregon, California, Washington, and Washoe County, Nev., for 180 days. Supporting shipper: Lamb-Weston, Inc., 6600 Southwest Hampton Street, Post Office Box 23507, Portland, OR 97223. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, WA 98101.

No. MC 128217 (Sub-No. 4 TA), filed May 12, 1971. Applicant: RIENHART MAYER, doing business as MAYER TRUCK LINE, 1203 South Riverside Drive, Jamestown, ND 58401. Applicant's representative: Thomas J. Van Osdel, 502 First National Bank Building, Fargo, ND 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from (a) Chicago Heights and Broadview, Ill., to points in Minnesota and Nebraska; (b) the plantsites and storage facilities of Calumet Steel Division of Borg Warner Corp. at Chicago Height, Ill., and Ceco Corp. at Chicago, Ill., to points in South Dakota; (c) Minneapolis, Minn., Sterling, Ill., and Granite City, Ill., to points in Nebraska; (d) Jamestown, N. Dak., to points in Nebraska; (2) *treated lumber, treated posts, and treated poles*, from the port of entry at or near Eastport, Idaho, to points in North Dakota, South Dakota, Nebraska, Kansas, and Minnesota; and (3) *treated posts and poles*, from the port of entry at or near Eastport, Idaho, to points in Iowa in Wisconsin. Restriction: Restricted in parts (2) and (3) to traffic moving in foreign commerce. (4) *Overhead doors and accessories, materials*, and *supplies* used in the installation thereof, from Sterling, Ill., to Jamestown, N. Dak., for 180 days. Supporting shipper: LeFevre Sales, Inc., Post Office Box 1708, Jamestown, ND 58401. Send protests to: J. H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 2340, Fargo, ND 58102.

No. MC 129352 (Sub-No. 7 TA), filed May 12, 1971. Applicant: CREAGER TRUCKING CO., INC., 2201 Sixth Avenue South, Seattle, WA 98134. Applicant's representative: George R. LaBissoniere, 1424 Washington Building, Seattle, WA 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Store fixtures, cabinets, and shelving*, from Terrell, Tex., to points in Oregon, Washington, and California, for 180 days. Supporting shipper: Maytex Manufacturing Co., Airport Road, Post Office Box 729, Terrell, TX 75160. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, WA 98101.

No. MC 134022 (Sub-No. 4 TA), filed May 12, 1971. Applicant: CONTRACT TRANSPORTATION, INC., 4008 Schuster Drive, West Bend, WI 53095. Applicant's representative: Richard A. Zima (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising and shipping materials*, from South Bend, Ind., and St. Paul, Minn., to Janesville, Madison, Waupun, and West Bend, Wis., for 180 days. Supporting shippers: C. Gene Dilldine, Dilldine Wholesale Co., West Bend, Wis. 53095, Ott Schweitzer Distributing Co., 2519 West Wall Street, Janesville, WI 53545, Floyd Henning, Waupun, Wis. 53963. Send protests to: District Supervisor, Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 52303.

No. MC 135593 TA, filed May 12, 1971. Applicant: WOODROW W. DEWITT, doing business as SHORT'S VAN & STORAGE, 6060 North Figueroa Street, Los Angeles, CA 90042. Applicant's representative: Alan P. Wohlstetter, 1 Farragut Square, Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in San Diego, Orange, Los Angeles, Ventura, Santa Barbara, San Bernardino, Riverside, and Imperial Counties, Calif., restricted to the transportation of traffic having a prior or subsequent movement, in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating

and containerization or unpacking, uncrating and decontainerization of such traffic, for 180 days. Supporting shippers: Northwest Consolidators, Inc., Post Office Box 3583, Terminal Annex, Seattle, WA 98124; Home-Pack Transport, Inc., 57-48 49th Street, Maspeth, NY 11378. Send protests to: District Supervisor P. Yallowitz, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 135595 TA, filed May 12, 1971. Applicant: MODULAR COMPLETION CORP., Post Office Box 186, Route 4, Choto Road, Concord, TN 37720. Applicant's representative: John T. Baugh, 1212 Bank of Knoxville Building, Knoxville, TN 37901. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Preassembled modular homes*, from Lenoir City, Tenn., to points designated by shipper within a 300-mile radius of Lenoir City, Tenn., in the following States only: Georgia, Kentucky, Alabama, North Carolina, and Virginia, for 180 days. Supporting shipper: Shelter Corp., Box 527, Lenoir City, Tenn. 37771. Send protests to: Joe T. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 803-1808 West End Building, Nashville, TN 37203.

By the Commission.

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

[FR Doc.71-7443 Filed 5-26-71;8:52 am]

[Notice 695-A]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 24, 1971.

Application filed for temporary authority under section 210(a)(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-72889. By application filed May 21, 1971, NATIONWIDE AUTO TRANSPORTERS, INC., 2185 Lemoine Avenue, Fort Lee, NJ 07024 seeks temporary authority to lease a portion of the operating rights of DEALERS TRANSIT, INC., 7701 Lawndale Avenue, Chicago, IL 60652, under section 210a(b). The transfer to NATIONWIDE AUTO TRANSPORTERS, INC., of a portion of the operating rights of DEALERS TRANSIT, INC., is presently pending.

By the Commission.

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

[FR Doc.71-7444 Filed 5-26-71;8:53 am]

[Notice 695]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 24, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72838. By order of May 19, 1971, the Motor Carrier Board approved the transfer to Marty's Express, Inc., Philadelphia, Pa., of a portion of certificate No. MC-48017 (Sub-No. 8), issued to Bonded Trucking & Rigging, Inc., Lowell, Mass., authorizing the transportation of: General commodities, usual exceptions, between points in Bergen, Essex, Hudson, Middlesex, and Union Counties, N.J., on the one hand, and, on the other Philadelphia, Pa. John F. Curley, attorney, 15 Court Square, Boston, MA 02108, Maxwell A. Howell, attorney, 1511 K Street NW., Washington, DC 20005, Ronald Ervais, attorney, 12 South 12th Street, Philadelphia, PA 19107.

No. MC-FC-72849. By order of May 19, 1971, the Motor Carrier Board approved the transfer to Gale Delivery, Inc., Lynbrook, N.Y., of a portion of certificate No. MC-48017 (Sub-No. 8), issued to Bonded Trucking & Rigging, Inc., Lowell, Mass., authorizing the transportation of: General commodities, usual exceptions, between points in Bergen, Essex, Hudson, Middlesex, and Union Counties, N.J., on the one hand, and, on the other New York, N.Y. John F. Curley, attorney, 15 Court Square, Boston, Mass. 02108. Maxwell A. Howell, attorney, 1511 K Street NW., Washington, DC 20005, Ronald Ervais, attorney, 12 South 12th Street, Philadelphia, PA 19107.

No. MC-FC-72884. By order of May 21, 1971, the Motor Carrier Board approved the transfer to Merle Weber Transportation, Inc., Yuba City, Calif., of the operating rights in certificates Nos. MC-98707 (Sub-No. 2), MC-98707 (Sub-No. 3), MC-98707 (Sub-No. 5), MC-98707 (Sub-No. 7), MC-98707 (Sub-No. 8), and MC-98707 (Sub-No. 9) issued March 15, 1966, September 29, 1958, October 20, 1959, January 15, 1960, August 18, 1960, and February 16, 1961 respectively to Miles Motor Transport System, a corporation, Oakland, Calif., authorizing the transportation of cement from and to specified points and areas in California, Nevada, and Oregon. Raymond A. Greene, Jr., 405 Montgomery Street, San Francisco, CA 94104, attorney for applicants.

No. MC-FC-72887. By order of May 21, 1971, the Motor Carrier Board approved the transfer to Thomas Motor Tours, Inc., Lothian, Md., of the operating rights in certificates Nos. MC-102129 and MC-102129 (Sub-No. 4), issued July 1, 1959, and July 19, 1961, respectively in the name of Arthur Queen and John Queen, a partnership, doing business as Queen Brothers, Glen Burnie, Md., authorizing the transportation of passengers and their baggage in round trip charter operations from specified points in Maryland to points in 9 specified States. S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. 20005, attorney for applicants.

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

[FR Doc.71-7445 Filed 5-26-71;8:53 am]

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PART II

DEPARTMENT OF AGRICULTURE

■

Consumer and Marketing Service

■

INSPECTION OF POULTRY AND POULTRY PRODUCTS

Notice of Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 81]

INSPECTION OF POULTRY AND POULTRY PRODUCTS

Notice of Proposed Rule Making

Pursuant to the authority contained in the Poultry Products Inspection Act (71 Stat. 441, as amended by the Wholesome Poultry Products Act of August 18, 1968, 82 Stat. 791; 21 U.S.C. 451 et seq.), the Talmadge-Aiken Act of September 28, 1962 (7 U.S.C. 450) and subsection 21 of the Federal Water Pollution Control Act, as amended by Public Law 91-224 and other laws, notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that the Consumer and Marketing Service is considering revising the Regulations Governing the Inspection of Poultry and Poultry Products (7 CFR Part 81) to read as hereinafter set forth.

Statement of considerations. The Poultry Products Inspection Act was revised by the Wholesome Poultry Products Act. Such revision of the legislation necessitates or makes appropriate certain adjustments in, and additions to, the regulations governing the inspection of poultry and poultry products. This proposed revision of the regulations also reflects certain other changes which are proposed to update, clarify, or editorially correct present wording in the interest of normal progress.

This proposed revision of the regulations does not reflect certain other changes in the regulations which have been or may be proposed and will be determined separately, nor does this document reflect changes made in the present regulations by amendments adopted after December 31, 1970.

All amendments adopted after that date in other rulemaking proceedings under the acts will be reflected as appropriate in the regulations as finally revised in this proceeding.

It is proposed to amend the provisions in 7 CFR Part 81 to read as follows:

Subpart A—Definitions

§ 81.1 Definitions.

(a) For the purposes of the regulations in this part, unless otherwise required by the context, the singular form shall also import the plural and the masculine form shall also import the feminine, and vice versa.

(b) For the purposes of such regulations, unless otherwise required by the context, the following terms shall be construed, respectively, to mean:

(1) *Acceptable.* "Acceptable" means suitable for the purpose intended and acceptable to the Administrator.

(2) *Act.* "Act" means the Poultry Products Inspection Act (71 Stat. 441, as amended by the Wholesome Poultry Products Act, 82 Stat. 791; 21 U.S.C. 451 et seq.).

(3) *Administrator.* "Administrator" means the Administrator of the Consumer and Marketing Service of the Department or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated the authority to act in his stead.

(4) *Adulterated.* "Adulterated" applies to any poultry product under one or more of the following circumstances:

(i) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

(ii) (*a*) If it bears or contains (by reason of administration of any substance to the live poultry or otherwise) any added poisonous or added deleterious substance (other than one which is a pesticide chemical in or on a raw agricultural commodity; a food additive; or a color additive) which may, in the judgment of the Administrator, make such article unfit for human food;

(*b*) If it is, in whole or part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act;

(*c*) If it bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;

(*d*) If it bears or contains any color additive which is unsafe within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act;

Provided, That an article which is not otherwise deemed adulterated under (*b*), (*c*), or (*d*) of this subdivision shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive in or on such article is prohibited by the regulations in this part in official establishments;

(iii) If it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;

(iv) If it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

(v) If it is, in whole or in part, the product of any poultry which has died otherwise than by slaughter;

(vi) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(vii) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act; or

(viii) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

(5) *Animal food manufacturer.* "Animal Food Manufacturer" means any person engaged in the business of manufacturing or processing animal food derived wholly or in part from carcasses, or parts or products of the carcasses, of poultry, except manufacturers of livestock and poultry feeds with respect to any activity of acquiring or using processed poultry byproducts (such as poultry byproducts meal) in the manufacture of such feeds.

(6) *Applicant.* "Applicant" means any person who requests inspection service, exemption or other authorization under the regulations.

(7) *Biological residue.* "Biological Residues" means any substance, including metabolites, remaining in poultry at the time of slaughter or in any of its tissues after slaughter, as the result of treatment or exposure of the poultry to a pesticide, organic, metallic or other inorganic compound, hormone, hormonelike substance, growth promoter, antibiotic, anthelmintic, tranquilizer, or other therapeutic or prophylactic agent.

(8) *Capable of use as human food.* The term "capable of use as human food" applies to any carcass, or part or product of a carcass of any poultry, unless it is denatured or otherwise identified as required by the regulations, or it is naturally inedible by humans.

(9) *Carcass.* This term means all parts, including viscera, of any slaughtered poultry.

(10) *Commerce.* "Commerce" means commerce between any State, any territory, or the District of Columbia, and any place outside thereof; or within any territory not organized with a legislative body, or the District of Columbia.

(11) *Consumer package.* "Consumer package" means any container in which a poultry product is enclosed for the purpose of display and sale to household consumers.

(12) *Container.* The term "container" includes any box, can, tin, cloth, plastic, or any other receptacle, wrapper, or cover.

(13) *Department.* "Department" means the U.S. Department of Agriculture.

(14) *Dressed poultry.* "Dressed poultry" means poultry which has been slaughtered for human food with head, feet, and viscera intact and from which the blood and feathers have been removed.

(15) *Dressed poultry identification mark.* "Dressed poultry identification mark" means the symbol prescribed in § 81.97 stating that the dressed poultry is eligible for further processing in official establishments under inspection.

(16) *Edible.* This terms means that an article is intended for use as human food.

(17) *Federal Food, Drug, and Cosmetic Act.* "Federal Food, Drug, and Cosmetic Act" means the Act so entitled, approved June 25, 1938, (52 Stat. 1040), and Acts amendatory thereof or supplementary thereto (21 U.S.C. 301 et seq.).

(18) *Federal Meat Inspection Act.* The Federal Meat Inspection Act, 34 Stat. 1260, as amended by the Wholesome Meat Act, 81 Stat. 584 (21 U.S.C. 601 et seq.).

(19) *Free from protruding pinfeathers.* "Free from protruding pinfeathers" means that the carcass is free from protruding pinfeathers which are visible to an inspector during an examination of the carcass at normal operating speeds. However, a carcass may be considered as being free from protruding pinfeathers if it has a generally clean appearance (especially on the breast), and if not more than an occasional protruding pinfeather is in evidence during a more careful examination of the carcass.

(20) *Giblets.* "Giblets" means the liver from which the bile sac has been removed, the heart from which the pericardial sac has been removed, and the gizzard from which the lining and contents have been removed: *Provided*, That each such organ has been properly trimmed and washed.

(21) *Immediate container.* "Immediate container" includes any consumer package; or any other container in which poultry products, not consumer packaged, are packed.

(22) *Inspected for wholesomeness.* This term means that the poultry product so identified has been inspected and was found at the time of such inspection to be not adulterated.

(23) *Inspection.* "Inspection" means any inspection required by the regulations to determine whether any poultry or poultry products comply with the requirements of the Act and the regulations.

(24) *Inspection Service.* "Inspection Service" means the organizaional unit within the Department having the responsibility for carrying out the provisions of the Act.

(25) *Inspector.* "Inspector" means (i) an employee or official of the U.S. Government authorized by the Administrator to inspect poultry and poultry products under the authority of this Act, or (ii) any employee or official of the government of any State or territory or the District of Columbia authorized by the Administrator to inspect poultry and poultry products under the authority of this Act, under an agreement entered into between the Administrator and the appropriate State or other agency.

(26) *Label.* This term applies to any display of written, printed or graphic matter upon any article or the immediate container (not including package liners) of any article.

(27) *Labeling.* This term applies to all labels and other written, printed or graphic matter (i) upon any article or any of its containers or wrappers, or (ii) accompanying such article.

(28) *Misbranded.* This term applies to any poultry product under one or more of the following circumstances:

(i) If its labeling is false or misleading in any particular;

(ii) If it is offered for sale under the name of another food;

(iii) If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and immediately thereafter, the name of the food imitated;

(iv) If its container is so made, formed, or filled as to be misleading;

(v) If in a package or other container, unless it bears a label showing;

(*a*) The name and place of business of the manufacturer, packer, or distributor; and

(*b*) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; except as otherwise provided in § 81.121 (a) with respect to the quantity of contents;

(vi) If any word, statement, or other information required by or under authority of the Act to appear on the label or other labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(vii) If it purports to be or is represented as a food for which a definition and standard of identity or composition is prescribed by Subpart P of this part unless:

(*a*) It conforms to such definition and standard, and,

(*b*) Its label bears the name of the food specified in the definition and standard, and insofar as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food.

(viii) If it purports to be or is represented as a food for which a standard or standards of fill of container have been prescribed by regulations of the Secretary [1] and falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard;

(ix) If it is not subject to the provisions of subdivision (vii) of this subparagraph, unless its label bears:

(*a*) The common or usual name of the food, if any there be, and

(*b*) In case it is fabricated from two or more ingredients, the common or usual name of each ingredient, except as otherwise provided in § 81.118(c);

(x) If it purports to be or is represented for special dietary uses, unless the label bears such information concerning its vitamin, mineral, and other dietary properties as is required by § 81.124;

(xi) If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears a label stating that fact; except as otherwise provided by the regulations in § 81.119, or

(xii) If it fails to bear, directly thereon or on its containers, when required by § 81.123, the official inspection legend and the official establishment number of the establishment where the product was processed; and unrestricted by any of the foregoing, such other information as the Administrator may require in the regulations to assure that it will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the article in a wholesome condition.

(29) *Nonfood compound.* This term means any agent proposed for use in official establishments but not intended as an ingredient of a poultry product.

(30) *Official establishment.* "Official establishment" means any establishment as determined by the Administrator at which inspection of the slaughter of poultry, or the processing of poultry products, is maintained pursuant to the regulations.

(31) *Offal.* This term means the head, feet, and viscera other than the giblets.

(32) *Officer in charge.* The term means the official of the inspection service who is in charge of an assigned number of official establishments.

(33) *Official mark.* This term means any symbol prescribed in Subpart M of this part to identify the status of any article or poultry under the Act.

(34) *Official inspection legend.* This term means the official inspection mark prescribed in § 81.96 or the official poultry identification mark prescribed in § 81.97, showing that an article was inspected for wholesomeness and passed in accordance with the Act.

(35) *Official certificate.* This term means any certificate prescribed in Subpart M of this part relating to poultry or poultry products.

(36) *Official device.* This term means any label or other device prescribed in Subpart M of this part for use in applying any official mark.

(37) *Pesticide chemical, food additive, color additive, raw agricultural commodity.* These terms shall have the same meanings for the purposes of the Act and the regulations as under the Federal Food, Drug, and Cosmetic Act.

(38) *Potable water.* "Potable water" means water that has been approved by the State health authority or other agency or laboratory acceptable to the Administrator as safe for drinking and suitable for food processing.

(39) *Poultry.* "Poultry" means any domesticated bird (chickens, turkeys, ducks, geese, or guineas), whether live or dead.

(40) *Poultry product.* This term means any poultry carcass or part thereof which is capable of use as human food; or any product, capable of use as human food, which is made wholly or in part from any poultry carcass or part thereof, excepting those exempted from definition as a poultry product in § 81.15. (This term does not include detached ova. Such ova are subject to the Federal Food, Drug, and Cosmetic Act.)

(41) *Poultry products broker.* "Poultry products broker" means any person engaged in the business of buying or selling, on commission, any poultry carcasses, or parts thereof, or any products made from such carcasses or parts (unless exempted under Subpart C of this part), or otherwise negotiating purchases or sales of such articles other than for his own account or as an employee of another person.

(42) *Process.* Process used as a verb, means to conduct any operation or combination of operations, whereby poultry is slaughtered, eviscerated, canned, salted, stuffed, rendered, boned, cut up, or otherwise manufactured or processed. The term "process" does not refer to freezing of poultry products, except when freezing is incidental to operations otherwise classed as "processing" under this paragraph.

(43) *Ready-to-cook poultry.* "Ready-to-cook poultry" means any dressed poultry from which the protruding pinfeathers, vestigial feathers (hair or down, as the case may be), head, feet, crop, oil gland, trachea, esophagus, entrails, mature reproductive organs, and lungs have been removed, and with or without the giblets, is ready to cook without need of further processing. Ready-to-cook poultry also means any cut-up or disjointed portion of such poultry that is capable of use as human food, excluding the head, shanks, crop, oil gland, trachea, esophagus, entrails, mature reproductive organs, and lungs.

(44) *Regulations.* "Regulations" means the provisions of this entire part.

(45) *Renderer.* "Renderer" means any person engaged in the business of rendering carcasses, or parts or products of the carcasses, of poultry, except rendering conducted under inspection or exemption pursuant to the regulations.

(46) *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or his delegate.

(47) *Shipping container.* "Shipping container" means any container used or intended for use in packaging the product packed in an immediate container.

(48) *Slaughter.* "Slaughter" means the act of killing poultry for human food.

(49) *State.* Except as otherwise provided in § 81.220, "State" means any State of the United States and the Commonwealth of Puerto Rico.

(50) *Territory.* The term "territory" means Guam, the Virgin Islands of the United States, American Samoa, and any other territory or possession of the United States excluding the Canal Zone.

(51) *United States.* This means the States, the District of Columbia, and the territories of the United States.

(52) *U.S. Detained.* This term is applicable to poultry, poultry products, and other articles which are held in official custody in accordance with section 19 of the Act and § 81.210, pending disposal as provided in said section 19.

(53) *U.S. condemned.* This term means that the poultry carcass, or part or product of a poultry carcass, so identified was inspected and found to be adulterated and is condemned.

(54) *U.S. refused entry.* This term means that the slaughtered poultry or other poultry product so identified was presented for inspection for entry into the United States and was found not to comply with the requirements of the Act.

(55) *U.S. rejected.* This term means that the equipment or facility so identified is prohibited from being used in the processing of any poultry or poultry product until such equipment or facility is found by an inspector to be sanitary and otherwise eligible for use under the regulations.

(56) *U.S. retained.* This term means that the poultry or carcass, or part or product of a carcass, of poultry so identified is held at an official establishment by the inspection service for further determination as to its disposal.

[1] No such standards are currently in effect. However, § 81.129 prohibits the use of false or misleading containers.

(c) For the purposes of the standard for cooked, smoked sausage (9 CFR 319.180), the term "poultry byproduct" means the skin, fat, gizzard, heart, or liver, or any combination thereof, of any poultry.

Subpart B—Administration; Application of Inspection and Other Requirements

§ 81.3 Administration.

(a) General authority to administer the Act has been delegated to the Administrator, subject to specified reservations (29 F.R. 16210, as amended).

(b) The Administrator may in specific classes of cases waive for limited periods any provisions of the regulations in order to permit appropriate and necessary action in the event of a national emergency or to permit experimentation so that new procedures, equipment and processing techniques may be tested to facilitate definite improvements: *Provided,* That such waivers of the provisions of the regulations are not in conflict with the purposes or provisions of the Act.

§ 81.4 Inspection in accordance with methods prescribed or approved.

Inspection of poultry products shall be rendered pursuant to the regulations and under such conditions and in accordance with such methods as may be prescribed or approved by the Administrator.

§ 81.5 Publications.

Publications under the Act and the regulations shall be made in the FEDERAL REGISTER and in such other media as the Administrator may designate.

§ 81.6 Establishments requiring inspection.

Inspection under the regulations is required at:

(a) Every establishment, except as provided in § 81.10(a) and (b) or § 81.11 in which any poultry is slaughtered for transportation or sale in commerce, or in which any poultry products are wholly or in part, processed for transportation or sale in commerce, as articles intended for use as human food;

(b) Every establishment, except as provided in § 81.10 (a) and (b), (c), or (d) or § 81.11, within any State or organized territory which is designated in 81.221 pursuant to section 5(c) of the Act, at which any poultry is slaughtered or any poultry products are processed, for use as human food solely for distribution within such jurisdiction; and

(c) Except as provided in § 81.10 (a) and (b), or (c), or § 81.11, every establishment designated by the Administrator pursuant to section 5(c) of the Act as one producing adulterated poultry products which would clearly endanger the public health.

§ 81.7 Coverage of all poultry and poultry products processed in official establishments.

All poultry and poultry products processed in an official establishment shall be inspected, handled, processed, marked, and labeled as required by the regulations.

Subpart C—Exemptions

§ 81.10 Exemptions for specified operations.

(a) The requirements of the Act and the regulations for inspection of the processing of poultry and poultry products shall not apply to:

(1) Any retail dealer with respect to poultry products sold in commerce directly to consumers in an individual retail store, if the only processing operations performed by such retail dealer is the cutting up of poultry products on the premises where such sales to consumers are made: *Provided,* That such operation is conducted under such sanitary standards, practices and procedures as result in the preparation of poultry products that are not adulterated: *And provided, further,* That the poultry products sold in commerce are derived from poultry inspected and passed under the Act and such poultry products are not adulterated or misbranded at the time of sale (except that the official inspection legend shall not be used). (For the purposes of this subparagraph, a retail dealer is any person who sells poultry products directly to consumers as defined in paragraph (d)(2)(vi) of this section and whose sales of poultry products to household consumers constitute, in terms of dollar value, at least 75 percent of his total sales of poultry products.);

(2) The slaughter of poultry, and the processing of poultry products, by any person in any territory not organized with a legislative body, solely for distribution within such territory: *Provided,* That such poultry is sound and healthy and is slaughtered under such sanitary standards, practices and procedures as result in the preparation of poultry products that are not adulterated: *And Provided, further,* That the poultry products are not adulterated or misbranded when so distributed (except that the official inspection legend shall not be used).

(3) The slaughtering by any person of poultry of his own raising, and the processing by him and transportation in commerce of the poultry products exclusively for use by him and members of his household and his nonpaying guests and employees: *Provided,* That in lieu of complying with all the adulteration and misbranding provisions of the Act, such poultry is healthy and is slaughtered and processed under such sanitary standards, practices and procedures as result in the preparation of poultry products that are sound, clean and fit for human food, and the shipping containers of such poultry products bear the producer's name and address and the statement "Exempted—P.L. 90–492."

(4) The custom slaughter by any person of poultry delivered by the owner thereof for such slaughter, and the processing by such slaughterer and transportation in commerce of the poultry products exclusively for use, in the household of such owner, by him and members of his household and his nonpaying guests and employees: *Provided,* That such custom slaughterer does not engage in the business of buying or selling any poultry products capable of use as human food: *And provided, further,* That in lieu of complying with all the adulteration and misbranding provisions of the Act, such poultry is healthy and is slaughtered and processed under such sanitary standards, practices and procedures as result in the preparation of poultry products that are sound, clean and fit for human food, and the shipping containers of such poultry products bear the owner's name and address and the statement "Exempted—P.L. 90–492."

(5) The slaughtering of sound and healthy poultry and processing of poultry products therefrom in any State or territory or the District of Columbia by any poultry producer on his own premises with respect to poultry raised on his premises, and the distribution by any person solely within such jurisdiction of the poultry products derived from such operations: *Provided,* That (i) in lieu of complying with all the adulteration provisions of the Act, such poultry is slaughtered and processed and handled under such sanitary standards, practices, and procedures as result in the preparation of poultry products that are sound, clean and fit for human food when so distributed; (ii) such poultry products when so distributed, bear (in lieu of labeling that would otherwise be required) the producer's name and address and the statement "Exempted—P.L. 90–492" and such poultry products are not otherwise misbranded; (iii) such producer and distributor do not engage in the current calendar year in the business of buying or selling any poultry or poultry products other than as specified in this subparagraph (5) or in subparagraph (6) of this paragraph; and (iv) neither such producer or distributor slaughters or processes the products of more poultry than allowed by paragraph (b) of this section.

(6) The slaughtering of sound and healthy poultry or the processing of poultry products of such poultry in any State or territory or the District of Columbia by any poultry producer or other person for distribution by him solely within such jurisdiction directly to household consumers, restaurants, hotels, and boarding houses, for use in their own dining rooms, or in the preparation of meals for sales direct to consumers: *Provided,* That (i) in lieu of complying with all the adulteration provisions of the Act, such poultry is slaughtered and processed and handled under such sanitary standards, practices, and procedures as result in the preparation of poultry products that are sound, clean, and fit for human food when distributed by such processor; (ii) such poultry products when so distributed bear (in lieu of labeling that would otherwise be required) the processor's name and address and the statement "Exempted—P.L. 90–492" and such poultry products

are not otherwise misbranded; (iii) such processor does not engage in the current calendar year in the business of buying or selling any poultry or poultry products other than as specified in this subparagraph (6) or in subparagraph (5) of this paragraph; and (iv) such processor does not exceed the volume limitation prescribed in paragraph (b) of this section.

(7) The operations and products of small enterprises (including poultry producers) not exempted under subparagraphs (1) through (6) of this paragraph that are engaged in any State or territory or the District of Columbia in slaughtering and/or cutting up poultry for distribution as carcasses or parts thereof solely for distribution within such jurisdiction: *Provided*, That (i) such poultry is sound and healthy when slaughtered and is slaughtered and/or cut up and handled under such sanitary standards, practices and procedures as result in the preparation of poultry products that are not adulterated when so distributed; and (ii) when so distributed, such poultry products are not misbranded (except that the official inspection legend shall not be used).

(b) No person qualifies for any exemption specified in paragraph (a) (5), (6), or (7) of this section if he slaughters or processes the products of more than 5,000 turkeys or an equivalent number of poultry of all species in the current calendar year (four birds of other species being deemed the equivalent of one turkey).

(c) The provisions of the Act and the regulations do not apply to any poultry producer with respect to poultry, of his own raising on his own farm, which he slaughters if:

(1) Such producer slaughters not more than 250 turkeys, or not more than an equivalent number of birds of all species, during the calendar year for which this exemption is being determined (four birds of other species being deemed the equivalent of one turkey);

(2) Such poultry producer does not engage in buying or selling poultry products other than those produced from poultry raised on his own farm; and

(3) None of such poultry moves in "commerce" (as defined in § 81.1).

(d) (1) The requirements of the Act and the regulations for inspection of the processing of poultry and poultry products do not apply to operations of types traditionally and usually conducted at retail stores and restaurants, when conducted at any retail store or restaurant or similar retail-type establishment for sale in normal retail quantities or service of such articles to consumers at such establishments if such establishments would be subject to such inspection provisions only because the State or territory is designated under paragraph 5(c) of the Act (this exemption does not apply to establishments at which poultry products are processed for commerce).

(2) For the purposes of subparagraph (1) of this paragraph:

(i) Operations of types traditionally and usually conducted at retail stores and restaurants include any processing of poultry products except canning of poultry products and slaughtering of poultry unless such slaughtering is conducted at a retail store with respect to live poultry purchased by the consumer at the retail store and processed by the retail store operator in accordance with the consumer's instructions.

(ii) A normal retail quantity is any quantity of a poultry product purchased by a household consumer from a retail supplier that in the aggregate in any one week does not exceed 50 pounds. A normal retail quantity sold by a retail supplier to other than a household consumer is any quantity that in the aggregate in any one week does not exceed 100 pounds.

(iii) A retail store is any place of business where sales of poultry products are made to consumers only; at least 75 percent, in terms of dollar value, of total sales of poultry products represents sales to household consumers and the total dollar value of sales of poultry products to consumers other than household consumers does not exceed $10,000 per year; only federally or State inspected and passed, or exempted, poultry products are handled or used in the preparation of any poultry products; no sale of poultry products is made in excess of a normal retail quantity as defined in subdivision (ii) of this subparagraph; and the processing of poultry products for sale is limited to traditional and usual operations as defined in subdivision (i) of this subparagraph.

(iv) A restaurant is any establishment where poultry products are processed only for sale or service, in meals, or as entrees, directly to individual consumers at such establishment; only federally or State inspected and passed, or exempted, poultry products are handled or used in the preparation of any poultry products; no sale of poultry products is made in excess of a normal retail quantity as defined in subdivision (ii) of this subparagraph; and the processing of poultry products is limited to traditional and usual operations as defined in subdivision (i) of this subparagraph.

(v) A similar retail-type establishment is any establishment which is a combination retail store and restaurant; any delicatessen which meets the requirements for a retail store or restaurant as prescribed in subdivision (iii) or (iv) of this subparagraph; or other establishment as determined by the Administrator in specific cases.

(vi) A consumer is any household consumer, hotel, restaurant, or similar institution as determined by the Administrator in specific cases.

(3) Whenever any complaint is received by the Administrator from any person alleging that any retail establishment or restaurant claiming exemption under this paragraph (d) in any designated State or organized territory listed in § 81.221 that is also identified in § 81.224 as a jurisdiction that does not have or is not exercising adequate authority with respect to recordkeeping requirements, has been operated in violation of the conditions prescribed in this paragraph (d) for such exemption, and the Administrator, upon investigation of the complaint, has reason to believe that any such violation has occurred, he shall so notify the operator of the retail establishment or restaurant and afford him reasonable opportunity to present his views informally with respect to the matter. Thereafter, if the Administrator determines that such a violation has occurred, and that a requirement that the operator keep records concerning the operations of the retail establishment or restaurant would effectuate the purposes of the Act, the Administrator shall order the operator to maintain complete, accurate, and legible records of his total monthly purchases and of his total monthly sales of poultry and poultry products. Such records shall separately show total sales to household consumers and total sales to other consumers, and shall be maintained for the period prescribed in § 81.177. If the operator maintains copies of bills of lading, receiving and shipping invoices, warehouse receipts, or similar documents which give the information required herein, additional records are not required by this subparagraph.

(4) The adulteration and misbranding provisions of the Act and the regulations other than the requirement of the official inspection legend, apply to articles which are exempted from inspection under this paragraph (d).

§ 81.11 Exemptions based on religious dietary laws.

(a) Any person who slaughters poultry or processes or otherwise handles poultry products which have been or are to be processed as required by recognized religious dietary laws may apply for exemption from specific provisions of the Act or regulations which are in conflict with such religious dietary laws. Any person desiring such an exemption shall apply in writing to the Meat and Poultry Inspection Program, Consumer and Marketing Service, Department of Agriculture, Washington, D.C. 20250, setting forth the specific provisions of the Act and the regulations from which exemption is sought and setting forth the provisions of the religious dietary laws in support of the requested exemption. In addition, the applicant for such an exemption shall submit a statement from the clerical official having jurisdiction over the enforcement of the religious dietary laws with respect to the poultry or poultry products involved, which identifies the requirements of such laws pertaining to the slaughter of the poultry and the processing or other handling of the poultry products involved, and a certificate that such requirements are in conflict with specific provisions of the Act and regulations from which the exemption is sought.

(b) The Administrator, upon a determination that an exemption should be granted, will grant such exemption to the extent necessary to avoid conflict with the religious requirements while still effectuating the purposes of the Act. He may impose such conditions as to

sanitary standards, practices, and procedures in granting such exemption as he deems necessary to effectuate the purposes of the Act. Any person who processes poultry or poultry products under exemption from certain requirements as provided in this section shall be subject to all of the other applicable provisions of the Act and the regulations. Processing plants shall meet the sanitary requirements set forth in this part and unless exempted from inspection under the provisions of this subpart, shall be required to qualify for inspection and operate as official establishments. Slaughtered poultry which is prepared under an exemption authorizing the sale of nonevisceated poultry in commerce shall be individually identified with a label approved by the Administrator which identifies the clerical official under whose supervision the poultry was slaughtered.

§ 81.12 Effect of religious dietary laws exemptions on other persons.

Whenever a slaughterer or processor is granted an exemption under § 81.11 with respect to the slaughtering or processing of any poultry or poultry products under this part, under specified conditions, the sale, offer for sale, transportation and other handling in commerce by any person of such poultry and poultry products in accordance with such conditions is hereby authorized, except as restricted by the Act.

§ 81.13 Suspension or termination of exemptions.

(a) The Administrator may, by order, in accordance with the applicable rules of practice suspend or terminate any exemption under § 81.10(a) with respect to any person whenever he finds that such action will aid in effectuating the purposes of the Act. Failure to comply with the conditions of the exemption, including, but not limited to, failure to process poultry and poultry products under clean and sanitary conditions may result in termination of an exemption, in addition to any other penalties provided by law.

(b) Except as provided in § 81.10(c), the Administrator may extend the requirements of the Act to any establishment in any State or organized territory at which poultry products are processed for distribution solely within such jurisdiction if he determines in accordance with the provisions of subparagraph 5(c)(1) of the Act that the establishment is producing adulterated poultry products which would clearly endanger the public health.

§ 81.14 Inspection concerning purportedly exempted operations.

Inspectors of the Inspection Service are authorized to make inspections in accordance with law to ascertain whether any of the provisions of the Act or the regulations applying to producers, retailers or other persons purporting to be exempted from any requirements under this subpart have been violated.

§ 81.15 Exemption from definition of "poultry product" of certain human food products containing poultry.

The following articles contain poultry ingredients only in a relatively small proportion or historically have not been considered by consumers as products of the poultry food industry. Therefore said articles are exempted from the definition of "poultry product" and the requirements of the Act and the regulations applicable to poultry products, if they comply with the conditions specified in this section.

(a) Any human food product (in a consumer package) not provided for in paragraph (c) of this section, if: (1) It contains less than 2 percent cooked poultry meat (deboned white or dark poultry meat, or both); (2) it contains less than 10 percent of cooked poultry skins, giblets, or fat, separately, and less than 10 percent of cooked poultry skins, giblets, fat, and meat (as meat is limited in subparagraph (1) of this paragraph) in any combination; (3) the poultry ingredients used in the product were prepared under inspection as defined in § 81.1, or were inspected under a foreign inspection system approved under § 81.196(b) and imported in compliance with the Act and the regulations; (4) the immediate container of the product bears a label which shows the name of the product in accordance with this section; and (5) the product is not represented as a poultry product. The aforesaid percentages of ingredients shall be computed on the basis of the moist, deboned, cooked poultry in the ready-to-serve product when prepared according to the serving directions on the consumer package.

(b) Any human food product (in an institutional pack), not provided for in paragraph (c) of this section, if: (1) it is prepared for sale only to institutional users, such as hotels, restaurants, and boarding houses, for use as a soup base or flavoring; (2) it contains less than 15 percent cooked poultry meat (deboned white or dark poultry meat, or both), computed on the basis of the moist deboned, cooked poultry meat in such product; and (3) it complies with the provisions of paragraphs (a)(3), (4), and (5) of this section in all respects.

(c) Bouillion cubes, poultry broth, gravies, sauces, seasonings, and flavorings if: (1) They contain poultry meat or poultry fat only in condimental quanties; and (2) they comply with the provisions of paragraph (a) (3), (4), and (5) of this section in all respects; and (3) in the case of poultry broth, it will not be used in the processing of any poultry product in any official establishment.

(d) Fat capsules and sandwiches containing poultry products if they comply with the provisions of paragraph (a) (3), (4), and (5) of this section in all respects.

(e) Products of the types specified in this section will be deemed to be represented as poultry product if the kind name of the poultry (chicken, turkey, etc.) is used in the product name of the product without appropriate qualification. For example, a consumer-packaged noodle soup product containing less than 2 percent chicken meat on a ready-to-serve basis may not be labeled "Chicken Noodle Soup" but, when appropriate, could be labeled as "Chicken Flavored Noodle Soup." Products exempted under this section are subject to the requirements of the Federal Food, Drug, and Cosmetic Act.

Subpart D—Application for Inspection; Grant or Refusal of Inspection

§ 81.16 How application shall be made.

The operator of each establishment of the kind required by § 81.6 to have inspection shall make application to the Administrator for inspection service. In cases of change of name, ownership or location, a new application shall be made.

§ 81.17 Filing of application.

Every application for inspection at any establishment shall be made by the operator on a form furnished by the Meat and Poultry Inspection Program, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, and shall include all information called for by that form, including the name of any subsidiary corporation that will prepare any poultry product or conduct any other operation at the establishment for which inspection is requested. The applicant for inspection will be held responsible for compliance by all its subsidiaries with the requirements of the regulations at such establishments if inspection is granted. Processing of poultry products and other operations at the establishment for which inspection is granted may be conducted only by the applicant, except that such a subsidiary of the grantee, may conduct such operations at such establishment.

§ 81.18 Authority of applicant.

Any person applying for inspection service may be required at the discretion of the Administrator to demonstrate that the operator of the establishment authorized him to do so.

§ 81.19 Application for inspection; required facilities.

An application for inspection service to be rendered in an official establishment shall be made according to the following procedure:

(a) *Prints of drawings and specifications to be furnished.* (1) Applicants for inspection service may obtain information or assistance from the Inspection Service with respect to the requirements before submitting prints of drawings and specifications.

(2) Four prints of drawings showing the features specified in this section shall be submitted to the Administrator. Photostats of drawings are not acceptable. The drawings and prints shall be legible, made with sharp, clear lines, and properly drawn to scale and shall consist of complete floor plans and a plot plan. Submissions consisting of more than one sheet shall be bound together at the left margin in sets.

(3) The plot plan shall show such features as the limits of the establishment premises, location in outline of buildings on the premises, one point of the compass, and the location of roadways, railroads and water and sewer lines or sewage facilities serving the establishment.

(4) The floor plan shall show all space to be included in the official establishment. If rooms or compartments shown on the drawings are not be included as part of the official establishment, this shall be clearly indicated thereon.

(5) The sheets of paper on which prints of drawings are made shall not exceed a size of 34" x 44". The drawings, other than of the plot plan, shall be made to a scale of one-eighth-inch per foot. The plot plan may be drawn to a scale of not less than one-thirty-second inch per foot. The drawings shall indicate the scale used and shall also indicate the floor shown (e.g. basement, first or second).

(b) *Features required to be shown on floor plan.* The following features shall be shown on the floor plan:

(1) The principal pieces of equipment drawn to scale in the proper locations;

(2) The name of the operator and address of the establishment by street and street number, or by other means properly identifying the location of the establishment. (This information shall be shown on each drawing the same as shown on the application for service (Form MP-401));

(3) One point of the compass;

(4) The doors and openings for passageways, designating those which are self-closing or permanently closed;

(5) All floor drain openings and gutter drains, and for all buildings constructed after September 1, 1959, the approximate location of all underfloor and underground piping;

(6) Lavatories in toilet and processing rooms (lavatories which are other than hand operated shall be so designated on the blueprints);

(7) All steam and hot and cold water outlets for cleanup purposes;

(8) Ice making and storage facilities.

(9) The point at which live poultry is hung on the conveyor line, the point where dressed poultry is removed, and the point of transfer to the eviscerating line;

(10) The routes of the edible and inedible products;

(11) The location of fresh air inlets, exhaust fans and hoods.

(c) *Specifications.* Specifications covering the following shall accompany the drawings:

(1) Height of ceilings;

(2) Type of ceilings—open or closed;

(3) Finish of ceilings; for example—cement plaster, metal, marine plywood, cement, asbestos board, etc.;

(4) Finish of walls; for example—cement plaster, glazed tile, glazed brick, glass blocks, etc.;

(5) Screens—indicate whether all outside openings are screened or provided with other suitable devices against entrance of flies or other insects;

(6) Finish of floors—concrete, brick, mastic material, etc.;

(7) Drainage—indicate amount of slope of floors to the drains in processing rooms, coolers, toilets, and refuse rooms, and give description of trapping and venting of drainage lines, and of floor drain openings. Indicate size of drainage lines and whether house drainage lines and toilet soil lines are separate to a point outside of buildings;

(8) Heating—indicate type;

(9) Water supply—indicate whether public or private water supply, or both, and specify in terms of gallons per minute of water available for the processing needs of the plant. Also indicate whether or not a nonpotable water supply is used for any purpose in the plant and, if so, specify such uses;

(10) Hot water facilities—specify facilities such as boilers, storage tanks, mixing valves, etc., and indicate the size;

(11) Specify number of men and number of women who will use each toilet room;

(12) Sewage disposal — indicate whether city sewer, cesspool, sedimentation tank, etc.;

(13) Approximate rate of production—for slaughtering and/or eviscerating establishments, indicate hourly rate of slaughter and/or evisceration for each class of poultry, and for other types of establishments, indicate pounds of each type of poultry products processed per hour.

(d) *Rooms and compartments which must be shown on the drawings.* The drawings of the establishment shall show employees' toilet and dressing rooms, office space for the inspectors, storerooms for supplies, refuse rooms, and all rooms, compartments, or passageways where poultry or poultry products, or any ingredients to be used in the preparation of poultry products will be handled or kept. The drawings shall also show all other rooms or compartments located in the buildings that are to comprise the official establishment.

(e) *Changes in drawings or blueprints.* When changes are proposed in areas for which drawings have been previously approved, one of the following types of revised drawings shall be submitted for review and consideration:

(1) A completely revised sheet or sheets, showing proposed alterations or additions, or

(2) Pasters of minor changes which may be affixed to the affected areas on the previously approved drawings in a manner not obscuring essential data. Paster drawings shall be prepared to the same scale and presented on a background similar to that of the originally approved drawing.

(f) *Use of information on file for plants operating under voluntary inspection service.* Applicants whose plants have been surveyed and are operating under voluntary inspection service pursuant to regulations (Part 70 of this chapter) in effect on the date service is made available under the Act will be exempt from the requirements of this section to the extent that the Administrator may determine that information and materials required by the provisions of this section are already available in official files of the Inspection Service.

§ 81.20 Survey and grant of inspection.

Prior to granting of inspection service, a survey of the establishment shall be made by a representative of the Inspection Service to determine if the establishment is constructed and facilities are installed in accordance with the approved drawings, specifications and the regulations. Inspection will be granted by the Administrator when these requirements are met.

§ 81.21 Refusal of inspection.

(a) The Administrator may refuse to grant inspection at any establishment if he determines that it does not meet any requirements as to premises, facilities, and equipment, and the operation thereof, prescribed in the regulations under section 7 of the Act to prevent the distribution under the Act of adulterated poultry products, or that the applicant has not received approval of labeling and containers to be used at the establishment as required by the regulations. When inspection is refused for any reason, the applicant shall be informed of the action and the reasons therefor and afforded an opportunity to present his views informally.

(b) If the refusal is based on a failure to comply with any requirements prescribed under section 7 of the Act, the applicant shall, upon his request, be afforded opportunity for a hearing in accordance with applicable rules of practice, with respect to the merits or validity of the action taken, but such refusal shall continue in effect unless otherwise ordered by the Secretary.

(c) Inspection may also be refused in accordance with section 18(a) of the Act and the applicable rules of practice.

(d)(1) Any applicant for inspection at an establishment where the operations thereof may result in any discharge into the navigable waters in the United States is required by subsection 21(b) of the Federal Water Pollution Control Act, as amended, to provide the Administrator with a certification as prescribed in said subsection that there is reasonable assurance that such activity will be conducted in a manner which will not violate the applicable water quality standards. No grant of inspection can be issued after April 3, 1970 (the date of enactment of the Water Quality Improvement Act), unless such certification has been obtained, or is waived because of failure or refusal of the State, interstate agency or the Administrator of the Environmental Protection Agency to act on a request for certification within 1 year after receipt of such request. Further, upon receipt of an application for inspection and a certification as required by subsection 21(b) of the Federal Water Pollution Control Act, the Administrator (as defined in § 81.1) is required by paragraph (2) of said subsection to notify the Administrator of the Environmental Protection

Agency for proceedings in accordance with that paragraph. No grant of inspection can be made until the requirements of said paragraph (2) have been met.

(2) However, certification under subsection 21(b) of the Federal Water Pollution Control Act is not initially required in connection with an application for inspection granted after April 3, 1970, for facilities existing or under construction on April 3, 1970, although certification for such facilities is required to be obtained within the 3-year period immediately following April 3, 1970. Failure to obtain such certification or to meet the other requirements of subsection 21(b) prior to April 3, 1973, will result in the termination of inspection at such facilities on that date.

(3) Further, any application for inspection pending on April 3, 1970, and granted within 1 year thereafter shall not require certification for 1 year following the grant of inspection but such grant of inspection shall terminate at the end of 1 year after its issuance unless prior thereto such certification has been obtained and the other requirements of subsections 21(b) are met.

Subpart E—Inauguration of Inspection; Official Establishment Numbers; Separation of Establishments and Other Requirements; Withdrawal of Inspection

§ 81.25 Official establishment numbers.

An official establishment number shall be assigned to each establishment granted inspection service. Such number shall be used to identify all containers of inspected poultry products prepared in the establishment. An establishment shall not have more than one establishment number.

§ 81.26 Separation of establishments.

Each official establishment shall be separate and distinct from any other official establishment and from any unofficial establishment except an establishment preparing meat products under the Federal Meat Inspection Act or under State meat inspection. Further, doorways, or other openings, may be permitted between establishments at the discretion of the Administrator and under such conditions as he may prescribe.

§ 81.27 Inauguration of service; notification concerning regulations; status of uninspected poultry products.

The inspector in charge or his supervisor shall, upon or prior to the inauguration of service, inform the operator of the establishment of the requirements of the regulations. If the establishment at the time service is inaugurated contains any poultry product which has not been inspected and marked in compliance with the regulations, its identity shall be maintained, and it shall not be represented or dealt with as a product which has been inspected. Such products may not be shipped in commerce unless such products are eligible for such shipment under an exemption from inspection under Subpart C of this part and comply with all requirements of said subpart.

§ 81.28 Report of violations.

Each inspector, agent, representative, or employee of the Inspection Service shall report, in the manner prescribed by the Administrator, all violations of the Act and noncompliance with the regulations of which he has knowledge.

§ 81.29 Suspension or other withdrawal of inspection service.

(a) (1) The Administrator is authorized to suspend (for such period or indefinitely, as the Administrator deems necessary to effectuate the purposes of the Act) or otherwise to withdraw, inspection service at an official establishment, for the failure of the operator of the establishment to destroy condemned poultry products as required under section 6 of the Act, or for other failure of the operator of the establishment to comply with any requirements as to premises, facilities, or equipment, or the operation thereof, prescribed in the regulations under section 7 of the Act to prevent the distribution under the Act of adulterated poultry products.

(2) The operator shall be notified of the withdrawal action and the reasons therefor and afforded an opportunity to present his views informally prior to the effective date of such withdrawal, and upon his request he shall be afforded an opportunity for a hearing in accordance with the applicable rules of practice, with respect to the merits or validity of the withdrawal, but such a suspension or other withdrawal shall continue in effect pending the outcome of any such hearing unless otherwise ordered by the Secretary.

(b) During a period of suspension or other withdrawal, no processing of poultry or poultry products subject to the inspection requirements of the Act shall be carried on in the official establishment. In any case in which inspection service is suspended under paragraph (a)(1) of this section, if the establishment premises, facilities and methods of operations are not brought into compliance with the Act and the regulations within a reasonable period of time, to be specified by the Administrator, inspection service may be withdrawn from the official establishment in accordance with the procedure prescribed in paragraph (a)(2) of this section.

(c) Inspection service may also be suspended or withdrawn in accordance with subsection 18(a) of the Act and the applicable rules of practice.

(d) Inspection may be suspended or revoked as provided in paragraph (5) of subsection 21(b) of the Federal Water Pollution Control Act, as amended.

(e) A grant of inspection issued without certification under paragraph (7) or (8) of subsection 21(b) of the Federal Water Pollution Control Act, as amended, will terminate if certification is not subsequently furnished or other requirements are not met, as provided in said paragraphs.

(f) Inspection service may be withheld if the operator of the official establishment or any officer, agent, or employee of the operator or any of its subsidiaries forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any inspection personnel while engaged in or on account of the performance of their official duties under the Act. Such withholding shall continue until the responsible person is removed from the premises or until assurances, acceptable to the Administrator, are received that there will not be any recurrences of such acts.

Subpart F—Assignment and Authorities of Program Employees

§ 81.30 Licensed or otherwise authorized inspectors.

Any person who is a Federal, State, territory, or District of Columbia employee possessing proper qualifications may be authorized by the Administrator to inspect poultry and poultry products pursuant to the regulations. A license (for an indefinite or specified period) shall be issued to each such authorized Federal or State employee not employed in the Inspection Service.

§ 81.31 Expiration, suspension or revocation and surrender of licenses.

(a) Whenever a licensed inspector leaves the employment of the Federal, State, or other agency in which he was employed when his license was issued, or he otherwise becomes unavailable to perform inspection under the regulations or the officer in charge notifies him that his services are not needed to carry out such inspection, for reasons not involving any fault of the licensee, the license shall be deemed to expire. Licenses for a limited period shall also expire in accordance with their terms.

(b) The officer in charge, after consultation with the Federal, State, or other agency may, in cases not under paragraph (a) of this section, whenever he deems such action necessary, for the effective administration of the Act and the regulations suspend any license issued pursuant to the regulations, to an employee of such Federal, State, or other agency, by giving notice of such suspension to the individual involved, accompanied by a statement of the reasons therefor. Within 7 days after the receipt of the aforesaid notice and statement of reasons by such individual, he may file an appeal, in writing, with the Administrator, supported by any argument or evidence that he may wish to offer as to why his license should not be further suspended or revoked. After the expiration of the aforesaid 7-day period and consideration of such argument and evidence, the Administrator will take such action as he deems appropriate with respect to such suspension or revocation. When no appeal is filed within the prescribed 7 days, the license is revoked.

(c) Each license which is suspended or revoked or has expired shall be promptly surrendered to the officer in charge.

§ 81.32 Access to establishments.

Any duly authorized representative of the Secretary shall have access at all reasonable times, by day or night, whether the establishment is in operation or not, to the premises or any part thereof of an establishment engaged in processing poultry or poultry products for commerce, upon presentation of appropriate credentials.

§ 81.33 Identification.

Each inspector shall have in his possession at all times, and present upon request while on duty, the means of identification furnished by the Department to such person.

§ 81.34 Financial interest of inspectors; political activity.

(a) No inspector shall inspect any poultry or poultry product in which he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner, or employee, or any person with whom he is negotiating or has any arrangement concerning prospective employment, is financially interested.

(b) All inspectors who are employees of the Department are forbidden during the period of their respective appointments, to take an active part in political management or in political campaigns. Political activity in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, is prohibited. This applies to all appointees, including, but not being limited to, temporary and cooperative employees and employees on leave of absence with or without pay.

(c) Violation of the provisions of paragraph (a) or (b) of this section will constitute ground for dismissal in the case of appointees and violation of the provisions of paragraph (a) of this section will constitute grounds for revocation of licenses in the case of licensees.

(d) Inspectors are subject to all applicable provisions of law and regulations and instructions of the Department and the Consumer and Marketing Service and other authority concerning employee responsibilities and conduct. The setting forth of certain prohibitions in this part in no way limits the applicability of such general or other regulations or instructions.

§ 81.35 Appeal inspections; how made.

Any person receiving inspection service may, if dissatisfied with any decision of an inspector relating to any inspection, file an appeal from such decision: *Provided*, That such appeal is filed within 48 hours from the time the decision was made. Any such appeal from a decision of an inspector shall be made to his immediate superior having jurisdiction over the subject matter of the appeal, and such superior shall determine whether the inspector's decision was correct. Review of such appeal determination, when requested, shall be made by the immediate superior of the employee of the Department making the appeal determination. The cost of any such appeal shall be borne by the appellant if the Administrator determines that the appeal is frivolous. The charges for such frivolous appeal shall be at the rate of $8.80 per hour for the time required to make the appeal inspection. The poultry or poultry products involved in any appeal shall be identified by U.S. retained tags and segregated in a manner approved by the inspector pending completion of an appeal inspection.

Subpart G—Facilities for Inspection; Overtime and Holiday Service; Billing Establishments

§ 81.36 Facilities required.

(a) *Inspector's office.* Office space, including, but not being limited to furnishings, light, heat and janitor service, shall be provided rent free in the official establishment, for the use of Government personnel for official purposes. The room or space set apart for this purpose must meet the approval of the Inspection Service and be conveniently located, properly ventilated, and provided with lockers or file cabinets suitable for the protection and storage of supplies and with facilities suitable for inspectors to change clothing.

(b) *Facilities for ante mortem inspection.* Batteries, coops, or other facilities in which live poultry is presented for ante mortem inspection shall be of such arrangement, construction, and shall be so placed with sufficient light provided so that the inspector can clearly see the birds to the extent needed to carry out an adequate inspection.

§ 81.37 Time of inspection.

The inspector who is to perform the inspection in an official establishment shall be informed, in advance, of the hours when such inspection will be required.

§ 81.38 Schedule of operation of official establishment.

Operating schedules of an official establishment shall be subject to approval of the Administrator, and for the purpose of this regulation the normal operating schedule shall consist of a continuous 8-hour period per day (excluding not to exceed 1 hour for lunch), 5 days per week, within the period of Monday through Friday, for each full shift required. Any variation from such Monday through Friday schedule of operation must be fully justified and approved in advance by the Administrator. Clock hours of daily operations are not to be specified in a schedule although as a condition of continuance of approval of a schedule the hours of operation must be reasonably uniform from day to day.

§ 81.39 Overtime inspection service.

When operations in an official establishment require the services of inspection personnel beyond their regularly assigned tour of duty on any day, or on a day outside the established schedule, such services are considered as overtime work. The official establishment shall give reasonable advance notice to the inspector in charge for any overtime service necessary and shall pay the Secretary for such overtime at a rate of $8.80 per hour to cover the cost thereof.

§ 81.40 Holiday inspection service.

(a) When an official establishment requires inspection service on a holiday, such service is considered holiday work. The official establishment shall, in advance of such holiday work, request the officer in charge to furnish inspection service during such period and shall pay the Department therefor at the rate of $8.80 per hour. Service in excess of 8 hours for that day is considered overtime and shall be paid for at the overtime rate.

(b) Holidays for Federal employees shall be the 1st day of January, third Monday of February, last Monday of May, 4th day of July, first Monday of September, second Monday of October, fourth Monday of October, fourth Thursday of November, 25th day of December, and any other day designated as a holiday by Federal statute or executive order. When any of the above-listed holidays fall on a weekday, that day becomes a holiday. When a holiday workday is a holiday. When a holiday falls on Saturday, the preceding scheduled workday will become a holiday.

(c) Holidays to be counted with respect to State employees shall be those legally observed by Federal employees.

§ 81.41 Supervisor overtime or holiday service.

When, because an establishment requires overtime service as provided in § 81.39 or requires holiday service as provided in § 81.40, a station supervisor (veterinarian) is required to work overtime or on a holiday, in the establishment, in order to supervise the service or to make final condemnation, the establishment shall pay the Department for such overtime or holiday work at the rate of $8.80 per hour.

§ 81.42 Basis of billing establishments.

Overtime and/or holiday services shall be billed to the official establishments on the basis of each 15 minutes of overtime and/or holiday service performed by each inspector including supervisor providing such service to the establishment, except that when an official establishment requires the services of an inspector after he has completed his day's assignment and left the establishment or when he is called back to duty on a day outside of the established normal operating schedule or on a holiday, the official establishment shall pay for a minimum of 2 hours' service at the applicable established rate. Bills are payable upon receipt and become delinquent immediately following the end of the month in which they were rendered. Overtime or holiday inspection service will not be performed at any establishment that is delinquent and processing operations thereat shall be confined to the regular operating schedule of the establishment.

Subpart H—Sanitation

§ 81.45 Minimum standards for sanitation, facilities and operating procedures in official establishments.

The provisions of §§ 81.46 to 81.61, inclusive, shall apply with respect to all official establishments.

§ 81.46 Buildings.

(a) *General.* The buildings shall be of sound construction and kept in good repair.

(b) *Outside openings.* (1) The doors, windows, skylights, and other outside openings of the plant, except in receiving rooms and feeding rooms, shall be protected by properly fitted screens or other suitable devices against the entrance of files and other insects.

(2) Outside doors, except in receiving rooms and feeding rooms, shall be so hung as to be close fitting when closed. Doors shall be provided with self-closing devices where necessary to prevent the entry of vermin into processin and storage rooms.

§ 81.47 Rooms and compartments.

(a) *General.* Rooms or compartments used for edible poultry products shall be separate and distinct from inedible products departments and from rooms where live poultry is held or slaughtered. Separate rooms shall be provided when required for conducting processing operations in a sanitary manner; and all rooms shall be of sufficient size to permit the installation of the necessary equipment for processing operations and the conduct of such operations in a sanitary manner.

(b) *Refuse rooms.* A separate refuse room, or other equally adequate facilities, shall be provided in official establishments where accumulations of refuse occur. Refuse rooms shall be entirely separate from other rooms in the establishment, have tight fitting doors, be properly ventilated, and have adequate drainage and cleanup facilities, and the floors and walls to a height of 6 feet above the floor shall be impervious to moisture, and walls above that height, and ceilings shall be moisture resistant.

(c) *Rooms for holding carcasses for further inspection.* Rooms or other acceptable facilities in which carcasses or parts thereof are held for further inspection shall be in such numbers and such locations as the needs of the inspection in the establishment may require. These rooms or facilities shall be equipped with hasps for locking.

(d) *Coolers and freezers.* Coolers and freezers shall be of such size and capacity as are required for compliance with the provisions set forth in § 81.66. Freezing rooms, other than those for plate freezers or liquid freezing, shall have forced air circulation, and freezers and coolers shall be equipped with floor racks, pallets or other means which will assure that the poultry products will not be adulterated.

(e) *Rooms for mechanical deboning of raw poultry.* Rooms or compartments where mechanical equipment for deboning of raw poultry is operated shall be maintained at 50° F. or less.

(f) *Storage and supply rooms.* The storage and supply rooms shall be kept in good repair, dry, orderly and sanitary.

(g) *Boiler room.* The boiler room shall be a separate room where necessary to prevent dirt and objectionable odors entering from it into any room where dressed poultry or other poultry products are processed, otherwise handled, or stored.

(h) *Toilet rooms.* Toilet rooms, opening directly into rooms where poultry products are exposed shall have self-closing doors and shall be ventilated to the outside of the building.

(i) *Lunch rooms.* Lunches and snacks shall not be eaten in processing, packing, or supply rooms. If needed, separate rooms or areas shall be provided in establishments where employees eat their lunches.

§ 81.48 Floors, walls, ceilings, etc.

(a) *Floors.* All floors in rooms where exposed poultry products are processed or handled shall be constructed of, or finished with, materials impervious to moisture, so they can be readily and thoroughly cleaned. The floors in killing, ice cooling, ice packing, eviscerating, cooking, boning, and cannery rooms shall be graded for complete runoff with no standing water.

(b) *Walls, posts, partitions, and doors.* All walls, posts, partitions, and doors in in rooms where exposed poultry products are processed or otherwise handled shall be smooth and constructed of materials impervious to moisture to a height of 6 feet above the floor to enable thorough cleaning. All surfaces above this height must be smooth and finished with moisture-resistant material.

(c) *Ceilings.* Ceilings must be moisture-resistant in rooms where exposed poultry products are processed or otherwise handled, and finished and sealed to prevent collection of dirt or dust that might sift through from the floor above or fall from collecting surfaces on equipment or exposed poultry product.

§ 81.49 Drainage and plumbing.

(a) *General.* There shall be an efficient draining and plumbing system for the plant and premises.

(b) *Outside premises.* The drainage system must permit the quick runoff of all water from buildings, and of surface water around the official establishment and on the premises; and all such water shall be disposed of in such a manner as to avoid the development of insanitary conditions at the establishment.

(c) *Drainage of sewage and plant wastes.* (1) All drains and gutters shall be properly installed with approved traps and vents. The sewer system shall have adequate slope and capacity to remove readily all waste from the various processing operations and to minimize or, if possible, prevent stoppage and surcharging of the system. When the sewage disposal system is a private system which is required to be approved by a State or local health authority, the applicant shall furnish the Administrator a letter from the proper health authority indicating that the sewage disposal system is acceptable to such authority.

(2) Interceptor traps which are connected with the sewer system shall be suitably located, and not near any edible poultry products department or in any area where products are unloaded from or loaded into any means of conveyance. To facilitate cleaning, such traps shall have inclined bottoms and be provided with suitable covers.

(3) Each floor drain shall be equipped with a deep seal trap, and the plumbing shall be installed so as to prevent sewage from backing up and flooding the floor, except that floor drains in areas not regularly washed down will be acceptable without deep seal traps: *Provided,* That such drains are connected to secondary drainage systems discharging into a safe sink or basin (air gap) that is properly trapped and vented: *And provided further,* That such drains accomplish the objectives and intent of this paragraph.

(4) Toilet soil lines shall be separate from house drainage lines to a point outside the buildings unless an automatic backwater check valve is installed to prevent back-flow. Drainage from toilet bowls and urinals shall not be discharged into a grease catch basin, nor shall such drainage be permitted to enter the sewer lines at a point where there might be a possibility of such drainage backing up and flooding the floor of the building.

§ 81.50 Water supply.

(a) General: Except as provided in paragraph (e) of this section, the water supply shall be ample, clean, and potable with adequate pressure and facilities for its distribution in the official establishment and its protection against contamination and pollution. A water report, issued under the authority of the State health agency, certifying to the potability of the water supply, shall be obtained by the applicant and furnished to the Administrator whenever such report is required by the Administrator in specific cases.

(b) An adequate supply of hot water to enable proper cleaning shall be available.

(c) Hose connections with steam and water mixing valves or hot water hose connections shall be provided at convenient locations throughout the plant for cleaning purposes.

(d) The refuse rooms shall be provided with adequate facilities for washing refuse cans and other equipment in the rooms.

(e) Nonpotable water is permitted only in those parts of official establishments where no poultry product is processed or otherwise handled and then only for limited purposes such as on condensers not connected with the potable water supply, in vapor lines serving inedible product rendering tanks, and in sewer lines for moving heavy solids in the sewage. Nonpotable water is not permitted for washing floors, areas, or equipment, nor is it permitted in boilers.

scalders, chill vats, or ice making machines. In all cases, nonpotable waterlines shall be clearly identified and shall not be cross connected with the potable water supply unless this is necessary for fire protection. Any such connection must have an adequate break to assure against accidental contamination, and must be approved by local authorities and by the Administrator. Any untested water supply in an official establishment shall be treated as a nonpotable supply.

§ 81.51 Lavatories, toilets, and other sanitary facilities.

(a) Modern lavatory and toilet accommodations and properly located facilities for cleaning utensils and hands shall be provided.

(b) Adequate lavatory and toilet accommodations, including but not being limited to, running hot and cold water, soap, or other acceptable agents (in sanitary dispensers), toilet tissue, and towels or other acceptable facilities for drying hands, shall be provided. Lavatories shall be in or near toilet and locker rooms and also at other places in the plant as may be essential to the cleanliness of all personnel handling poultry products.

(c) Adequate lockers or other facilities, shall be provided for employees' wearing apparel, and for the storing and changing of clothing. Wearing apparel shall not be stored in rooms where processing operations are conducted.

(d) Suitable containers shall be provided for the temporary storage of soiled linen, coats, aprons, and other items of employees' uniforms or work clothing.

(e) Sufficient metal containers shall be provided for used towels and other wastes.

(f) An adequate number of hand washing facilities serving areas where poultry products are prepared shall be operated by other than hand-operated controls, or shall be of a continuous flow type which provides an adequate flow of water for washing hands.

(g) Durable signs shall be posted conspicuously in each toilet room and locker room directing employees to wash their hands before returning to work.

(h) Adequate toilet facilities shall be provided and the following formula shall serve as a basis for determining the number of toilet bowls required:

	Toilet bowls required
Persons of same sex:	
1 to 15, inclusive	1
16 to 35, inclusive	2
36 to 55, inclusive	[1] 3
56 to 80, inclusive	[1] 4
For each additional 30 persons in excess of 80	[1] 1

[1] Urinals may be substituted for toilet bowls but only to the extent of one-third of the total number of bowls stated.

(i) Suitable sanitary drinking water facilities shall be provided.

(j) All toilets, lavatories, and other sanitary facilities shall be kept clean and in good repair.

§ 81.52 Lighting and ventilation.

(a) There shall be ample light, either natural or artificial or both, of good quality and well distributed, and sufficient ventilation for all rooms and compartments to insure sanitary conditions.

(b) All rooms in which poultry is killed, eviscerated, or otherwise processed shall have at least 30 foot-candles of light intensity on all working surfaces, except that at the inspection stations such light intensity shall be of 50 foot-candles. In all other rooms there shall be provided at least 5 foot-candles of light intensity when measured at a distance of 30 inches from the floor.

(c) All rooms shall be adequately ventilated to eliminate objectionable odors and minimize moisture condensation.

§ 81.53 Equipment and utensils.

(a) *General.* Equipment and utensils used for processing or otherwise handling any products in the official establishment shall be suitable for the purpose intended and shall be of such material and construction as will facilitate their thorough cleaning and insure cleanliness in the preparation and handling of poultry products. Trucks and receptacles used for handling inedible products shall be of similar construction, shall be conspicuously and distinctly marked as "U.S. Condemned", and shall not be used for handling any edible poultry products.

(b) *Refuse containers.* Leak-proof refuse containers with covers shall be provided except that perforated containers may be used for the temporary collection of feathers and such containers need not be covered.

(c) *Scalding equipment.* (1) Scalding tanks shall be constructed and installed so as to prevent contamination of potable water lines and to permit water to enter continuously at a rate which will result in a sanitary scalding operation. The rate of flow necessary to maintain a sanitary scalding operation will be determined on such factors as the class of poultry and the number of birds per minute going into the scalding tank. It shall be the responsibility of the officer in charge to establish a minimum rate of flow for each scalding tank in each official establishment.

(2) The overflow outlets in scalding equipment shall be of sufficient size to permit feathers and water to be carried off.

(3) The overflow, drawoff valves, and sediment basin drain shall discharge into a floor or valley drain, or onto the floor in close proximity to a floor or valley drain.

(d) *Wax finishing.* When wax dipping is used, metal troughs shall be provided to catch the wax removed from the dipped poultry. Acceptable facilities and methods shall be employed in reclaiming the wax.

(e) *Ice shovels.* Ice shovels shall be smooth surfaced and entirely constructed of rustproof, impervious material.

(f) *Conveyors.* (1) Conveyors used in the preparation of ready-to-cook poultry shall be of metal or other acceptable material and of such construction as to permit easy identification of the viscera with their carcass and so designed as will present each carcass or all parts thereof in a way that will permit adequate and efficient inspection.

(2) Overhead conveyors shall be so constructed and maintained that they will not allow grease, oil, or dirt to accumulate on the drop chain or shackle, which shall be of noncorrosive metal.

(3) Nonmetallic belt-type conveyors used in moving poultry products shall be of waterproof composition.

(4) When individual trays are not used during eviscerating operations, each carcass shall be suspended and a metal trough or a trough constructed of other acceptable impervious material shall be provided beneath the conveyor. Such troughs shall be flushed continuously by a water spray and shall extend beneath the conveyor at all places where processing operations are conducted from the point where the carcass is opened to the point where the viscera have been completely removed.

(g) *Chilling and thawing tanks.* Chilling and thawing tanks shall be constructed of metal or other suitable material impervious to moisture and shall be of seamless construction with edges rolled outward. Where mechanical devices are not used for removing carcasses from the chilling or thawing tanks, the tanks shall be of a size that will enable employees to remove poultry without entering the tanks.

(h) *Tables.* Inspection, eviscerating, and cutting tables shall be made of metal or other acceptable material, have coved corners, and be constructed and placed so as to permit thorough cleaning.

(i) *Plants lacking conveyors.* In plants where no conveyors are used, each carcass shall be eviscerated in an individual metal tray of seamless construction or in a tray of other acceptable material and construction.

(j) *Water spray washing equipment.* Water spray washing equipment with sufficient water pressure to thoroughly and efficiently wash carcasses shall be used for washing carcasses inside and out.

(k) *Offal receptacles.* Watertight metal receptacles shall be used for entrails and other waste resulting from preparation of eviscerated poultry.

(l) *Trucks and receptacles for condemned carcasses.* Watertight trucks and receptacles for holding or handling condemned carcasses or parts of carcasses shall be so constructed as to be readily and thoroughly cleaned; such trucks and receptacles shall be marked in a conspicuous manner with the words "U.S. Condemned" in letters not less than 2 inches high and when required by the inspector in charge, shall be equipped with facilities for locking and sealing.

§ 81.54 Accessibility of equipment.

(a) *General.* All equipment shall be placed so as to be readily accessible for all processing and cleaning operations.

(b) *Mechanical pickers.* When mechanical pickers are used, they shall be installed so as to be accessible for thorough cleaning and removal of the accumulation of feathers.

§ 81.55 Restrictions on use of equipment and utensils.

Equipment and utensils used in the official establishment shall not be used outside the official establishment, except under conditions as may be prescribed or approved by the Administrator in specific cases. Equipment used in the preparation of any article (including, but not limited to, animal food), from inedible material shall not be used outside of the inedible products department except under such conditions as may be prescribed or approved by the Administrator in specific cases.

§ 81.56 Maintenance of sanitary conditions and precautions against contamination of poultry products.

The premises of the official establishment shall be kept free from refuse, waste materials and all other sources of odors and conditions that may result in adulteration of the poultry products handled at the establishment.

§ 81.57 Cleaning of rooms and compartments.

Rooms, compartments, and other parts of the official establishment shall be kept clean and in sanitary condition and good repair.

§ 81.58 Cleaning of equipment and utensils.

(a) Equipment and utensils used for processing or otherwise handling any poultry or poultry product shall be kept clean, sanitary and in good repair.

(b) Batteries and dropping pans shall be cleaned regularly and the manure removed from the official establishment daily.

(c) Scalding tanks shall be completely emptied and thoroughly cleaned as often as may be necessary, but not less frequently than once a day when in use.

(d) All equipment and utensils used in the killing, roughing, and pinning rooms shall be thoroughly washed and cleaned at least once daily when in use.

(e) The chilling and packing room and equipment and utensils used therein shall be maintained in a clean and sanitary condition.

(f) Chilling or thawing tanks shall be emptied after each use. They shall be thoroughly cleaned at least once daily when in use, except that when the same poultry is held therein in excess of 24 hours, the tanks shall be thoroughly cleaned after the poultry is removed therefrom and prior to reuse.

(g) Conveyor trays or belts which come in contact with raw poultry products shall be completely washed and sanitized after each use.

(h) Tables, shelves, bins, trays, pans, knives, and all other tools and equipment used in the processing of poultry products shall, after cleaning, be drained on racks and shall not be nested.

§ 81.59 Vermin.

Every practicable precaution shall be taken to exclude flies, rats, mice, and other vermin from the official establishment. Dogs, cats, and other pets shall be excluded from rooms where dressed poultry or other poultry products are processed, handled or stored.

§ 81.60 Use of compounds.

Germicides, insecticides, rodenticides, detergents, or wetting agents or other similar compounds may be used in an official establishment only if they will not deleteriously affect the poultry or poultry products therein and have been approved by the Administrator. Such compounds shall be used only in a manner satisfactory to the Administrator. Such compounds shall be approved, for the purpose of the Act only upon application and in accordance with the following procedure:

(a) The manufacturer or user of the compound, or any other interested person, shall submit to the Administrator the following data:

(1) The formula of the compound, listing each ingredient and the percentage of each ingredient in terms of weight or liquid measure, if the product is a liquid, and in terms of weight, if it is solid or semisolid, viscous or a mixture of liquid and solids. The ingredients must be stated in terms of the well-known common names of the ingredients or if an ingredient has no common name, the correct chemical name. However, in the case of any compound subject to the Federal Insecticide, Fungicide and Rodenticide Act, a statement of the composition of the compound as required for registration under that Act shall be submitted in lieu of the data otherwise required by this subparagraph.

(2) A certification by the applicant that the compound as it is proposed to be used in the official establishment will not deleteriously affect the poultry or poultry products therein. The certification shall include the conditions under which the particular compound is believed to be satisfactory for use and the precautions necessary, if any, in the use of such compound for the purpose intended in poultry processing establishments.

(b) As a prerequisite for approval, any compound which is required to be registered under the provisions of the Federal Insecticide, Fungicide and Rodenticide Act shall be registered and comply with the provisions of that Act. The applicant shall furnish the registration number assigned under the aforesaid Act along with two copies of the label being currently used on the product.

(c) A small sample of the compound (4 to 6 ounces) shall be submitted with the request for approval of its use in poultry processing establishments.

(d) The Administrator will either approve or disapprove the use of a particular compound after a careful evaluation of the data submitted pursuant to paragraph (a) of this section and consideration of any other information that is available pertaining to the compound under consideration.

(e) The Inspection Service is authorized to draw samples of any compound used in any official establishment and make analyses of such compound to determine if the compound conforms to that originally approved and if it is satisfactory for use in official establishments under this section. Whenever the Administrator has reason to believe that a compound may have a deleterious effect on poultry or poultry products, the approval of the particular compound may be suspended, and in such case the processor shall be given an opportunity to show that the compound does not have such effect. After such opportunity has been afforded to the processor, the Administrator shall make a determination as to the effect of the compound on poultry and poultry products and withdraw or reinstate the approval of the compound accordingly. Use of the compound shall not be permitted during the period of suspension.

§ 81.61 Cleanliness and hygiene of official establishment personnel.

(a) No official establishment shall employ, in any department where any poultry product is processed or otherwise handled, any person showing evidence of a communicable disease in a transmissible stage or known to be a carrier of such disease, or while affected with boils, sores, infected wounds, or other abnormal sources of microbiological contaminants.

(b) All persons coming in contact with exposed poultry products, or poultry products handling equipment shall wear clean garments and suitable head coverings to prevent hair from falling into poultry products; and shall keep their hands and fingernails clean at all times while thus engaged.

(c) Every person shall wash his hands thoroughly after each use of toilet or change of garments before returning to duties that require the handling of dressed poultry or other poultry products or containers thereof, or poultry product handling equipment.

(d) The use of tobacco in any form, the eating of food, or any other personal habit which may result in adulteration of any poultry product shall not be permitted in any room where exposed dressed poultry or other poultry products are being processed or otherwise handled.

Subpart I—Operating Procedures

§ 81.65 Operations and procedures, generally.

(a) Operations and procedures involving the processing, other handling, or storing of any poultry product shall be strictly in accord with clean and sanitary practices and shall be conducted in such a manner as will result in sanitary processing, proper inspection, and the

production of poultry and poultry products that are not adulterated.

(b) Materials which create any condition that may result in adulteration of poultry products shall not be handled or stored in rooms, compartments, or other places in any official establishment where any poultry product is processed, otherwise handled, or stored.

(c) Poultry shall be slaughtered in accordance with good commercial practices in a manner that will result in thorough bleeding of the carcasses and assure that breathing has stopped prior to scalding. Blood from the killing operation shall be confined to a relatively small area.

(d) The pinning and finishing of dressed poultry shall be performed in a part of the room that is located sufficiently away from the killing and roughing operations to prevent contamination of the product.

(e) In finishing and cleaning dressed poultry, the vestigial feathers (hair or down as the case may be) shall be removed by singeing or other means, feed shall be removed from the crop without incising the tissues, and the fecal material in the cloaca shall be removed by venting. These operations shall be completed prior to, or during the final washing, but prior to chilling and packaging of such dressed poultry. Notwithstanding the foregoing, dressed poultry which is to be warm eviscerated is not required to be vented or singed if it is to be singed after evisceration and prior to packing, and dressed poultry which has been vented and singed and is to be eviscerated in an official establishment within 72 hours from time of slaughter may, when approved by the Inspection Service, be transferred by conveyor or operational type container or other approved means to such official establishment prior to removal of the feed in the crop.

(f) If dressed poultry is not to be immediately warm eviscerated, the head of each carcass shall be washed thoroughly either by automatic washer or manually to remove feed from the mouth and blood from the head and mouth.

(g) In the final washing of dressed poultry, the carcass shall be passed through a system of sprays providing an abundant supply of fresh clean water either under pressure or scrubbing action.

(h) Thawing poultry in water:

(1) *Ready-to-cook poultry.* When frozen ready-to-cook poultry is to be thawed in water, the thawing practices and procedures shall be such as will prevent the product from becoming adulterated by the absorption of moisture and such poultry shall be thawed by one of the following methods:

(i) The poultry may be thawed in continuous running tap water of sufficient volume and for such limited time as is necessary to thaw such poultry. The thawing media shall not exceed 70° F. in temperature. Complete thawing is necessary to permit thorough examination of ready-to-cook poultry prior to any further processing.

(ii) The practice of placing frozen ready-to-cook poultry into cooking kettles, without prior thawing is permitted only when a representative sample of the entire lot has been thawed and found to be sound and unadulterated. Thawing may be accomplished in cookers where the water can be heated to enable the cooking process to begin immediately following completion of thawing. Thawing practices and procedures shall result in no net gain in weight over the frozen weight. When whole carcasses or parts are thawed for repackaging as parts, it is not acceptable to recool the parts in slush ice. However, they may be held in tanks of crushed ice with the drains open pending further processing or packaging.

(iii) The poultry may be thawed in recirculated water, maintained at a temperature not in excess of 50° F., for such limited time as is necessary to thaw such poultry.

(2) *Dressed poultry.* Frozen dressed poultry shall not be thawed in tanks with continuously running water or residual water, but shall be thawed on metal racks or in perforated metal containers under a continuous water spray at a temperature not in excess of 70° F.

(i) Cuts for the removal of the viscera shall be limited to those necessary for proper processing operations and inspection. With respect to roaster style evisceration, opening cuts shall be made in such a manner that the skin between the thighs and rib cage will not be cut or torn open during the drawing operation. No additional cuts shall be made prior to chilling other than those necessary to perform the complete evisceration of the bird. The "bar-cut" method of evisceration may be used only when permitted by the officer in charge upon his determination that this method can be used at the official establishment without contaminating the poultry. With respect to poultry that is to be opened by the "bar-cut" method, particular care shall be exercised in making transverse cuts so that the thigh areas will not be opened and the flesh at the posterior end of the keel will not be exposed. An occasional bird that is unintentionally opened in the aforesaid areas will be permitted. The type of opening cut is part of the chilling procedure and any change in such cut requires establishing a new procedure.

(j) The area at the junction of the neck with the body of the eviscerated bird shall be positively opened prior to final washing so that water will drain freely from the body cavity and not become trapped in the area between the neck skin and the neck.

(k) Ready-to-cook poultry shall be adequately drained after chilling, to remove ice and free water prior to packaging or packing.

(l) Cut-up poultry shall be processed from chilled carcasses and the parts shall not be rechilled in ice and water or water, but may be temporarily held in containers of crushed ice which are continuously drained pending further processing and packaging. Upon approval by the Administrator, and under such conditions as he may prescribe in specific cases, cut-up poultry may be processed from unchilled eviscerated poultry. Such poultry parts shall not be chilled in water and ice, but may be chilled either in ice in continuously drained containers or by immediate entry into a freezer. Such poultry parts shall be chilled within 4 hours from the time of slaughter to 40° F. or less.

(m) All offal resulting from the evisceration operation shall be removed from the official establishment as often as necessary to prevent the development of an insanitary condition.

(n) Containers to be used for packaging dressed poultry and other poultry products shall be clean, free from substances and odors that would result in adulteration of the product and of sufficient strength and durability to protect the product adequately during normal distribution.

(o) Paper and other material used for lining barrels or other containers in which poultry products are packed shall be of such kinds as do not tear readily during use but remain intact when moistened by the product. Wooden containers to be used for packing poultry products shall be fully lined except when the poultry to be packed therein are fully wrapped.

(p) Protective coverings shall be used for poultry products while they are in any official establishment or are being transported between official establishments, which are adequate to protect the products against contamination by any foreign substances (including, but not being limited to, dust, dirt, and insects) considering the means employed in transporting the product.

§ 31.66 Temperatures and chilling and freezing procedures.

(a) *General.* Temperatures and procedures which are necessary for chilling and freezing dressed and ready-to-cook poultry, including all edible portions thereof, shall be in accordance with operating procedures which insure the prompt removal of the animal heat and will preserve the condition and wholesomeness of the poultry and assure that the products are not adulterated. A description of the chilling and freezing procedures used at the official establishment shall be filed with the inspector at the establishment.

(b) *General chilling requirements.* (1) All poultry that is slaughtered and eviscerated in the official establishment shall be chilled immediately after processing so that the internal temperature is reduced to 40° F. or less, as provided in subparagraph (2) of this paragraph unless such poultry is to be frozen or cooked immediately at the official establishment. Eviscerated poultry to be shipped from the establishment in packaged form shall be maintained at 40° F. or less, except that during further processing and packaging operations, the internal temperature may rise to a maximum of 55° F.:

Provided, That immediately after packaging, the poultry is placed under refrigeration at a temperature that will promptly lower the internal temperature of the product to 40° F. or less, or the poultry is placed in a freezer. Poultry which is to be held at the plant in packaged form in excess of 24 hours shall be held in a room at a temperature of 36° F. or less.

(2) Poultry carcasses, and major portions of carcasses as defined in paragraph (c)(2)(iv) of this section, shall be chilled to 40° F. or lower within the times specified below:

Weight of carcass:	Time (hours)
Under 4 pounds	4
4 to 8 pounds	6
Over 8 pounds	8

(c) *Ice and water chilling.* (1) Only ice produced from potable water may be used for ice and water chilling. The ice shall be handled and stored in a sanitary manner. If of block type, the ice shall be washed by spraying all surfaces with clean water before crushing.

(2)(i) The temperature of the chilling media in the warmest part of any poultry chilling system shall not exceed 65° F. or the maximum temperature specified in the current chilling procedure filed as required by paragraph (a) of this section, whichever is less. Continuous chillers shall not be used unless a recording thermometer, with a 24-hour recording cycle, is provided to measure the temperature in the warmest part of the chilling system. The temperature recorder shall be readily accessible. The completed temperature charts shall be furnished daily to the inspector.

(ii) With respect to continuous chilling systems, the fresh water intake in the first section of the system, after all sections of the system are filled with water, shall be not less than one-half gallon per frying chicken and proportionately more for other classes of poultry, including not less than 1 gallon per turkey. Sufficient water or ice, or both, shall be added to sections of the chilling system other than the first section, to keep the chilling media clean and to provide a continuous overflow from each section. If there is no loss of water between sections, multiple section chilling systems may be connected so the overflow from subsequent sections serves as water intake for the first section. In this type of installation, the required minimum fresh water intake may be either in the first or the last section of the chilling system. Water used to fill chilling systems shall not be counted toward minimum requirements specified in this subdivision (ii). Continuous chillers shall not be used unless the required minimum fresh water intake is measured through a meter which gives cumulative readings, and the meter shall be readily accessible. Upon approval by the Administrator in specific cases, when the official establishment employs an acceptable method of determining the amount of ice added to the appropriate section of the chilling system, meltage from such ice may be counted toward the required minimum fresh water intake.

(iii) In continuous chillers, whenever the elevators or conveyors removing the poultry from the chilling units are stopped, the agitation, either mechanical or by air, must also be stopped. In addition, unless the temperature of the chilling media is lowered to and maintained at 40° F. or below, poultry shall not be left in such stopped chillers in excess of 15 minutes.

(iv) Partial trimming and salvage of parts of poultry carcasses often result in parts of major size, either front or rear portions, wherein the major portion of the poultry carcass remains intact. These portions may be chilled in water and ice, including chilling in continuous chillers. Individual parts from salvage operations, including but not limited to drumsticks, thighs, split carcasses, and split breasts, shall not be cooled in water and ice, but may be cooled in the air, or ice, or under a spray of water with continuous drainage.

(v) Previously chilled poultry carcasses and major portions shall not be rechilled in ice and water, but may be rechilled with ice in continuously drained containers.

(3) Previously chilled poultry carcasses and major portions shall be maintained constantly at 40° F. or below until removed from the vats or tanks for immediate packaging. Such products may be removed from the vats or tanks prior to being cooled to 40° F. or below, for freezing or cooling in the official establishment. Such products shall not be packed until after it has been chilled to 40° F. or below, except when the packaging will be followed immediately by freezing at the official establishment.

(4)(i) In order to facilitate continuous processing operations, poultry carcasses and major parts may be held overnight in chilling tanks containing water-saturated ice, refrigerated water, or other approved cooling media that will maintain all poultry in the tanks at a temperature of 40° F., or lower. Practices (such as reicing, recirculation of the chilling medium, or holding product in refrigerated rooms, or use of increased amounts of ice) shall be employed that will result in all of the poultry in the chilling tanks being maintained at a temperature of 40° F. or lower throughout the holding period.

(ii) Poultry which is to be held in chilling tanks in excess of 24 hours shall at the end of the 24-hour chilling period be removed from the tanks and repacked in clean ice and in clean tanks which are continually drained, or, as an alternative, the tanks shall be drained and reiced and placed in a cooler which will maintain all of the poultry in the tanks at a temperature of 40° F. or below.

(5)(i) Giblets shall be chilled to 40° F. or lower within 2 hours from the time they are removed from the inedible viscera, except that when they are cooled with the carcass, the requirements of paragraph (b)(2) of this section shall apply. Any of the acceptable methods of chilling the poultry carcass may be followed in cooling giblets. When continuous chillers are used to chill giblets or necks, the fresh water intake in the chiller shall be not less than 1 gallon per 40 frying chickens processed, and shall be proportionately increased for other classes of poultry. When necks are chilled together with giblets, the minimum fresh water intake shall be not less than 1 gallon per 20 frying chickens processed and shall be proportionately increased for other classes of poultry. The required minimum fresh water intake in giblet and neck chillers shall be measured through a meter which gives cumulative readings, and the meter shall be readily accessible. In continuous giblet or neck chillers, the temperature of the chilling medium shall not exceed 36° F. in the warmest part of the system.

(d) *Moisture absorption and retention limits.* (1) Poultry washing, chilling, and draining practices and procedures shall be such as will minimize moisture absorption and retention at time of packaging.

(2) With respect to ready-to-cook poultry that is to be consumer packaged, frozen or cooked, the maximum moisture absorption and retention during washing, chilling, and draining processes shall not exceed, at the last readily accessible point at which the poultry carcasses can be selected for testing prior to packaging, the percentage limits set forth in the following tables.

TABLE 1—MAXIMUM MOISTURE ABSORPTION AND RETENTION LIMITS FOR ALL CLASSES OF POULTRY, OTHER THAN TURKEYS, TO BE CONSUMER PACKAGED, FROZEN OR COOKED

Average ready-to-cook carcass weight prior to final washer (less necks and giblets)	Average percent increase in weight over weight of carcass prior to final washer (less necks and giblets)	
	Zone A [1]	Zone B [1]
Chickens 4¼ lbs. and under	8.0	8.7
Chickens over 4¼ lbs. and all other classes of poultry other than turkeys	6.0	6.7

[1] Product shall be retained if, out of five consecutive tests more than one test exceeds the Zone A limits or any test exceeds the Zone B limits. These zone limits were based on a statistical analysis of variation between individual birds with regard to moisture absorption. With these limits the chance of passing a lot with average moisture or above the Zone A limit is less than 15 percent. A lot with average moisture at or above the Zone B limit would have virtually no chance of passing

MOISTURE ABSORPTION AND RETENTION

TABLE 2—MAXIMUM LIMITS FOR ALL TURKEYS TO BE CONSUMER PACKAGED, FROZEN OR COOKED.

Average ready-to-cook carcass weight prior to final washer (less necks and giblets)	Average percent increase in weight over weight of carcass prior to final washer (less necks and giblets)	
	Zone A [1]	Zone B [1]
8 lbs. 8 ozs. and under	8.0	9.0
8 lbs. 9 ozs.–15 lbs. 15 ozs.	6.0	6.4
16 lbs.–16 lbs. 15 ozs.	5.8	6.05
17 lbs.–17 lbs. 15 ozs.	5.5	5.75
18 lbs.–18 lbs. 15 ozs.	5.3	5.55
19 lbs.–19 lbs. 15 ozs.	5.1	5.35
20 lbs.–20 lbs. 15 ozs.	4.9	5.15
21 lbs.–21 lbs. 15 ozs.	4.8	5.05
22 lbs.–22 lbs. 15 ozs.	4.6	4.85
23 lbs.–23 lbs. 15 ozs.	4.5	4.75
24 lbs.–26 lbs. 15 ozs.	4.4	4.65
27 lbs. and over	4.3	4.55

[1] Product shall be retained if, out of five consecutive tests, more than one test exceeds the Zone A limits or any test exceeds the Zone B limits. These zone limits were based on a statistical analysis of variation between individual birds with regard to moisture absorption. With these limits the chance of passing a lot with average moisture at or above the Zone A limit is less than 15 percent. A lot with average moisture at or above the Zone B limit would have virtually no chance of passing.

(3) With respect to ready-to-cook turkey carcasses that are to be cut up, the maximum amount of moisture absorption and retention shall not exceed (at the time the first cut is made) the percentage limits set forth in the following table:

TABLE 3.—MAXIMUM MOISTURE ABSORPTION AND RETENTION LIMITS FOR ALL TURKEYS TO BE CUT-UP

Average ready-to-cook carcass weight prior to final washer (less necks and giblets)	Average percent increase in weight over weight of carcass prior to final washer (less necks and giblets)	
	Zone A [1]	Zone B [1]
8 lbs. 8 ozs. and under	9.0	10.0
8 lbs. 9 ozs.—15 lbs. 15 ozs.	7.0	7.4
16 lbs.—16 lbs. 15 ozs.	6.8	7.05
17 lbs.—17 lbs. 15 ozs.	6.5	6.75
18 lbs.—18 lbs. 15 ozs.	6.3	6.55
19 lbs.—19 lbs. 15 ozs.	6.1	6.35
20 lbs.—20 lbs. 15 ozs.	5.9	6.15
21 lbs.—21 lbs. 15 ozs.	5.8	6.05
22 lbs.—22 lbs. 15 ozs.	5.6	5.85
23 lbs.—23 lbs. 15 ozs.	5.5	5.75
24 lbs.—24 lbs. 15 ozs.	5.4	5.65
27 lbs. and over	5.3	5.55

[1] Product shall be retained if, out of five consecutive tests more than one test exceeds the Zone A limits or any test exceeds the Zone B limits. These zone limits were based on a statistical analysis of variation between individual birds with regard to moisture absorption. With these limits the chance of passing a lot with average moisture at or above the Zone A limit is less than 15 percent. A lot with average moisture at or above the Zone B limit would have virtually no chance of passing

(4) With respect to ready-to-cook chicken carcasses, averaging 4¼ pounds or less, whether they are chilled in continuous chillers and further aged or chilled in slush ice and water, or are chilled in continuous chillers only, prior to being cut up, the maximum amount of moisture absorption and retention shall not exceed (when placed on the cut-up line) the percentage limits set forth in the following table:

AVERAGE PERCENT INCREASE IN WEIGHT OVER WEIGHT OF CARCASS PRIOR TO FINAL WASHER (LESS NECKS AND GIBLETS)

Zone A—10.0 [1]
Zone B—11.0 [1]

(5) With respect to ready-to-cook poultry that is to be ice packed, the maximum amount of moisture absorption shall not exceed, at the last readily accessible point at which the poultry carcasses can be selected for testing on the drip line, the percentage limits set forth in the following table:

[1] Product shall be retained if, out of five consecutive tests, more than one test exceeds the Zone A limits or any test exceeds the Zone B limits. These zone limits were based on a statistical analysis of variation between individual birds with regard to moisture absorption. With these limits the chance of passing a lot with average moisture at or above the Zone A limit is less than 15 percent. A lot with average moisture at or above the Zone B limit would have virtually no chance of passing.

MAXIMUM MOISTURE ABSORPTION AND RETENTION LIMITS FOR ICE PACK POULTRY

AVERAGE PERCENT INCREASE IN WEIGHT OVER WEIGHT OF CARCASS PRIOR TO FINAL WASHER (LESS NECKS AND GIBLETS)

Zone A—12.0 [1]
Zone B—13.0 [1]

With respect to all ice pack poultry, the loss of moisture during holding and transportation to the first destination shall result in moisture retention that is within the limits, applicable to the class of poultry involved, set forth in Zone A of Tables 1 and 2 in subparagraph (2) of this paragraph.

(6) Ten-bird tests shall be conducted at least daily by inspectors to assure compliance with the requirements of this section, using procedures set forth in the Poultry Inspectors' Handbook. The inspectors' 10-bird test will be used to determine compliance, except as additional 50-bird tests are required under subparagraph (7) of this paragraph.

(7) Each official establishment may make adjustments in its washing, chilling, and draining methods provided it submits to the inspector at the establishment, written notice of the proposed adjustments before any changes are made: *And provided further*, That the operator of the establishment, immediately after the change, selects, prepares, identifies, and weighs, in accordance with procedures set forth in the Poultry Inspectors' Handbook,[2] individually a random sample of 50 ready-to-cook poultry carcasses prior to the final washer and again when they are removed from the drip line or other draining device immediately before packing. If the average weight of the 50 poultry carcasses taken before the final washer and their average weight after immediate removal from the drip line or draining device show that the product is in compliance with the Zone A moisture absorption limits, applicable to the class of poultry involved, set forth in this section, the adjusted methods will become the established washing, chilling, and draining system for the establishment. If the results of the weighing of the sample of 50 carcasses show that the product exceeds the Zone A limits set forth in this section, the poultry will be retained in accordance with procedures set forth in the Poultry Inspectors' Handbook. Retained poultry shall not be released from the establishment until they meet the requirements of subparagraph (2) of this paragraph.

(8) The establishment shall provide scales, weights, identification devices, and other supplies necessary to conduct all moisture tests.

(9) When poultry is ice packed in barrels or other containers, the barrels and containers shall be covered and shall have an adequate number of drain holes to permit the water to drain out. However, the Administrator, upon written request and under such conditions as he may prescribe in specific cases, may approve the shipment of poultry in operational type containers, such as chill tanks or lugs, from one official establishment to another official establishment for further processing.

(10) When ready-to-cook birds are to be consumer packed, the giblets shall be handled in a manner that will prevent free water from being included in the giblet package. The average weight of giblet wrapping material shall be not more than 30 pounds per standard ream (24" x 36"—500 sheets) when tested in accordance with the Technical Association of the Pulp and Paper Industry (T.A.P.P.I.) Standard T–410 except the weight may exceed 30 pounds per standard ream when the absorbent capacity is such that the total weight of the material after moisture absorption is no greater than the total weight, after moisture absorption, of material weighing 30 pounds per standard ream. Test samples shall be conditioned in accordance with T.A.P.P.I. Standard T–402. The sample to be tested shall consist of 10 sheets representative of the shipment or lot, and individual sheets within the sample may vary within normal tolerance from the prescribed maximum weight, but the average of the sample (10 sheets) shall not weigh in excess of 30 pounds per standard ream (24" x 36"—500 sheets) except as specified above. The moisture absorption shall not exceed 200 percent of the dry weight of the sample (as conditioned in accordance with T.A.P.P.I. Standard T–402) and giblet wrappers (uncreped) shall not exceed the following sizes or equivalents: Chickens and Ducks, 9" x 12", Turkeys, 12" x 14".

(e) *Air chilling.* In air chilling, dressed poultry shall be placed in a refrigerated room with moderate air movement at a temperature which will reduce the internal temperature of the carcasses to 40° F. or less within 24 hours. In air chilling ready-to-cook poultry, the internal temperature of the carcasses shall be reduced to 40° F. or less within 16 hours.

(f) *Freezing.* (1) Dressed and ready-to-cook poultry which is to be or is labeled with descriptive terms such as "fresh frozen," "quick frozen," or "frozen fresh" or any other term implying a rapid change from a fresh state to a

[1] Product shall be retained if, out of five consecutive tests, more than one test exceeds the Zone A limits or any test exceeds the Zone B limits. These zone limits were based on a statistical analysis of variation between individual birds with regard to moisture absorption. With these limits the chance of passing a lot with average moisture at or above the Zone A limit is less than 15 percent. A lot with average moisture at or above the Zone B limit would have virtually no chance of passing.

[2] The Poultry Inspectors' Handbook is available upon request from the Consumer and Marketing Service of this Department.

frozen state shall be placed into a freezer within 48 hours after initial chilling in accordance with paragraph (b) of this section. During this period, if such poultry is not immediately placed into a freezer after chilling and packaging, it shall be held at 36° F. or lower.

(2) The freezing operation for dressed poultry shall be accomplished in such a manner as to bring the internal temperature of the birds in the center of the package to 0° F. or below within 96 hours from the time of entering the freezer; whereas, ready-to-cook poultry shall be frozen in a manner so as to bring the internal temperature of the birds at the center of the package to 0° F. or below within 72 hours from the time of entering the freezer.

(3) Upon written request, and under such conditions as may be prescribed by the Administrator, in specific cases, dressed and ready-to-cook poultry which is to be frozen immediately may be moved from the official establishment prior to freezing: *Provided*, That the plant and freezer are so located and such necessary arrangements are made that the Inspection Service will have access to the freezing room and adequate opportunity to determine compliance with the time and temperature requirements specified in subparagraph (2) of this paragraph.

(4) Warm packaged ready-to-cook poultry which is to be chilled by immediate entry into a freezer within the official establishment shall within 2 hours from time of slaughter be placed in a plate freezer or a freezer with a functioning circulating air system where a temperature of −10° F. or lower is maintained.

(5) Frozen poultry shall be held under conditions which will maintain the product in a solidly frozen state with temperature maintained as constant as possible under good commercial practice.

(6) Immersion or spray freezing equipment shall be constructed of noncorrosive metal or other acceptable material. Compounds used in immersion or spray freezing procedures shall be approved by the Administrator.

Subpart J—Ante Mortem Inspection

§ 81.70 Ante mortem inspection; when required; extent.

An ante mortem inspection of poultry shall, where and to the extent considered necessary by the Administrator and under such instructions as he may issue from time to time, be made of poultry on the day of slaughter in any official establishment.

§ 81.71 Condemnation on ante mortem inspection.

Birds plainly showing on ante mortem inspection any disease or condition, that under §§ 81.80 to 81.93, inclusive, would cause condemnation of their carcasses on post mortem inspection, shall be condemned. Birds which on ante mortem inspection are condemned shall not be dressed, nor shall they be conveyed into any department of the official establishment where poultry products are prepared or held. Poultry which has been condemned on ante mortem inspection and has been killed shall under the supervision of an inspector of the Inspection Service, be disposed of as provided in § 81.95.

§ 81.72 Segregation of suspects on ante mortem inspection.

All birds which on ante mortem inspection do not plainly show, but are suspected of being affected with any disease or condition that under §§ 81.80 to 81.93, inclusive, may cause condemnation in whole or in part on post mortem inspection, shall be segregated from the other poultry and held for separate slaughter, evisceration, and post mortem inspection. The inspector shall be notified when such segregated lots are presented for post mortem inspection and inspection of such birds shall be conducted separately. Such procedure for the correlation of ante mortem and post mortem findings by the inspector, as may be prescribed or approved by the Administrator, shall be carried out.

§ 81.73 Quarantine of diseased poultry.

If live poultry, which is affected by any contagious disease which is transmissible to man, is brought into an official establishment, such poultry shall be segregated. The slaughtering of such poultry shall be deferred and the poultry shall be dealt with in one of the following ways:

(a) If it is determined by a veterinary inspector that further handling of the poultry will not create a health hazard, the lot shall be slaughtered separately, subject to ante mortem and post mortem inspection pursuant to the regulations.

(b) If it is determined by a veterinary inspector that further handling of the poultry will create a health hazard, such poultry may be released for treatment under the control of an appropriate State or Federal agency. If the circumstances are such that release for treatment is impracticable, a careful bird-by-bird ante mortem inspection shall be made, and all birds found to be, or which are suspected of being, affected with a contagious disease transmissible to man shall be condemned.

§ 81.74 Poultry suspected of having biological residues.

When any poultry at an official establishment is suspected of having been treated with or exposed to any substance that may impart a biological residue which would make their edible tissues adulterated, the poultry shall be returned to the seller, or processed at the establishment and retained under U.S. Retained tags pending final disposition in accordance with the Act and the regulations, or slaughtered at the establishment and buried or incinerated in a manner satisfactory to the inspector. The Inspection Service will notify the other Federal and State agencies concerned. To aid in determining the amount of residue present in the poultry, officials of the Inspection Service may permit the slaughter of any such poultry to collect tissues for analysis of the residue.

§ 81.75 Poultry used for research.

(a) No poultry used in any research investigation involving an experimental biological product, drug, or chemical shall be eligible for slaughter at an official establishment unless:

(1) The operator of such establishment, the sponsor of the investigation, or the investigator has submitted to the Inspection Service, or the Veterinary Biologics Division, or the Environmental Protection Agency, or the Food and Drug Administration of the Department of Health, Education, and Welfare, data or a summary evaluation of the data which demonstrates that the use of such biological product, drug, or chemical will not result in the products of such poultry being adulterated, and the Administrator has approved such slaughter.

Subpart K—Post Mortem Inspection; Disposition of Carcasses and Parts

§ 81.76 Post mortem inspection; when required; extent.

(a) A post mortem inspection shall be made on a bird-by-bird basis on all poultry eviscerated in an official establishment. No viscera or any part thereof shall be removed from any poultry processed in any official establishment, except at the time of post mortem inspection unless their identity with the rest of the carcass is maintained in a manner satisfactory to the inspector until such inspection is made. Each carcass to be eviscerated shall be opened so as to expose the organs and the body cavity for proper examination by the inspector and shall be prepared immediately after inspection as ready-to-cook poultry. If a carcass is frozen, it shall be thoroughly thawed before being opened for examination by the inspector. Each carcass, or all parts comprising such carcass, shall be examined by the inspector, except for parts that are not needed for inspection purposes and are not intended for human food and are condemned.

(b) Each bird that is slaughtered but is not to be eviscerated at the official establishment shall be promptly processed as dressed poultry and inspected to determine to the extent possible without examining the viscera whether such carcass is adulterated.

§ 81.77 Carcasses held for further examination.

Each carcass, including all parts thereof, in which there is any lesion of disease, or other condition which might render such carcass or any part thereof adulterated and with respect to which a final decision cannot be made on first examination by the inspector, shall be held for further examination. The identity of each such carcass, including all parts thereof, shall be maintained until a final examination has been completed.

§ 81.78 Condemnation of carcasses and parts.

At the time of any inspection under this subpart each carcass, or any part

thereof, which is found to be adulterated shall be condemned, except that any such articles which may be made not adulterated by reprocessing, need not be so condemned if so reprocessed under the supervision of an inspector and thereafter found to be not adulterated. Carcasses and any parts thereof that are condemned because of disease and carcasses and parts thereof that are condemned because of biological residues shall be kept separate from those condemned for other causes, and these two classes shall also be kept separate from each other. If no appeal is taken under § 81.35 with respect to any condemnation, the condemned articles shall be disposed of as provided in § 81.95.

§ 81.79 Passing of carcasses and parts.

Each carcass and all organs and other parts of carcasses which are found to be not adulterated shall be passed for human food.

§ 81.80 General; biological residues.

(a) The carcasses or parts of carcasses of all poultry inspected at an official establishment and found at the time of post mortem inspection, or at any subsequent inspection, to be affected with any of the diseases or conditions named in other sections in this subpart, shall be disposed of in accordance with the section pertaining to the disease or condition. Owing to the fact that it is impracticable to formulate rules for each specific disease or condition and to designate at just what stage a disease process results in an adulterated article, the decision as to the disposal of all carcasses, organs or other parts not specifically covered by the regulations, or by instructions of the Administrator issued pursuant thereto, shall be left to the inspector in charge, and if the inspector in charge is in doubt concerning the disposition to be made, specimens from such carcasses shall be forwarded to the laboratory for diagnosis.

(b) All carcasses, organs, or other parts of carcasses of poultry shall be condemned if it is determined that they are adulterated because of the presence of any biological residues.

§ 81.81 Tuberculosis.

Carcasses of poultry affected with tuberculosis shall be condemned.

§ 81.82 Diseases of the leukosis complex.

Carcasses of poultry affected with any one or more of the several forms of the avian leukosis complex shall be condemned.

§ 81.83 Septicemia or toxemia.

Carcasses of poultry showing evidence of any septicemic or toxemic disease, or showing evidence of an abnormal physiologic state, shall be condemned.

§ 81.84 Airsacculitis.

(a) A carcass with airsac inflammation with evidence of septicemia-toxemia must be condemned regardless of the nature of the exudate or the extent of the inflammation in the airsacs.

(b) A carcass with airsac inflammation without evidence of septicemia-toxemia may be passed for human food, provided all diseased tissue and exudate is completely removed.

§ 81.85 Special diseases.

Carcasses of poultry showing evidence of any disease which is characterized by the presence, in the meat or other edible parts of the carcass, of organisms or toxins dangerous to the consumer, shall be condemned.

§ 81.86 Inflammatory processes.

Any organ or other part of a carcass which is affected by an inflammatory process shall be condemned and, if there is evidence of general systemic disturbance, the whole carcass shall be condemned.

§ 81.87 Tumors.

Any organ or other part of a carcass which is affected by a tumor shall be condemned and when there is evidence of metastasis or that the general condition of the bird has been affected by the size, position or nature of the tumor, the whole carcass shall be condemned.

§ 81.88 Parasites.

Organs or other parts of carcasses which are found to be infested with parasites, or which show lesions of such infestation shall be condemned and, if the whole carcass is affected, the whole carcass shall be condemned.

§ 81.89 Bruises.

Any part of a carcass which is badly bruised shall be condemned and, if the whole carcass is affected as a result of the bruise, the whole carcass shall be condemned. Parts of a carcass which show only slight reddening from a bruise may be passed for food.

§ 81.90 Cadavers.

Carcasses of poultry showing evidence of having died from causes other than slaughter shall be condemned.

§ 81.91 Contamination.

Carcasses of poultry contaminated by volatile oils, paints, poisons, gases, scald vat water in the air sac system, or other substances which render the carcasses adulterated shall be condemned. Any organ or other part of a carcass which has been accidentally mutilated in the course of processing shall be condemned, and if the whole carcass is affected, the whole carcass shall be condemned.

§ 81.92 Overscald.

Carcasses of poultry which have been overscalded, resulting in a cooked appearance of the flesh, shall be condemned.

§ 81.93 Decomposition.

Carcasses of poultry deleteriously affected by post mortem changes shall be disposed of as follows:

(a) Carcasses which have reached a state of putrefaction or stinking fermentation shall be condemned.

(b) Any part of a carcass which is green struck shall be condemned and, if the carcass is so extensively affected that removal of affected parts is impracticable, the whole carcass shall be condemned.

(c) Carcasses affected by types of post mortem change which are superficial in nature may be passed for human food after removal and condemnation of the affected parts.

Subpart L—Handling and Disposal of Condemned or Other Inedible Products at Official Establishments

§ 81.95 Disposal of condemned carcasses and parts.

(a) All condemned carcasses, or condemned parts of carcasses, shall be disposed of by one of the following methods, under the supervision of an inspector of the Inspection Service. (Facilities and materials for carrying out the requirements in this section shall be furnished by the official establishment.)

(b) Steam treatment (which shall be accomplished by processing the condemned product in a pressure tank under at least 40 pounds of steam pressure) or thorough cooking in a kettle or vat, for a sufficient time to effectively destroy the product for human food purposes and preclude dissemination of disease through consumption by animals. (Tanks and equipment used for this purpose or for rendering or preparing inedible products shall be in rooms or compartments separate from those used for the preparation of edible products. There shall be no direct connection by means of pipes, or otherwise, between tanks containing inedible products and those containing edible products.)

(c) Incineration or complete destruction by burning.

(d) Chemical denaturing, which shall be accomplished by the liberal application to all carcasses and parts thereof, of:

(1) Crude carbolic acid,

(2) Kerosene, fuel oil or used crank case oil, or

(3) Any phenolic disinfectant conforming to commercial standards CS 70–41 or CS 71–41 which shall be used in at least 2 percent emulsion or solution.

(4) Any other substance or method that the Administrator approves in specific cases, which will denature the carcasses and parts to the extent necessary to accomplish the purposes of this section.

Subpart M—Official Marks, Devices and Certificates; Export Certificates; Certification Procedures

§ 81.96 Wording and form of the official inspection legend.

Except as otherwise provided in this subpart, the official inspection legend required to be used with respect to inspected and passed poultry products shall include wording as follows: "Inspected for wholesomeness by U.S. Department of Agriculture." This wording shall be

contained within a circle. The form and arrangement of such wording shall be exactly as indicated in the example in Figure 1, except that the appropriate official establishment number shall be shown, and if the establishment number appears elsewhere on the labeling material in the manner prescribed in § 81.123 (b), it may be omitted from the inspection mark. The Administrator may approve the use of abbreviations of such inspection mark; and such approved abbreviations shall have the same force and effect as the inspection mark. The official inspection legend, or the approved abbreviation thereof, shall be printed on consumer packages and other immediate containers of inspected and passed poultry products, or on labels to be securely affixed to such containers. Further, such legend or approved abbreviation thereof, shall be applied to shipping containers of such products and may be printed or stenciled thereon, but shall not be applied by rubber stamping. When applied by a stencil, the legend shall be not less than 4 inches in diameter.

FIGURE 1.

§ 81.97 Official dressed poultry identification mark.

Dressed poultry processed under inspection and passed for distribution as provided in § 81.124 or § 81.190 shall be identified by an official inspection legend, as shown in Figure 2, which shall be not less than 1½" x 3" in size. Such mark shall be applied to the immediate containers and shipping containers of the poultry.

FIGURE 2.

§ 81.98 Official seal.

The official mark for use in sealing means of conveyance used in transporting poultry products under any requirement in this part shall be the inscription and a serial number as shown below, and any seals approved by the Administrator for applying such mark shall be an official device.

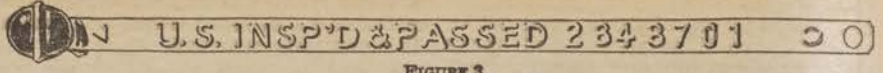

FIGURE 3.

§ 81.99 Official retention and rejection tags.

An inspector may use such tags or other devices and methods at an official establishment as may be approved by the Administrator for the identification and control of (a) poultry and poultry products which appear to be not in compliance with the regulations or which are held for further examination and (b) any equipment, utensils, rooms, or compartments at such establishments which are found to be unclean or otherwise in violation of any of the regulations. No poultry, poultry product, or other article, or equipment, utensil, room, or compartment so identified shall be used until it has been made acceptable. The Administrator has approved a paper tag (a portion of Form C&MS 510) bearing the legend "U.S. Retained" for use on poultry or poultry products under this section, and has approved a paper tag (another portion of Form C&MS 510) bearing the legend "U.S. Rejected" for use on equipment, utensils, rooms, and compartments under this section. Such tags are official devices and shall not be removed by anyone other than an inspector.

§ 81.100 Official detention tag.

The detention tag prescribed in § 81.211 is an official device.

§ 81.101 Official U.S. Condemned mark.

The term "U.S. Inspected and Condemned" as shown below is an official mark and the devices used by the Department for applying such mark are official devices.

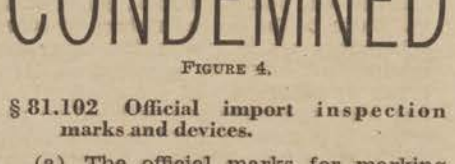

FIGURE 4.

§ 81.102 Official import inspection marks and devices.

(a) The official marks for marking poultry products offered for entry as "U.S. inspected and passed" or "U.S. refused entry" as required by § 81.204 shall be in the following forms, respectively, and any device approved by the Administrator for applying such marks shall be an official device.[1]

[1] The letters "PHI" are an abbreviation for Philadelphia and are used as an example only. The authorized abbreviation for the port or geographical area in which the product was inspected will be shown in each stamp impression.

FIGURE 5.

FIGURE 6.

(b) The import warning notice prescribed in § 81.200(c) is an official device.

§ 81.103 Official poultry condemnation certificates.

The operator of each official establishment shall slaughter as a separate lot or lots, all live poultry received from each grower or other person who sold such poultry to the operator, so that the seller of each lot given ante mortem or post mortem inspection at the establishment can be identified. Upon request by the operator of the establishment, or by the seller of the live poultry, the inspector in charge shall issue a poultry condemnation certificate in the following form (MP–512–1) showing the total number of poultry in the lot and the numbers condemned and the reasons for such condemnations:

§ 81.104 Official export certificates, marks, and devices.

The form of certificate described in § 81.107 is an official export certificate and the marks shown in Figures 8, 9, and 10 are official marks used on such certificates to identify inspected and passed products for export, when certified at the respective locations stated in the marks; and the mark shown in Figure 11 is the official mark used on outside containers to identify inspected and passed poultry products for export. Devices used by the Department to apply such marks are official devices.

FIGURE 8.

FIGURE 9.

FIGURE 10.

FIGURE 11.

§ 81.105 Export certification; marking of containers.

(a) Upon request by any person intending to export any poultry product, any inspector is authorized to issue an official export certificate as prescribed in § 81.107 with respect to the shipment to any foreign country of any inspected and passed poultry product, after adequate inspection of the product has been made by the inspector to determine its identity as inspected and passed and eligible for export: *Provided,* That the product is offered for inspection at an official establishment. Each shipping container covered by the export certificate shall be marked with an official export stamp as shown in § 81.104 bearing the number of the export certificate. Official export certificates will be issued only upon condition that the products covered thereby shall be subject to reinspection at any place and at any time prior to exportation to determine the identity of the products and their eligibility for certification, and such certificates shall become invalid if such reinspection is refused or discloses that the products are not eligible for such certification. If reinspection discloses that any poultry products covered by an export certificate are not eligible for such certification, a superseding certificate setting forth such findings shall be issued and copies shall be furnished to interested persons.

(b) The original and a duplicate of each official export certificate shall be delivered to the person who requested such certificate or his agent. Additional official file copies of the export certificates shall be prepared and distributed by the inspector in accordance with the instructions of the Administrator.

(c) Only one certificate shall be issued for each consignment, except in case of error in the certificate or loss of the certificate originally issued. A request for a new certificate, except in the case of a lost certificate, shall be accompanied by the original and all copies of the first certificate. The new certificate shall carry the following statement: "This certificate supersedes certificate No. _____ Dated _____. The outside container of the poultry product covered by this certificate is stamped with U.S. Department of Agriculture Certificate No. _____."

§ 81.106 Form of export certificate.

The official export certificate authorized by this subpart is a paper certificate form (MP–506) for signature by an inspector, bearing the legend:

U.S. DEPARTMENT OF AGRICULTURE
CONSUMER AND MARKETING SERVICE
MEAT AND POULTRY INSPECTION PROGRAM

EXPORT CERTIFICATE

and the seal of the U.S. Department of Agriculture, with a certification that the slaughtered poultry and other poultry products described on the form came from birds that were officially given an ante mortem and post mortem inspection and passed in accordance with the regulations of the Department and that such products are wholesome and fit for human consumption. The certificate also bears a serial number such as "A 2404" and shows the respective names of the exporter and the consignee, the destination, the shipping marks, the names of such products, the total net weight thereof, and such other information as the Administrator may prescribe or approve in specific cases.

§ 81.107 Special procedures as to certification of poultry products for export to certain countries.

When export certificates are required by any foreign country for poultry products exported to such country, the Administrator shall in specific cases prescribe or approve the form of export certificate to be used and the methods and procedures as he deems appropriate with respect to the processing of such products, in order to comply with requirements specified by the foreign country regarding the export products. Inspectors shall satisfy themselves that all such requirements are met before issuing such an export certificate. It shall be the responsibility of the exporter to provide any unofficial documentation needed to meet the foreign requirements, before the export certificate will be issued. Such certificates may also cover articles exempted from definition as a poultry product under § 81.15 if they have been inspected and are certified under the regulations in Part 70 of this chapter.

§ 81.108 Official poultry inspection certificates; issuance and disposition.

(a) Upon the request of an interested party, any veterinary inspector is authorized to issue an official poultry inspection certificate with respect to any lot of slaughtered poultry inspected by him. At any official establishment each certificate shall be signed by the inspector who made the inspection covered by the certificate, and if more than one inspector participated in the inspection of the lot of poultry, each such inspector shall sign the certificate with respect to such lot. If the inspection of a lot covered by a certificate was made by a lay inspector, such certificate shall also be signed by the inspector in charge when such inspection was made. Any inspector is authorized to issue a poultry inspection certificate with respect to any other poultry product inspected by him.

(b) The original and one copy of each poultry inspection certificate shall be issued to the applicant who requested such certificate, and one copy shall be retained by the inspector for filing. The inspector who issues any inspection certificate is authorized to furnish an additional copy of such certificate upon the request of an interested party. The person who sold the live poultry involved to the official establishment is an interested party for purposes of this section.

§ 81.109 Form of official poultry inspection certificate.

Each official poultry inspection certificate issued pursuant to the regulations shall be in the form shown in Figure 12, and shall show the product names of the poultry products covered by such certificate, the quantity of each such product, such shipping marks as are necessary to identify such products, and all pertinent information with respect to their status under the regulations.

§ 81.110 Erasures or alterations made on certificates.

Erasures or alterations not initialed by the issuing inspector shall not be permitted on any official certificate or any copy thereof. All certificates rendered useless through clerical error or otherwise and all certificates canceled for whatever cause shall be voided and initialed, and one copy shall be retained in the inspector's file; and the original and all other copies shall be forwarded to the officer in charge.

§ 81.111 Data to be entered in proper spaces.

All certificates shall be so executed that the data entered thereon will appear in the proper spaces on each copy of the certificate.

Subpart N—Labeling and Containers

§ 81.115 Containers of inspected and passed poultry products required to be labeled.

Except as may be authorized in specific cases by the Administrator with respect to shipment of poultry products between official establishments, each

shipping container and each immediate container of any inspected and passed poultry product shall at the time it leaves the official establishment bear a label which contains information, and has been approved, in accordance with this subpart.

§ 81.116 Wording on labels of immediate containers.

(a) Each label for use on immediate containers for inspected and passed poultry products shall bear on the principal display panel (except as otherwise permitted in the regulations), the items of information required by this subpart. Such items of information shall be in distinctly legible form, shall read in the same general direction, and shall be generally parallel to each other.

(b) The principal display panel shall be the part of a label that is most likely to be displayed, presented, shown, or examined under customary conditions of display for sale. The principal display panel shall be large enough to accommodate all the mandatory label information required to be placed thereon by the regulations with clarity and conspicuousness and without being obscured by design or vignettes, or crowding. Where packages bear alternate principal display panels, information required to be placed on the principal display panel shall be duplicated on each principal display panel. The area that is to bear the principal display panel shall be:

(1) In the case of a rectangular package, one entire side, the area of which is the product of the height times the width of that side.

(2) In the case of a cylindrical or nearly cylindrical container:

(i) An area on the side of the container that is 40 percent of the product of the height of the container times the circumference, or

(ii) A panel, the width of which is one-third of the circumference and the height of which is as high as the container: *Provided, however,* That there is, immediately to the right or left of such principal display panel, a panel which has a width not greater than 20 percent of the circumference and a height as high as the container, and which is reserved for information prescribed in §§ 81.118, 81.122, and 81.123. Such panel shall be known as the "20 percent panel" and such information may be shown on that panel in lieu of showing it on the principal display panel as provided in § 81.116.

(3) In the case of a container of any other shape, 40 percent of the total surface of the container.

In determining the area of the principal display panel, exclude tops, bottoms, flanges at tops and bottoms of cans, and shoulders and necks of bottles or jars.

§ 81.117 Name of product.

(a) The label shall show the name of the product, which, in the case of a poultry product which purports to be or is represented as a product for which a definition and standard of identity or composition is prescribed in Subpart P of this part, shall be the name of the food specified in the standard, and in the case of any other poultry product shall be the common or usual name of the food, if any there be, and if there is none, a truthful descriptive designation.

(b) The name of the product required to be shown on labels for fresh or frozen raw whole carcasses of poultry shall be in either of the following forms: The name of the kind (such as chicken, turkey, or duck) preceded by the qualifying term "young" or "mature" or "old", whichever is appropriate; or the appropriate class name as described in § 81.169(a). The name of the kind may be used in addition to the class name, but the name of the kind alone without the qualifying age or class term is not acceptable as the name of the product except that the name "chicken" may be used without such qualification with respect to a ready-to-cook pack of fresh or frozen cut-up young chickens, or a half of a young chicken, and the name "duckling" may be used without such qualification with respect to a ready-to-cook pack of fresh or frozen young ducks. The class name may be appropriately modified by changing the word form such as using the term "roasting chicken," rather than "roaster." The appropriate names for cut-up parts are set forth in § 81.169(b). When naming parts cut from young poultry, the identity of both the kind of poultry and the name of the part shall be included in the product name. The product name for parts or portions cut from mature poultry shall include, along with the part or portion name, the class name or the qualifying term "mature." The name of the product for cooked or heat processed poultry products shall include the kind name of the poultry from which the product was prepared.

(c) Poultry products containing light and dark chicken or turkey meat in quantities other than natural proportions, as indicated in Table 1 in this paragraph, must have a qualifying statement in conjunction with the name of the product indicating, as shown in Table 1 the types of meat actually used, except that when the product contains less than 10 percent cooked deboned poultry meat or is processed in such a manner that the character of the light and dark meat is not distinguishable, the qualifying statement will not be required. The qualifying statement must be in type at least one-half the size and of equal boldness as the name of the product; e.g., Boned Turkey (Dark Meat). If a product contains light and dark meat not in natural proportions and bears a label referring to light or dark meat content, the label shall include a qualifying statement in accordance with this paragraph.

TABLE 1

Label terminology	Percent light meat	Percent dark meat
Natural proportions	50–65	50–35.
Light or white meat	100	0.
Dark meat	0	100.
Light and dark meat	51–65	49–35.
Dark and light meat	35–49	65–51.
Mostly white meat	66 or more	34 or less.
Mostly dark meat	34 or less	66 or more.

(d) Boneless poultry products shall be labeled in a manner that accurately describes their actual form and composition. The product name shall specify the form of the product (e.g., emulsified, finely chopped, etc.), and the kind name of the poultry, and if the product does not consist of natural proportions of meat, skin, and fat, as they occur in the whole carcass, shall also include terminology that describes the actual composition. If the product is cooked, it shall be so labeled. For the purpose of this paragraph, natural proportions of skin, as found on a whole chicken or turkey carcass, will be considered to be as follows:

	Raw	Cooked
	Percent	
Chicken	20	25
Turkey	15	20

Boneless poultry products shall not have a bone equivalent of more than 1 percent, on a raw weight basis.

§ 81.118 Ingredients statement.

(a) The label shall show a statement of the ingredients in the poultry product if the product is fabricated from two or more ingredients. Such ingredients shall be listed by their common or usual names in the order of their descending proportions.

(b) For the purpose of this paragraph, the term "chicken meat," unless modified by an appropriate adjective, is construed to mean deboned white and dark meat; whereas the term "chicken" may include other edible parts such as skin and fat not in excess of their natural proportions, in addition to the chicken meat. If the term "chicken meat" is listed and the product also contains skin, giblets, or fat, it is necessary to list each such ingredient. Similar principles shall be followed in listing ingredients of poultry products processed from other kinds of poultry.

(c) Spices, flavorings, and colorings may be listed as spices, flavorings, and colorings without naming each. However, no ingredient shall be designated on the label as a spice, flavoring, or coloring, unless it is a spice, flavoring or coloring, as the case may be; however, the term "flavorings" may be used to designate natural spices, essential oils, oleoresins, and other natural spice extractives. The term "spices" may be used to designate natural spices. An ingredient which is both a spice and a coloring, or both a flavoring and a coloring,

shall be designated as "spice and coloring" or "flavoring and coloring," as the case may be, unless such ingredient is designated by its specific name.

(d) On containers of frozen dinners, entrees, and pizzas, and similarly packaged products in cartons the ingredient statement may be placed on the front riser panel: *Provided*, That the words "see ingredients" followed immediately by an arrow pointing to the front riser panel is placed on the principal display panel immediately above the location of such statement without intervening printing or designs.

§ 81.119 Declaration of artificial flavoring or coloring.

(a) When an artificial smoke flavoring or a smoke flavoring is added as an ingredient in the formula of any poultry product, there shall appear on the label, in prominent letters and contiguous to the name of the product, a statement such as "Artificial Smoke Flavoring Added" or "Smoke Flavoring Added," as applicable, and the ingredient statement shall identify any artificial smoke flavoring added as an ingredient in the formula of the poultry product.

(b) Any poultry product which bears or contains any artificial flavoring other than an an artificial smoke flavoring, or contains any artificial coloring shall bear a label stating that fact on the immediate container.

§ 81.120 Antioxidants; chemical preservatives; and other additives.

When an antioxidant is added to a poultry product, there shall appear on the label in prominent letters and contiguous to the name of the product, a statement showing the name of the antioxidant and the purpose for which it is added, such as "BHA added to help protect the flavor." Immediate containers of poultry products packed in, bearing, or containing any chemical preservative shall bear a label stating that fact and naming the additive and the purpose of its use. Immediate containers of poultry products packed in, bearing or containing any other chemical additive shall bear a label naming the additive and the purpose of its use.

§ 81.121 Quantity of contents.

(a) The label shall bear an accurate statement of the net quantity of contents in terms of weight, measure or numerical count, as appropriate. However, the Administrator may approve the use of labels for certain types of consumer packages which do not bear a statement of the net weight that would otherwise be required under this subparagraph: *Provided*, That the shipping container bears a statement "Net weight to be marked on consumer packages prior to display and sale": *And provided further*, That the total net weight of the contents of the shipping container is marked on such container: *And provided further*, That the shipping container bears a statement "Tare weight of consumer package" and in close proximity thereto, the actual tare weight (weight of packaging material), weighed to the nearest one-eighth ounce or less, of the individual consumer package in the shipping container. The above specified statements may be added to approved shipping container labels upon approval by the inspector in charge.

(b) The net weight marked on containers of poultry products shall be the net weight of the poultry products and shall not include the weights of the wet or dry packaging materials and giblet wrapping materials. When a poultry product and a nonpoultry product are separately wrapped and are placed in a single immediate container bearing the name of both products, the net weight shown on such immediate container may be the total net weight of the two products, or such immediate container may show the net weights of the poultry product and the nonpoultry product separately. Notwithstanding the other provisions of this paragraph, the label on consumer size retail packages of stuffed poultry and other stuffed poultry products must show the total net weight of the poultry product, and in close proximity thereto, a statement specifying the minimum weight of the poultry in the product.

(c) (1) The statement of net quantity of contents shall appear except as otherwise permitted under this paragraph (c), on the principal display panel of all containers to be sold at retail intact, in conspicuous and easily legible boldface print or type, in distinct contrast to other matter on the container, and shall be declared in accordance with the provisions of this paragraph (c).

(2) The statement shall be placed on the principal display panel within the bottom 30 percent of the area of the panel in lines generally parallel to the base: *Provided*, That on packages having a principal display panel of 5 square inches or less, the requirement for placement within the bottom 30 percent of the area of the label panel shall not apply when the statement meets the other requirements of this paragraph. The declaration may appear in more than one line.

(3) The statement shall be in letters and numerals in type size established in relationship to the area of the principal display panel of the package and shall be uniform for all packages of substantially the same size by complying with the following type specifications:

(i) Not less than one-sixteenth inch in height on containers, the principal display panel of which has an area of 5 square inches or less;

(ii) Not less than one-eighth inch in height on containers, the principal display panel of which has an area of more than five but not more than 25 square inches;

(iii) Not less than three-sixteenth inch in height on containers, the principal display panel of which has an area of more than 25 but not more than 100 square inches;

(iv) Not less than one-quarter inch in height on containers, the principal display panel of which has an area of more than 100 but not more than 400 square inches;

(v) Not less than one-half inch in height on containers, the principal display panel of which has an area of more than 400 square inches.

(vi) The ratio of height to width of letters and numerals shall not exceed a differential of 3 units to 1 unit (no more than 3 times as high as it is wide). This height standard pertains to upper case or capital letters. When upper and lower case or all lower case letters are used, it is the lower case letter "o" or its equivalent that shall meet the minmum standards. When fractions are used, each component numeral shall meet one-half the height standards.

(vii) The statement shall appear as a distinct item on the principal display panel and shall be separated, from other printed label information appearing to the left or right of the statement, by a space at least equal in height to the height of the lettering used in the statement from other printed label information appearing above or below the statement and by a space at least equal in width to twice the width of the letter "N" of the style of type used in the quantity of contents statement.

(4) The terms "net weight" or "net wt." shall be used when stating the net quantity of contents in terms of weight, and the term "net contents" or "contents" when stating the net quantity of contents in terms of fluid measure. Except as provided in § 81.128, the statement shall be expressed in terms of avoirdupois weight or liquid measure. Where no general consumer usage to the contrary exists, the statement shall be in terms of liquid measure, if the product is liquid, or in terms of weight if the product is solid, semisolid, viscous or a mixture of solid and liquid. For example, a declaration of three-fourths pound avoirdupois weight shall be expressed as "Net Wt. 12 oz."; a declaration of 1½ pounds avoirdupois weight shall be expressed as "Net Wt. 24 oz. (1 lb. 8 oz.).", "Net Wt. 24 oz. (1½ lb.)," or "Net Wt. 24 oz. (1.5 lbs.)." On packages containing 1 pound or 1 pint or more, and less than 4 pounds or 1 gallon, the statement shall be expressed as a dual declaration both in ounces and (immediately thereafter in parenthesis) in pounds, with any remainder in terms of ounces or common or decimal fraction of the pound, or in the case of liquid measure, in the largest whole units with any remainder in terms of fluid ounces or common or decimal fraction of the pint or quart, except that on random weight packages the statement shall be expressed in terms of pounds and decimal fractions of the pound carried out to not more than two decimal places, for packages over 1 pound, and for packages which do not exceed 1 pound the statement may be in decimal fractions of the pound in lieu of ounces.

(5) The statement as it is shown on a label shall not be false or misleading and shall express an accurate statement

of the quantity of contents of the container, exclusive of wrappers and packaging substances. Reasonable variations caused by loss or gain of moisture during the course of distribution notwithstanding good distribution practices or by unavoidable deviations notwithstanding good manufacturing practice will be recognized. Variations from stated quantity of contents shall not be unreasonably large. The statement shall not include any term qualifying a unit of weight, measure or count such as "jumbo quart," "full gallon," "giant quart," "when packed," "minimum," or words of similar import.

(6) Labels for containers which bear any representation as to the number of servings contained therein shall bear, contiguous to such representation, and in the same size type as is used for such representation, a statement of the net quantity of each such serving.

(7) On a multiunit retail package, a statement of the quantity of contents shall appear on the outside of the package and shall include the number of individual units, the quantity of each individual unit, and, in parentheses, the total quantity of contents of the multiunit package in terms of avoirdupois or fluid ounces, except that such declaration of total quantity need not be followed by an additional parenthetical declaration in terms of the largest whole units and subdivisions thereof, as otherwise required by this paragraph (c). "A multiunit retail package" is a package containing two or more individually packaged units of the identical commodity and in the same quantity, with the individual packages intended to be sold as part of the multiunit retail package but capable of being sold individually. Open multiunit retail packages that do not obscure the number of units and the labeling thereon are not subject to this subparagraph (7) if the labeling of each individual unit complies with the requirements of this paragraph.

(8) Random weight consumer size packages bearing labels declaring net weight, price per pound, and total price, shall be exempt from the type size, dual declaration, and placement requirements of this paragraph if an accurate statement of net weight is shown conspicuously on the principal display panel of the package. A "random weight package" is one of a lot, shipment, or delivery of packages of the same product with varying weights and with no fixed weight pattern.

§ 81.122 Identification of manufacturer, packer, or distributor.

The name and address of the manufacturer, packer, or distributor shall be shown on the label and if only the name and address of the distributor is shown, it shall be qualified by such term as "packed for," "distributed by," or "distributors." The name and place of business of the manufacturer, packer or distributor may be shown on the principal display panel, on the 20 percent panel of the principal display panel reserved for required information, or on the front riser panel of frozen food cartons.

§ 81.123 Official inspection mark; official establishment number.

The immediate container of every inspected and passed poultry product shall bear:

(a) The official inspection legend; and

(b) The official establishment number of the official establishment in which the poultry product was processed under inspection, either within the official inspection legend or clearly visible and in close proximity elsewhere on the exterior of the container, or in the case of canned product, the official establishment number may be embossed on the lid of each can. In the case of nontransparent consumer packages such as cartons, the official establishment number may be legibly printed thereon or it may be shown on an insert label placed on top of the product within the package. In the case of transparent wrappers, the official establishment number may be shown on an insert label and so placed under the transparent covering that it will be clearly visible and legible. The official establishment number may be omitted from the official inspection legend on the containers of consumer packaged frozen pies and dinners, and similarly packaged products, when the official establishment number is placed on an end panel at the time of packaging and when it is presented on a single colored background in a prominent and legible manner in a size sufficient to insure easy recognition. The official establishment number may be omitted from the official inspection legend on containers of poultry products in aluminum pans or trays bearing such number when a statement such as "Plant No. on Pan" is placed contiguous to the official inspection legend on the container. The official establishment number may be omitted from the official inspection legend printed on artificial casings or bags enclosing poultry products when the official establishment number is etched in ink or embossed on a flat surface of a metal clip used to close the container, in a prominent and legible manner in a size sufficient to insure easy recognition and when a statement, such as "Plant No. on Metal Clip" is placed contiguous to the official inspection legend on the casing or bag.

§ 81.124 Dietary food claims.

If a product purports to be or is represented for any special dietary use by man, its label shall bear a statement concerning its vitamin, mineral, and other dietary properties upon which the claim for such use is based in whole or in part and shall be in conformity with regulations (21 CFR Part 125) established pursuant to sections 403 and 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343, 371).

§ 81.125 Special handling label requirements.

Packaged products which require special handling to maintain their wholesome condition shall have prominently displayed on the principal display panel of the label the statement: "Keep Refrigerated," "Keep Frozen," "Perishable Keep Under Refrigeration," or such similar statement as the Administrator may approve in specific cases. The immediate containers for products that are frozen during distribution and intended to be thawed prior to or during display for sale shall bear the statement "Shipped/Stored and Handled Frozen for Your Protection, Keep Refrigerated or Freeze Until Display for Sale." For all canned perishable products, the statement shall be shown in upper case letters one-fourth inch in height for containers having a net weight of 3 pounds or less, and for containers having a net weight over 3 pounds, the statement shall be shown in letters one-half inch in height.

§ 81.126 Date of processing; contents of cans.

(a) Either the immediate container or the shipping container of all poultry products shall be plainly and permanently marked by code or otherwise with the date of packaging.

(b) The immediate container for dressed poultry shall be marked with a lot number which shall be the number of the day of the year on which the poultry was slaughtered or a coded number.

(c) All canned products shall be plainly and permanently marked, by code or otherwise, on the containers, with the identity of the contents and date of canning, except that canned products packed in glass containers are not required to be marked with the date of canning if such information appears on the shipping container.

(d) If any marking is by code, the inspector in charge shall be informed as to its meaning.

§ 81.127 Wording on labels of shipping containers.

(a) Each label for use on a shipping container for inspected and passed poultry products shall bear, in distinctly legible form, the following information:

(1) The official inspection legend.

(2) The official establishment number of the official establishment in which the poultry product was inspected, either within the official inspection mark, or elsewhere on the container clearly visible and in close proximity to the official inspection mark.

§ 81.128 Labels in foreign languages.

Any label to be affixed to a container of any dressed poultry or other poultry product for foreign commerce may be printed in a foreign language. However, the official inspection legend and establishment number shall appear on the label in English, but in addition, may be literally translated into such foreign language. Each such label shall be subject to the applicable provisions of §§ 81.115 to 81.141, inclusive. Deviations from the form of labeling required under the regulations may be approved by the Administrator in specific cases and such modified labeling may be used for poultry products to be exported. *Provided*, (a) That the proposed labeling accords to

the specifications of the foreign purchaser, (b) that it is not in conflict with the Act or the laws of the country to which it is intended for export, and (c) that the outside of the shipping container is labeled to show that it is intended for export; but if such product is sold or offered for sale in domestic commerce, all the requirements of the regulations shall apply.

§ 81.129 False or misleading labeling or containers.

(a) No poultry product subject to the Act shall have any false or misleading labeling or any container that is so made, formed or filled as to be misleading. However, established trade names and other labeling and containers which are not false or misleading and which are approved by the Administrator in the regulations or in specific cases are permitted.

(b) No statement, word, picture, design, or device which is false or misleading in any particular or conveys any false impression or gives any false indication of origin, identity, or quality, shall appear on any label. For example:

(1) Official grade designations such as the letter grades A, B, and C may be used in labeling individual carcasses of poultry or containers of poultry products only if such articles have been graded by a licensed grader of the Federal or Federal-State poultry grading service and found to qualify for the indicated grade.

(2) Terms having geographical significance with reference to a particular locality may be used only when the product was produced in that locality.

(3) "Fresh frozen", "quick frozen", "frozen fresh", and terms of similar import apply only to ready-to-cook poultry processed in accordance with § 81.66(f)(1). Ready-to-cook poultry handled in any other manner and dressed poultry may be labeled "frozen" only if it is frozen in accordance with § 81.66(f)(2) under Department supervision and is in fact in a frozen state. "Individually quick frozen (Kind)" and terms of similar import are applicable only to poultry products that are frozen as stated on the label and whose component parts can be easily separated while frozen.

(4) Poultry products labeled with a term quoted in any paragraph of § 81.169(b) shall comply with the specifications in the applicable paragraph. However, parts of poultry may be cut in any manner the processor desires as long as the labeling appropriately reflects the contents of the container of such poultry.

§ 81.130 False or misleading labeling or containers; orders to withhold from use.

If the Administrator has reason to believe that any marking or other labeling or the size or form of any container in use or proposed for use with respect to any article subject to the Act is false or misleading in any particular, he may direct that the use of the article be withheld unless it is modified in such manner as the Administrator may prescribe so that it will not be false or misleading. If the person using or proposing to use the labeling or container does not accept the determination of the Administrator, he may request a hearing, but the use of the labeling or container shall, if the Administrator so directs, be withheld pending hearing and final determination by the Secretary in accordance with applicable rules of practice. After consideration of the facts adduced at the hearing, any determination with respect to the matter by the Secretary shall be conclusive unless, within 30 days after the receipt of notice of such final determination, the person adversely affected thereby appeals to the U.S. Court of Appeals for the Circuit in which he has his principal place of business, or to the U.S. Court of Appeals for the District of Columbia Circuit. The provisions of section 204 of the Packers and Stockyards Act of 1921, as amended, shall be applicable to appeals taken under this section.

§ 81.131 Preparation of labeling or other devices bearing official inspection marks without advance approval prohibited; exceptions.

Except for the purposes of preparing and submitting a sample or samples of labeling or other devices bearing the official inspection legend or bearing any other official inspection mark, or any abbreviation or other simulation thereof, or of imprints prepared therefrom, to the Administrator for approval, no brand manufacturer, printer, or other person shall cast, print, lithograph or otherwise make any such labeling or device or aid, abet, procure, or willfully cause the commission of any such act, without the written authority therefor of the Administrator. However, when any sample stencil, or other device or an imprint prepared therefrom, is approved by the Administrator for a particular applicant, additional supplies of such stencil, or other device, or a character identical to such approved sample may be made by such applicant, for use in accordance with the regulations, without further approval by the Administrator.

§ 81.132 Approval required for labeling and other devices bearing official inspection marks.

No labeling or other device bearing any official inspection mark, other than printer's proofs or other samples submitted for approval under this subpart, shall be made until the printer's proof or a photostatic copy has been found by the Administrator to be acceptable; and no labeling or other device, or imprint, bearing any official inspection mark, shall be used until finished copies or samples thereof have been approved by the Administrator, except that approval may be given to printer's final proofs or photostatic copies of labels or samples of stenciled and rubber stamped imprints for shipping containers or containers for institutional packs.

§ 81.133 Requirement of formulas and analyses.

(a) Copies of each label submitted for approval shall when the Administrator requires in any specific case, be accompanied by a statement showing by their common or usual names the kinds and percentages of the ingredients comprising the poultry product and by a statement indicating the method of preparation of the product with respect to which the label is to be used. Approximate percentages may be given in cases where the percentages of ingredients may vary from time to time, if the limits of variation are stated.

(b) When labels for poultry products bear a chemical analysis such products must be analyzed on a lot basis by an impartial laboratory to determine whether the products conform to the analysis shown. Such laboratory data shall be made available to the officer in charge. Any protein percentage shown shall be a minimum and any fat, carbohydrate, or caloric content, shall be a maximum. A lot shall consist of no more than one day's production. Laboratories operated by the processor may be used when such laboratory has been approved by the Chemical and Microbiological Branch of the Laboratory Division. The officer in charge shall, as he deems necessary, submit samples of poultry products to the Chemical and Microbiological Branch for analysis.

§ 81.134 Label approvals by the officer in charge.

(a) The officer in charge may approve labels for containers of poultry products sold under contract specifications to Federal governmental agencies, when such product is not offered for sale to the general public: *Provided*, That the contract specifications include specific requirements with respect to labeling, and are made available to the officer in charge.

(b) The officer in charge shall approve labels for shipping containers which contain fully labeled immediate containers. Such label shall comply with § 81.127 and shall bear no wording or other matter which is false or misleading in any respect. Shipping container labels shall be submitted to the officer in charge in quadruplicate with two copies of the approval being forwarded to the Washington office.

(c) The officer in charge shall approve labels for products of poultry not intended for human food if they comply with § 81.152(c), and labels for poultry heads and feet for export for processing as human food if they comply with § 81.190(b).

§ 81.135 Modifications of approved labeling or devices.

(a) The officer in charge may permit the use of approved labeling or other devices which have been modified as follows: *Provided*, That the labeling or device as modified is so used as not to be false or misleading:

(1) All features of the label or marking are proportionately enlarged, with color scheme changes, if any, limited to those which will result in the same degree of legibility of each part of the modified labeling or device as that of the approved labeling or device.

(2) Changes are made in the figures denoting the quantity of contents or there is substitution of such abbreviations as "lb." for "pound," "oz." for "ounce," or the "pound" or "ounce" is substituted for the abbreviation.

(3) The name and address of the distributor are included in the blank space following the words "prepared for" or a similar statement, on a master or stock label which was approved with the understanding that such information would be added later.

(4) During Christmas and other holiday seasons, wrappers or overprints in floral or foliage designs, or illustrations of rabbits, chicks, fireworks, or other emblematic holiday designs are added to approved labels or devices. The use of such designs shall not obscure any mandatory information.

(5) A slight change is made in arrangement of directions pertaining to the opening of cans or the serving of the product.

(6) The appropriate name or class of the poultry is added to a master or stock label which was approved without this information appearing on the label.

(b) The officer in charge shall send a copy of each such approved modified label to the Director of the Standards and Services Division.

§ 81.136 Affixing of official identification.

No official inspection legend or any abbreviation or other simulation thereof may be affixed to or placed on or caused to be affixed to or placed on any poultry product or container thereof, except by an inspector or under the supervision of an inspector or other person authorized by the Administrator, and no container bearing any such legend shall be filled except under such supervision. No official inspection legend shall be used on any poultry product or other article which does not qualify for such mark under the regulations.

§ 81.137 Evidence of labeling and devices approval.

No inspector shall authorize the use of any labeling or device bearing any official inspection legend unless he has on file evidence that such labeling or device has been approved in accordance with the provisions of this subpart.

§ 81.138 Unauthorized use or disposition of approved labeling or devices.

(a) Labeling and devices approved for use pursuant to § 81.115 shall be used only for the purpose for which approved, and shall not be disposed of from the official establishment for which approved except with written approval of the Administrator. Any unauthorized use or disposition of approved labeling or devices bearing official inspection marks is prohibited and may result in cancellation of the approval.

(b) Labeling and containers bearing any official inspection marks, with or without the official establishment number, may be transported from one official establishment to any other official establishment, only if such shipments are made with the prior authorization of the officer in charge at point of origin, who will notify the officer in charge at destination concerning the date of shipment, quantity, and type of labeling material involved. No such material shall be used at the establishment to which it is shipped unless such use conforms with the requirements of this subpart.

§ 81.139 Removal of official identifications.

(a) Every person who receives any poultry product in containers which bear any official inspection legend shall remove or deface such legend or destroy the containers upon removal of such articles from the containers.

(b) No person shall alter, detach, deface, or destroy any official identifications prescribed in Subpart M of this part that were applied pursuant to the regulations, unless he is authorized to do so by an inspector or this section; and no person shall fail to use any such official identification when required by this part.

§ 81.140 Relabeling poultry products.

When it is claimed by the operator of an official establishment that some of its labeled poultry product, which has been transported to a location other than an official establishment, is in need of relabeling because the labeling has become mutilated or damaged, or for some other reason needs relabeling, the requests for relabeling the poultry product shall be sent to the Administrator and accompanied with a statement of the reasons therefor and the quantity of labeling required. Labeling material intended for relabeling inspected and passed product shall not be transported from an official establishment until permission has been received from the Administrator. The relabeling of inspected and passed product with official labels shall be done under the supervision of an inspector. The establishment shall reimburse the Inspection Service for any cost involved in supervising the relabeling of such product.

§ 81.141 Reporting of obsolete labels.

Once a year, or oftener if required by the Administrator, each official establishment shall submit to the Administrator, in quadruplicate, a list of approved labeling and other devices no longer used or a list of the documents issued by the Administrator approving the labeling or devices involved. The approved articles shall be identified by the approval number, the date of approval, and the name of the poultry product or other designation showing the class of labeling material.

Subpart O—Entry of Articles Into Official Establishments; Processing Inspection and Other Reinspections; Processing Requirements

§ 81.145 Poultry products and other articles entering official establishments.

(a) No poultry product (including poultry broth for use in any poultry product in any official establishment) may be brought into any official establishment unless it has been processed in the United States only in an official establishment or imported from a foreign country listed in § 81.196(b), and inspected and passed, in accordance with the regulations, unless the container of such product is marked so as to identify the product as so inspected and passed, in accordance with § 81.115 or § 81.205, except that poultry products inspected and passed and identified as such under the laws of an "at least equal" State or territory listed in § 81.187 may be brought into any official establishment solely for storage and distribution therefrom without repackaging, relabeling, or processing in such establishment. No carcass, part thereof, meat or meat food product of cattle, sheep, swine, goats, or equines may be brought into an official establishment unless it has been prepared in the United States only in an official meat packing establishment, or imported, and inspected and passed, in accordance with the Federal Meat Inspection Act, and the regulations under such Act (9 CFR Ch. III, Subchapter A), and is properly marked as so inspected and passed; or has been inspected and passed and is identified as such in accordance with the requirements of the law of a State not designated in 9 CFR 331.2; or is present in the official establishment by reason of an exemption allowed in the Federal Meat Inspection Act and the regulations under such Act (9 CFR Ch. III, Subchapter A). However, such exempted articles may enter only under conditions approved by the Administrator in specific cases, including but not limited to, complete separation of inspected poultry products and processing and other operations with respect thereto from the exempted products and operations with respect thereto, complete cleanup of facilities and equipment between processing of inspected poultry products and the exempted articles and no commingling of inspected and exempted articles in receiving, holding or storage areas.

(b) All poultry products and all carcasses, parts thereof, meat and meat food products of cattle, sheep, swine, goats, or equines which enter any official establishment shall be identified by the operator of the official establishment at the time of receipt at the official establishment and all poultry products, and carcasses, parts thereof, meat and meat food products of such animals, which are processed or otherwise handled at any official establishment shall be subject to examination by an inspector at the official establishment in such manner and at such times as may be deemed necessary by the officer in charge to assure compliance with the regulations. Upon such inspection, if any such article or portion thereof is found to be adulterated, such article or portion shall, in the case of poultry products, be condemned and disposed of as prescribed in § 81.95, unless by reprocessing they may be made not adulterated, and shall, in the case of such other articles be disposed of according to applicable law.

(c) Such examination may be accomplished through use of statistically sound sampling plans that assure a high level of confidence. The officer in charge shall designate the type of plan and the program employee shall select the specific plan to be used in accordance with instructions issued by the Administrator.[1]

§ 81.146 Sampling at official establishments.

Inspectors may take, without cost to the Department, samples of any poultry product, or other article for use as an ingredient of any poultry product, at any official establishment to determine whether it complies with the requirements of the regulations.

§ 81.147 Restrictions on the use of substances in poultry products.

(a) All ingredients and other substances used in the processing or handling of poultry products at official establishments shall be such as will not result in adulteration or misbranding of the poultry products.

(b) Poultry products and poultry broth used in the processing of poultry products shall have been processed in the United States only in an official establishment, or imported from a foreign country listed in § 81.196(b), and inspected and passed, in accordance with the regulations. Detached ova and offal shall not be used in the processing of any poultry products, except that poultry feet may be processed for use as human food when handled in a manner approved by the Administrator in specific cases, and detached ova may be used in the processing of poultry products if the processor demonstrates that such ova comply with the requirements under the Federal Food, Drug, and Cosmetic Act.

(c) Liquid, frozen, and dried egg products used in the processing of any poultry product shall have been prepared under inspection and be so marked in accordance with the Egg Products Inspection Act (Public Law 91-597).

(d) Carcasses, parts thereof, meat and meat food products of cattle, sheep, swine, goats, or equines may be used in the processing of poultry products only if they were prepared in the United States only in an official meat packing establishment, or imported, and were inspected and passed, in accordance with the Federal Meat Inspection Act, and the regulations under such Act (9 CFR Ch. III, Subchapter A) and are so marked.

(e) All isolated soy protein used in poultry products processed in any official establishment shall contain not more and not less than 0.1 percent titanium, incorporated as food grade titanium dioxide, and the presence of such substance must be shown on the label of the container of the isolated soy protein at all times that the article is in the official establishment.

(f) (1) No substance may be used as an ingredient or otherwise in the processing of any raw or cooked poultry product unless its use is approved as shown in Table 1 in subparagraph (3) of this paragraph or elsewhere in this part or by the Administrator in specific cases.

(2) Additives, to be used in the processing of poultry products, will be approved only if they comply with the following criteria:

(i) No food additive or other substance subject to section 408, 409, or 706 of the Federal Food, Drug and Cosmetic Act may be used if it is deemed "unsafe" under that Act. No other additive may be used if, in the judgment of the Administrator, it is an added poisonous or deleterious substance which may render the poultry products injurious to health or otherwise unfit for human food.

(ii) The additive shall not promote deception or cause the product to be otherwise adulterated or misbranded.

Scientific data acceptable to the Administrator showing that the additive meets the criteria specified in this section shall be submitted by the person interested in having the additive approved.

(3) The substances specified in the following table are acceptable for use in the processing of poultry products provided they are used within the limits of the amounts stated and under other conditions as stated in the regulations.

TABLE I

Class of substance	Substance	Purpose	Products		Amount
Antifoaming agent.	Methyl polysilicone	To retard foaming.	Soups Rendered fats Curing pickle	10 ppm 10 ppm 50 ppm	
Antioxidants and oxygen interceptors.	BHA (Butylated hydroxyanisole).	To retard rancidity.	Any	0.01 percent based on fat content.	0.02 percent in combination with any other antioxidant listed in this Table based on fat contents
	BHA (Butylated hydroxytoluene).	do	do	do	Do.
	Propyl gallate	do	do	do	Do.
	Tocopherols	do	do	0.03 percent based on fat content.	Do.
Binders	Algin	To extend and stabilize product.	Any		Sufficient for purpose.
	Carrageenan	do	do		Do.
	Carboxymethyl cellulose (cellulose gum).	do	do		Do.
	Gums, vegetable	do	do		Do.
	Methyl	To extend and to stabilize product (also carrier).	do		0.15 percent.
	Isolated soy protein	To bind and extend product.	do		Sufficient for purpose.
	Sodium caseinate	do	do		Do.
	Whey (dried)	do	do		Do.
Chilling media	Salt (NaCl)	To aid in chilling.	Raw poultry products.	700 lbs. to 10,000 gals. of water.[1]	
Coloring agents (Natural).	Annatto, Carotene	To color products.	Any		Do.
Coloring agents (Artificial).	Coal tar dyes (FD&C Certified)	To color products.	do		Do.
	Titaniumdioxide.	To whiten products.	Salads and spreads.		0.5 percent.
Cooling and retort water treatment.	Disodium phosphate	To prevent staining on exterior of canned goods.	Any		Sufficient for purpose.
	Diotyl sodium sulfosuccinate.	do	do		0.05 percent.
	Sodium bicarbonate	do	do		Sufficient for purpose.
	Sodium carbonate	do	do		Do.
	Calcium chloride	do	do		Do.
	Sodium dodecyl benzene sulfonate.	do	do		0.05 percent.
	Sodium hexametaphosphate.	do	do		Sufficient for purpose.
	Sodium laurylsulfate	do	do		0.05 percent.
	Sodium metasilicate	do	do		Sufficient for purpose.
	Sodium tripolyphosphate.	do	do		Do.
	Zinc oxide	do	do		0.01 percent.
	Zinc sulfate	do	do		Do.
	Propylene gylcol	do	do		Sufficient for purpose.
Curing agents	Ascorbic acid	To accelerate color fixing.	Cured poultry; cured, comminuted poultry products.		(75 ozs. to 100 gals. pickle at 10 percent pump level; ¾ oz. to 100 lbs. of poultry product; 10 percent solution to surfaces of the product prior to packaging (the use of such solution shall not result in the addition of a significant amount of moisture to the product).
	Erythorbic acid	do	do		Do.

See footnotes at end of table

[1] Further information concerning sampling plans which have been adopted for specific products may be obtained from the Officers in Charge of Program circuits. These sampling plans are developed for individual products by the Washington staff and will be distributed for field use as they are developed. The type of plan applicable depends on factors such as whether the product is in containers, stage of preparation, and procedures followed by the establishment operator. The specific plan applicable depends on the kind of product involved.

TABLE I—Continued

Class of substance	Substance	Purpose	Products	Amount
Curing agents	Sodium ascorbate	To accelerate color fixing.	Cured poultry; cured, comminuted poultry products.	87.5 ozs. to 100 gals. pickle at 10 percent pump level; ⅛ oz. to 100 lbs. of poultry product; 10 percent solution to surfaces of product prior to packaging (the use of such solution shall not result in the addition of a significant amount of moisture to the product).
	Sodium erythorbate	do	do	Do.
	Citric acid or sodium citrate.	do	do	May be used in cured products to replace up to 50 per cent of the ascorbic acid or sodium ascorbate that is used.
	Sodium potassium nitrate.	Source of nitrite.	Cured products.	7 lbs. to 100 gals. pickle; 3½ ozs. to 100 lbs. of poultry product (dry cure); 2¾ ozs. to 100 lbs. of chopped poultry meat.
	Sodium or potassium nitrite (supplies of sodium nitrite and potassium nitrite and mixtures containing them must be kept securely under the care of a responsible employee of the establishment. The specific nitrite content of such supplies must be known and clearly marked accordingly).	To fix color	Cured products	2 lbs. to 100 gals. pickle at 10 percent pump level; 1 oz. to 100 lbs. of poultry product (dry cure); ¼ oz. to 100 lbs. chopped poulty meat. The use of nitrites, nitrates, or combination shall not result in more than 200 ppm. nitrite in finished product.
Emulsifying agents.	Acetylated monoglycerides.	To emulsify product.	Any	Sufficient for purpose.
	Diacetyl tartaric acid esters of monoglycerides and diglycerides.	do	Rendered poultry fat or a combination of such fat with vegetable fat.	Do.
	Glycerol-lacto sterate, oleate or palmitate.	do	do	Do.
	Lecithin	To emulsify product (also as antioxidant).	Any	Do.
	Monoglycerides and diglycerides (glycerol palmitate).	To emulsify product.	do	Sufficient for purpose.
	Polysorbate 80 (polyoxyethylene 20 sorbitan monooleate).	do	do	1 percent when used alone. If used with polysorbate 60 or sorbitan monostearate, the combined total shall not exceed 1 percent.
	Propylene glycol mono- and diesters of fats and fatty acids.	To emulsify product.	Rendered poultry fat or a combination of such fat with vegetable fat.	Sufficient for purpose.
Emulsifying agents.	Polysorbate 60 (polyoxyethylene 20) sorbitan monostearate.	To emulsify product.	Any	1% when used alone. If used with polysorbate 80 or sorbitan monostearate, the combined total shall not exceed 1%.
Flavoring agents; protectors and developers.	Approved artificial smoke flavorings.	To flavor product.	do	Sufficient for purpose.
	Approved smoke flavoring.	do	do	Do.
	Autolyzed yeast extract.	do	do	Do.
	Benzoic acid, sodium benzoate.	To retard flavor reversion.	Poultry salads	0.1%.
	Citric acid	To protect flavor.	Any	Sufficient for purpose.
	do	Flavoring	do	Do.
	Potassium sorbate	To protect flavor.	Poultry salads	0.07 percent.
	Hydrolyzed plant protein.	To flavor product.	Any	Sufficient for purpose.
	Malt syrup	do	do	2.5 percent.
	Milk protein hydrolysate.	do	do	Sufficient for purpose.
	Monosodium glutamate.	do	do	Do.
	Sodium sulfoacetate derivative of mono and diglycerides.	do	do	0.5 percent.
	Sugars approved (sucrose and dextrose).	do	do	Sufficient for purpose.
Gases	Carbon dioxide solid (dry ice).	To cool product or facilitate chopping or packaging.	do	Do.
	Carbon dioxide liquid	Contact freezing.	do	Do.
	Nitrogen	To exclude oxygen from sealed containers.	do	Do.
	Nitrogen liquid	Contact freezing.	do	Do.
Miscellaneous	Sodium bicarbonate	To neutralize excess acidity; cleaning vegetables.	Rendered fat, soups, curing pickle.	Do.
	Calcium propionate	To retard mold growth.	Fresh pie dough.	(0.3 percent of calcium propionate or sodium propionate alone, or in combination, based on weight of the flour used).
	Sodium propionate	do	do	Do.
Phosphates	Disodium phosphate	To decrease the amount of cooked-out juices.	Cooked products.	0.5 percent in product.
	Monosodium phosphate.	do	do	Do.
	Sodium hexametaphosphate.	do	do	Do.
	Sodium tripolyphosphate.	do	do	Do.
	Sodium pyrophosphate.	do	do	Do.
	Sodium acid pyrophosphate.	do	do	Do.
Artificial sweeteners.	Saccharin prodnct.	To sweeten product.	Any	0.01 percent.

See footnotes at end of table

TABLE I—Continued

Class of substance	Substance	Purpose	Products	Amount
Synergists (used in combination with antioxidants).	Citric acid	To increase effectiveness of antioxidants.	Poultry fats	0.01% alone or in combination with antioxidants in poultry fats.
Synergists	Monoisopropyl citrate	do	do	0.01 percent poultry fats.
	Phosphoric acid	do	do	0.01 percent.
	Monoglyceride citrate	do	do	0.01 percent.

[1] Special labeling requirements are prescribed in §81.120 for raw poultry products chilled in a medium with more than 70 lbs. of salt to 10,000 gallons of water.

§ 81.148 Processing and handling requirements for frozen poultry products.

Procedures with respect to processing of frozen ready-to-heat-and-eat poultry products or stuffed ready-to-roast poultry shall be in accordance with sound operating practices and carried out in a manner which will assure freedom from adulteration of the products. Products to be frozen shall be moved into the freezer promptly under such supervision by an inspector as is necessary to assure preservation of the products by prompt and efficient freezing. Adequate freezing facilities shall be provided within the official establishment where products to be frozen are prepared, except that, upon written request, and under such conditions as may be prescribed by the Administrator in specific cases, such products may be moved from the official establishment prior to freezing: *Provided,* That the official establishment and freezer are so located and the necessary arrangements are made so that the Inspection Service will have access to the freezing room and adequate opportunity to determine that the products are being properly handled and frozen.

§ 81.149 Processing and handling requirements for canned poultry products.

Canned poultry products which are heat treated after closing or sealing shall be processed and handled in accordance with the following requirements:

(a) Immediate containers (whether of metal, glass, or other material) shall be cleaned thoroughly by washing in an inverted position with a water spray or by other means acceptable to the Administrator. The nozzle on the spray attachment shall be of such design and the water delivered with such pressure as will effectively rinse all of the inner surface of each container, immediately prior to filling with poultry products; and precautions shall be taken to avoid any subsequent soilage of the inner surfaces of such containers.

(b) Only perfect closure is acceptable for hermetically sealed containers; and heat processing of the products in such containers shall follow immediately after closing.

(1) Except as provided in paragraph (e) of this section, such products shall be so processed at such temperature and for such period of time as will insure preservation of the products under usual conditions of storage and transportation.

(2) Immediately after closing, and again after the containers have cooled sufficiently for handling after heat processing, careful examination shall be made by competent plant employees to ascertain whether the containers are perfectly sealed. The poultry products in such containers as are defectively closed or sealed shall promptly be filled into other containers, hermetically sealed, and heat processed unless the containers are promptly placed in a cooler at a temperature not exceeding 36° F. under conditions that will promptly and effectively chill them. Such chilled containers of products shall be opened and the contents removed and reprocessed immediately after removal from the cooler: *Provided,* That if such containers remained in the cooler for a period of 24 hours or longer, the contents shall be inspected by an inspector prior to the reprocessing thereof. Failure to comply with the provisions of this paragraph shall subject the poultry products to condemnation.

(c) After heat processing, and after the containers have cooled sufficiently for handling, the containers shall be examined by competent plant employees and shall not be passed unless showing the external characteristics of sound containers.

(d) After heat processing, any containers of poultry products showing characteristics of short vacuum or overstuffed containers shall, when an inspector deems it necessary in order to determine whether spoilage of the product has taken place, be incubated under the supervision of an inspector, after which the containers shall be opened and sound products passed for food and spoiled products condemned.

(e) Poultry products may, when authorized by the Administrator in specific cases, and under such conditions as he may prescribe and approve, be canned without steam pressure cooking, and such products, if frozen, shall be labeled "keep frozen," and if they are not frozen, they shall be labeled "perishable, keep under refrigeration."

(f) Each lot of canned poultry products shall be identified, during the handling preparatory to heat processing, by tagging the baskets, cases, or containers with a tag which will change color on going through the heat processing or by other effective means which will positively prevent failure to heat process.

(g) Facilities shall be provided to incubate at least representative samples of fully processed canned poultry products. The incubation shall consist of holding the samples for at least 10 days at about 95° F. except that samples of firmly packed poultry products such as shredded poultry meat, and products weighing 3 pounds or more shall be held at 95° for no less than 20 days. The extent to which incubation tests shall be required will depend on conditions such as the efficiency of the plant in conducting canning operations, the kind of equipment used, and the degree of efficiency at which such equipment is maintained.

(1) In the event the official establishment fails to provide suitable facilities for incubation of test samples of any lot of fully processed canned poultry products, the inspector in charge may require holding of the entire lot under such conditions and for such period of time as will, in his discretion, be necessary to ascertain the stability of the product.

(2) The inspector in charge may, prior to completion of any required incubation of a representative sample, permit lots of fully processed canned poultry products to be shipped from the official plant when he has no reason to suspect unsoundness of such products; however, such shipments shall be made under circumstances which will assure the return of the products to the plant for reinspection should such action be indicated by the incubation results.

§ 81.150 Cooking temperature requirements for poultry rolls and certain other poultry products.

All poultry rolls and other poultry products that are heat processed in any manner shall reach an internal temperature of at least 160° F. prior to being removed from the cooking medium, except that cured and smoked poultry rolls and other cured and smoked poultry products shall reach an internal temperature of at least 155° F. prior to being removed from the cooking medium.

§ 81.151 Procedures in case of water pollution.

(a) In the event there is polluted water (including, but not being limited to, flood water) in an official establishment, all poultry and poultry products and ingredients for use in the preparation of such products, that have been or may have been contaminated by the water shall be condemned. After the polluted water has receded, all walls, ceilings, posts, and floors of the rooms and compartments involved, including the equipment therein, shall, under the supervision of an inspector, be cleaned thoroughly.

(b) Hermetically sealed containers of poultry products which have been submerged in, or otherwise contaminated by, the polluted water shall be promptly examined by employees of the official establishment under supervision of an inspector, to sort out any damaged containers and to relabel the sound containers. The poultry products in any damaged containers shall be handled as provided in § 81.95.

(c) The identity of the canned poultry products shall be maintained throughout

all stages of the rehandling operation to insure correct labeling of the containers.

§ 81.152 Preparation in an official establishment of articles not for human food.

(a) Requirements applicable when prepared in an edible products department. When an article (including, but not being limited to, animal food) that is not for use as human food is prepared in any room or compartment in an official establishment where poultry products are prepared or handled (such room or compartment being herein referred to as "edible products departments"), sufficient space and equipment shall be provided to assure that the preparation of the article in no way interferes with the preparation or handling of the poultry products. Where necessary, separate equipment shall be provided for the preparation of the article. To assure the maintenance of the requisite sanitary conditions in the edible products department, the operations incident to the preparation of the article shall be subject to the same sanitary requirements as apply to the edible products department. Preparation of the article shall be limited to those hours during which the official establishment operates under the supervision of an inspector. The ingredients used in the preparation of the article shall, unless otherwise approved by the Administrator in specific cases, be such as may be used in the preparation of a poultry product. The article may be stored in, and distributed from, the edible products department if the article is properly identified.

(b) Requirements applicable when prepared in an inedible products department. When an article (including, but not being limited to, animal food) that is not for use as human food, is prepared in any part of an official establishment other than an edible products department (such part of the establishment being herein referred to as "inedible products department"), the area in which such article is prepared shall be distinctly separated from all edible products departments. Poultry products and inedible products may be brought from any edible products department into any inedible products department, but no poultry product or inedible product from an inedible products department may be brought into an edible products department except that any such articles as are in sealed containers or are handled under conditions prescribed or approved by the Administrator in specific cases may be brought into an edible products department. Diseased carcasses or diseased parts of any carcass shall not be used in the preparation of any animal food unless it has been treated in the manner prescribed in § 81.95(a). Trucks or containers used for the transportation of poultry products or inedible products into an inedible products department shall be cleaned before being returned to or brought into an edible products department. Sufficient space shall be allotted and adequate equipment and facilities provided so that the preparation of the article does not interfere with the preparation of poultry products or the maintenance of the requisite sanitary conditions in the official establishment. The preparation of any such article shall be subject to supervision by an inspector.

(c) Containers to be labeled. The immediate container of any such article that is prepared in an official establishment shall be conspicuously labeled so as to distinguish it from human food. Such articles are also subject to the requirements under the Federal Food, Drug, and Cosmetics Act.

Subpart P—Definitions and Standards of Identity or Composition

§ 81.155 General.

(a) *Authorization to establish specifications.* The Administrator is authorized to establish specifications or definitions and standards of identity or composition, covering the principal constituents of any poultry product with respect to which a specified name of the product or other labeling terminology may be used, whenever he determines such action is necessary to prevent sale of the product under false or misleading labeling. Further, the Administrator is authorized to prescribe definitions and standards of identity or composition for poultry products whenever he determines such action is otherwise necessary for the protection of the public. The requirements of this subpart are hereby found to be necessary for these purposes and standards are hereby established as set forth in this subpart.

(1) Where cooked poultry meat is specified in this subpart as an ingredient of poultry products, this means poultry meat derived from poultry processed, cooked and cooled in a manner approved by the Administrator in specific cases without use of liquid or moisture in direct contact with the poultry meat following the cooking and cooling of the poultry.

(2) If, following cooking and cooling of poultry meat to be used in poultry products, liquid or moisture is used in direct contact with such poultry meat and the percentage of solids, excluding salt, in the poultry meat is found to be below 34 percent when such poultry meat is tested by acceptable methods, the percentage of poultry meat required by this section for any poultry product shall be increased in proportion to the deficiency, or the meat shall be so processed as to raise the solids content, excluding salt, to 34 percent. The official establishment shall furnish adequate facilities for such testing.

§ 81.156 Poultry meat content standards for poultry products.

(a) Poultry products with labeling terminology as set forth in Table I shall comply with the specifications for percent light meat and percent dark meat set forth in said table.

TABLE I

Label terminology	Percent light meat	Percent dark meat
Natural proportions	50–65	50–35.
Light or white meat	100	0.
Dark meat	0	100.
Light and dark meat	51–65	49–35.
Dark and light meat	35–49	65–51.
Mostly white meat	66 or more	34 or less.
Mostly dark meat	34 or less	66 or more.

§ 81.157 Canned boned poultry and baby food.

(a) Canned boned poultry shall, unless otherwise specified in this section, be prepared from cooked deboned poultry meat and may contain skin and fat not in excess of natural whole carcass proportions. Gelatin, stabilizers or similar solidifying or emulsifying agents shall not be added to product labeled "Boned (Kind)—Solid Pack," but may be added in quantities not in excess of a total of 0.5 percent of the total ingredients in the preparation of other canned boned poultry products and in such case the common name of the substance shall be included in the name of the product, e.g., "Boned Chicken with Broth—Gelatin Added."

(b) Canned boned poultry, except poultry within paragraph (c) of this section, shall meet the requirements set forth in Table II. The percentages in Table II shall be calculated on the basis of the total ingredients used in the preparation of the product.

(c) Canned boned poultry with natural juices (Boned (Kind) with natural juices) shall be prepared from either raw boned poultry or a mixture of raw boned poultry and cooked boned poultry and shall have no liquid added during the preparation of the product.

(d) Canned shredded poultry (Shredded Kind), consists of poultry meat reduced to a shredded appearance, from the kind of poultry indicated, with meat, skin, and fat not in excess of the natural whole carcass proportions. Canned shredded poultry from specific parts may include skin or fat in excess of the proportions normally found on a whole carcass, but not in excess of the proportions of skin and fat normal to the particular part or parts; and such product shall be labeled in accordance with § 81.117(d).

(e) Canned boned poultry shall be prepared as set forth in Table II, items 1, 2, 3, or 4, whichever is applicable.

TABLE II

Product name	Minimum percent cooked, deboned poultry meat of kind indicated, with skin, fat, and seasoning	Maximum percent liquid that may be added [1]
1. Boned (Kind)—solid pack	95	5
2. Boned (Kind)	90	10
3. Boned (Kind) with broth [2]	80	20
4. Boned (Kind) (____) percent broth [2 3]	50	50

[1] Liquid may be in the form of, but is not limited to, broth or extractives.
[2] Alternatively, product may be prepared from raw boned poultry meat in combination with cooked boned poultry meat so long as the product complies with the specified standard.
[3] Total amount of liquid added shall be included in the name of the product; e.g., "Boned Chicken with 25 percent Broth."

(f) Poultry products intended for infant or geriatric use and represented as having a "high meat" content shall contain not less than 18.75 percent cooked, deboned poultry meat of the kind indicated, with skin, fat, and seasoning.

TABLE IIa

Product name	Minimum percent cooked, deboned poultry meat of kind indicated, with skin, fat, and seasoning	Maximum percent liquid that may be added [1]
1. Strained or chopped (Kind) with broth [2 3]	43	57
2. High meat dinner [3]	18.75	

[1] Liquid may be in the form of, but not limited to, broth or extractives.
[2] Alternatively, product may be prepared from raw boned poultry meat in combination with cooked bone poultry meat so long as the product complies with the specified standard.
[3] Label must indicate in some manner that product is for infant or geriatric servings.

§ 81.158 Poultry dinners (frozen) and pies.

Poultry dinners (frozen) and pies shall meet the requirements set forth in Table III of this section and the percentage or weight specified therein shall be calculated on the basis of total ingredients used in the preparation of the poultry product.

TABLE III

	Minimum cooked deboned poultry meat of kind indicated		Minimum raw deboned poultry meat of kind indicated	
	Percent	Weight	Percent	Weight
(Kind) Pies	14	or 1⅛ oz. per 8-oz. pie.[1]	25	or 2 oz. per 8-oz. pie.[1]
(Kind) Dinners.	18	or 2 oz.[2 3]		

[1] 14 percent or 1⅛ oz., whichever is greater; or 25 percent or 2 oz., whichever is greater.
[2] Excluding weight of appetizers, desserts, etc.
[3] 18 percent or 2 oz., whichever is greater. A minimum of 45 percent, or 5 ounces per dinner, whichever is greater, of cooked poultry including bone and breading may be used in lieu of minimum 18 percent or 2 ounces of cooked deboned poultry meat and the cooked poultry including bone and breading shall not contain more than 30 percent breading.

§ 81.159 Poultry rolls.

(a) Binding agents, including but not limited to gelatin and wheat gluten, may be added in quantities not in excess of a total of 3 percent for cooked rolls and 2 percent for raw rolls, based on the total ingredients used in the preparation of the product, without affecting the name of the product. However, when such agents are added in excess of 3 percent or 2 percent, whichever is applicable, the common name of the agent or the term "Binders Added" shall be included in the name of the product; e.g. "Turkey Roll—Gelatin Added."

(b) With respect to heat processed rolls, 2 percent or less liquid based on the weight of the finished product without liquid may remain with or be returned to product labeled as "(Kind) Roll."

(c) Heat processed rolls which have more than 2 percent liquid remaining with or returned to the product shall be labeled as "(Kind) Roll with Natural Juices." If more than 2 percent of any liquid other than natural cookout juices is added, the product must be labeled to indicate that fact; e.g., "Turkey Roll with Broth." Liquid shall not be returned or added to product within this paragraph in excess of the amount normally cooked out during preparation.

§ 81.160 (Kind) burgers; (Kind) patties.

Such product consists of 100 percent poultry of the kind indicated, with skin and fat not in excess of natural proportions. Product containing fillers or binders shall be named "(Kind) Patties."

§ 81.161 "(Kind) A La Kiev."

Such product consists of poultry meat of the kind indicated, stuffed with butter combined with chopped chives (garlic is optional), and seasonings. It may be dipped in batter, fried, and frozen.

§ 81.162 "(Kind) steak or fillet."

Such product consists of a boneless slice or strip of poultry meat of the kind indicated.

§ 81.163 "(Kind) baked" or "(Kind) roasted."

Such product consists of ready-to-cook poultry of the kind indicated that has been cooked in dry heat, e.g., oven roasted or oven baked.

§ 81.164 "(Kind) barbecued."

Such product consists of ready-to-cook poultry of the kind indicated, that has been cooked in dry heat and basted with a seasoned sauce.

§ 81.165 "(Kind) barbecued prepared with moist heat."

Such product consists of ready-to-cook poultry of the kind indicated that has been cooked by the action of moist heat in a barbecue sauce.

§ 81.166 Breaded products.

"Breaded" is a term applicable to any poultry product which is coated with breading or a batter and breading in an amount not to exceed 30 percent of the weight of the finished breaded product.

§ 81.167 Other poultry dishes and specialty items.

Poultry dishes and specialty items listed in Table IV of this section shall meet the requirements set forth in said table, irrespective of the type of packaging, and the percentages in Table IV shall be calculated on a ready-to-serve basis, except that soup bases in institutional packs which are prepared for sale to institutional users shall have a minimum of 15 percent cooked deboned poultry meat based on the weight of the soup base product.

TABLE IV

Product name [1]	Minimum percent cooked deboned poultry meat of kind indicated	Minimum percent cooked poultry of kind indicated, including bone
(Kind) Ravioli	2	
(Kind) Soup	2	
Chop Suey with (Kind)	2	
(Kind) Chop Suey	4	
(Kind) Chow Mein without noodles	4	
(Kind) Tamales	6	
Noodles or Dumplings with (Kind) [2]	6	
(Kind) Stew	12	
(Kind) Fricassee of Wings		40
(Kind) Noodles or Dumplings [2]	15	30
(Kind) with Vegetables	15	
(Kind) chili with beans	17	
(Kind) Tetrazzini	15	
Creamed (Kind)	20	
(Kind) Cacciatore	20	40
(Kind) Fricassee	20	40
(Kind) A-La-King	20	
(Kind) croquettes	25	
Slice (Kind) with Gravy and Dressing	25	
(Kind) Salad	25	
(Kind) chili	28	
(Kind) Hash	30	
Sliced (Kind) with Gravy	35	
Minced (Kind) Barbecue	40	

[1] The product name may contain other appropriate descriptive terms such as "noodle"; e.g., "Chicken Noodle Soup."
[2] Product also includes rice or similar starches.

§ 81.168 Maximum percent of skin in certain poultry products.

The poultry products listed in Table V shall have not more than the percent of skin specified in the table, when raw and when cooked.

TABLE V

Product name	Percent skin	
	Raw	Cooked
Boneless Turkey Breast or Boneless Turkey Breast Roll	14	
Boneless Turkey Thigh or Boneless Turkey Thigh Roll	8	
Boneless Turkey or Turkey Roll	15	
Boneless Chicken Breast or Boneless Chicken Breast Roll	18	20
Boneless Chicken or Chicken Roll	20	25

§ 81.169 Standards for raw poultry.

(a) The following standards specify the various classes of the specified kinds of poultry, and the requirements for each class:

(1) *Chickens*—(i) *Rock Cornish game hen or Cornish game hen.* A Rock Cornish game hen or Cornish game hen is a young immature chicken (usually 5 to 6 weeks of age) weighing not more than 2 pounds ready-to-cook weight, which was prepared from a Cornish chicken or the progeny of a Cornish chicken crossed with another breed of chicken.

(ii) *Rock Cornish fryer, roaster, or hen.* A Rock Cornish fryer, roaster, or hen is the progeny of a cross between a purebred Cornish and a purebred Rock chicken, without regard to the weight of the carcass involved; however, the term "fryer," "roaster," or "hen" shall apply only if the carcasses are from birds with ages and characteristics that qualify them for such designation under subdivision (iii) or (iv) of this subparagraph.

(iii) *Broiler or fryer.* A broiler or fryer is a young chicken (usually 9 to 12 weeks of age), of either sex, that is tender-meated with soft, pliable, smooth-textured skin and flexible breastbone cartilage.

(iv) *Roaster.* A roaster is a young chicken (usually 3 to 5 months of age), of either sex, that is tender-meated with soft, pliable, smooth-textured skin and breastbone cartilage that may be somewhat less flexible than that of a broiler or fryer.

(v) *Capon.* A capon is a surgically unsexed male chicken (usually under 8 months of age) that is tender-meated with soft, pliable, smooth-textured skin.

(vi) *Stag.* A stag is a male chicken (usually under 10 months of age) with coarse skin, somewhat toughened and darkened flesh, and considerable hardening of the breastbone cartilage. Stags show a condition of fleshing and a degree of maturity intermediate between that of a roaster and a cock or old rooster.

(vii) *Hen or stewing chicken or fowl.* A hen or stewing chicken or fowl is a mature female chicken (usually more than 10 months of age) with meat less tender than that of a roaster, and nonflexible breastbone tip.

(viii) *Cock or rooster.* A cock or roostér is a mature male chicken with coarse skin, toughened and darkened meat, and hardened breastbone tip.

(2) *Turkeys*—(i) *Fryer-roaster turkey.* A fryer-roaster turkey is a young immature turkey (usually under 16 weeks of age), of either sex, that is tender-meated with soft, pliable, smooth-textured skin, and flexible breastbone cartilage.

(ii) *Young hen turkey.* A young hen turkey is a young female turkey (usually 5 to 7 months of age) that is tender-meated with soft, pliable, smooth-textured skin, and breastbone cartilage that is somewhat less flexible than in a fryer-roaster turkey.

(iii) *Young tom turkey.* A young tom turkey is a young male turkey (usually 5 to 7 months of age), that is tender-meated with soft, pliable, smooth-textured skin, and breastbone cartilage that is somewhat less flexible than in a fryer-roaster turkey.

(iv) *Yearling hen turkey.* A yearling hen turkey is a fully matured female turkey (usually under 15 months of age) that is reasonably tender-meated and with reasonably smooth-textured skin.

(v) *Yearling tom turkey.* A yearling tom turkey is a fully matured male turkey (usually under 15 months of age) that is reasonably tender-meated and with reasonably smooth-textured skin.

(vi) *Mature turkey or old turkey (hen or tom).* A mature or old turkey is an old turkey of either sex (usually in excess of 15 months of age) with coarse skin and toughened flesh.

(3) *Ducks*—(i) *Broiler duckling or fryer duckling.* A broiler duckling or fryer duckling is a young duck (usually under 8 weeks of age), of either sex, that is tender-meated and has a soft bill and soft windpipe.

(ii) *Roaster duckling.* A roaster duckling is a young duck (usually under 16 weeks of age), of either sex, that is tender-meated and has a bill that is not completely hardened and a windpipe that is easily dented.

(iii) *Mature duck or old duck.* A mature duck or an old duck is a duck (usually over 6 months of age), of either sex, with toughened flesh, hardened bill, and hardened windpipe.

(4) *Geese*—(i) *Young goose.* A young goose may be of either sex, is tender-meated, and has a windpipe that is easily dented.

(ii) *Mature goose or old goose.* A mature goose or old goose may be of either sex and has toughened flesh and hardened windpipe.

(5) *Guineas*—(i) *Young guinea.* A young guinea may be of either sex, is tender-meated, and has a flexible breastbone cartilage.

(ii) *Mature guinea or old guinea.* A mature guinea or an old guinea may be of either sex, has toughened flesh, and a hardened breastbone.

(b) The following standards specify the requirements for the specified cuts of poultry:

(1) "Breasts" shall be separated from the back at the shoulder joint and by a cut running backward and downward from that point along the junction of the vertebral and sternal ribs. The ribs may be removed from the breasts, and the breasts may be cut along the breastbone to make two approximately equal halves; or the wishbone portion, as described in subparagraph (3) of this paragraph, may be removed before cutting the remainder along the breastbone to make three parts. Pieces cut in this manner may be substituted for lighter or heavier pieces for exact weight-making purposes and the package may contain two or more of such parts without affecting the appropriateness of the labeling as e.g., "chicken breasts." Neck skin shall not be included with the breasts, except that "turkey breasts" may include neck skin up to the whisker.

(2) "Breasts with ribs" shall be separated from the back at the junction of the vertebral ribs and back. Breasts with ribs may be cut along the breastbone to make two approximately equal halves; or the wishbone portion, as described in subparagraph (3) of this paragraph, may be removed before cutting the remainder along the breastbone to make three parts. Pieces cut in this manner may be substituted for lighter or heavier pieces for exact weight-making purposes and the package may contain two or more of such parts without affecting the appropriateness of the labeling as "breasts with ribs." Neck skin shall not be included, except that "turkey breasts" may include neck skin up to the whisker.

(3) "Wishbones" (Pulley Bones), with covering muscle and skin tissue, shall be severed from the breast approximately halfway between the end of the wishbone (hypocledium) and front point of the breastbone (cranial process of the sternal crest) to a point where the wishbone joins the shoulder. Neck skin shall not be included with the wishbone.

(4) "Drumsticks" shall be separated from the thigh by a cut through the knee joint (femorotibial and patellar joint) and from the hock joint (tarsal joint).

(5) "Thighs" shall be disjointed at the hip joint and may include the pelvic meat, but shall not include the pelvic bones. Back skin shall not be included.

(6) "(Kind) legs" shall be the poultry product which includes the thigh and the drumstick, i.e., the whole leg, and may include the pelvic meat, but shall not include the pelvic bones. Back skin shall not be included.

(7) "Wings" shall include the entire wing with all muscle and skin tissue intact, except that the wing tip may be removed.

(8) "Backs" shall include the pelvic bones and all the vertebrae posterior to the shoulder joint. The meat shall not be peeled from the pelvic bones. The vertebral ribs and/or scapula may be removed or included without affecting the appropriateness of the title. Skin shall be substantially intact.

(9) "Stripped backs" shall include the vertebrae from the shoulder joint to the tail, and include the pelvic bones. The meat may be stripped off of the pelvic bones.

(10) "Necks", with or without neck skin, shall be separated from the carcass at the shoulder joint.

(11) "Halves" are prepared by making a full-length back and breast split of an eviscerated poultry carcass so as to produce approximately equal right and left sides.

(12) "Quarters" consist of the entire eviscerated poultry carcass, which has been cut into four equal parts, but excluding the neck.

(13) "Front quarter without wing" consists of a front quarter of a poultry carcass, from which the wing has been removed.

(14) "Thigh with back portion" consists of a poultry thigh with back portion attached.

(15) "Legs with pelvic bone" consists of a poultry leg with adhering meat and skin and pelvic bone.

(16) "Leg quarter with back portion" consists of a poultry thigh and drumstick, with a portion of the back attached.

(17) "Wing drummette" consists of the humerus of a poultry wing with adhering skin and meat attached.

(18) "Wing portion" consists of a poultry wing except that the drummette has been removed.

(19) "Cut-up poultry" is any cut-up or disjointed portion of poultry or any edible part thereof, as described in this section.

(20) "Giblets" consist of approximately equal numbers of hearts, gizzards, and livers, as determined on a count basis.

Subpart Q—Records, Registration and Reports

§ 81.175 Records required to be kept.

(a) Every person within any of the classes specified in subparagraph (1), (2), or (3) of this paragraph is required by the Act to keep such records as are properly necessary for the effective enforcement of the Act:

(1) Any person that engages in the business of slaughtering any poultry or processing, freezing, packaging, or labeling any carcasses, or parts or products of carcasses, of any poultry, for commerce, for use as human food or animal food;

(2) Any person that engages in the business of buying or selling (as a poultry products broker, wholesaler, or otherwise) or transporting, in commerce, or storing in or for commerce, or importing, any carcasses, or parts or products of carcasses, of any poultry;

(3) Any person that engages in business, in or for commerce, as a renderer, or engages in the business of buying, selling, or transporting in commerce, or importing, any dead, dying, disabled, or diseased poultry or parts of the carcasses of any poultry that died otherwise than by slaughter.

(b) The required records are:

(1) Records, such as bills of sale, invoices, bills of lading, and receiving and shipping papers, giving the following information with respect to each transaction in which any poultry or poultry carcass, part thereof, or poultry product is purchased, sold, shipped, received, transported, or otherwise handled by said person in connection with any business subject to the Act.

(i) The name or description of the poultry or other article;

(ii) The net weight of the poultry or other articles;

(iii) The number of oustide containers;

(iv) The name and address of the buyer of the poultry or other articles sold by such person, and the name and address of the seller of the poultry or other articles purchased by such person;

(v) The name and address of the consignee or receiver (if other than the buyer);

(vi) The method of shipment;

(vii) The date of shipment; and

(viii) The name and address of the carrier.

§ 81.176 Place of maintenance of records.

Every person engaged in any business described in § 81.175(a) shall maintain the records required by § 81.175 at the place of business where such business is conducted, except that, if such person conducts such business at multiple locations, he may maintain such records at his headquarters' office. When not in actual use, all such records shall be kept in a safe place at the prescribed location in accordance with good commercial practices.

§ 81.177 Record retention period.

Every record required to be maintained under this subpart shall be retained for a period not to exceed 2 years after December 31 of the year in which the transaction to which the record relates has occurred, and for such further period as the Administrator may require for purposes of any investigation or litigation under the Act, by written notice to the person required to keep such record under this subpart.

§ 81.178 Access to and inspection of records, facilities and inventory; copying and sampling.

Every person within any of the classes specified in § 81.175(a) shall, upon the presentation of official credentials by any authorized representative of the Secretary, during ordinary business hours, permit such representative to enter his or its place of business and examine the records required to be kept by § 81.175(b) and the facilities and inventory pertaining to the business of such person subject to the Act, and to copy all such records, and to take reasonable samples of the inventory upon payment of the fair market value therefor. Any necessary facilities (other than reproduction equipment) for such examination and copying of records and for such examination and sampling of inventory shall be afforded to such authorized representative of the Secretary.

§ 81.179 Registration.

(a) Except as provided in paragraph (c) of this section, every person that engages in business, in or for commerce, as a poultry products broker, renderer, or animal food manufacturer, or engages in business in commerce as a wholesaler of any carcasses, or parts or products of the carcasses, of any poultry, whether intended for human food or other purposes, or engages in the business as a public warehouseman storing any such articles in or for commerce, or engages in the business of buying, selling or transporting in commerce, or importing, any dead, dying, disabled, or diseased poultry, or part of the carcasses of any poultry that died otherwise than by slaughter, shall register with the Administrator, giving such information as is required, including his name, and the address of each place of business at which, and all trade names under which he conducts such business, by filing with the Administrator, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, a form containing such information, within 90 days after the effective date hereof or after such later date as he begins to engage in such business if not engaged therein upon said effective date. All information submitted shall be current and correct. The registration form shall be obtained from the Director, Program Review and Compliance Staff, Meat and Poultry Inspection Program, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

(b) Whenever any change is made in the name of, or address of any place of business at which, or any trade name under which a registrant conducts his business, he shall report such change in writing to the Administrator within 15 days after making the change.

(c) The registration requirements prescribed in this section shall not apply to persons conducting any of the businesses specified in this section only at an official establishment.

§ 81.180 Information and reports required from official establishment operators.

(a) The operator of each official establishment shall furnish to inspectors accurate information as to all matters needed by them for making their daily reports of the amount and disposition of poultry products processed or handled in the establishment to which they are assigned and such other reports concerning sanitation and other aspects of the operations of the establishment and the conduct of inspection thereat as may be required by the Administrator in specific cases.

(b) The operator of each official establishment shall also make such other reports as the Administrator may from time to time require under the Act.

§ 81.181 Reports by consignees of allegedly adulterated or misbranded products; sale or transportation as violations.

Whenever the consignee of any poultry product which bears an official inspection legend refuses to accept delivery of such product on the grounds that it is adultered or misbranded, the consignee shall notify the Officer in Charge, Meat and Poultry Inspection Program, Consumer and Marketing Service, U.S. Department of Agriculture, of the kind, quantity, source and present location of the product and the respects in which it is alleged to be adulterated or misbranded and it will be a violation of the Act for any person to sell or transport, or offer for sale or transportation or receive for transportation, in commerce, any such product which is capable of use as human food and is in fact adulterated or misbranded at the time of such sale, transportation, offer, or receipt: *Provided, however*, That any such allegedly

adulterated or misbranded product may be transported to any official establishment for reinspection.

§ 81.182 Reports of inspection work.

Reports of the inspection work carried on within official establishments shall be forwarded to the Administrator by the inspector in charge in such a manner as may be specified by the Administrator.

Subpart R—Cooperation With States and Territories; Certification of State and Territorial Programs as at Least Equal to Federal Program

§ 81.185 Assistance to State and territorial programs.

(a) The Administrator is authorized, under paragraph (a) of section 5 of the Act, when he determines it would effectuate the purposes of the Act, to cooperate with any State (including Puerto Rico) or any organized territory in developing and administering the poultry product inspection program of such jurisdiction, with a view to assuring that it imposes and enforces requirements at least equal to those under sections 2 through 4, 6 through 10, and 12 through 22 of the Act, with respect to establishments at which poultry are slaughtered or poultry products are processed for use as human food, solely for distribution within such jurisdiction, and with respect to the poultry products of such establishments. Such cooperation is authorized if the jurisdiction has enacted a mandatory law imposing ante mortem and post mortem inspection, reinspection, and sanitation requirements (at least equal to those under the Federal Act), with respect to all or certain classes of persons engaged in slaughtering poultry or otherwise processing poultry products for use as human food solely for distribution within such jurisdiction.

(b) The Administrator is also authorized under paragraph (a) of section 5 of the Act, to cooperate with any State (including Puerto Rico) or any organized territory in developing and administering programs under the laws of such jurisdiction containing authorities at least equal to those provided in section 11 of the Act (relating to records; registration of specified classes of operators; dead, dying, disabled, or diseased poultry, and products not intended for human food) when he determines that such cooperation would effectuate the purposes of the Act.

(c) Such cooperation may include advisory assistance, technical and laboratory assistance and training, and financial aid. The Federal contribution to any State (or territory) for any year shall not exceed 50 percent of the estimated total cost of the cooperative State (or territorial) program. A cooperative program under this section is called a State-Federal program.

§ 81.186 Cooperation of States and other jurisdictions in Federal programs.

Under the "Talmadge-Aiken Act" of September 28, 1962 (7 U.S.C. 450), the Administrator is authorized under stated conditions to utilize employees and facilities of any State in carrying out Federal functions under the Poultry Products Inspection Act. A cooperative program for this purpose is called a Federal-State program. Under paragraph (a) of section 5 of the Poultry Products Inspection Act, the Administrator is also authorized to conduct examinations, investigations and inspections under the Act through any officer or employee of any State or territory or the District of Columbia commissioned by him for such purpose.

§ 81.187 Certification of States and territories with programs at least equal to Federal program.

It has been determined that each of the following States and territories has developed and activated a poultry products inspection program (with requirements at least equal to those imposed under sections 1 through 4, 6 through 10, and 12 through 22 of the Act) with respect to all establishments in such jurisdiction, at which poultry are slaughtered or poultry products are processed for use as human food, solely for distribution within such jurisdiction, and the products of such establishments:

California.	New Mexico.
Kansas.	South Carolina.
Missouri.	Washington.

Subpart S—Transportation; Exportation; or Sale of Poultry or Poultry Products

§ 81.190 Transactions in slaughtered poultry and other poultry products restricted.

(a) No person shall sell, transport, offer for sale or transportation, or receive for transportation, in commerce or from any official establishment, any slaughtered poultry from which the blood, feathers, feet, head, or viscera have not been removed in accordance with the regulations, except that dressed poultry may be transported from one official establishment to another official establishment for further processing.

(b) No person shall sell, transport, offer for sale or transportation, or receive for transportation, in commerce, any slaughtered poultry or other poultry product which is capable of use as human food and is adulterated or fails to bear an official inspection legend on its immediate container as required by § 81.123 or is otherwise misbranded at the time of such sale, transportation, offer or receipt, except as otherwise provided in Subpart C of this part. However, poultry heads and feet which are collected and handled as an official establishment in an acceptable manner may be shipped from the official establishment and in commerce directly for export for further processing as human food, if they have been examined and found to be suitable for such purpose, by an inspector and are labeled as prescribed in this paragraph. The containers of all such products shall bear a label showing: (1) The name of the product; (2) the name and address of the packer or distributor, and when the name of the distributor is shown, it shall be qualified by such terms as "packed for," "distributed by," or "distributors"; and (3) the official establishment number of the establishment where packed. Such products shall not bear the official inspection legend.

§ 81.191 Distribution of inspected products to small lot buyers.

For the purpose of facilitating the distribution in commerce of inspected poultry products to small lot buyers (such as small restaurants), distributors or jobbers may remove inspected and passed non-consumer-packaged poultry carcasses or consumer-packaged poultry products from shipping containers or immediate containers, other than consumer packages, and place them into other containers which do not bear an official inspection mark: *Provided*, That the individual carcasses bear the official inspection legend and the official establishment number of the establishment that processed the articles; and the consumer-packaged articles are fully labeled in accordance with Subpart N of this part: *And provided further*, That the other container is marked with the name and address of the distributor or jobber and bears the statement "The poultry product contained herein was inspected by the U.S.D.A." in the case of poultry products processed in the United States, or the statement. "The poultry products contained herein have been approved for importation under P.P.I.A." in the case of imported poultry products.

§ 81.192 Penalties inapplicable to carriers and public warehousemen.

No carrier shall be subject to the penalties of the Act, other than the penalties for violation of section 11, by reason of his receipt, carriage, holding, or delivery, in the usual course of business, as a carrier, of poultry or poultry products, owned by another person, unless the carrier has knowledge, or is in possession of facts which would cause a reasonable person to believe that such poultry or poultry products were not inspected or marked in accordance with the provisions of the Act or were otherwise not eligible for transportation under the Act, or unless the carrier refuses to furnish on request of a representative of the Secretary, the name and address of the person from whom he received such poultry or poultry products, and copies of all documents, if any there be, pertaining to the delivery of the poultry or poultry products to such carrier.

§ 81.193 Poultry carcasses, etc. not intended for human food.

Poultry carcasses, and parts and products thereof, that are not intended for use as human food may, after they have been denatured as prescribed in § 81.95, be shipped from any official establishment and in commerce even though they do not comply with all the provisions of the regulations, provided they are marked

"Not fit for human food." These requirements do not apply to parts of poultry carcasses that are naturally inedible by humans, such as entrails. All such articles, if intended for animal food, are subject to the Federal Food, Drug, and Cosmetic Act.

Subpart T—Imported Poultry Products

§ 81.195 Requirements for entry into United States; definition of United States.

(a) No slaughtered poultry, or parts or products thereof, shall be imported into the United States unless they are healthful, wholesome, fit for human food, not adulterated, and contain no dye, chemical, preservative or ingredient which renders them unhealthful, unwholesome, adulterated, or unfit for human food and they also comply with the regulations prescribed in this subpart to assure that they comply with the standards provided for in the Act: *Provided*, That the provisions of this subpart apply to such articles only if they are capable of use as human food.

(b) Except as provided in § 81.207, slaughtered poultry and other poultry products may be imported only if they were processed solely in countries listed in § 81.196(b). Dressed poultry may be imported into the United States only if it is consigned to an official establishment for evisceration under the Act.

§ 81.196 Eligibility of foreign countries for importation of poultry products into the United States.

(a) (1) Whenever it shall be determined by the Administrator that the system of poultry inspection maintained by any foreign country, insures compliance with requirements at least equal to all the provisions of the Act and the regulations in this part which are applied to official establishments in the United States, and their poultry products, and that reliance can be placed upon certificate required under this subpart from authorities of such foreign country, notice of that fact will be given by including the name of such foreign country in paragraph (b) of this section. Thereafter, poultry products processed in any establishments which operate under said system and are so identified and marked with the appropriate official mark shall be eligible, so far as the regulations in this part are concerned, for importation into the United States from such foreign country after applicable requirements of this part have been met.

(2) The determination of acceptability of a foreign poultry inspection system for purposes of this section shall be based on an evaluation of the foreign program in accordance with the following requirements and procedures:

(i) The system shall have a program organized and administered by the national government of the foreign country. The system as implemented must provide standards at least equal to those of the Federal system of poultry inspection in the United States with respect to:

(*a*) Organizational structure and staffing, so as to insure uniform enforcement of the requisite laws and regulations in all establishments throughout the system at which poultry products are processed;

(*b*) Ultimate control and supervision by the national government over the official activities of all employees or licensees of the system;

(*c*) The assignment of competent, qualified inspectors;

(*d*) Authority and responsibility of national inspection officials to enforce the requisite laws and regulations governing poultry inspection and to certify or refuse to certify poultry products intended for export;

(*e*) Adequate administrative and technical support;

(*f*) Other requirements of adequate inspection service as required by the regulations.

(ii) The legal authority for the system and the regulations thereunder shall impose requirements at least equal to those governing the system of poultry inspection organized and maintained in the United States with respect to:

(*a*) Ante mortem inspection of poultry for slaughter, which shall be performed by veterinarians or by other employees or licensees of the system under the direct supervision of veterinarians;

(*b*) Post mortem inspection of carcasses and parts thereof at time of slaughter, performed by veterinarians or other employees or licensees of the system under the direct supervision of veterinarians;

(*c*) Official controls by the national government over establishment construction, facilities, and equipment;

(*d*) Direct and continuous official supervision of slaughtering and processing of poultry, by the assignment of inspectors to establishments to assure that adulterated or misbranded poultry products are not processed.

(*e*) Complete separation of official establishments from nonofficial establishments, and the maintenance of a single standard of inspection and sanitation throughout all official establishments;

(*f*) Requirements for sanitation at official establishments and for sanitary handling of poultry products;

(*g*) Official controls over condemned material until destroyed or removed and thereafter excluded from the establishment.

(*h*) Other matters for which requirements are contained in the regulations.

(iii) Countries desiring to establish eligibility for importation of poultry products into the United States may request a determination of eligibility by presenting copies of the laws and regulations on which the foreign poultry inspection system is based and such other information as the Administrator may require with respect to matters enumerated in subdivisions (i) and (ii) of this subparagraph (2). Determination of eligibility is based on a study of the documents and other information presented and an initial review of the system in operation by a representative of the Department using the criteria listed in subdivisions (i) and (ii) of this subparagraph (2). Maintenance of eligibility of a country for importation of poultry products into the United States depends on the results of periodic reviews of the foreign poultry inspection system in operation by a representative of the Department, and the timely submission of such documents and other information related to the conduct of the foreign inspection system as the Administrator may find pertinent to and necessary for the determinations required by this section.

(iv) The foreign inspection system must maintain a program of periodic supervisory visits to each official establishment to assure that requirements referred to in (*a*) through (*h*) of subdivision (ii) of this subparagraph (2), at least equal to those of the Federal system of poultry inspection in the United States are being met.

(3) Poultry products from foreign countries not listed in paragraph (b) of this section are not eligible for importation into the United States, except as provided by § 81.207. The listing of any foreign country under this section may be withdrawn whenever it shall be determined by the Administrator that the system of poultry inspection maintained by such foreign country does not assure compliance with requirements at least equal to all the requirements of the Act and the regulations as applied to official establishments in the United States; or that reliance cannot be placed upon certificates required under this subpart from authorities of such foreign country; or that, for lack of current information concerning the system of poultry inspection being maintained by such foreign country, such foreign country should be required to reestablish its eligibility for listing.

(b) It has been determined that poultry products from the following countries, covered by foreign poultry inspection certificates of the country of origin as required by § 81.197, are eligible under the regulations in this subpart for importation into the United States, after inspection and marking as required by the applicable provisions of this subpart:[1]

Canada. Hong Kong.
France.

§ 81.197 Imported products; foreign inspection certificates required.

(a) Except as provided in § 81.207, each consignment containing any slaughtered poultry or other poultry product consigned to the United States from a foreign country shall be accompanied with a foreign inspection certificate substantially in the form illustrated in paragraph (c) of this section if it covers dressed poultry or other uneviscerated slaughtered poultry; and

[1] Listing of any country in this section does not relieve the poultry products of such country from applicable requirements under other Federal laws.

substantially in the form illustrated in paragraph (b) of this section if it covers any other poultry product.

(b) The form of foreign poultry product inspection certificate shall be as follows:

FOREIGN POULTRY PRODUCT INSPECTION CERTIFICATE (Except for uneviscerated poultry)

Place _____ _____
(City) (Country)
Date _____

I hereby certify that the poultry products herein described were derived from poultry which received ante mortem and post mortem inspections at the time of slaughter; and that such poultry products are sound, healthful, wholesome, clean and otherwise fit for human food, and are not adulterated and have not been treated with and do not contain any dye, chemical, preservative, or ingredient not permitted by the regulations governing the inspection of poultry and poultry products of the U.S. Department of Agriculture, filed with me, and that said poultry products have been handled only in a sanitary manner in this country; and are otherwise in compliance with requirements at least equal to those in the Poultry Products Inspection Act and said regulations.

KIND OF PRODUCT

_____
_____
_____

Number of pieces or packages	*Weight*
_____	_____
_____	_____
_____	_____

Identification marks on containers _____
Consignor _____
Address _____
Consignee _____
Destination _____
Shipping marks _____

(Signature) _____
(Name of official of national foreign government authorized to issue inspection certificates for poultry products exported to the United States)
(Official title) _____

(c) The form or foreign inspection certificate for dressed poultry or other uneviscerated slaughtered poultry [1] shall be as follows:

FOREIGN DRESSED POULTRY INSPECTION CERTIFICATE

Place _____ Date _____

I hereby certify that the dressed poultry herein described was derived from poultry which received ante mortem inspection at the the time of slaughter and post mortem inspection insofar as possible for uneviscerated poultry, and that such dressed poultry is sound, healthful, wholesome, clean, and otherwise fit for human food, and is not adulterated, and has not been treated with and does not contain any dye, chemical, or preservative not permitted by the regulations governing the inspection of poultry and poultry products of the U.S. Department of Agriculture, filed with me, so far as could be determined by such inspection, and that said dressed poultry has been handled only in a sanitary manner in this country and is otherwise in compliance with requirements at least equal to those in the Poultry Products Inspection Act and said regulations.

Number of pieces or packages	*Weight*
_____	_____
_____	_____

Identification marks on containers _____
Consignor _____
Address _____
Consignee _____
Destination _____
Shipping marks _____

(Signature) _____
(Name of official of national foreign government authorized to issue inspection certificates for dressed poultry exported to the United States)
(Official title) _____

[1] When slaughtered poultry other than dressed poultry is involved the word "dressed" shall be deleted throughout the certificate.

§ 81.198 Importer to make application for inspection of imported poultry products.

Each person who wishes to import any slaughtered poultry or other poultry product shall make application for inspection to the officer in charge of the import inspection office at the port where the poultry product is to be offered for entry, or to the Administrator, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, as long as possible in advance of the anticipated arrival of each consignment of such product, except in the case of poultry product exempted from inspection by § 81.207. Each application shall state the approximate date on which the consignment is due to arrive in the United States, the name of the ship or other carrier transporting it, the name of the country where the product was processed, the name of the country from which the product was shipped, the place of destination, the quantity and kind of product, whether fresh, frozen, cured, or canned, and the point of first arrival in the United States.

§ 81.199 Inspection of imported poultry products.

(a) Except as provided in § 81.207, all slaughtered poultry and poultry products offered for importation from any foreign country listed in § 81.196(b) shall be inspected in accordance with inspection procedures prescribed by the Administrator, including the examination of the labeling information on the containers, by an inspector, before the same shall be allowed entry into the United States. Importers will be advised of the point where inspection will be made, and in case of small shipments (less than carload lots) the importer may be required to move the product to the location of the nearest inspector.

(b) Inspectors shall take, without cost to the United States, from each consignment offered for importation, samples of any product which is subject to analysis, except that samples of any product offered for importation under § 81.207 shall not be taken unless there is reason for suspecting the presence therein of a substance in violation of that section.

§ 81.200 Imported poultry products, retention in customs custody; delivery under bond; movement prior to inspection; sealing; handling; facilities and assistance.

(a) No slaughtered poultry or other poultry product required by this subpart to be inspected shall be released from customs custody prior to inspection, but such product may be delivered to the consignee, or his agent, prior to inspection, if the consignee shall furnish a bond, in form prescribed by the Secretary of the Treasury, conditioned that the product shall be returned, if demanded, to the collector of the port where the same is offered for clearance through the customs.

(b) Except as provided in paragraph (a) of this section, no product required by this subpart to be inspected shall be moved, prior to inspection, from the port of arrival where first unloaded, and if arriving by water, from the wharf where first unloaded at such port, to any place other than the place designated in accordance with this subpart as the place where the same shall be inspected; and no product shall be conveyed in any manner other than in compliance with this subpart.

(c) Means of conveyance or outside containers in which any product is moved, prior to inspection from the port or wharf where first unloaded in the United States, shall be sealed with official seals of the Department of Agriculture as prescribed in § 81.98 or otherwise identified as provided in this paragraph, unless already sealed with customs or consular seals in accordance with the customs regulations. The containers shall be securely tied before being offered for sealing. Such seals shall be affixed by inspectors, or, if there is no inspector at such port, then by a customs officer. In lieu of tying and sealing containers, the carrier or importer may furnish and attach to each outside container of product a warning notice on bright green paper, not less than 5 x 8 inches in size, containing the following legend in black type of a conspicuous size:

NOTICE

This container of poultry product must be delivered intact to an inspector of the Meat and Poultry Inspection Program, U.S. Department of Agriculture.

WARNING

Failure to comply with these instructions will result in penalty action being taken against the holder of the customs entry bond.

If the product is found to be acceptable upon inspection, the package will be marked "U.S. Inspected and Passed" and this warning notice defaced.

(d) No person shall affix, alter, detach, deface, or destroy any official seal of the Department of Agriculture, except customs officers or inspectors or as provided for in paragraph (f) of this section.

(e) No poultry product shall be removed from any means of conveyance or container sealed with an official seal of the Department of Agriculture, or bearing the official warning notice prescribed

in this section, except under the supervision of an inspector or a customs officer, or as provided for in paragraph (f) of this section.

(f) In case of a wreck or similar extraordinary emergency, the official seal of the Department of Agriculture on a car, truck, or other means of conveyance, may be broken by the carrier, and, if necessary, the articles may be reloaded into another means of conveyance for transportation to destination. In all such cases, the carrier shall immediately report the facts by telegraph to the Administrator, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

(g) The consignee, or his agent, shall furnish such facilities and shall provide such assistance for handling and marking poultry products offered for importation as the inspector may require.

§ 81.201 Means of conveyance and equipment used in handling imported poultry products to be maintained in sanitary condition.

Compartments of steamships, railroad cars, and other means of conveyance transporting any poultry product to the United States, and all chutes, platforms, racks, tables, tools, utensils, and all other devices used in moving and handling any poultry product offered for importation into the United States, shall be maintained in a sanitary condition.

§ 81.202 Poultry products offered for importation; reporting of findings to customs; handling of articles refused entry.

(a) Inspectors shall report their findings to the collector of customs at the port where poultry products are offered for entry, and shall request the collector to refuse entry to all products which are marked or designated "U.S. Refused Entry" or otherwise are not in compliance with the regulations in this subpart. Unless such products shall be exported by the consignee within a time to be specified by the collector of customs (usually 30 days), the consignee, within such specified time, shall cause the destruction of such products for human food purposes under the supervision of an inspector. If products are destroyed for human food purposes under the supervision of an inspector, he shall give prompt notice thereof to the collector.

(b) Consignees shall, at their own expense, return immediately, to the collector of customs, in means of conveyance or containers sealed with the official seal of the Department of Agriculture, any product received by them under this subpart which is marked or designated "U.S. Refused Entry," or which in any respect does not comply with this subpart.

(c) Except as provided in § 81.200 (a) or (b), no person shall remove or cause to be removed from any place designated as the place of inspection, any poultry product which the regulations in this subpart require to be marked in any way, unless the same has been clearly and legibly marked in compliance with this subpart.

§ 81.203 Imported products; charges for storage, cartage, and labor with respect to products which are refused entry.

All charges for storage, cartage, and labor with respect to any imported product which is refused entry pursuant to the regulations in this subpart shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any other products imported thereafter by or for such owner or consignee.

§ 81.204 Marking of poultry products offered for entry.

(a) Poultry products which upon inspection are found to be acceptable for entry into the United States shall be marked with the official inspection legend shown in § 81.105. Poultry products which are inspected and rejected shall be marked "U.S. Refused Entry" as shown in § 81.105. Such marks shall be applied to the shipping containers.

§ 81.205 Labeling of immediate containers of poultry products for importation.

(a) Immediate containers of poultry products imported into the United States shall bear a label, printed in English showing in accordance with Subpart N of this part all information required by that section (except that the inspection mark and establishment number assigned by the foreign poultry inspection system and certified to the Inspection Service shall be shown instead of the official dressed poultry identification mark or other official inspection legend, and official establishment number); and in addition the label shall show the name of the country of origin preceded by the words "Product of" which statement shall appear immediately under the name of the product.

(b) The labels shall not be false or misleading in any respect.

(c) Labels for immediate containers of imported poultry products shall be submitted in sketch form to the Washington office of the Standards and Services Division for approval. Sketch labels shall be submitted with sufficient copies to provide two copies for the Washington office. Finished labels shall be submitted with sufficient copies to provide two copies for the Washington office, one copy for each port of entry and one copy for the foreign plant requesting the approval.

§ 81.206 Labeling of shipping containers of poultry products for importation.

Shipping containers in which poultry products are shipped to the United States are required to bear in a prominent and legible manner the name of the product, the name of the country of origin, the foreign inspection system establishment number of the establishment in which the product was processed, and the inspection mark of the country of origin. Labeling on shipping containers shall be examined at the time of inspection in the United States and if found to be false or misleading, the product shall be refused entry.

§ 81.207 Small importations for consignee's personal use, display, or laboratory analysis.

Any poultry product (other than one which is forbidden entry by other Federal law or regulation) which is offered for importation from any country in quantities of less than 50 pound net weight, exclusively for the personal use of the consignee, or for display or laboratory analysis by the consignee, and not for sale or distribution; which is sound, healthful, wholesome, and fit for human food; and which is not adulterated and contains no substance not permitted by the Act or regulations may be allowed entry into the United States without a foreign inspection certificate, and such product is not required to be inspected upon arrival in the United States and may be shipped to the consignee without further restriction under this part: *Provided,* That the Department may with respect to any specific importation, require that the consignee certify that such product is exclusively for the personal use of said consignee, or for display or laboratory analysis by said consignee, and not for sale or distribution.

§ 81.208 Imported poultry products to be handled and transported as domestic; entry into official establishments; transportation.

(a) All imported poultry products, after entry into the United States in compliance with this subpart, shall be deemed and treated and, except as provided in § 81.207, shall be handled and transported as domestic products, and shall be subject to the provisions of this part and to the provisions of the Poultry Products Inspection Act and the Federal Food, Drug, and Cosmetic Act.

(b) Imported poultry products inspected, passed, and marked in accordance with this subpart may, subject to the provisions of the regulations, be taken into official establishments and be mixed with or added to inspected and passed poultry products in such establishments.

(c) Imported poultry products which have been inspected, passed, and marked under this subpart may be transported in commerce, only upon compliance with the applicable regulations.

§ 81.209 Returned U.S. inspected and marked poultry products; not importations.

Poultry products which have been inspected and passed by the U.S. Department of Agriculture and are so marked, and are returned from foreign countries, are not importations within the meaning of this subpart. Such returned shipments shall be reported to the Administrator by letter prior to arrival at the U.S. port of entry.

Subpart U—Detention; Seizure and Condemnation; Criminal Offenses

§ 81.210 Poultry and other articles subject to administrative detention.

Any poultry carcass, or part thereof; or any product made wholly or in part

from any poultry carcass or part thereof; or any dead, dying, disabled, or diseased poultry is subject to detention for a period not to exceed 20 days when found by any authorized representative of the Secretary upon any premises where it is held for purposes of, or during or after distribution in commerce or otherwise subject to the Act, and there is reason to believe that any such poultry or other article is adulterated or misbranded and is capable of use as human food or has not been inspected, in violation of the provisions of the Act, any other Federal law, or the laws of any State or territory, or the District of Columbia; or that it has been or is intended to be distributed in violation of the provisions of the Act, any other Federal law, or the laws of any State or territory, or the District of Columbia.

§ 81.211 Method of detention; form of detention tag.

An authorized representative of the Secretary shall detain any poultry or other article to be detained under this subpart, by affixing to such article an official red paper tag (Form MP-483) bearing the statement "U.S. Department of Agriculture, Consumer and Marketing Service, U.S. Detained" and other information.

§ 81.212 Notification of detention to the owner of the article detained, or his agent, or person having custody.

When any poultry or other article is detained under § 81.211, an authorized representative of the Secretary shall give oral notification to the owner of the article detained, if he can be ascertained and notified, and, if not, to his agent or the immediate custodian of the article, and promptly furnish the person so notified with a completed "Preliminary Notice of Detention" (Form CP-479).[1] Within 48 hours after the detention of any article, an authorized representative of the Secretary shall, if the detention is to continue, give written notification to the owner of the article detained, by furnishing him a "Notice of Detention" (Form CP-484),[1] or if such owner cannot be ascertained and notified within such period of time, furnish such notice to his agent, or the carrier or other person having custody of the article detained. The notification (Form CP-484) with a copy of CP-479 shall be served either by delivering the notification to such owner or his agent, or such other person, or by certifying and mailing the notification, addressed to such owner, agent, or other person at his last known residence or principal office or place of business.

§ 81.213 Notification of governmental authorities having jurisdiction over article detained; form of written notification.

Within 48 hours after the detention of any poultry or other article pursuant to § 81.211, an authorized representative of the Secretary shall give oral or written notification of such detention to any Federal authorities not connected with the inspection service, and any State or other government authorities, having jurisdiction over such article. In the event notification is given orally, it shall be confirmed in writing, as promptly as circumstances permit.

§ 81.214 Movement of poultry or other article detained; removal of official marks.

No poultry or other article detained in accordance with the provisions in this subpart shall be moved by any person from the place at which it is located when so detained, until released by an authorized representative of the Secretary: *Provided*, That any such article may be moved from the place at which it is located when so detained, for refrigeration or freezing, or storage purposes if such movement has been approved by an authorized representative of the Secretary and the article so moved will be further detained by an authorized representative of the Secretary after such movement. When the detention of such article is terminated, the owner, his agent, or the carrier or other person having custody of the article who was notified when the article was detained will receive notification of the termination. The notification "Notice of Termination of Detention" (Form CP-487)[1] shall be served either by delivering the notice to the person originally notified, or by certifying and mailing the notification addressed to such person, at his last known residence or principal office or place of business. All official marks may be required by such representative to be removed from such article before it is released unless it appears to the satisfaction of the representative that the article is eligible to retain such marks.

§ 81.215 Poultry or other articles subject to judicial seizure and condemnation.

Any poultry carcass, or part thereof, or any product made wholly or in part from any poultry carcass or part thereof; except those exempted from the definition of a poultry product in § 81.15, or any dead, dying, disabled, or diseased poultry, that is being transported in commerce or is otherwise subject to the Act, or is held for sale in the United States after such transportation, is subject to seizure and condemnation, in a judicial proceeding pursuant to section 20 of the Act if such poultry or other article:

(a) Is or has been processed, sold, transported, or otherwise distributed or offered or received for distribution in violation of the Act; or

(b) Is capable of use as human food and is adulterated or misbranded; or

(c) In any other way is in violation of the Act.

§ 81.216 Procedure for judicial seizure, condemnation, and disposition.

Any poultry or other article subject to seizure and condemnation under this subject is liable to be proceeded against and seized and condemned, and disposed of, at any time, on an appropriate pleading in any U.S. district court, or other proper court specified in section 21 of the Act, within the jurisdiction of which the article is found.

§ 81.217 Authority for condemnation or seizure under other provisions of law.

The provisions of this subpart relating to detention, seizure, condemnation, and disposition of poultry or other articles do not derogate from authority for retention, condemnation or seizure conferred by other provisions of the Act, or other laws.

§ 81.218 Criminal offenses.

The Act contains criminal provisions with respect to numerous offenses specified in the Act, including but not limited to forcible assaults on, or other interference with, any person while engaged in, or on account of the performance of, his official duties under the Act. Criminal provisions with respect to gifts or offers of bribes to such persons and related offenses are contained in the general criminal code (18 U.S.C. 201).

Subpart V—Special Provisions for Designated States and Territories; Criteria and Procedure for Designating Establishments With Operations Which Would Clearly Endanger the Public Health; Disposition of Poultry Products Therein

§ 81.220 Definition of "State".

For purposes of this subpart, the term "State" means any State (including the Commonwealth of Puerto Rico) or organized territory.

§ 81.221 Designation of States under paragraph 5(c) of the Act.

Each of the following States has been designated, effective on the date shown below, under paragraph 5(c) of the Act, as a State in which the provisions of sections 1 through 4, 6 through 10, and 12 through 22 of the Act shall apply to operations and transactions wholly within such State:

States:	*Effective date of designation*
Arkansas	Jan. 2, 1971
Colorado	Jan. 2, 1971
Georgia	Jan. 2, 1971
Idaho	Jan. 2, 1971
Maine	Jan. 2, 1971
Michigan	Jan. 2, 1971
Minnesota	Jan. 2, 1971
Montana	Jan. 2, 1971
North Dakota	Jan. 2, 1971
Oregon	Jan. 2, 1971
South Dakota	Jan. 2, 1971
Utah	Jan. 2, 1971
West Virginia	Jan. 2, 1971

[1] Copy filed with the Office of the Federal Register as part of the original document.

§ 81.222 States designated under paragraph 5(c) of the Act; application of regulations.

The provisions of the regulations in this part apply to operations and transactions wholly within each State designated in § 81.221 under paragraph 5(c) of the Act, except as otherwise provided in this section. (The provisions of the regulations apply in all respects to operations and transactions in or for commerce.)

(a) Each establishment, located in such a designated State, which is granted inspection required under § 81.6 (b), shall obtain approval of plant drawings as specified in § 81.19 within 18 months after the designation of the State becomes effective. The establishment, including its facilities shall be placed in compliance with the approved drawings as soon as possible, but not to exceed 36 months after such designation becomes effective. Failure to have drawings approved or to bring the establishment into compliance with such drawings within the time periods specified herein will result in the expiration of the grant of inspection. Inspection will be initially granted to any such establishments only if it is found, upon a combined evaluation of its premises, facilities, and operating procedures, to be capable of producing products that are not adulterated or misbranded.

(b) Section 81.26 will apply to establishments required to have inspection under § 81.6(b), except that existing interconnections between official and unofficial establishments or between official establishments will be permitted if it is determined in specific cases that the interconnections are such that transfer of inedible poultry product into the official establishment would be difficult or unusual, and any such transfers are strictly prohibited, except as permitted under other provisions of the regulations. It is essential that separation of facilities be maintained to the extent necessary to assure that inedible poultry product does not enter the official establishment contrary to the regulations.

(c) Section 81.51 shall apply to such establishments, except that separate facilities for men and women workers will not be required when the majority of the workers in the establishment are related by blood or marriage: *Provided,* That this will not conflict with municipal or State requirements; and except that separation of toilet soil lines from house drainage lines to a point outside the buildings will not be required in existing construction when positive acting backflow devices are installed.

(d) Subpart N of this part shall apply to such establishments, except as provided in this paragraph (d).

(1) The operator of each such establishment shall, prior to the inauguration of inspection, identify all labeling and marking devices in use, or proposed for use (upon the date of inauguration of inspection) to the officer in charge in which the establishment is located. Temporary approval, pending formal approval under § 81.132, will be granted by the officer in charge for labeling and marking devices that he determines are neither false nor misleading, provided the official inspection legend bearing the official establishment number is applied to the principal display panel of each label, either by a mechanical printing device or a self-destructive pressure sensitive sticker, and provided the label shows the true product name, an accurate ingredient statement, the name and address of the manufacturer, packer, or distributor, and any other features required by paragraph 4(h) of the Act.

(2) The officer in charge will forward one copy of each item of labeling and a description of each marking device for which he has granted temporary approval to the Standards and Services Division and will retain one copy in a temporary approval file for the establishment.

(3) The operator of the official establishment shall promptly forward a copy of each item of labeling and a description of each marking device for which temporary approval has been granted by the officer in charge (showing any modification required by the officer in charge) to the Washington, D.C. office of the Standards and Services Division, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, accompanied by the formula and details of preparation and packaging for each product. Within 90 days after inauguration of inspection, all labeling material and marking devices temporarily approved by the officer in charge must receive approval as required by § 81.132 or their use must be discontinued.

(4) The officer in charge will also review all shipping containers to insure that they do not have any false or misleading labeling and are otherwise not misbranded. Modifications of unacceptable information on labeling material by the use of self-destructive pressure sensitive tape or by blocking out with an ink stamp will be authorized on a temporary basis to permit the maximum allowable use of all labeling materials on hand. All unacceptable labeling material which is not modified to comply with the requirements of the regulations must be destroyed or removed from the official establishment.

(e) Sections 81.175 through 81.179 apply to operations and transactions not in or for commerce in a State designated under paragraph 5(c) only if the State is also designated under section 11 of the Act and if such provisions are appplicable as shown in § 81.224.

(f) Section 81.185(a) will not apply to States designated under paragraph 5(c) of the Act.

(g) Provisions of this part relating to exports and imports do not apply to operations and transactions solely in or for intrastate commerce.

§ 81.223 Control and disposition of nonfederally inspected poultry products in States designated under paragraph 5(c) of the Act.

Upon the effective date of designation of a State under paragraph 5(c) of the Act, no poultry products can be processed within the State unless they are prepared under inspection pursuant to the regulations or are exempted from the requirement of inspection under § 81.10, and no unexempted poultry products which were processed without any inspection can lawfully be distributed within the State. For a period of 90 days from the effective date of such designation, poultry products which were processed and inspected and passed under the supervision of a responsible State or local inspection agency can be distributed solely within the State, provided they are not adulterated or misbranded, except that the official inspection legend shall not be used. Such products may not enter official establishments. After said 90-day period, only federally inspected and passed products may be distributed within the designated State, except as provided in § 81.10.

§ 81.224 Designation of States under section 11 of the Act; application of sections of the Act and the regulations.

Each of the following States has been designated, effective on the date shown below, under section 11 of the Act, as a State in which the provisions of the sections of the Act and regulations specified below shall apply to operators engaged, other than in or for commerce, in the kinds of business indicated below:

Paragraphs of act and regulations	Classes of operators	State	Effective date
Act, 11(b); §§ 81.175–81.178			
Act, 11(c); §81.179			
Act, 11(d)			

§ 81.225 Criteria and procedure for designating establishments with operations which would clearly endanger the public health; disposition of poultry products therein.

(a) An establishment in any State not listed in § 81.221 that is preparing poultry products solely for distribution within such State shall be designated as one producing adulterated products which would clearly endanger the public health, if:

(1) Any poultry product processed at the establishment is adulterated in any of the following respects:

(i) It bears or contains a pesticide chemical, food additive, or color additive, that is "unsafe" within the meaning of sections 408, 409, or 706 of the Federal Food, Drug, and Cosmetic Act or was intentionally subjected to radiation in a manner not permitted under section 409 of said Act; or if it bears or contains any other added poisonous or added deleterious substance which may render it injurious to health or make it unfit for human food; or

(ii) It consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food (for example, it was prepared from a poultry carcass or other ingredients exhibiting spoilage characteristics); or it is, or was prepared from, a poultry carcass which

would be required to be condemned under Subpart K of this part at official establishments; or

(iii) It has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth or may have been rendered injurious to health (for example, if insects or vermin are not effectively controlled at the establishments, or insanitary water is used in preparing poultry products for human food); or

(iv) It is, in whole or in part, the product of poultry that died otherwise than by slaughter; or

(v) Its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; and

(2) Such adulterated articles are intended to be or are distributed from the establishment while capable of use as human food.

(b) When any such establishment is identified by an inspector as one producing adulterated poultry products which would clearly endanger public health under the criteria in paragraph (a) of this section, the following procedure will be followed:

(1) The inspector will informally advise the operator of the establishment concerning the deficiencies found by him and report his findings to the appropriate Regional Director for the Inspection Service. When it is determined by the Regional Director that any establishment preparing poultry products solely for distribution within any State is producing adulterated poultry products for distribution within such State which would clearly endanger the public health, written notification thereof will be issued to the appropriate State officials, including the Governor of the State and the appropriate Advisory Committee, for effective action under State or local law to prevent such endangering of the public health. Such written notification shall clearly specify the deficiencies deemed to result in the production of adulterated poultry products and shall specify a reasonable time for such action under State or local law.

(2) If effective action is not taken under State or local law within the specified time, written notification shall be issued by the Regional Director to the operator of the establishment, specifying the deficiencies involved and allowing him 10 days to present his views or make the necessary corrections, and notifying him that failure to correct such deficiencies may result in designation of the establishment and operator thereof as subject to the provisions of sections 1 through 4, 6 through 10, and 12 through 22 of the Act as though engaged in commerce.

(3) Thereafter the inspector shall survey the establishment and designate it if he determines, in consultation with the Regional Director, that it is producing adulterated poultry products, which would clearly endanger the public health, and formal notice of such designation will be issued to the operator of the establishment by the Regional Director.

(c) Poultry products on hand at the time of designation of an establishment under this section are subject to retention or detention, and seizure and condemnation in accordance with § 81.145 or Subpart U of this part: *Provided*, That poultry products that have been federally inspected and so identified and that have not been further prepared at any nonfederally inspected establishment may be released for distribution if the products appear to be not adulterated or misbranded at the time of such release.

(d) No establishment designated under this section can lawfully prepare any poultry products unless it first obtains inspection or qualifies for exemption under § 81.10 of this subpart. All other provisions of the regulations shall apply to establishments designated under this section to the same extent and in the same manner as if they were engaged in commerce, except that the exceptions provided for in § 81.222 shall apply to such establishments.

Any person who wishes to submit written data, views, or arguments concerning the proposed amendments may do so by filing them, in duplicate, with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, within 60 days after the date of publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during the regular business hours as provided in 7 CFR 1.27(b), except when the person making the submission requests that the submission be held confidential and the Administrator determines that there is a basis for such confidential treatment under the provisions in 7 CFR 1.27(c).

Persons desiring opportunity for oral presentation of views should address such requests to Dr. M. R. Humphrey, Standards and Services Division, U.S. Department of Agriculture, Consumer and Marketing Service, Washington, D.C. 20250. A transcript of all views orally presented will be made and filed in the Office of the Hearing Clerk for public inspection during regular office hours in a manner convenient to the public business in accordance with 7 CFR 1.27(b), except when confidential treatment is requested and given to such views in accordance with 7 CFR 1.27(c).

Done at Washington, D.C., on May 12, 1971.

CLAYTON YEUTTER,
Administrator,
Consumer and Marketing Service.

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