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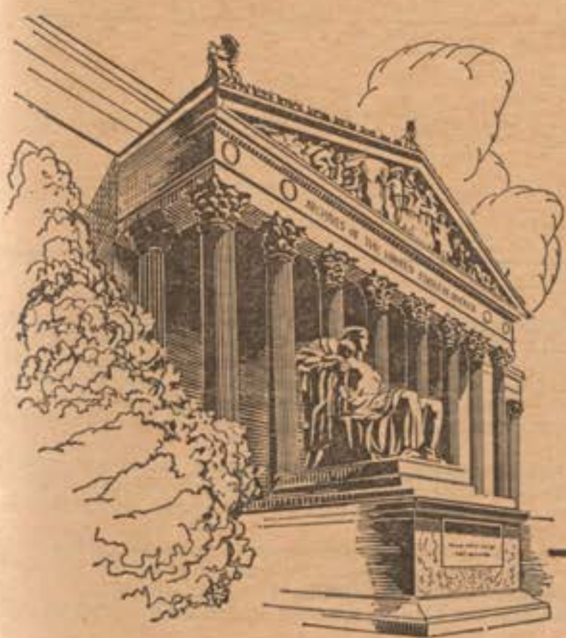

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[Amdt. 25]

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DEFINITIONS

Correction

In F.R. Doc. 67-8285, appearing at page 10549 of the issue for Wednesday, July 19, 1967, the words following the last comma in § 724.51(d) should read "which buyers debit or credit to the warehouseman and support with adjustment invoices.".

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

[Valencia Orange Reg. 212, Amdt. 1]

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

Limitation of Handling

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), 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 recommendation 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 amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Valencia oranges grown in Arizona and designated part of California.

Order, as amended. The provisions in paragraph (b)(1) (i) and (ii) of § 908.512 (Valencia Orange Regulation 212, 32 F.R. 10781) are hereby amended to read as follows:

§ 908.512 Valencia Orange Regulation 212.

* * * * *

(b) *Order.* (1) * * *

(i) Distract 1: 155,250 cartons;

(ii) District 2: 419,750 cartons.

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

Dated: July 28, 1967.

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

[F.R. Doc. 67-8987; Filed, Aug. 1, 1967; 8:48 a.m.]

PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

Limitation of Shipments

Findings. (a) Pursuant to Marketing Agreement No. 130 and Order No. 958 (7 CFR Part 958), regulating the handling of onions grown in the production area defined therein, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and upon the basis of recommendations and information submitted by the Idaho-Eastern Oregon Onion Committee, established pursuant to the said marketing agreement and order, and other available information, it is hereby found that the limitation of shipments hereinafter established, limiting the grade, size, and quality of such onions will tend to effectuate the declared policy of the act and will maintain orderly marketing conditions and increase returns to producers of such onions.

(b) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, and engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of 1967 crop onions grown in the production area will begin on or about the effective date specified herein (2) to maximize benefits to producers, this regulation should apply to all such shipments, (3) the time intervening between the date of the Committee's recommendation and the date when this section must become effective in order to effectuate the policy of the act is insufficient, (4) compliance with this section will not require any special preparation by handlers which cannot be completed by the effective date, and (5) information regarding the Committee's recommendation of these regulations has been made available to producers and handlers in the production area.

§ 958.312 Limitation of shipments.

During the period from August 7, 1967, through June 15, 1968, no person may handle any lot of yellow or white varieties of onions unless such onions are at least "moderately cured" as defined in paragrph (e) of this section or unless such onions are handled in accordance with paragraphs (b) and (c), or paragraph (d), of this section, and beginning August 21, 1967, no person may handle any lot of such onions unless they meet the requirements of paragraph (a) of this section, or unless such onions are handled in accordance with paragraphs (b) and (c), or paragraph (d), of this section.

(a) *Minimum grade and size requirements*—(1) *yellow varieties*—(i) *Grade.* U.S. No. 1; or U.S. No. 2 if not more than 30 percent of the lot is comprised of onions of U.S. No. 1 quality.

(ii) *Size.* 2 inches in diameter.

(2) *White varieties*—(i) *Grade.* (*a*) U.S. No. 1; or U.S. No. 2 if not more than 30 percent of the lot is comprised of onions of U.S. No. 1 quality.

(*b*) U.S. No. 2, or better, grade if the minimum and maximum diameters of the onions in the lot are not less than 1 inch nor more than 2 inches.

(ii) *Size.* Except as otherwise provided in subdivision (i)(*b*) of this subparagraph, 1½ inches minimum diameter.

(b) *Special purpose shipments.* The minimum grade, size and quality requirements of this section shall not be applicable to shipments of onions for any of the following purposes:

(1) Planting;

(2) Livestock feed;

(3) Charity;

(4) Dehydration;

(5) Canning; and

(6) Freezing.

(c) *Safeguards.* Each handler making shipments of onions for dehydration, canning, or freezing pursuant to paragraph (b) of this section shall:

(1) First apply to the committee for and obtain a Certificate of Privilege to make such shipments;

(2) Prepare, on forms furnished by the committee, a report in quadruplicate on each individual shipment to such outlets authorized in paragraph (b) of this section;

(3) Bill or consign each shipment directly to the applicable processor; and

(4) Forward one copy of such report to the committee office, and two copies to the processor for signing and returning one copy to the committee office. Failure of the handler or processor to report such shipments by promptly signing and returning the applicable report to the committee office shall be cause for cancellation of such handler's Certificate of Privilege and/or the processor's eligibility to receive further shipments pursuant to such Certificate of Privilege. Upon cancellation of any such Certificate of Privilege the handler may appeal to the committee for reconsideration.

(d) *Minimum quantity exception.* Each handler may ship up to, but not to exceed, 1 ton of onions each day without regard to the inspection and assessment requirements of this part, if such onions meet minimum grade, size, and quality requirements of this section. This exception shall not apply to any portion of a shipment that exceeds 1 ton of onions.

(e) *Definitions.* The terms "U.S. No. 1" and "U.S. No. 2" shall have the same meaning as when used in the United States Standards for Grades of Onions (§§ 51.2830–51.2853 of this title). The term "moderately cured" means the onions are mature and are definitely fairly well cured but they need not be completely dry. Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 130 and this part.

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

Dated: July 28, 1967, to become effective August 7, 1967.

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

[F.R. Doc. 67-8986; Filed, Aug. 1, 1967; 8:47 a.m.]

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

[Milk Order 4]

PART 1004—MILK IN DELAWARE VALLEY MARKETING AREA

Order Amending Order

§ 1004.0 Findings and determinations.

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

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Delaware Valley marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1967. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator, Regulatory Programs was issued June 30, 1967, and the decision of the Secretary containing all amendment provisions of this order was issued July 13, 1967. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1967, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER (sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559).

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

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

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

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

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

1. In § 1004.16, the period at the end of paragraph (c) is changed to a semicolon and new paragraphs (d) and (e) are added to read as follows:

§ 1004.16 Milk and milk products.

* * * * *

(d) "Base milk" means milk received from a producer by a pool handler during any of the months of March through June of each year which is not in excess of such producer's daily base computed pursuant to § 1004.63 multiplied by the number of days in such months on which such producer's milk was so received: *Provided,* That with respect to any producer on every-other-day delivery, the day of nondelivery prior to a day of delivery, although such prior day is in the preceding month, shall be considered as a day of delivery for the purpose of this paragraph;

(e) "Excess milk" means milk received from a producer by a pool handler during any of the months of March through June which is in excess of base milk received from such producer during such month.

2. In § 1004.22, subparagraph (2) of paragraph (j) is revised and a new paragraph (o) is added, both to read as follows:

§ 1004.22 Duties.

* * * * *

(j) * * *

(2) The 13th day of each month, the uniform price(s) computed pursuant to §§ 1004.71 and 1004.72 and the butterfat differential to producers computed pursuant to § 1004.81, both for the preceding month;

* * * * *

(o) On or before February 20 of each year notify:

(1) Each cooperative association of the daily base established by each producer member of such association; and

(2) Each nonmember producer of the daily base established by such producer.

3. A new § 1004.63 is added to read as follows:

§ 1004.63 Computation of base for each producer.

For each of the months of March through June each year the market administrator shall compute, subject to the rules set forth in § 1004.64, a base for each producer described in paragraphs (a) through (d) of this section by dividing the applicable quantity of milk receipts specified in such paragraph by 184 (by 185, in the case of a producer on every-other-day delivery schedule who delivered July 1) less the number of days, if any, during the immediately preceding base-forming period of July through December for which it is shown that the day's production of milk of such producer was not received by a pool handler as described in the applicable paragraphs (a), (b), (c), or (d) of this section under which such producer's base is computed: *Provided*, That in no event shall the number of days used to compute a producer's base pursuant to this part be less than 154; except that with respect to this paragraph and paragraphs (a), (b), and (c) of this section the initial base-forming period shall be August through December 1967 and the minimum number of days used to compute the producer's base which will be applicable during the March through June 1968 base-paying period shall be not less than 123:

(a) For any producer, except as provided in paragraphs (b), (c), and (d) of this section, the quantity of milk receipts shall be the total pounds of producer milk received by all pool handlers from such producer during the preceding months of July through December;

(b) For any producer whose milk was received during the preceding months of July through December at a plant which became a pool plant after the beginning of such base-earning period, the quantity of milk receipts shall be the total pounds of milk received from such dairy farmer during such July–December period by pool handlers as producer milk or at the plant as a nonpool plant;

(c) For any producer who, during any of the three base-earning months July through September the preceding year (two base-earning months of August and September 1967 during the initial base-earning period), qualified under Order 3 (Washington, D.C.) or Order No. 16 (Upper Chesapeake Bay) as a producer and was a producer under Order No. 4 during all of each of the three remaining base-earning months of October, November, and December, the quantity of milk receipts shall be the total pounds of milk received from such farmer during all of the months of July through December by pool handlers under each of the orders; or

(d) For any producer not described in paragraph (b) or (c) of this section but whose milk was received by a handler as producer milk during the months of September, October, November, and December of the preceding year at a pool plant at which receipt of his milk in the immediately preceding months of July and August would have qualified or did qualify him as a "dairy farmer for other markets" pursuant to § 1004.14(b), the quantity of milk receipts shall be the total pounds of milk received from such producer by pool handlers during such months of July through December and verified receipts at the nonpool plant of the handler, affiliate of the handler or any person who controls or is controlled by the handler during such months of July through September.

4. A new § 1004.64 is added to read as follows:

§ 1004.64 Base rules.

The following rules shall apply in connection with the establishment of bases:

(a) A base computed pursuant to § 1004.63 or as designated pursuant to paragraph (c) of this section may be transferred in its entirety to any other person upon written application to the market administrator on or before the second day of the month following the month of transfer. Such application shall be on a form approved by the market administrator and shall be signed by the base holder, or his heirs, or assigns and by the person to whom such base is to be transferred: *Provided*, That if a base is held jointly, the entire base shall be transferable only upon receipt of such application signed by all joint holders or their heirs, or assigns;

(b) If a producer operates more than one farm, and milk is received from each at a pool plant or by a cooperative association in its capacity as a handler pursuant to § 1004.10 (b) or (c), he shall establish a separate base with respect to producer milk delivered from each such farm;

(c) Only one base shall be allotted with respect to milk produced by one or more persons where the dairy farm is jointly owned or operated: *Provided*, That in the case of a base established jointly, if a copy of the partnership agreement setting forth as a percentage of the total the interests of the partners in the base is filed with the market administrator before the end of the base-making period, then upon termination of the partnership agreement each partner will be entitled to his stated share of the base to hold in his own right, or to transfer as provided in paragraph (a) of this section (including transfer to a partnership of which he is a member) such division with respect to any member of the partnership to be effective as of the end of any month during which an application for such division signed by each member is received by the market administrator.

5. In § 1004.71, the introductory paragraph and paragraph (f) are revised to read as follows:

§ 1004.71 Computation of uniform price.

For each month the market administrator shall compute the weighted average price and for each of the months of July through February the uniform price per hundredweight of milk received from producers as follows:

* * * * *

(f) Subtract not less than four cents or more than five cents per hundredweight. The result shall be the single "weighted average price" and also the "uniform price" per hundredweight for milk of 3.5 percent butterfat received from producers in the months of July through February.

6. A new § 1004.72 is added to read as follows:

§ 1004.72 Computation of uniform prices for base milk and excess milk.

For each of the months of March through June the market administrator shall compute the uniform prices per hundredweight for base milk and excess milk received from producers, each of 3.5 percent butterfat content, f.o.b. market, as follows:

(a) Compute the aggregate value of excess milk for all handlers included in the computations pursuant to § 1004.71 (a) as follows:

(1) Multiply the hundredweight quantity of such milk which does not exceed the total quantity of producer milk received by such handlers assigned to Class II milk by the Class II milk price;

(2) Multiply the remaining hundredweight quantity of excess milk by the Class I milk price; and

(3) Add together the resulting amounts;

(b) Divide the total value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk and round to the nearest cent. The resulting figure shall be the uniform price for excess milk;

(c) From the amount resulting from the computations of § 1004.71 (a) through (d) subtract an amount computed by multiplying the hundredweight of milk specified in § 1004.71(e) (2) by the weighted average price;

(d) Subtract the total value of excess milk determined by multiplying the uniform price obtained in paragraph (b) of this section by the hundredweight of excess milk, from the amount computed pursuant to paragraph (c) of this section;

(e) Divide the amount calculated pursuant to paragraph (d) of this section by the total hundredweight of base milk for handlers included in these computations: *Provided*, That if the resulting price should exceed the Class I price by more than the amount deducted pursuant to paragraph (f) of this section the aggregate amount in excess thereof shall be included in the computation of the excess price pursuant to paragraph (a) of this section, except that if by such addition the excess price should exceed the base price then the aggregate amount of the excess shall be prorated to the aggregate values of base milk and excess milk on the basis of the respective volumes of base and excess milk; and

(f) Subtract not less than four cents nor more than five cents from the price computed pursuant to paragraph (e) of this section. The resulting figure shall be the uniform price for base milk.

7. In § 1004.80, paragraph (a) and subparagraph (2) of paragraph (d) are revised to read as follows:

§ 1004.80 Time and method of payment.

(a) Except as provided in (b) and (d) of this section, each pool handler shall make payment as specified in subparagraph (1) and (2) of this paragraph to each producer from whom milk is received.

(1) On or before the last day of each month at not less than the Class II price for the preceding month per hundredweight for his deliveries of producer milk during the first 15 days of the months of July through February and for his deliveries of base milk during the first 15 days of the months of March through June; and

(2) On or before the 20th of the following month at not less than the uniform price computed pursuant to § 1004.71 for the month of July through February and at not less than the price for base milk computed pursuant to § 1004.72 (c) through (f) with respect to base milk received from such producer and not less than the excess price determined pursuant to § 1004.72 (a) and (b) for excess milk received from such producers for the months of March through June subject to the following adjustments:

(i) Proper deductions authorized in writing by such producers;

(ii) Partial payments made pursuant to subparagraph (1) of this paragraph;

(iii) The butterfat differential computed pursuant to § 1004.81; and

(iv) Less the location differential received pursuant to § 1004.82: *Provided*, That if by such date such handler has not received full payment from the market administrator pursuant to § 1004.85 for such month he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator;

* * * * *

(d) * * *

(2) A final payment equal to the value of such milk at the uniform price(s) adjusted by the applicable differentials pursuant to §§ 1004.81 and 1004.82, less the amount of partial payment on such milk.

8. Section 1004.82 is revised to read as follows:

§ 1004.82 Location differential to producers.

(a) For milk received from producers and from cooperative association handlers pursuant to § 1004.10(c), subject to the exception contained in § 1004.15(d):

(1) The uniform price computed pursuant to § 1004.71 during any month(s) of July through February and the uniform price for base milk computed pursuant to § 1004.72 for base milk received from producers during any month(s) of March through June at a pool plant located at least 45 miles from the nearest of the city halls, in Philadelphia, Pennsylvania; Atlantic City or Trenton, New Jersey, by the shortest highway distance as determined by the market administrator shall be reduced 23 cents plus one and one-half cent for each additional 10 miles.

(2) The uniform price for excess milk computed pursuant to § 1004.72 for excess milk received from producers during any month(s) of March through June at a pool plant at which a location differential applies shall be reduced by a location differential computed pursuant to § 1004.52(c).

(b) For purposes of computations pursuant to §§ 1004.84 and 1004.85 the weighted average price shall be reduced at the rates set forth in paragraph (a) (1) of this section applicable at the location of the plant(s) at which the milk was received with respect to other source milk for which a value is computed pursuant to § 1004.70(e) (1) and at the location of the nonpool plant(s) from which the milk was received with respect to other source milk for which a value is computed pursuant to § 1004.70(e) (2).

9. In § 1004.84, paragraph (b) is revised to read as follows:

§ 1004.84 Payments to the producer-settlement fund.

* * * * *

(b) The sum of:

(1) The value of milk received by such handler from producers and from cooperative association handlers pursuant to § 1004.10(c) at the applicable uniform price(s) pursuant to § 1004.71 and § 1004.72 adjusted by producer butterfat and location differentials, less in the case of a cooperative association on milk for which it is a handler pursuant to § 1004.10(c), the amount due from other handlers pursuant to § 1004.80(d); and

(2) The value at the weighted average price adjusted by the producer butterfat differential pursuant to § 1004.81 and the location differential on nonpool milk pursuant to § 1004.82(b) (not to be less than the value at the Class II price) with respect to other source milk for which values are computed pursuant to § 1004.70(e).

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

Effective date: August 1, 1967.

Signed at Washington, D.C., on July 28, 1967.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 67-8999; Filed, Aug. 1, 1967; 8:49 a.m.]

[Milk Order 12]

PART 1012—MILK IN TAMPA BAY MARKETING AREA

Order Amending Order

§ 1012.0 Findings and determinations.

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

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Tampa Bay marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1967. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator, Regulatory Programs, was issued June 22, 1967, and the decision of the Assistant Secretary containing all amendment provisions of this order, was issued July 19, 1967. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1967, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551-559).

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

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

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

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

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

1. In § 1012.41(c), subparagraph (5) is revised to read as follows:

§ 1012.41 Classes of utilization.

* * * * *

(c) * * *

(5) Skim milk and butterfat, respectively, in shrinkage at each pool plant (except in milk diverted to a nonpool plant pursuant to § 1012.16) but not in excess of:

(i) Two percent of producer milk (including that received from a handler pursuant to § 1012.13(d)) if the handler receiving such milk files notice with the market administrator that he is purchasing it on the basis of farm weights. Otherwise, the applicable percentage pursuant to this subdivision shall be 1.5 percent;

(ii) Plus 1.5 percent of bulk fluid milk products received from other pool plants;

(iii) Plus 1.5 percent of bulk fluid milk products received from other order plants exclusive of the quantity for which Class II or Class III utilization was requested by the operators of both plants;

(iv) Plus 1.5 percent of bulk fluid milk products received from unregulated supply plants exclusive of the quantity for which Class II or Class III utilization was requested by the handler; and

(v) Less 1.5 percent of bulk fluid milk products transferred to other plants; and

* * * * *

§ 1012.50 [Amended]

2. In § 1012.50, the last sentence is deleted.

3. In § 1012.51, paragraph (a) is revised to read as follows:

§ 1012.51 Class prices.

* * * * *

(a) *Class I price.* From the effective date of this order through June 1968, the Class I price shall be the basic formula price for the preceding month plus $3, and plus or minus a supply-demand adjustment of not more than 30 cents, computed as follows:

(1) Determine the total hundredweight of producer milk pursuant to this part and Parts 1013 (Southeastern Florida) and 1006 (Upper Florida) of this chapter for the 3-month period ending with the second preceding month;

(2) Determine the total hundredweight of producer milk classified as Class I pursuant to this part and Parts 1013 and 1006 of this chapter for the 3-month period ending with the second preceding month;

(3) Determine the "current utilization percentage" by calculating the percentage, rounded to the nearest full percent, that the amount obtained in subparagraph (1) of this paragraph is of the amount obtained in subparagraph (2) of this paragraph; and

(4) Add or subtract 3 cents for each percent that the current utilization percentage is, respectively, below the minimum or above the maximum standard utilization percentages for the month in the following table: *Provided*, That such adjustment shall not vary from that for the preceding month by more than 10 cents:

Month for which price is being computed	Standard utilization percentage	
	Minimum	Maximum
January	110	114
February	110	114
March	109	113
April	109	113
May	109	113
June	109	113
July	113	117
August	118	122
September	120	124
October	119	123
November	114	118
December	111	115

* * * * *

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

Effective date: August 1, 1967.

Signed at Washington, D.C., on July 27, 1967.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 67-8989; Filed, Aug. 1, 1967; 8:48 a.m.]

[Milk Order 50]

PART 1050—MILK IN CENTRAL ILLINOIS MARKETING AREA

Order Suspending Certain Provision

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Central Illinois marketing area (7 CFR Part 1050), it is hereby found and determined that:

(a) The following provision of the order does not tend to effectuate the declared policy of the Act for the month of July 1967: In § 1050.14(b)(2) the words "on any day during the months of May and June and in any other month for not more than 8 days of production of producer milk by such producer."

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

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

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

(3) A public notice was issued July 20, 1967, and published in the FEDERAL REGISTER on July 22, 1967 (32 F.R. 10811), stating that the Department was giving consideration to a proposed suspension of the aforementioned provision for the months of July and August 1967. Interested parties were provided 3 days after publication in the FEDERAL REGISTER to submit written data, views, or arguments in connection with the proposed suspension. In response to the notice of the proposed suspension, two cooperative associations which supply a large part of the producer milk for the Central Illinois market, and two handlers who handle a very high proportion of the milk processed in the market, supported this suspension as proposed.

Based upon materials submitted by interested parties and market information available, the suspension of the aforesaid provision is necessary for the month of July 1967. The abnormal seasonal increase in production during the month of July requires removal of the diversion limit so that many producers regularly associated with this market may maintain producer status. This suspension will allow for the movement of such producers' milk direct from their farms to nonpool manufacturing plants.

Data submitted by interested parties did not establish the need for suspension of this provision during the month of August 1967. From information available, the prospective volume of milk likely to be delivered to the market during the month of August 1967 would not exceed that which could be handled under the existing diversion provisions in the order as applicable to the month of August.

Therefore, good cause exists for making this order effective July 1, 1967.

It is therefore ordered, That the aforesaid provision of the order is hereby suspended for the month of July 1967.

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

Effective date: July 1, 1967.

Signed at Washington, D.C., on July 28, 1967.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 67-8988; Filed, Aug. 1, 1967; 8:48 a.m.]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. H]

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

Investments in Bank Premises

§ 208.121 Investment in bank premises by holding company banks.

(a) The Board of Governors has been asked whether, in determining under section 24A of the Federal Reserve Act (12 U.S.C. 371d) how much may be invested in bank premises without prior Board approval, a State member bank, which is owned by a registered bank holding company, is required to include indebtedness of a corporation, wholly owned by the holding company, that is engaged in holding premises of banks in the holding company system.

(b) Section 24A provides, in part, as follows:

> Hereafter * * * no State member bank, without the approval of the Board of Governors of the Federal Reserve System, shall (1) invest in bank premises, or in the stock, bonds, debentures, or other such obligations of any corporation holding the premises of such bank or (2) make loans to or upon the security of the stock of any such corporation, if the aggregate of all such investments and loans, together with the amount of any indebtedness incurred by any such corporation which is an affiliate of the bank, as defined in section 2 of the Banking Act of 1933, as amended [12 U.S.C. 221a], will exceed the amount of the capital stock of such banks.

(c) A corporation that is owned by a holding company is an "affiliate of each of the holding company's majority-owned banks as that term is defined in said section 2. Therefore, under the explicit provisions of section 24A, each State member bank, any part of whose premises is owned by such an affiliate, must include the affiliate's total indebtedness in determining whether a proposed premises investment by the bank would cause the aggregate figure to exceed the amount of the bank's capital stock, so that the Board's prior approval would be required. Where the affiliate holds the premises of a number of the holding company's banks, the amount of the affiliate's indebtedness may be so large that Board approval is required for every proposed investment in bank premises by each majority-owned State member bank, to which the entire indebtedness of the affiliate is required to be attributed. The Board believes that, in these circumstances, individual approvals are not essential to effectuate the purpose of section 24A, which is to safeguard the soundness and liquidity of member banks, and that the protection sought by Congress can be achieved by a suitably circumscribed general approval.

(d) Accordingly, the Board hereby grants general approval for any investment or loan (as described in section 24A) by any State member bank, the majority of the stock of which is owned by a registered bank holding company, if the proposed investment or loan will not cause either (1) all such investments and loans by the member bank (together with the indebtedness of any bank premises subsidiary thereof) to exceed 100 percent of the bank's capital stock, or (2) the aggregate of such investments and loans by all of the holding company's subsidiary banks (together with the indebtedness of any bank premises affiliates thereof) to exceed 100 percent of the aggregate capital stock of said banks.

(12 U.S.C. 248(i). Interprets and applies 12 U.S.C. 221a and 371d)

Dated at Washington, D.C., the 26th day of July 1967.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 67-8950; Filed, Aug. 1, 1967; 8:45 a.m.]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Rev. 7, Amdt. 5]

PART 121—SMALL BUSINESS SIZE STANDARDS

Definition of Small Business Retailer and of Small Wholesaler in Certain Retail and Wholesale Industries and Subindustries for Purpose of Receiving Financial Assistance

On June 30, 1967, there was published in the FEDERAL REGISTER (32 F.R. 9322 and 9323) notices that the Administrator of the Small Business Administration had proposed to amend the Small Business Size Standards Regulation by establishing new definitions of a small retailer and of a small wholesaler in certain retail and wholesale industries and subindustries for the purpose of receiving financial assistance.

Under the proposed amendment, the size standard for certain retail industries and subindustries would be increased from $1 million annual receipts to $1.5 million, $2 million, $3 million, or $5 million, and the size standard for certain wholesale industries and subindustries would be increased from $5 million annual receipts to $10 million or $15 million.

Interested persons were given 15 days in which to file with the Small Business Administration written statements of facts, opinions, or arguments concerning the proposals. After consideration of all relevant matters regarding the proposal, the amendment set forth below is hereby adopted. The wholesale industry or subindustry codes in the notice of proposal were in accordance with the 1957 Edition of the Standard Industrial Classification Manual. The wholesale codes in the amendment below reflect changes made in the 1967 Edition of the Manual. The changes in the codes in no way change the definitions as proposed.

The new definitions established by this amendment are the same as proposed, with the exception that no action is being taken at this time on the proposal to increase the size standard for retailers of men's and boy's clothing and furnishings (SIC 5611, Men's and Boy's Clothing and Furnishings) from $1 million to $1.5 million annual sales. Further study will be given to this proposal.

Part 121 of Chapter I of Title 13 of the Code of Federal Regulations is hereby amended by:

1. Revising § 121.3-10 (c) and (g) thereof to read as follows:

§ 121.3-10 Definition of small business for SBA loans.

* * * * *

(c) *Retail.* (1) Any retailing concern is classified:

(i) As small if it is primarily engaged in an industry or subindustry set forth in Schedule D of this part and its annual sales do not exceed the size standard established therein for that industry or subindustry.

(ii) As small if it is primarily engaged in an industry or subindustry not set forth in Schedule D of this part and its annual sales do not exceed $1 million.

* * * * *

(g) *Wholesale.* (1) Any wholesaling concern is classified:

(i) As small if it is primarily engaged in an industry or subindustry set forth in Schedule C of this part and its annual sales do not exceed the size standard established therein for that industry or subindustry.

(ii) As small if it is primarily engaged in an industry or subindustry not set forth in Schedule C of this part and its annual sales do not exceed $5 million.

(2) Any wholesaling concern also engaged in manufacturing is not a "small business concern" unless it qualifies under both the manufacturing and wholesaling standards.

2. Adding Schedule C to Part 121 to read as follows:

SCHEDULE C—ANNUAL SALES SIZE STANDARDS FOR CONCERNS PRIMARILY ENGAGED IN WHOLESALING

(The following size standards are to be used when determining the size status of wholesaling concerns for the purpose of SBA business loans, displaced business loans, economic opportunity loans, and as alternate standards for sections 501 and 502 loans and SBIC assistance.) Where code is followed by letter, size standard applies only to class of product designated.

Industry or subindustry code	Industry, subindustry, or class of products	Annual sales size standard (maximum) (in millions)
5099a	Amusement, sporting goods	$10
5061a	Coal	10
5098b	Construction materials (excluding lumber and millwork)	10

Industry or sub-industry code	Industry, subindustry, or class of products	Annual sales size standard (maximum) (in millions)
5082	Construction and mining machinery and equipment	10
5043	Dairy products	10
5022	Drugs, drug proprietaries, druggists' sundriest	10
5064	Electrical appliances, television, and radio sets	10
5039	Footwear	10
5053	Grain	10
5049	Groceries and related products, not elsewhere classified	10
5097b	Home furnishings, floor coverings	10
5084	Industrial machinery and equipment	10
5085	Industrial supplies	10
5054	Livestock (except horses and mules)	10
5047	Meats and meat products	10
5091b	Metal service centers	10
5034	Notions and other dry goods	10
5033	Piece goods (woven fabrics)	10
5096a	Printing and writing paper	10
5094	Tobacco and its products	10
5012	Automobiles and other motor vehicles	15
5029	Chemicals and allied products, not elsewhere classified	15
5081	Commercial machines and equipment	15
		15
5052	Cotton	15
5063	Electrical apparatus and equipment, wiring supplies and construction materials	15
5083	Farm machinery and equipment	15
5042	Frozen foods	15
5041	Groceries, general line	15
5096b	Industrial and personal service paper only	15
5091c	Metal sales offices	15
5028	Paints and varnishes	15
5092	Petroleum and petroleum products	15
5014	Tires and tubes	15
5095b	Wines and distilled alcoholic spirits	15

3. Adding Schedule D to Part 121 to read as follows:

SCHEDULE D—ANNUAL SALES SIZE STANDARDS FOR CONCERNS PRIMARILY ENGAGED IN RETAILING

(The following size standards are to be used when determining the size status of retailing concerns for the purpose of SBA loans, displaced business loans, economic opportunities loans, and as alternate standards for sections 505 and 502 loans and SBIC assistance.) Where code is followed by letter, size standard applies only to class of product designated.

Industry or sub-industry code	Industry, subindustry, or class of products	Annual sales size standard (maximum)
	Major Group 56—Apparel and Accessory Stores:	
5651	Family clothing stores	1.5
5661	Shoe stores	1.5
5621	Women's ready-to-wear stores	1.5
	Major Group 55—Automotive Dealers and Gasoline: Service Stations:	
5599a	Aircraft (a part of aircraft and automotive dealers, not elsewhere classified).	3.0
5511	Motor vehicle dealers (new and used cars).	3.0
5521	Motor vehicle dealers (used cars only).	3.0
	Major Group 54—Food Stores:	
5411	Grocery stores	5.0
5421a	Meat Markets (a part of meat and fish (seafood) markets).	5.0
	Major Group 57—Furniture, Home Furnishings and Equipment Stores:	
5722	Household appliance stores	1.5
5732	Radio and television stores	1.5
	Major Group 53—General Merchandise:	
5311	Department stores	5.0
5321	Mail order houses	5.0
5331	Variety stores	2.0

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

Dated: July 25, 1967.

BERNARD L. BOUTIN,
Administrator.

[F.R. Doc. 67-8878; Filed, Aug. 1, 1967; 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 67-EO-50; Amdt. 39-456]

PART 39—AIRWORTHINESS DIRECTIVES

Piper PA-28 and PA-32 Series Airplanes

Amendment 39-438 F.R. Doc. 67-7362, AD 67-20-4, requires inspection of the main landing gear torque links and replacement as necessary on Piper PA-28 and PA-32 series airplanes. After issuing Amendment 39-438, the Agency determined that more airplanes are affected than originally considered and the manufacturer will be unable to supply a sufficient number of replacement parts by the effective date of the AD. Therefore, the AD is being amended to change the effective date from July 29, 1967, to September 27, 1967.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), § 39.13 of the Federal Aviation Regulations, Amendment 39-438 F.R. Doc. 67-7362, AD 67-20-4 is amended by changing the effective date from July 29, 1967, to September 27, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in East Point, Ga., on July 26, 1967.

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

[F.R. Doc. 67-8960; Filed, Aug. 1, 1967; 8:46 a.m.]

Chapter V—National Aeronautics and Space Administration

PART 1209—BOARDS AND COMMITTEES

Subpart 4—Inventions and Contributions Board

New Subpart 4 is added:

AUTHORITY: The provisions of this Subpart 4 issued under 42 U.S.C. 2457(f) and 2458.

§ 1209.400 Scope.

This subpart sets forth the functions, authority, and membership of the NASA Inventions and Contributions Board, originally established on December 4, 1958.

§ 1209.401 Authority.

National Aeronautics and Space Act of 1958 (42 U.S.C. 2457(f), 2458).

§ 1209.402 Establishment of Board.

(a) Pursuant to the authority of 42 U.S.C. 2457(f) and 2458, the Inventions and Contributions Board (hereafter referred to as the "Board") is established within the National Aeronautics and Space Administration with offices located at NASA Headquarters.

(b) The Board will consist of a full-time chairman appointed by the Administrator, and no less than six members appointed by the Administrator, from within NASA. One of the members will be designated as vice chairman.

(c) Board members will be designated for 1-year terms and may be reappointed at the discretion of the Administrator. Duties performed in such capacity will be in addition to regular work assignments of the individuals concerned.

(d) The Chairman of the Board is authorized to establish such panels as he may consider necessary in the conduct of the responsibilities and functions of the Board.

§ 1209.403 Responsibilities and functions.

(a) Under the authority of 42 U.S.C. 2457(f), the Board will receive petitions for waiver of rights of the United States to inventions, accord to each interested party an opportunity for hearing, and transmit to the Administrator its findings of fact as to such petitions and its recommendations for action to be taken with respect thereto.

(b) Under the authority of 42 U.S.C. 2458, the Board will receive and evaluate each application for award for any scientific or technical contribution to the Administration which has significant value in the conduct of aeronautical and space activities, accord each applicant an opportunity for a hearing upon such application, and transmit to the Administrator its recommendations as to the terms of the award (if any) to be made to such applicant for such contribution. In addition, the Board will act upon other contributions as set forth in Subpart 2 of Part 1240. The Chairman of the Board is authorized to issue implementing rules and procedures, and to take such other action as is necessary to carry out this function.

(c) If the contribution is made by a Government employee and does not qualify for award under 42 U.S.C. 2458, the Board will consider such contribution for award under the Incentive Awards Program and make award (if any), on its own cognizance, up to the amount of $5,000 in accordance with CSC Federal Personnel Manual, Chapter 451, covering this subject. Awards for larger amounts may be recommended to the Administrator for his action.

§ 1209.404 Organizational location.

The Board is established within the Office of Industry Affairs, NASA Headquarters.

§ 1209.405 Supporting services.

(a) The Staff of the Inventions and Contributions Board is established to assist the Board in discharging its functions and responsibilities. The Staff will:

(1) Prepare analyses of petitions for waiver of rights to inventions for the consideration of the Board,

(2) Prepare evaluations of proposed awards,

(3) Document Board actions, and

(4) Perform such other functions as may be required.

(b) A full-time Director of the Staff will serve as a nonvoting secretary of the Inventions and Contributions Board and will direct the activities of the Staff to the Inventions and Contributions Board.

(c) The Director of the Staff of the Inventions and Contributions Board will report to the Chairman of the Board.

Effective date. The provisions of this Subpart 4 are effective upon publication in the FEDERAL REGISTER.

JAMES E. WEBB,
Administrator.

[F.R. Doc. 67-8962; Filed, Aug. 1, 1967; 8:46 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER E—ALCOHOL, TOBACCO, AND OTHER EXCISE TAXES

[T.D. 6925]

PART 211—DISTRIBUTION AND USE OF DENATURED ALCOHOL AND RUM

Marks and Brands on Packages

In order to recognize the provisions of the Fair Packaging and Labeling Act (Public Law 89-755) and any applicable regulations in 16 CFR Part 500 and 21 CFR Part 1, the regulations in 26 CFR Part 211 are amended as follows:

§ 211.33 [Amended]

PARAGRAPH 1. The undesignated center heading immediately preceding § 211.33 is amended to read "Marks and Brands; Packaging and Labeling".

PAR. 2. Section 211.33a is amended by revising the section heading, by revising paragraph (a), and by adding a new paragraph (c). As amended, § 211.33a reads as follows:

§ 211.33a Labeling.

(a) *General.* In addition to the marks and brands required by this part, other governmental agencies may impose labeling requirements on denatured spirits, and articles made therefrom. It is the responsibility of the person filling containers with articles manufactured under the provisions of this part to assure that the labels or marks on such containers satisfy all pertinent State and Federal requirements.

(b) *Federal Hazardous Substances Labeling Act.* Whenever this part requires the container of any substance to be marked or labeled so as to convey information with respect to hazardous properties of the substance, and such substance is also subject to substantially similar requirements under the Federal Hazardous Substances Labeling Act (72 Stat. 372) and regulations in 21 CFR Part 191, information on the container of such substance shall be deemed to comply with the requirements of this part, insofar as they relate to the hazardous properties of the substance, if such information complies with the labeling requirements of such Act and of regulations in 21 CFR Part 191.

(c) *Fair Packaging and Labeling Act.* Packages containing denatured spirits or articles may also be subject to the provisions of the Fair Packaging and Labeling Act (80 Stat. 1296) and to any applicable regulations promulgated by the Federal Trade Commission in 16 CFR Part 500 and by the Department of Health, Education, and Welfare in 21 CFR Part 1. Compliance with the provisions of this part does not afford any relief from the necessity of also complying with the requirements of that Act and regulations.

Because this Treasury decision is merely conforming in nature and should be effected without delay, it is found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under section 553(b) of Title 5 of the United States Code or subject to the effective-date limitation of section 553(d) thereof. Accordingly, this Treasury decision shall become effective on the date of its publication in the FEDERAL REGISTER.

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

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

Approved: July 28, 1967.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

[F.R. Doc. 67-8968; Filed, Aug. 1, 1967; 8:46 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER C—DRUGS

PART 141—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

PART 141a—PENICILLIN AND PENICILLIN-CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

DILUTING FLUID FOR STERILITY TEST

Correction

In F.R. Doc. 67-8490, appearing at page 10788 of the issue for Saturday, July 22, 1967, the following corrections are made:

1. In § 141.2(c)(4):

a. The last word in the first sentence should read "octylphenoxypolyethoxyethanol".

b. A minus sign should be inserted beneath the plus sign in the formula.

2. In § 141a.39(b), "1-ephenamine" should read "*l*-ephenamine".

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

[CGFR 67-13]

SUBCHAPTER A—PROVISIONS

PART 1—GENERAL PROVISIONS

Fees and Charges or Sales of Matters Requested by the Public

The changes to the regulations contained in this document revise the schedules of fees and charges to be imposed by the Coast Guard for furnishing the public copies or excerpts of information or records and for issuing certain duplicate documents, certificates, or licenses. The special Coast Guard fees and charges are designated 33 CFR Subpart 1.25. The regulations of the Department of Transportation in 49 CFR Part 7 regarding "Public Availability of Information" set forth the basic regulations and policy governing the Coast Guard and fees and charges for obtaining copies of records. These regulations were published in the FEDERAL REGISTER dated June 29, 1967 (32 F.R. 9284-9292), and effective July 4, 1967. For convenience, applicable fees and charges are repeated in 33 CFR Subpart 1.25.

New regulations are added as 33 CFR Subpart 1.26 regarding the sales of certain items or services under emergencies or other circumstances to permit repayment of costs involved by the public as permitted by various provisions of law.

The fees and charges in 33 CFR 1.25-40 are issued pursuant to Title V of the Independent Offices Appropriation Act of 1952 (Sec. 501, 65 Stat. 290), and are charges considered to be commensurate with the costs to comply with the request.

By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by Title 5, U.S. Code, section 552, Title 14, U.S. Code, sections 632 and 633, and subsection 6(b)(1) of the Department of Transportation Act, as well as the delegation of authority in Department of Transportation Order 1100.1, dated March 31, 1967 (49 CFR 1.4(a)(2), 32 F.R. 5606), the following amendments or new regulations are prescribed, effective on and after July 4, 1967:

1. The title and entire text of Subpart 1.25, containing §§ 1.25-1 to 1.25-80, inclusive, is amended to read as follows:

Subpart 1.25—Fees and Charges for Certain Records and for Duplicate Documents, Certificates, or Licenses

AUTHORITY: The provisions of this Subpart 1.25 issued under sec. 3, 60 Stat. 238, as amended, secs. 632, 633, 63 Stat. 545, sec. 501, 65 Stat. 290; 5 U.S.C. 552, 14 U.S.C. 632, 633; Department of Transportation Order 1100.1, March 31, 1967; 49 CFR 1.4(a)(2); unless otherwise noted.

§ 1.25–1 Purpose.

(a) The regulations in this subpart established fees and charges which shall be imposed by the Coast Guard for making copies or excerpts of information or records, and for issuing certain duplicate documents, certificates, or licenses.

(b) These fees and charges are imposed as required by Title V of the Independent Offices Appropriation Act of 1952 (Sec. 501, 65 Stat. 290, 31 U.S.C. 483a). This act states that it is the sense of Congress that fees and charges shall be charged for services rendered the public by Federal agencies in order that such services may be performed on a selfsustaining basis to the fullest extent possible.

§ 1.25–30 Exceptions.

(a) The general policies and instructions of the Bureau of the Budget specify when certain services as specifically described in this subpart will be furnished without charge.

(b) The fees and charges prescribed in this subpart are not applicable when requested by, or furnished to, the following persons, or under the following circumstances:

(1) Any Federal or State court and any agency, corporation or branch of the Federal Government.

(2) The press, radio, television, or news reel representatives for dissemination to the general public.

(3) A donor when it applies to the original of his gift.

(4) Any person having an official, voluntary or cooperative relationship to the Coast Guard in rendering services promoting safety of life and property.

(5) Any agency of a State, county, or municipal government which is carrying out a function related to the function of the Coast Guard.

(6) An individual directly concerned in a Coast Guard hearing or other formal proceedings, not to exceed one copy.

(7) Any person who has been required to furnish personal documents for retention by the Coast Guard.

(8) Any member of Congress when for official use.

(9) When furnishing the service free saves or yields income equal to the direct costs of the Coast Guard.

(10) When furnishing the service free is in conformance with general established business customs.

(11) When furnishing records or information to a military member or civilian member in order to permit such person to obtain financial benefits.

(12) When furnishing a medal to any member or former member who did not receive the medal or service award, or who has not lost said medal through his own carelessness.

§ 1.25–40 Schedule of fees and charges.

(a) The applicable fees and charges prescribed by the Department of Transportation are in 49 CFR Part 7 for services, duplicates, excerpts, or copies when requested by the public and shall be followed. These fees and charges are described in Table 1.25–40(a) and will be imposed and collected, but in event of difference those in 49 CFR Part 7 apply since such fees and charges repeated herein are only given as a matter of convenience.

TABLE 1.25–40(a)—FEE SCHEDULE

Identification	Item	Cost
(a)	Search for an identifiable record, including making it available for inspection	$3.00
(b)	Copies of documents by photocopy or similar method:	
	(1) Each page not larger than 12 by 18 inches	.50
	(2) Minimum charge	1.00
(c)	Typed pages, each	2.50
(d)	Certified copies of documents:	
	(1) With Department of Transportation seal	2.00
	(2) True copy, without seal	1.00
(e)	Photographs: black and white glossy print, 8 inches by 10 inches or smaller, each	1.00
(f)	Duplicate data tapes—each reel of tape or fraction thereof	40.00
(g)	Microfilm copies, each 100 foot roll or less	8.00
(h)	Data processed records, each 1,000 lines or fraction thereof	5.00
(i)	Preprinted materials, shelf stock, one color, standard sizes:	
	(1) Each page (excluding blanks)	.05
	(2) Minimum charge	1.00
(j)	Other records: The fee for a copy of a record not described in items (b) through (i) will be supplied upon request. The amount of that fee will be the cost of producing and handling.	

(b) The fees and charges for certain services and duplicate documents, certificates or licenses are prescribed in accordance with authority in 49 CFR 7.85(j). These fees and charges, which are additional and applicable only to the Coast Guard, are in Table 1.25–40(b). When the item includes a search charge, the fee or charge prescribed includes this cost.

TABLE 1.25-40(b)—COAST GUARD FEE SCHEDULE

Item	Fee
(1) Certificate of Seaman's Service (Form CG-723) (compilation) when requested by seaman:	
(i) First page	$5.50
(ii) Each additional page	2.50
(2) Transcript of service record of merchant sea man (compilation) in letter form other than to named seaman:	
(i) First page	5.50
(ii) Each additional page	2.50
(3) Duplicate continuous discharge book	2.50
(4) Duplicate merchant mariners' document	2.50
(5) Duplicate certificate of registry as staff officer	2.50

(R.S. 4551, as amended; 46 U.S.C. 643(h); 49 CFR 7.85(j))

§ 1.25–80 Payment of fees, charges or sales.

(a) The payment of fees and charges must be made by postal money order or check payable to the "Treasurer of the United States" or "U.S. Coast Guard," and sent to the office of the Coast Guard performing the service or furnishing or delivering the record, document, or certificate. If copy is to be transmitted by registered, air, or special delivery mail, postal fees therefor will be added to fees provided in this subpart (or the order must include postage stamps or stamped return envelopes).

(b) The fee is payable in advance.

2. Part 1 is amended by inserting after § 1.25–80 a new Subpart 1.26, consisting of §§ 1.26–1 to 1.26–25, inclusive, reading as follows:

Subpart 1.26—Charges for Duplicate Medals, and Sales of Personal Property, Equipment or Services and Rentals

AUTHORITY: The provisions of this Subpart 1.26 issued under secs. 632, 633, 63 Stat. 545, as amended; 14 U.S.C. 632, 633; Department of Transportation Order 1100.1, March 31, 1967; 49 CFR 1.4(a)(2); unless otherwise noted.

§ 1.26–1 Purpose.

(a) The regulations in this subpart establish charges which shall be imposed by the Coast Guard when the Coast Guard sells supplies, equipment, apparatus, temporary shelter, and services under certain specified conditions as authorized by law.

(b) These sales are intended to permit repayment of costs involved in those instances which are ordinarily outside the scope of those distress services with which the Coast Guard is primarily concerned (14 U.S.C. 88), or the equipment and apparatus are not readily procurable in the open market.

§ 1.26–5 Sales of replacement medals.

(a) The provisions of Title 14, U.S. Code, section 501, authorizes the Coast Guard to be reimbursed for the cost of replacement of medals.

(b) The charges described in Table 1.26–5(b) shall be imposed and collected when replacement of medals, etc., are requested by the public except when the person to whom it was awarded shows that it was lost, destroyed or rendered unfit for use without fault or neglect on his part.

TABLE 1.26-5(b)—CHARGE FOR DUPLICATE MEDALS

Identification	Item	Charge
(a)	(1) Coast Guard Distinguished Service Medal with miniature	$16.50
	(2) Hinged-lid case	2.50
(b)	Legion of Merit (Degree of Legionnaire)	6.00
(c)	Distinguished Flying Cross	5.00
(d)	(1) Coast Guard Medal (for heroism)	7.75
	(2) Coast Guard Medal miniature (for heroism)	6.00
	(3) Hinged-lid case	2.50
(e)	Air Medal	4.50

TABLE 1.26-5(b)—CHARGE FOR DUPLICATE MEDALS—Continued

Identification	Item	Charge
(f)	(1) Coast Guard Commendation Medal	6.50
	(2) Coast Guard Commendation Medal miniature	5.75
	(3) Hinged-lid case	2.50
(g)	(1) Gold Life-saving Medal	106.50
	(2) Gold Life-saving Medal miniature	45.50
	(3) Hinged-lid case (red lining)	7.50
(h)	(1) Silver Life-saving Medal	31.50
	(2) Silver Life-saving Medal miniature	11.50
	(3) Hinged-lid case (blue lining)	7.50
(i)	Secretary of the Treasury Commendation for Achievement Award ribbon	2.50
(j)	Coast Guard Unit Commendation Ribbon	2.50
(k)	(1) Coast Guard Good Conduct Medal (old)	2.50
	(2) Coast Guard Good Conduct Medal (new)	2.50
(l)	(1) World War I Victory Medal	2.50
	(2) Clasps	None
(m)	American Campaign Medal	2.50
(n)	European-African-Middle E Campaign Medal	2.50
(o)	Asiatic-Pacific Campaign Medal	2.50
(p)	American Defense Service Medal Fleet, Sea, and Base Clasps	2.50
(q)	World War II Victory Medal	2.50
(r)	(1) Navy Occupation Service Medal	2.50
	(2) Europe and Asia Clasps	None
(s)	China Service Medal (1945–1957)	2.50
(t)	National Defense Service Medal	2.50
(u)	Korean Service Medal	2.50
(v)	Antarctic Service Medal	2.50
(w)	Armed forces Expeditionary Medal (when available)	2.50
(x)	Coast Guard Armed Forces Reserve Medal	2.50
(y)	Coast Guard Expert Rifleman or Expert Pistol Shot Medal	4.50
(z)	Coast Guard Distinguished Marksman:	
	(1) Medal, Gold	54.75
	(2) Case	5.00
	(3) Ribbon attachment	1.00
(aa)	Coast Guard Distinguished Pistol Shot:	
	(1) Medal, Gold	44.25
	(2) Case	5.00
	(3) Ribbon attachment	1.00
(bb)	Coast Guard Excellence-in-Competition Badge:	
	(1) Rifle or Pistol, Silver	16.00
	(2) Rifle or Pistol, Bronze	12.25
	(3) Ribbon attachment, Silver or Bronze	1.00
(cc)	R.R. Waesche Rifle Team Trophy or F.C. Billard Pistol Team Trophy, Bronze Medallion	6.50
(dd)	United Nations Service Medal	2.50

(Sec. 501, 63 Stat. 537; 14 U.S.C. 501)

§ 1.26–10 Sales to Coast Guard Auxiliary.

(a) The provisions of Title 14, U.S. Code, section 891, authorizes the Coast Guard to furnish the Coast Guard Auxiliary such items as flags, pennants, uniforms, and insignia at actual cost.

(b) Sales of the following items (when available) are permitted to members of the Auxiliary:

(1) Auxiliary flags and pennants.

(2) Uniforms.

(3) Auxiliary insignia.

(Sec. 891, 63 Stat. 557; 14 U.S.C. 891)

§ 1.26–15 Sales of nonexcess personal property and services.

(a) *Authority.* The provisions of Title 14, U.S. Code, section 641(b), authorizes the Coast Guard to sell apparatus or equipment manufactured by or in use in the Coast Guard, which is not readily procurable in the open market. The provisions of Title 14, U.S. Code, section 654 (Public Law 86–159 approved Aug. 14, 1959), authorize the Coast Guard to sell supplies and furnish services to public and commercial vessels, and other watercraft. The provisions of Title 49, U.S. Code, section 1507 (Act of May 20, 1926, as amended), authorize the Coast Guard to sell to any aircraft, fuel, oil, equipment, and other supplies, and to furnish mechanical service, temporary shelter, and other assistance.

(b) *Charges established by District Commander.* The charges for supplies and services which may be normally expected to be furnished to persons, corporations, companies, vessels, and other watercraft, and non-Federal aircraft will vary between various geographical regions depending on local circumstances. The District Commander is hereby delegated authority to prescribe and he shall establish, in advance wherever practicable, the charges to be imposed and collected in various areas under his jurisdiction, which will be in accordance with the applicable general minimum terms and conditions in the laws and this section. In those cases where the charges have not been established in advance, the matter shall be priced on an individual basis, taking into consideration the facts and circumstances regarding the situation. The list(s) of charges established by the District Commander shall be available for reading and copying at the office of the issuing District Commander, which list(s) will be up-dated and reissued when necessary.

(c) *Sales to vessels and other watercraft.* (1) The charges imposed for services are intended to permit repayment of costs involved in those instances where supplies and services are furnished to meet the necessities of the circumstances, and such vessels or watercraft are not within the scope of those distress services performed by the Coast Guard.

(2) Charges for sales of supplies and/or furnishing of services are considered appropriate when the furnishing of food, fuel, general stores, or repairs to the vessel or its equipage are primarily for the convenience of the owner, master, or crew, and furnished at his or their request. It is not intended and the Coast Guard does not procure and stock equipment and supplies except as provided for in current instructions issued by competent authority.

(3) Supplies provided and services performed will be of a limited nature consistent with the situation and within the capabilities of the Coast Guard unit concerned; provided this will not be in competition with commercial enterprise when such facilities are available and deemed adequate. It is not intended to permit the operators of vessels or watercraft to take advantage of the Government by demanding free supplies or services. Determination as to whether charges will be made is dependent upon the circumstances involved in each instance. The responsibility to make this determination rests with the District Commander who may delegate it to his subordinates.

(4) The minimum charge for any supplies or services furnished to a vessel or other watercraft shall be $10. The prices for fuels and materials which may be sold will be at Coast Guard cost plus 20 percent or, if readily determinable, at the commercial price in the immediate operating area, whichever is higher. The charges for services furnished a vessel or watercraft will be an average cost equal to the full price, plus taxes, that a boat owner would pay a local commercial concern for such services.

(5) The sales of supplies and services will be documented and will set forth the name, type, and identifying number of the vessel or watercraft receiving supplies or services; name and address of vessel's owner; and conditions under which it was determined to make a sale to the vessel or watercraft. Wherever possible, payment shall be obtained at the time supplies and services are furnished.

(d) *Sales of equipment not readily procurable on the open market.* Charges imposed for sales of apparatus and equipment manufactured by or in use in the Coast Guard which, in the opinion of the Commandant (FS), is not readily procurable in the open market, are subject to the following conditions:

(1) The apparatus or equipment has not been reported as excess to the General Services Administration (if so reported, requests to purchase will be submitted by the Commandant (FS) to the General Services Administration); and,

(2) The apparatus or equipment is not classified for security reasons or is not dangerous to the public health and safety; and,

(3) The authorized buyers of this apparatus or equipment are foreign, State, or municipal governments or governmental units thereof; parties required to maintain private aids to navigation; contractors engaged on public works; and in other cases in which, in the judgment of the Commandant (FS), the public interest may be served; and,

(4) The approved sales will be at prices determined by the Commandant (FS), which will include an overhead charge not to exceed 25 percent of acquisition cost.

(e) *Sales to and storage of non-Federal aircraft.* (1) Activities having the necessary supplies and facilities are authorized to furnish fuel, oil, equipment, supplies, mechanical services, temporary storage, or other assistance to any aircraft operated by State, municipal, or private enterprise in emergency cases. Complete engines, airplane wings, or other major items of equipment shall not be furnished without prior authority from the Commandant.

(2) Aircraft damaged to the extent that major repairs are required may be given emergency storage at the request of the pilot, provided the necessary facilities are available. No such aircraft will be given a major or minor overhaul. Damaged aircraft may be stored in its original damaged condition. If aircraft requires extensive repairs, such as would include the replacing of major parts and such major parts cannot be made available or supplied within a reasonable

length of time by the operator of such aircraft, then the aircraft must be removed from the Coast Guard reservation by the operator without delay.

(3) The Government will not assume any responsibility for any loss or damage incurred by such aircraft while on a Coast Guard reservation and the owner shall be required to remove the aircraft from the reservation at the earliest practicable date.

(4) Storage charges for such aircraft on a Coast Guard reservation shall be as follows:

(i) For the first 6 working days, no charge;

(ii) For each calendar day thereafter, $3 for a single motor plane and $5 for a dual or multiengine plane.

(5) In the absence of any information to the contrary regarding a particular item or material, the price at which the item is carried in stock, or on the Plant Property Record (book price) will be regarded as the fair market value.

(6) When materials or services or both materials and services are furnished an aircraft, a deposit equal to the estimated value of such services and materials as will be required shall be obtained in advance of the rendition of the services and issuance of the materials.

(7) The charges for mechanical services rendered (other than in connection with the arrival, refueling, and departure of airplanes) shall be an hourly charge for labor, with a minimum of 1 hour, which shall be the equivalent to the schedule of wage rates for civilian personnel for the district (i.e., machinists, helpers, etc.), regardless of whether the services are performed by enlisted or civilian personnel.

(Sec. 1107, 72 Stat. 798, as amended, sec. 641, 63 Stat. 547, as amended, sec. 1, 73 Stat. 357; 49 U.S.C. 1507, 14 U.S.C. 641(b), 654)

§ 1.26–20 Sales to eligible foreign governments.

(a) *Policy of United States.* The Congressional policy is set forth in Title 22, U.S. Code, section 2351. The Executive Order No. 10973 dated November 3, 1961 (26 F.R. 10469), describes the administration of foreign assistance and related functions.

(b) *Diplomatic transactions.* Sales of Coast Guard material under reimbursable aid will be by direction of the Commandant (FS) and as approved by the Office of the Chief of Naval Operations. Reimbursable aid transactions are diplomatic transactions and are negotiated primarily between the respective foreign military attaché or other representatives of their embassy in Washington, D.C., and the Office of the Chief of Naval Operations. Prices will be based on material cost only and estimates will not include packing, crating, and handling or transportation costs. Under reimbursable aid, transportation costs are borne by the purchasing country and shipments are usually accomplished on collect commercial bills of lading.

§ 1.26–25 Payment of charges.

(a) The payment of charges shall be by postal money order or check payable to "U.S. Coast Guard," and given or sent to the office of the Coast Guard performing the service or furnishing the supplies, equipment, etc.

Dated: July 24, 1967.

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

[F.R. Doc. 67-8917; Filed, Aug. 1, 1967; 8:45 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 67-873]

PART 0—COMMISSION ORGANIZATION

Order Regarding Records Not Routinely Available for Public Inspection

1. As part of our review of rules implementing the Public Information Act of 1966 (32 F.R. 10568, July 19, 1967), we have concluded that § 0.457(g) of the rules and regulations, concerning the availability of investigatory files for inspection, should be revised as set forth below. We will continue to review these rules and make such other changes, on the basis of comment and experience, as may be appropriate and consistent with the purposes of the Public Information Act.

2. Authority for the amendments adopted herein is contained in sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 303(r), and section 3(b)(7) of the Administrative Procedure Act, 5 U.S.C. 552(b)(7). Because these amendments pertain to matters of procedure and internal organization, compliance with the notice and effective date provisions of section 4 of the Administrative Procedure Act is unnecessary.

3. In view of the foregoing, it is ordered, effective August 2, 1967, That § 0.457(g) of the rules and regulations is revised as set forth below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303; and 5 U.S.C. 552)

Adopted: July 26, 1967.

Released: July 28, 1967.

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

In Part 0 of Chapter I of Title 47 of the Code of Federal Regulations, § 0.457(g) is revised to read as follows:

§ 0.457 Records not routinely available for public inspection.

* * * * *

(g) *Investigatory files compiled for law enforcement purposes except to the extent available by law to a private party. 5 U.S.C. 552(b)(7).* Papers relating to the institution or conduct of an investigation are placed in an investigatory file. Except as provided in this paragraph, such files are not available for public inspection.

(1) *Complaints.* Except with respect to complaints filed under Section 208 of the Communications Act (see § 0.455(c)), when a complaint is received by the Commission, an initial determination is made as to whether the matters related in the complaint warrant (or may warrant) an investigation. If it is determined that such matters warrant (or may warrant) an investigation, the complaint is placed in an investigatory file. A complaint which is placed in an investigatory file may be made available for inspection upon request if it appears that its disclosure will not prejudice the conduct of the investigation (e.g., if information concerning the complaint has otherwise been disclosed). Except as provided in subdivisions (i) and (ii) of this subparagraph, the complaint will be made available for inspection, upon request, when it has been determined that no investigation should be conducted or when the investigation has been completed.

(i) If the complainant has requested that his identity not be disclosed, or if there is reason to believe that disclosure of complainant's identity could embarrass him or subject him to harassment, the complaint will not be made available for inspection without his consent. If no investigation is conducted or if the investigation has been completed, however, such complaints will be made available for inspection upon request if, and to the extent that, it is possible to do so without disclosing the complainant's identity.

(ii) Complaints or portions of complaints containing scurrilous or defamatory statements will not be made available for inspection, except upon a compelling showing that the public interest so requires.

(2) *Work papers and memoranda.* Personal work papers, memoranda, or reports prepared by Commission personnel relating to the institution, conduct, or outcome of an investigation are placed in an investigatory file and are retained in that file. They are not available for public inspection. Requests for inspection of such materials will be considered under § 0.461. Materials of this nature received from other Government agencies are placed and retained in an investigatory file; requests for inspection of such materials will be referred to the agency from which they were received.

(3) *Statements and documents.* Statements and documents obtained by Commission investigators in the course of an investigation are handled in the same manner as records referred to in subparagraph (2) of this paragraph.

[F.R. Doc. 67-8984; Filed, Aug. 1, 1967; 8:47 a.m.]

[1] Commissioners Bartley, Lee and Loevinger absent; Commissioner Johnson concurring the result.

[FCC 67-888]

PART 1—PRACTICE AND PROCEDURE

Order Regarding Procedure for Processing of Television Translator Stations

1. The Commission has under consideration § 1.572 of the Commission's rules which deals with the processing of television broadcast applications. Paragraph (a) of § 1.572 classifies and divides such applications into two groups: (1) Applications for new stations or for major changes in the facilities of authorized stations; and (2) applications for licenses to cover construction permits and all other changes in the facilities of authorized stations. The subject here under consideration is the standards to be used to define a major change in the facilities of a television broadcast translator station. The provisions of § 1.572 apply to such translator applications. However, service contours are not the standard used in the allocation of translator stations and consequently a gap exists in our rules as to the definition of a major change in the facilities of such stations. The Commission is of the opinion that specific standards should be promulgated to define what constitutes a major change in the facilities of an authorized television broadcast translator station.

2. Recently, the Commission stated that a major change in the facilities of a television broadcast translator station is one "* * * which involves a change in frequency, a change in principal communities, or such other change as the Commission may determine in a given fact situation * * *". KAKE-TV and Radio, Inc., FCC 67-468, 7 FCC (2d) 879, released April 17, 1967. The Commission believes that the definition set forth in KAKE should be incorporated into § 1.572. In addition, we believe that a change in primary station should also be considered as a major change in the facilities of a translator station, because such a change can have a great significance in the performance of the translator station. Adoption of specific standards in this matter, as opposed to our acting on a case-by-case basis, which will expedite the Commission's processing of application and also will give licensees, permittees and other parties interested in television broadcast translator modification applications notice as to what constitutes a major change. Thus they can, without specific notice from the Commission, effect compliance with processing and publication requirements of our rules and policies.

3. Authority for this amendment is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended. Since this amendment is procedural in nature, the prior notice and effective date provisions of section 4 of the Administrative Procedure Act do not apply.

Accordingly, it is ordered, That paragraph (a)(1) of § 1.572 of the Commission's rules is amended to read as follows, effective August 4, 1967:

§ 1.572 Processing of television broadcast applications.

(a) * * *

(1) In the first group are applications for new stations or for major changes in the facilities of authorized stations. A major change is, in the case of stations authorized under Part 73 of this chapter, any change in frequency or station location, or any change in power or antenna location or height above average terrain (or combination thereof) which would result in a change of 50 percent or more of the area within the Grade B contour of the station; in the case of television translator stations authorized under Part 74 of this chapter it is any change in frequency (output channel), primary station (input channel) or principal community or communities: *Provided, however*, That, the Commission may, within 15 days after the tender for filing of any other application for modification of facilities, advise the applicant that such application is considered to be one for a major change and therefore subject to the provisions of § 1.580.

* * * * *

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

Adopted: July 26, 1967.

Released: July 28, 1967.

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

[F.R. Doc. 67-8983; Filed, Aug. 1, 1967; 8:47 a.m.]

[Docket No. 17435; FCC 67-886]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments; Television Broadcast Stations, Tulare, Calif.

In the matter of amendment of § 73.606 *Table of Assignments*, Television Broadcast Stations (Tulare, Calif.), Docket No. 17435, RM-1118.

Report and Order.

1. On May 12, 1967, in response to a petition filed by Pappas Electronics, Inc., the Commission issued a notice of proposed rule making, FCC 67-567, 32 F.R. 7344, proposing to assign Channel 26 to Tulare, Calif., as a first UHF television assignment.

2. No oppositions to the proposal were received. Suporting comments were filed by petitioner, which reaffirmed its intention to apply for authority to construct and operate a station on the channel if it is assigned to Tulare.

3. As we stated in the notice of proposed rule making, we do not normally assign UHF channels to communities with a population under 25,000[1] except where a showing is made that there is a need for the assignment and an interested party states a station would be built on an assigned channel. Here, the supply of available but unassigned UHF channels is considered to be adequate to meet expected demands in the general area, and there are no larger communities in the area without assignments.

4. Under the above circumstances, we are of the view that the assignment of Channel 26 to Tulare, Calif., would serve the public interest since it will provide a first local TV outlet in the community. However, this action is taken on the representations made by petitioner that it will file an application for authority to construct and operate a new UHF television broadcast station. Failure to do so may result in the removal of the assignment.

5. Authority for the amendment adopted herein is contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

6. In view of the foregoing: *It is ordered*, That effective September 5, 1967, § 73.606 of the Commission's rules and regulations is amended to add the following entry:

City	*Channel No.*
Tulare, Calif.	26

NOTE: The appropriate offset for Channel 26 will be supplied in a subsequent Order.

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

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: July 26, 1967.

Released: July 28, 1967.

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

[F.R. Doc. 67-8985; Filed, Aug. 1, 1967; 8:47 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission and Department of Transportation

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 100—THE COMMISSION

Credentials

In the matter of credentials of persons appointed as special agents, accountants, and examiners of the Commission.

[1] Commissioners Bartley, Lee, and Loevinger absent.

[1] Population of Tulare (1960 U.S. Census) is 13,824. According to the California Statistical Abstract, 1966, State of California, Documents Section, p. 16, Tulare's population in 1965 increased to 15,950. Estimated population of Tulare County, which includes the slightly larger city of Visalia which has a channel assigned, was 190,000 in 1965.

Present: William H. Tucker, Chairman, to whom the matter which is the subject of this Order has been delegated.

It appearing, that the matter of appointing and authorizing certain designated persons having credentials to enter upon, to inspect and examine any and all lands, buildings and equipment of carriers and other persons subject to the Interstate Commerce Act, as amended, and related Acts, and to inspect and copy any and all accounts, books, records, memoranda, correspondence, and other documents of carriers, and other persons subject to the Act needs consideration;

And it further appearing, that the regulations to be affected by this Order are a clarification of rules relating to agency personnel, and that public rule making procedures as required by Public Law 89-554, 80 Stat. 383, 5 U.S.C. 553, are unnecessary; and good cause appearing therefor:

It is ordered, That § 100.5 of Chapter I, of Title 49 of the Code of Federal Regulations is amended to read as follows:

§ 100.5 Credentials required by special agents, accountants, and examiners.

(a) *Carrier records and property subject to inspection and examination.* Persons appointed as special agents, accountants, and examiners of the Commission are authorized to enter upon, to inspect and examine any and all lands, buildings, and equipment of carriers and other persons subject to the Interstate Commerce Act and related Acts, and to inspect and copy any and all accounts, books, records, memoranda, correspondence, and other documents of carriers, and other persons subject to the Act. Inspection or copying authority with respect to persons who furnish cars or protective service against heat or cold to or on behalf of a carrier or an express company, shall be limited to accounts, books, records, memoranda, correspondence, and other documents which pertain or relate to cars or protective service. Carriers and other persons subject to the Act shall submit their accounts, books, records, memoranda, correspondence, and other documents for inspection and copying, and such carriers and other persons shall submit their lands, buildings, and equipment for examination and inspection, to any special agent, accountant, or examiner of the Commission upon demand and the display of a Commission credential identifying him as a special agent, accountant, or examiner.

(b) *Definition of "other persons subject to the Act."* The term "other persons subject to the Act" as used in this section includes brokers subject to part II of the Interstate Commerce Act, freight forwarders subject to part IV of the Act, lessors of carrier operating rights, receivers, trustees, administrators, executors, and other persons having custody, possession, or control of carrier operations or the business of other persons subject to the Act; persons who furnish railroad cars or protective service against heat or cold to or on behalf of railroads or express companies (but only with respect to records pertaining to the cars or protective services to furnished); associations of carriers or brokers subject to the Act which perform any service or engage in any activities in connection with any traffic, transportation, or facilities subject to the Act; and, to the extent specified in orders of the Commission issued under section 5 of the Act, persons controlling two or more carriers.

(c) *Definition of special agents, accountants, and examiners.* The duties of the following described employees or positions, and such other employees of the Commission as the Chairman shall specify in writing, include those of special agent, accountant, or examiner and they are hereby authorized to inspect and copy records and to inspect and examine lands, buildings and equipment in the same manner and to the same extent as special agents, accountants, and examiners:

Commissioners.
Managing Director.
Assistant Managing Director.
Directors and Assistant Directors, Chiefs and Assistant Chiefs of Sections of the Bureaus of: Accounts; Enforcement; and, Operations.
Attorneys.
Auditors.
Field Assistants.
General Engineers.
Investigators (Officer-in-Charge).
Investigators.
Regional Managers.
Regional Directors (Operations).
Assistant Regional Directors (Operations).
Associate Regional Directors (Operations).
Regional Supervisors (Car Service).
Supervisory Railroad Service Agents.
Railroad Service Agents.
Transportation Specialists (District Supervisors).
Transportation Specialists (Officer-in-Charge).
Supervisory Transportation Specialists.
Transportation Cost Analysts.
Transportation Rate Agents.

(d) Facsimile of the Commission's credential:

United States of America
INTERSTATE COMMERCE COMMISSION
WASHINGTON

This is to certify, ...
whose signature appears hereon, has been appointed
....
of the Interstate Commerce Commission with authority to enter upon, to inspect and examine lands, buildings and equipment and to inspect and copy records and papers of carriers and other persons subject to the Interstate Commerce Act as provided in the said Act and related Acts and in regulations of the Commission.

In witness whereof, I have hereunto set my hand and affixed the seal of said Commission at its office in Washington, District of Columbia, this ...... day of ...., A.D. 19....

(Signature of employee)

No. ....
Secretary of the Interstate Commerce Commission.

GPO 506425 ICC Form 1012a

(Sec. 12(1), 24 Stat. 383, as amended; 49 U.S.C. 12, Sec. 20(5), 24 Stat. 386, as amended; 49 U.S.C. 20, Sec. 220 (d), 49 Stat. 563, as amended; 49 U.S.C. 320, Sec. 313(f), 54 Stat. 944, as amended; 49 U.S.C. 913, Sec. 412(d), 56 Stat. 294, as amended; 49 U.S.C. 1012, Sec. 25(d), 41 Stat. 498, as amended; 49 U.S.C. 26, Sec. 6, 36 Stat. 915, as amended; 45 U.S.C. 29)

It is further ordered, That this order shall be effective August 1, 1967.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Interstate Commerce Commission, Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

Dated at Washington, D.C., this 24th day of July A.D. 1967.

By the Commission, Chairman Tucker.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67-8970; Filed, Aug. 1, 1967; 8:46 a.m.]

Title 45—PUBLIC WELFARE

Chapter XI—National Foundation on the Arts and the Humanities

PART 1100—STATEMENT FOR THE GUIDANCE OF THE PUBLIC—ORGANIZATION, PROCEDURE AND AVAILABILITY OF INFORMATION

Availability of Information to the Public

Correction

In F.R. Doc. 67-8244, appearing at page 10513 of the issue for Tuesday, July 18, 1967, the reference to "5 U.S.C. 522(b)" in § 1100.3(d)(2) should read "5 U.S.C. 552(b)".

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Fiscal Service

[31 CFR Part 306]

UNITED STATES SECURITIES

Book-Entry Procedure; Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in Treasury Department Circular No. 300, Third Revision (31 CFR Part 306) are proposed to be further amended as tentatively shown below. However, prior to their final adoption, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of the Public Debt, Washington, D.C. 20220, within the period of 30 days from the date of this notice in the FEDERAL REGISTER.

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

JULY 28, 1967.

Department Circular No. 300, Third Revision, dated December 23, 1964, is hereby amended effective September 5, 1967, by redesignating Subpart O (entitled "Miscellaneous Provisions") as Subpart P, and renumbering §§ 306.115 through 306.118 as §§ 306.123 through 306.126, respectively, and by inserting a new Subpart O as follows:

Subpart O—Book-Entry Procedure

§ 306.115 Definition of terms.

In this subpart, unless the context otherwise requires or indicates:

(a) "Reserve Bank" means a Federal Reserve Bank and its branches acting as Fiscal Agent of the United States.

(b) "Treasury security" means a transferable Treasury bond, note, certificate of indebtedness, or bill issued under the Second Liberty Bond Act, as amended, in the form of a definitive Treasury security or a book entry Treasury security.

(c) "Definitive Treasury security" means a transferable Treasury bond, note, certificate of indebtedness, or bill issued under the Second Liberty Bond Act, as amended, in the form of a physical security.

(d) "Book-entry Treasury security" means a transferable Treasury bond, note, certificate of indebtedness, or bill issued under the Second Liberty Bond Act, as amended, in the form of an entry made as prescribed in this subpart on the records of a Reserve Bank.

§ 306.116 Applicability.

This subpart is applicable to any Treasury securities now on deposit or hereafter deposited with any Reserve Bank for any purpose specified in § 306.118(a) except that no deposits will be accepted thereunder on or after the date of maturity or call of the securities.[1] Any depositor which on the effective date of this subpart has definitive Treasury securities on deposit with a Reserve Bank (in either its individual capacity or as Fiscal Agent) for any purpose specified in § 306.118(a) shall be deemed to have consented to their conversion to book-entry Treasury securities pursuant to the provisions of this subpart, and in the manner and under the procedures prescribed by the Reserve Bank.

§ 306.117 Authority of Reserve Banks.

Each Reserve Bank is hereby authorized and directed, in accordance with the provisions of this subpart, to (a) issue book-entry Treasury securities by means of entries on its records which shall include the name of the depositor, the amount, the title of the loan (or the series) and the maturity date; (b) effect conversions between book-entry Treasury securities and definitive Treasury securities; and (c) otherwise service and maintain book-entry Treasury securities.

§ 306.118 Accounts subject to book-entry procedure; pledges.

(a) The book-entry procedure applies to Treasury securities now on deposit or hereafter deposited in accounts with any Reserve Bank (1) as collateral pledged to a Reserve Bank (in its individual capacity) for advances by it, (2) as collateral pledged to the United States under Treasury Department Circulars No. 92 or 176, both as revised and amended, and (3) by a member bank of the Federal Reserve System for its sole account and in lieu of the safekeeping of definitive Treasury securities by a Reserve Bank in its individual capacity. Entries will be made for the amounts deposited for each specific purpose.

(b) A pledge of book-entry Treasury securities in the name of a pledgor, or any interest therein, in favor of a Reserve Bank in its own right as pledgee or in favor of the United States as pledgee, is effected, notwithstanding any provision of law to the contrary, by the making of an appropriate entry under paragraph (a) (1) or (2) of this section, of the amount of the securities pledged. The making of such entry shall have the effect of a delivery of a definitive Treasury security in bearer form representing the amount of the obligations pledged and shall effect a perfected security interest therein in favor of the pledgee, who shall be a holder. No filing or recording with a public recording office or officer shall be necessary to perfect the pledge or security interest in book-entry Treasury securities under this section. Pledges of, or security interest in, definitive Treasury securities which are under pledge to a Reserve Bank in its own right or to the United States at the time of their conversion to book-entry Treasury securities shall be fully effective with respect to such book-entry Treasury securities. A Reserve Bank, when requested by the pledgee, shall convert book-entry Treasury securities into definitive Treasury securities and deliver them to the pledgee for disposition under the applicable pledge arrangement; and the pledge or security interest of the pledgee in the book-entry Treasury securities prior to conversion shall continue to be fully effective with respect to such definitive Treasury securities.

§ 306.119 Limitations on transfers or pledges.

Except as provided in this subpart, book-entry Treasury securities may not be assigned, transferred, hypothecated, pledged as collateral, or used as security for the performance of an obligation, and the Treasury Department will not recognize any such assignment, transfer, hypothecation, pledge or use.

§ 306.120 Withdrawals and transfers.

Withdrawals and transfers of book-entry Treasury securities may be made upon a depositor requesting (a) delivery of like definitive Treasury securities to itself or on its order to a transferee, or (b) transfer to any transferee eligible under § 306.118(a). The making of any book-entry transfer by a Reserve Bank shall have the same effect as a delivery to the transferee of definitive Treasury securities in bearer form. The transfer of book-entry Treasury securities within a Peserve Bank will be made in accordance with procedures established by the latter not inconsistent with this subpart. The transfer of book-entry Treasury securities between Reserve Banks will be made through a telegraphic transfer procedure. All requests for withdrawal or for transfer must be made prior to the maturity or date of call of the securities. Treasury bonds and notes which are to be delivered physically upon withdrawal or transfer may be issued either in registered[2] or in bearer form.

[1] The date of call as defined in these regulations (sec. 306.2) is "the date fixed in the official notice of call published in the Federal Register * * * on which the obligor will make payment of the security before maturity in accordance with its terms."

[2] Except for Treasury notes, EA and EO Series.

§ 306.121 Registered bonds and notes.

No formal assignment shall be required for the conversion to book-entry Treasury securities of registered Treasury securities held by a Reserve Bank (in either its individual capacity or as fiscal agent) on the effective date of this subpart for any purpose specified in § 306.118(a). Registered Treasury securities deposited thereafter with a Reserve Bank for any purpose specified in § 306.118(a) shall be assigned for conversion to book-entry Treasury securities. The assignment, which shall be executed in accordance with the provisions of Subpart F of the regulations of this part so far as applicable, shall be to "The Secretary of the Treasury for conversion to book-entry Treasury securities by the Federal Reserve Bank of ________________________, as Fiscal Agent of the United States."

§ 306.122 Servicing book-entry Treasury securities; payment of interest, payment at maturity or upon call.

Interest becoming due on book-entry Treasury securities shall be charged in the Treasurer's account on the interest due date and remitted or credited in accordance with the depositors' instructions. Such securities shall be redeemed and charged in the Treasurer's account on the date of maturity, call or advance refunding, and the redemption proceeds, principal and interest, shall be disposed of in accordance with the depositors' instructions.

[F.R. Doc. 67-9042; Filed, Aug. 1, 1967; 8:49 a.m.]

Internal Revenue Service

[26 CFR Part 1]

SUPPLEMENTAL UNEMPLOYMENT BENEFIT TRUSTS

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form as set forth 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, in duplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. 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 within the 30-day period. 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] SHELDON S. COHEN,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) under sections 501, 503, 511, 513, 514, 6012, and 6033 of the Internal Revenue Code of 1954 to the Act of July 14, 1960 (P.L. 86-667, 74 Stat. 534), such regulations are amended as follows:

PARAGRAPH 1. Section 1.501(a)-1 is amended by revising subparagraph (3) (i) of paragraph (a) to read as follows:

§ 1.501(a)-1 Exemption from taxation.

(a) *In general; proof of exemption.* * * *

(3) (i) An organization claiming exemption under section 501(a) and described in section 501(c) (2), (3), (4), (5), (6), (7), (8), (9), (12), (13), (15), or (17) shall file the form of application appropriate to its activities, filled out in accordance with the instructions on the form or issued therewith. The following forms shall be filed: For organizations described in section 501(c)(3), Form 1023; in section 501(c) (4), (5), (6), or (8), Form 1024; in section 501(c)(7), Form 1025; in section 501(c) (2), (12), (13), or (15), Form 1026; and in section 501(c) (9), or (17), Form 1027. State chartered credit unions described in section 501(c)(14) shall submit an application for exemption showing the State and date of incorporation. The application should show that the State credit union law with respect to loans, investments, and dividends, if any, is being complied with. All other organizations claiming exemption, other than employees' trusts described in section 401(a), shall file an application for exemption showing the character of the organization, the purpose for which it was organized, its actual activities, the sources of its income and receipts and the disposition thereof, whether or not any of its income or receipts is credited to surplus or may inure to the benefit of any private shareholder or individual, and in general all facts relating to its operations which may affect its right to exemption. To each such form or application shall be attached a conformed copy of the articles of incorporation, declaration of trust, or other instrument of similar import, setting forth the permitted powers or activities of the organization, the bylaws or other code of regulations, and the latest financial statement showing the assets, liabilities, receipts, and disbursements of the organization. In the case of a trust claiming and exemption under section 501(c)(17) a conformed copy of any plan of which it forms a part shall be attached to the form or application for exemption. Each such form or application shall contain or be verified by a written declaration that it is made under the penalties of perjury.

* * * * *

PAR. 2. There are inserted immediately before § 1.501(d) the following new sections:

§ 1.501(c)(17) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; supplemental unemployment benefit trusts.

SEC. 501. *Exemption from tax on corporations, certain trusts, etc.* * * *

(c) *List of exempt organizations.* The following organizations are referred to in subsection (a):

* * * * *

(17) (A) A trust or trusts forming part of a plan providing for the payment of supplemental unemployment compensation benefits, if—

(i) Under the plan, it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees under the plan, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of supplemental unemployment compensation benefits,

(ii) Such benefits are payable to employees under a classification which is set forth in the plan and which is found by the Secretary or his delegate not to be discriminatory in favor of employees who are officers, shareholders, persons whose principal duties consist of supervising the work of other employees, or highly compensated employees, and

(iii) Such benefits do not discriminate in favor of employees who are officers, shareholders, persons whose principal duties consist of supervising the work of other employees, or highly compensated employees. A plan shall not be considered discriminatory within the meaning of this clause merely because the benefits received under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of the employees covered by the plan.

(B) In determining whether a plan meets the requirements of subparagraph (A), any benefits provided under any other plan shall not be taken into consideration, except that a plan shall not be considered discriminatory—

(i) Merely because the benefits under the plan which are first determined in a nondiscriminatory manner within the meaning of subparagraph (A) are then reduced by any sick, accident, or unemployment compensation benefits received under State or Federal law (or reduced by a portion of such benefits if determined in a nondiscriminatory manner), or

(ii) Merely because the plan provides only for employees who are not eligible to receive sick, accident, or unemployment compensation benefits under State or Federal law the same benefits (or a portion of such benefits if determined in a nondiscriminatory manner) which such employees would receive under such laws if such employees were eligible for such benefits, or

(iii) Merely because the plan provides only for employees who are not eligible under another plan (which meets the requirements of subparagraph (A)) of supplemental unemployment compensation benefits provided wholly by the employer the same benefits (or a portion of such benefits if determined in a nondiscriminatory manner) which such employees would receive under such other plan if such employees were eligible under such other plan, but only if the employees eligible under both plans would make a classification which would be nondiscriminatory within the meaning of subparagraph (A).

(C) A plan shall be considered to meet the requirements of subparagraph (A) during the whole of any year of the plan if on one day in each quarter it satisfies such requirements.

(D) The term "supplemental unemployment compensation benefits" means only—

(i) Benefits which are paid to an employee because of his involuntary separation from the employment of the employer (whether or not such separation is temporary) resulting directly from a reduction in force, the discontinuance of a plant or operation, or other similar conditions, and

(ii) Sick and accident benefits subordinate to the benefits described in clause (i).

(E) Exemption shall not be denied under subsection (a) to any organization entitled to such exemption as an association described in paragraph (9) of this subsection merely because such organization provides for the payment of supplemental unemployment benefits (as defined in subparagraph (D) (i)).

[Sec. 501(c) (17) as added by Act of July 14, 1960 (Pub. Law 86-667, 74 Stat. 534)]

§ 1.501(c)(17)-1 Supplemental unemployment benefit trusts.

(a) *Requirements for qualification.* (1) A supplemental unemployment benefit trust may be exempt as an organization described in section 501(c)(17) if the requirements of subparagraphs (2) through (6) of this paragraph are satisfied.

(2) The trust is a valid, existing trust under local law and is evidenced by an executed written document.

(3) The trust is part of a written plan established and maintained by an employer, his employees, or both the employer and his employees, solely for the purpose of providing supplemental unemployment compensation benefits (as defined in section 501(c)(17)(D) and paragraph (b)(1) of § 1.501(c)(17)-1).

(4) The trust is part of a plan which provides that the corpus and income of the trust cannot (in the taxable year, and at any time thereafter, before the satisfaction of all liabilities to employees covered by the plan) be used for, or diverted to, any purpose other than the providing of supplemental unemployment compensation benefits. Thus, if the plan provides for the payment of any benefits other than supplemental unemployment compensation benefits as defined in paragraph (b) of this section, the trust will not be entitled to exemption as an organization described in section 501(c)(17). However, the payment of any necessary or appropriate expenses in connection with the administration of a plan providing supplemental unemployment compensation benefits shall be considered a payment to provide such benefits and shall not affect the qualification of the trust.

(5) The trust is part of a plan whose eligibility conditions and benefits do not discriminate in favor of employees who are officers, shareholders, persons whose principal duties consist of supervising the work of other employees, or highly compensated employees. See sections 401(a)(3)(B) and 401(a)(4) and §§ 1.401-3 and 1.401-4. However, a plan is not discriminatory within the meaning of section 501(c)(17)(A)(iii), relating to the requirement that the benefits paid under the plan be nondiscriminatory, merely because the benefits received under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of the employees covered by the plan. Accordingly, the benefits provided for highly paid employees may be greater than the benefits provided for lower paid employees if the benefits are determined by reference to their compensation; but, in such a case, the plan will not qualify if the benefits paid to the higher paid employees bear a larger ratio to their compensation than the benefits paid to the lower paid employees bear to their compensation. In addition, section 501(c)(17)(B) sets forth certain other instances in which a plan will not be considered discriminatory (see paragraph (c) of § 1.501(c)(17)-2).

(6) The trust is part of a plan which requires that benefits are to be determined according to objective standards. Thus, a plan may provide similarly situated employees with benefits which differ in kind and amount, but may not permit such benefits to be determined solely in the discretion of the trustees.

(b) *Meaning of terms.* The following terms are defined for purposes of section 501(c)(17):

(1) *Supplemental unemployment compensation benefits.* The term supplemental unemployment compensation benefits means only—

(i) Benefits paid to an employee because of his involuntary separation from the employment of the employer, whether or not such separation is temporary, but only when such separation is one resulting directly from a reduction in force, the discontinuance of a plant or operation, or other similar conditions; and

(ii) Sick and accident benefits subordinate to the benefits described in subdivision (i) of this subparagraph.

(2) *Employee.* The term "employee" means an individual whose status is that of an employee under the usual common-law rules applicable in determining the employer-employee relationship. The term "employee" also includes an individual who qualifies as an "employee" under the State or Federal unemployment compensation law covering his employment, whether or not such an individual could qualify as an employee under such common-law rules.

(3) *Involuntary separation from the employment of the employer.* Whether a "separation from the employment of the employer" occurs is a question to be decided with regard to all the facts and circumstances. However, for purposes of section 501(c)(17), the term "separation" includes both a temporary separation and a permanent severance of the employment relationship. Thus, for example, an employee may be separated from the employment of his employer even though at the time of separation it is believed that he will be reemployed by the same employer. Whether or not an employee is "involuntarily" separated from the employment of the employer is a question of fact. However, normally, an employee will not be deemed to have separated himself voluntarily from the employment of his employer merely because his collective-bargaining agreement provides for the termination of his services upon the happening of a condition subsequent and that condition does in fact occur. For example, if the collective-bargaining agreement provides that the employer may automate a given department and thereby dislocate several employees, the fact that the employees' collective-bargaining agent has consented to such a condition will not render any employee's subsequent unemployment for such cause voluntary.

(4) *Other similar conditions.* Involuntary separation directly resulting from "other similar conditions" includes, for example, involuntary separation from the employment of the employer resulting from cyclical, seasonal, or technological causes. Some causes of involuntary separation from the employment of the employer which are not similar to those enumerated in section 501(c)(17)(D)(i) are separation for disciplinary reasons or separation because of age.

(5) *Subordinate sick and accident benefits.* In general, as sick and accident benefit payment is an amount paid to an employee in the event of his illness or personal injury (whether or not such illness or injury results in the employee's separation from the service of his employer). In addition, the phrase "sick and accident benefits" includes amounts provided under the plan to reimburse an employee for amounts he expends because of the illness or injury of his spouse or a dependent (as defined in section 152). Sick and accident benefits may be paid by a trust described in section 501(c)(17) only if such benefits are subordinate to the separation payments provided under the plan of which the trust forms a part. Whether the sick and accident benefits provided under a supplemental unemployment compensation benefit plan are subordinate to the separation benefits provided under such plan is a question to be decided with regard to all the facts and circumstances.

§ 1.501(c)(17)-2 General rules.

(a) *Supplemental unemployment compensation benefits.* Supplemental unemployment compensation benefits as defined in section 501(c)(17)(D) and paragraph (b)(1) of § 1.501(c)(17)-1 may be paid in a lump sum or installments. Such benefits may be paid to an employee who has, subsequent to his separation from the employment of the employer, obtained other part-time, temporary, or permanent employment. Furthermore, such payments may be made in cash, services, or property. Thus, supplemental unemployment compensation benefits provided to involuntarily separated employees may include, for example, the following: Furnishing of medical care at an established clinic, furnishing of food, job training and schooling, and job counseling. If such benefits are furnished in services or property, the fair market value of the benefits must satisfy the requirements of section 501(c)(17)(A)(iii), relating to nondiscrimination as to benefits. However, supplemental unemployment compensation benefits may be provided only to an employee and only under circumstances described in paragraph (b)(1) of § 1.501(c)(17)-1. Thus, a trust described in section 501(c)(17) may not provide, for example, for the payment of a death, vacation, or retirement benefit.

(b) *Sick and accident benefits.* If a trust described in section 501(c)(17) provides for the payment of sick and accident benefits, such benefits may only be provided for employees who are eligible for receipt of separation benefits under the plan of which the trust is a part. However, the sick and accident benefits need not be provided for all the employees who are eligible for receipt of separation benefits, so long as the plan does not discriminate in favor of persons with respect to whom discrimination is proscribed in section 501(c)(17)(A) (ii) and (iii). Furthermore, the portion of the plan which provides for the payment of sick and accident benefits must satisfy the nondiscrimination requirements of section 501(c)(17)(A) (ii) and (iii) without regard to the portion of the plan which provides for the payment of benefits because of involuntary separation.

(c) *Correlation with other plans.* (1) In determining whether a plan meets the requirements of section 501(c)(17)(A) (ii) and (iii), any benefits provided under any other plan shall not be taken into consideration except in the particular instances enumerated in section 501(c)(17)(B) (i), (ii), and (iii). In general, these three exceptions permit a plan providing for the payment of supplemental unemployment compensation benefits to satisfy the nondiscrimination requirements in section 501(c)(17)(A) (ii) and (iii) if the plan is able to satisfy such requirements when it is correlated with one or more of the plans described in section 501(c) (17)(B).

(2) Under section 501(c)(17)(B)(i), a plan will not be considered discriminatory merely because the benefits under the plan which are first determined in a nondiscriminatory manner (within the meaning of section 501(c)(17)(A)) are then reduced by any sick, accident, or unemployment compensation benefits received under State or Federal law, or are reduced by a portion of these benefits if determined in a nondiscriminatory manner. Under this exception, a plan may, for example, satisfy the requirements of section 501(c)(17)(A)(iii) if it provides for the payment of an unemployment benefit and the amount of such benefit is determined as a percentage of the employee's compensation which is then reduced by any unemployment benefit which the employee receives under a State plan. In addition, a plan could provide for the reduction of such a plan benefit by a percentage of the State benefit. Furthermore, a plan may also satisfy the requirements of section 501(c)(17)(A) if it provides for the payment to an employee of an amount which when added to any State unemployment benefit equals a percentage of the employee's compensation.

(3) Under section 501(c)(17)(B)(ii), a plan will not be considered discriminatory merely because the plan provides benefits only for employees who are not eligible to receive sick, accident, or unemployment compensation benefits under State or Federal law. In such a case, however, the benefits provided under the plan seeking to satisfy the requirements of section 501(c)(17) must be the same benefits, or a portion of the same benefits if determined in a nondiscriminatory manner, which such ineligible employees would receive under State or Federal law if they were eligible for such benefits. Under this exception, for example, an employer may establish a plan only for employees who have exhausted their benefits under the State law, and, if the plan provides for such employees the same benefits which they would receive under the State plan, the State plan and the plan of the employer will be considered as one plan in determining whether the requirements relating to nondiscrimination in section 501(c)(17)(A) are satisfied. Furthermore, such a plan could also qualify even though it does not provide all of the benefits provided under the State plan. Thus, a plan could provide for the payment of a reduced amount of the benefits, or for the payment of only certain of the types of benefits, provided by the State plan. For example, if the State plan provides for the payment of sick, accident, and separation benefits, the plan of the employer may provide for the payment of only separation benefits, or for the payment of an amount equal to only one-half of the State provided benefit. However, if a plan provides benefits for employees who are not eligible to receive the benefits provided under a State plan and such benefits are greater or of a different type than those under the State plan, the plan of the employer must satisfy the requirements of section 501(c)(17)(A) without regard to the benefits and coverage provided by the State plan.

(4) Under section 501(c)(17)(B)(iii), a plan is not considered discriminatory merely because the plan provides benefits only for employees who are not eligible to receive benefits under another plan which satisfies the requirements of section 501(c)(17)(A) and which is funded solely by contributions of the employer. In such a case, the plan seeking to qualify under section 501(c)(17) must provide the same benefits, or a portion of such benefits if determined in a nondiscriminatory manner, as are provided for the employees under the plan funded solely by employer contributions. Furthermore, this exception only applies if the employees eligible to receive benefits under both plans would satisfy the requirements in section 501(c)(17)(A)(ii), relating to nondiscrimination as to coverage. The plan of the employer which is being correlated with the plan seeking to satisfy the requirements of section 501(c)(17) may be a plan which forms part of a voluntary employees' beneficiary association described in section 501(c)(9), if such plan satisfies all the requirements of section 501(c)(17)(A). Under this exception, for example, if an employer has established a plan providing for the payment of supplemental unemployment compensation benefits for his hourly wage employees and such plan satisfies the requirements of section 501(c)(17)(A) (even though the plan forms part of a voluntary employees of such employer may establish in section 501(c)(9)), the salaried employees of such employee may establish a plan for themselves, and, if such plan provides for the same benefits as the plan covering hourly wage employees, both plans may be considered as one plan in determining whether the plan covering the salaried employees satisfies the requirement that it be nondiscriminatory as to coverage. The foregoing example would also be applicable if the benefits provided for the salaried employees were funded solely or in part by employer contributions.

(d) *Permanency of the plan.* A plan providing for the payment of supplemental unemployment compensation benefits contemplates a permanent as distinguished from a temporary program. Thus, although there may be reserved the right to change or terminate the plan, and to discontinue contributions thereunder, the abandonment of the plan for any reason other than business necessity within a few years after it has taken effect will be evidence that the plan from its inception was not a bona fide program for the purpose of providing supplemental unemployment compensation benefits to employees. Whether or not a particular plan constitutes a permanent arrangement will be determined by all of the surrounding facts and circumstances. However, merely because a collective bargaining agreement provides that a plan may be modified at the termination of such agreement, or that particular provisions of the plan are subject to renegotiation during the duration of such agreement, does not necessarily imply that the plan is not a permanent arrangement. Moreover, the fact that the plan provides that the assets remaining in the trust after the satisfaction of all liabilities (including contingent liabilities) under the plan may be returned to the employer does not imply that the plan is not a permanent arrangement nor preclude the trust from qualifying under section 501(c)(17).

(e) *Portions of years.* A plan must satisfy the requirements of section 501(c)(17) throughout the entire taxable year of the trust in order for the trust to be exempt for such year. However, section 501(c)(17)(C) provides that a plan will satisfy the nondiscrimination as to classification requirements of section 501(c)(17)(A) if on at least one day in each quarter of the taxable year of the trust it satisfies such requirements.

(f) *Several trusts constituting one plan.* Several trusts may be designated as constituting part of one plan which is intended to satisfy the requirements of section 501(c)(17), in which case all of such trusts taken as a whole must meet the requirements of such section. The fact that a combination of trusts fails to satisfy the requirements of section 501(c)(17) as one plan does not prevent such of the trusts as satisfy the requirements of section 501(c)(17) from qualifying for exemption under that section.

(g) *Plan of several employers.* A trust forming part of a plan of several employers, or the employees of several employers, will be a supplemental unemployment benefit trust described in section 501(c)(17) if all the requirements of that section are otherwise satisfied.

(h) *Investment of trust funds.* No specific limitations are provided in section 501(c)(17) with respect to investments which may be made by the trustees of a trust qualifying under that section. Generally, the contributions may be used by the trustees to purchase any investments permitted by the trust agreement to the extent allowed by local law. However, the tax-exempt status of the trust will be forfeited if the investments made by the trustees constitute "prohibited transactions" within the meaning of section 503. See section 503 and the regulations thereunder. In addition, such a trust will be subject to tax under section 511 with respect to any "unrelated business taxable income" (as defined in section 512) realized by it from its investments. See sections 511 to 515, inclusive, and the regulations thereunder.

(i) *Allocations.* If a plan which provides sick and accident benefits is financed solely by employer contributions to the trust, and such sick and accident benefits are funded by payment of premiums on an accident or health insurance policy (whether on a group or individual basis) or by contributions to a separate fund which pays such sick and accident benefits, the plan must specify that portion of the contributions to be used to fund such benefits. If a plan which is financed in whole or in part by employee contributions provides sick and accident benefits, the plan must specify the portion, if any, of employee contributions allocated to the cost of funding such benefits, and must allocate the cost of funding such benefits between employer contributions and employee contributions.

(j) *Required records and returns.* Every trust described in section 501(c)(17) must maintain records indicating the amount of separation benefits and sick and accident benefits which have been provided to each employee. If a plan is financed, in whole or in part, by employee contributions to the trust, the trust must maintain records indicating the amount of each employee's total contributions allocable to separation benefits. In addition, every trust described in section 501(c)(17) which makes one or more payments (including separation and sick and accident benefits) totaling $600 or more in 1 year to an individual must file an annual information return on Form 1096, accompanied by a statement on Form 1099, for each such individual. Payments made by an employer or a person other than the trustee of the trust should not be considered in determining whether the $600 minimum has been paid by the trustee.

§ 1.501(c)(17)-3 Relation to other sections of the Code.

(a) *Taxability of benefit distributions*—(1) *Separation benefits.* If the the separation benefits described in section 501(c)(17)(D)(i) are funded entirely by employer contributions, then the full amount of any separation benefit payment received by an employee is includible in his gross income under section 61(a). If any such separation benefit is funded by both employer and employee contributions, or solely by employee contributions, the amount of any separation benefit payment which is includible in the gross income of the employee is the amount by which such distribution and any prior distributions of such separation payments exceeds the employee's total contributions to fund such separation benefits.

(2) *Sick and accident benefits.* Any benefit payment received from the trust under the part of the plan, if any, which provides for the payment of sick and accident benefits must be included in gross income under section 61(a), unless specifically excluded under section 104 or 105 and the regulations thereunder. See section 105(b) and § 1.105-2 for benefit payments expended for medical care, benefit payments in excess of actual medical expenses, and benefit payments which an employee is entitled to receive irrespective of whether or not he incurs expenses for medical care. See section 213 and § 1.213-1(g) for benefit payments representing reimbursement for medical expenses paid in prior years. See § 1.501(c)(17)-2(i) for the requirement that a trust described in section 501(c)(17) which receives employee contributions must be part of a written plan which provides for the allocation of the cost of funding sick and accident benefits.

(b) *Exemption as a voluntary employees' beneficiary association.* Section 501(c)(17)(E) contemplates that a trust forming part of a plan providing for the payment of supplemental unemployment compensation benefits may, if it qualifies, apply for exemption from income tax under section 501(a) either as a voluntary employees' beneficiary association described in section 501(c)(9) or as a trust described in section 501(c)(17). However, if an organization applies for an exemption under section 501(c)(17) and is granted an exemption under that section, it shall be treated as an organization described in section 501(c)(17) so long as it continues to qualify under that section.

(c) *Returns.* A trust which is described in section 501(c)(17) and which is exempt from tax under section 501(a) must file a return in accordance with section 6033 and the regulations thereunder. If such a trust realizes any unrelated business taxable income, as defined in section 512, the trust is also required to file a return with respect to such income.

(d) *Effective date.* Section 501(c)(17) shall apply to taxable years beginning after December 31, 1959, and shall apply to supplemental unemployment benefit trusts regardless of when created or organized.

PAR. 3. Section 1.503(a) is amended to read as follows:

§ 1.503(a) Statutory provisions; requirements for exemption; denial of exemption to organizations engaged in prohibited transactions.

SEC. 503. *Requirements for exemption*—(a) *Denial of exemption to organizations engaged in prohibited transactions*—(1) *General rule.*

(A) An organization described in section 501(c)(3) which is subject to the provisions of this section shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction after July 1, 1950.

(B) An organization described in section 501(c)(17) which is subject to the provisions of this section shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction after December 31, 1959.

(C) An organization described in section 401(a) which is subject to the provisions of this section shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction after March 1, 1954.

(2) *Taxable years affected.* An organization described in section 501(c)(3) or (17) or section 401(a) shall be denied exemption from taxation under section 501(a) by reason of paragraph (1) only for taxable years after the taxable year during which it is notified by the Secretary or his delegate that it has engaged in a prohibited transaction, unless such organization entered into such prohibited transaction with the purpose of diverting corpus or income of the organization from its exempt purposes, and such transaction involved a substantial part of the corpus or income of such organization.

[Sec. 503(a) as amended by sec. 2, Act of July 14, 1960 (P.L. 86-667, 74 Stat. 535)]

PAR. 4. Section 1.503(a)-1 is amended by revising paragraphs (a) and (b). These amended provisions read as follows:

§ 1.503(a)-1 Denial of exemption to organizations engaged in prohibited transactions.

(a) The prohibited transactions enumerated in section 503(c) are in addition to and not in limitation of the restrictions contained in section 501(c)(3) or (17), or section 401(a). Even though an organization has not engaged in any of the prohibited transactions referred to in section 503(c), it still may not qualify for tax exemption in view of the general provisions of section 501(c)(3) or (17), or section 401(a). Thus, if a trustee or other fiduciary of the organization (whether or not he is also a creator of such organization) enters into a transaction with the organization, such transaction will be closely scrutinized in the light of the fiduciary principle requiring undivided loyalty to ascertain whether the organization is in fact being operated for the stated exempt purposes.

(b) An organization;

(1) Described in section 501(c)(3) which after July 1, 1950, has engaged in any prohibited transaction as defined in section 503(c), unless it is excepted by the provisions of section 503(b), or

(2) Described in section 401(a) which after March 1, 1954, has engaged in any

prohibited transaction as defined in section 503(c) or which after December 31, 1962, has engaged in any prohibited transaction as defined in section 503(j); or

(3) Described in section 501(c)(17) which after December 31, 1959, has engaged in any prohibited transactions as defined in section 503(c);

shall not be exempt from taxation under section 501(a) for any taxable year subsequent to the taxable year in which there is mailed to it a notice in writing by the Commissioner that it has engaged in such prohibited transaction. Such notification by the Commissioner shall be by registered or certified mail to the last known address of the organization. However, notwithstanding the requirement of notification by the Commissioner, exemption shall be denied with respect to any taxable year if such organization during or prior to such taxable year commenced the prohibited transaction with the purpose of diverting income or corpus from its exempt purposes and such transaction involved a substantial part of the income or corpus of such organization. For the purpose of this section, the term "taxable year" means the established annual accounting period of the organization; or, if the organization has no such established annual accounting period, the "taxable year" of the organization means the calendar year.

PAR. 5. Section 1.503(b) is amended by revising the portion of paragraph (b) preceding subparagraph (1) and by adding a historical note at the end thereof. These amended and added provisions read as follows:

§ 1.503(b) Statutory provisions; requirements for exemption; organizations to which section 503 applies.

Sec. 503. *Requirements for exemption.* * * *

(b) *Organizations to which section applies.* This section shall apply to any organization described in section 501(c) (3) or (17) or section 401(a) except—

* * * * *

[Sec. 503(b) as amended by sec. 2(b), Act of July 14, 1960 (Pub. Law 86-667, 74 Stat. 535)]

PAR. 6. Section 1.503(c)-1 is amended by revising paragraph (a); by adding a new subdivision (vi) to paragraph (b)(2); by revising paragraph (b)(3); and the introductory clause and examples (5) and (6) of paragraph (c). These amended and added provisions read as follows:

§ 1.503(c)-1 Prohibited transactions.

(a) *In general.* The term "prohibited transaction" means any transaction set forth in section 503(c) engaged in by an organization described in section 501(c) (3) or (17), or section 401(a), other than those organizations excepted by section 503(b). Whether a transaction is a prohibited transaction depends on the facts and circumstances of the particular case. This section is intended to deny tax-exempt status to those organizations described in section 501(c) (3) or (17), or section 401(a), which engage in certain transactions which inure to the private advantage of (1) the creator of such organization (if it is a trust); (2) any substantial contributor to the organization; (3) a member of the family (as defined in section 267(c)(4)) of an individual who is such creator of or such substantial contributor to such organization; or (4) a corporation controlled, as set forth in section 503(c), by such creator or substantial contributor.

(b) *Loans as prohibited transactions under section 503(c)(1).* * * *

(2) *Effective dates.* * * *

(vi) January 1, 1960, for loans (including the purchase of debentures) made by supplemental unemployment benefit trusts, described in section 501(c)(17).

(3) *Certain exceptions to section 503(c)(1).* See section 503(h) and §§ 1.503(h)-1, 1.503(h)-2, and 1.503(h)-3 for special rules providing that certain obligations acquired by trusts described in section 401(a) or section 501(c)(17) shall not be treated as loans made without the receipt of adequate security for purposes of section 503(c)(1). See section 503(i) and § 1.503(i)-1 for an exception to the application of section 503(c)(1) for certain loans made by employees' trusts described in section 401(a).

(c) *Examples.* The following examples illustrate the operation of section 503(c)(1) with regard to organizations described in section 501(c)(3). The examples are also illustrative of the operation of section 503(c)(1) with respect to employees' trusts described in section 401(a), to the extent that section 503(h) or (i) is not applicable. In addition, the following examples are illustrative of the operation of section 503(c)(1) with respect to supplemental unemployment benefit trusts described in section 501(c)(17), to the extent that section 503(h) is not applicable.

Example (5). N Corporation, a substantial contributor to an exempt organization subject to section 503 borrows $50,000 on or after March 16, 1956, from the organization. If the loan is not adequately secured, the organization has committed a prohibited transaction at the time the loan was made. If the loan had been made on or before March 15, 1956, and is continued after January 31, 1957, it must be adequately secured on February 1, 1957, or it will be considered a prohibited transaction on that date. However, if the exempt organization were an employee's trust, described in section 401(a), and the loan were made before March 1, 1954, repayable by its terms after December 31, 1955, it would not have to be adequately secured on February 1, 1957. Moreover, if the exempt organization were a supplemental unemployment benefit trust, described in section 501(c)(17), and the loan were made before January 1, 1960, repayable by its terms after December 31, 1959, it would not have to be adequately secured on January 1, 1960.

Example (6). An exempt organization subject to section 503 purchases a debenture issued by O Corporation, which is a substantial contributor to the organization. The organization purchases the debenture in an arm's length transaction from a third person on or after November 9, 1956. The purchase is considered as a loan by the organization to O Corporation. The loan must be adequately secured when it is made, or it is considered as a prohibited transaction at that time. If the organization purchased the debenture before November 9, 1956, and holds it after December 1, 1958, the debenture must be adequately secured on December 2, 1958, or it will then be considered as prohibited transaction. However, if the organization were an employees' trust described in section 401(a), and if the debenture were purchased before March 1, 1954, and its maturity date is after December 31, 1955, the debenture does not have to be adequately secured. Moreover, if the organization were a supplemental unemployment benefit trust, described in section 501(c)(17), and if the debenture were purchased before January 1, 1960, and its maturity date is after December 31, 1959, the debenture does not have to be adequately secured.

PAR. 7. Section 1.503(d) is amended to read as follows:

§ 1.503(d) Statutory provisions; requirements for exemption; future status of organizations denied exemption.

Sec. 503. *Requirements for exemption.* * * *

(d) *Future status of organizations denied exemption.* Any organization described in section 501(c) (3) or (17) of section 401(a) which is denied exemption under section 501(a) by reason of subsection (a) of this section, with respect to any taxable year following the taxable year in which notice of denial of exemption was received, may, under regulations prescribed by the Secretary or his delegate, file claim for exemption, and if the Secretary or his delegate, pursuant to such regulations, is satisfied that such organization will not knowingly again engage in a prohibited transaction, such organization shall be exempt with respect to taxable years after the year in which such claim is filed.

[Sec. 503(d) as amended by sec. 2(c), Act of July 14, 1960 (Public Law 86-667, 74 Stat. 535)]

PAR. 8. Section 1.503(d)-1 is amended to read as follows:

§ 1.503(d)-1 Future status of organizations denied exemption.

(a) Any organization described in section 501(c) (3) or (17), or an employees' trust described in section 401(a), which is denied exemption under section 501(a) by reason of the provisions of section 503(a), may file, in any taxable year following the taxable year in which notice of denial was issued, a claim for exemption. In the case of organizations described in section 501(c) (3) or (17), the appropriate exemption application shall be used for this purpose, and shall be filed with the district director for the internal revenue district in which is located the principal place of business or principal office of the organization claiming exemption. In the case of an employees' trust described in section 401(a), the information described in § 1.404(a)-2 shall be submitted with a letter claiming exemption. An employees' trust described in section 401(a) shall submit this information to the district director with whom a request for a determination as to its qualification under section 401 and exemption under section 501 may be submitted under paragraph (1) of § 601.201 of this chapter (Statement of Procedural Rules). A claim for exemption must contain or have attached to it, in addition to the information generally required of such an organization claiming exemption as an organization described in section 501(c) (3) or (17), or section 401(a), a written declaration made under the penalties of perjury by a principal officer of such organization authorized to make such declaration that the organization will not knowingly again engage in a prohibited transaction. See § 1.501(a)-1 for proof of exemption requirements in general.

(b) If the Commissioner is satisfied that such organization will not knowingly again engage in a prohibited transaction and that the organization also satisfied all other requirements under section 501(c) (3) or (17), or section 401(a), the organization will be so notified in writing. In such case the organization will be exempt (subject to the provisions of 501(c) (3), (17), 401(a), 503, and 504 when applicable) with respect to the taxable years subsequent to the taxable year in which the claim prescribed in section 503(d) is filed. Section 503 contemplates that an organization denied exemption because of the terms of such section will be subject to taxation for at least one full taxable year. For the purpose of this section, the term "taxable year" means the established annual accounting period of the organization; or, if the organization has no such established annual accounting period, the "taxable year" of the organization means the calendar year.

PAR. 9. Section 1.503(h) is amended by revising the title of such section, the portion of paragraph (h) preceding subparagraph (1), and by amending the historical note at the end thereof. These amended provisions read as follows:

§ 1.503(h) Statutory provisions; requirements for exemption; special rules relating to lending by section 401(a) and section 501(c)(17) trusts to certain persons.

SEC. 503. *Requirements for exemption.* * * *
(h) *Special rules relating to lending by section 401(a) and section 501(c)(17) trusts to certain persons.* For purposes of subsection (c)(1), a bond, debenture, note, or certificate or other evidence of indebtedness (hereinafter in this subsection referred to as "obligation") acquired by a trust described in section 401(a) or section 501(c)(17) shall not be treated as a loan made without the receipt of adequate security if—

* * * * *

[Sec. 503(h) as added by sec. 30(a), Technical Amendments Act 1958 (72 Stat. 1629); amended by sec. 2(d), Act of July 14, 1960 (Public Law 86-667, 74 Stat. 535)]

PAR. 10. Section 1.503 (h)-1 is amended by revising the title of such section and paragraph (a) (1) and (3) thereof. These amended provisions read as follows:

§ 1.503(h)-1 Certain loans by employees' trusts and supplemental unemployment benefit trusts.

(a) *In general.* (1) Section 503(h) provides that the acquisition by an employees' trust described in section 401(a), or a supplemental unemployment benefit trust described in section 501(c)(17), of a bond, debenture, note, or certificate or other evidence of indebtedness shall not be treated as a loan made without the receipt of adequate security for purposes of section 503(c)(1), relating to loans made without the receipt of adequate security and a reasonable rate of interest, if certain requirements are met. Those requirements are described in § 1.503(h)-2.

* * * * *

(3) The provisions of section 503(h) do not limit the effect of section 401(a) and § 1.401-2, relating to the use or diversion of corpus or income of an employees' trust, or the effect of the provisions of section 501(c)(17)(A)(i), relating to the diversion of the corpus or income of a supplemental unemployment benefit trust. Furthermore, the provisions of section 503(h) do not limit the effect of any of the provisions of section 503 other than section 503(c)(1). Thus, for example, although a loan made by an employees' trust described in section 401 (a) meets all the requirements of section 503(h) and therefore is not treated as a loan made without the receipt of adequate security, an employees' trust making such a loan will lose its exempt status if the loan is not considered as made for the exclusive benefit of the employees or their beneficiaries. Similarly, a loan which meets the requirements of section 503(h) will constitute a prohibited transaction within the meaning of section 503(c)(6) if it results in a substantial diversion of the trust's income or corpus to a person described in section 503(c).

* * * * *

PAR. 11. Section 1.503(h)-2 is amended by revising paragraph (b) (1), (2)(ii) (*a*), and (iii)(*b*), (3) and (4) and paragraph (c) (1) and (2)(ii). These amended provisions read as follows:

§ 1.503(h)-2 Requirements.

* * * * *

(b) *Methods of acquisition*—(1) *In general.* The employees' trust described in section 401(a) or the supplemental unemployment benefit trust described in section 501(c)(17) must acquire the obligation on the market, by purchase from an underwriter, or by purchase from the issuer, in the manner described in subparagraph (2), (3), or (4) of this paragraph.

(2) *On the market.* * * *

(ii) (*a*) If the obligation is listed on a national securities exchange registered with the Securities and Exchange Commission, it must be purchased through such an exchange or in an over-the-counter transaction at a price not greater than the price of the obligation prevailing on such an exchange at the time of the purchase by the employees' trust or supplemental unemployment benefit trust.

* * * * *

(iii) * * *

(*b*) For purposes of section 503(h), the offering price for the obligation at the time of the purchase means the price which accurately reflects the market value of the obligation. The offering price may be the price at which the last sale of the obligation to a person independent of the issuer was effected immediately before the trust's purchase of such obligation on the same day or may be the mean between the highest and lowest prices at which sales to persons independent of the issuer were effected on the same day or on the immediately preceding day or on the last day during which there were sales of such obligation or may be a price determined by any other method which accurately reflects the market value of the obligation. The offering price for an obligation must be a valid price for the amount of the obligations which the trust is purchasing. For example, if an employees' trust described in section 401(a) purchases 1,000 bonds of the employer corporation at the offering price established by current prices for a lot of 10 such bonds, such offering price may not be a valid price for 1,000 bonds and the purchase may therefore not meet the requirements of this subdivision. For a purchase of an obligation to qualify under this subdivision, there must be sufficient current prices quoted by persons independent of the issuer to establish accurately the current value of the obligation. Thus, if there are no current prices quoted by persons independent of the issuer, an over-the-counter transaction will not qualify under this subparagraph although the obligation was purchased in an arm's length transaction from a person independent of the issuer.

* * * * *

(3) *From an underwriter.* An obligation may be purchased from an underwriter if it is purchased at a price not greater than:

(i) The public offering price for the obligation as set forth in a prospectus or offering circular filed with the Securities and Exchange Commission, or

(ii) The price at which a substantial portion of the issue including such obligation is acquired by persons independent of the issuer,

whichever is the lesser price. For purposes of this subparagraph, a portion of the issue will be considered substantial if the purchases of such portion by persons independent of the issuer are sufficient to establish the fair market value of the obligations included in such issue. In determining whether the purchases are sufficient to establish the fair market value, all the surrounding facts and circumstances will be considered, including the number of independent purchasers, the aggregate amount purchased by each such independent purchaser, and the number of transactions. In the case of a large issue, purchases of a small percentage of the outstanding obligations may be considered purchases of a substantial portion of the issue; whereas, in the case of a small issue, purchases of a larger percentage of the outstanding obligations will ordinarily be required. The requirement in subdivision (ii) of this subparagraph contemplates purchase of the obligations by persons independent of the issuer contemporaneously with the purchase by the employees' trust or supplemental unemployment benefit trust. If a substantial portion has been purchased at different prices, the price of the portion may be based on the average of such prices, and if several substantial portions have been sold to persons independent of the issuer, the price of any of the substantial portions may be used for purposes of this subparagraph.

(4) *From the issuer.* An obligation may be purchased directly from the issuer at a price not greater than the price paid currently for a substantial portion of the same issue by persons independent of the issuer. This requirement contemplates purchase of a substantial portion of the same issue by persons independent of the issuer contemporaneously with the purchase by the employees' trust or supplemental unemployment benefit trust. For purposes of this subparagraph, a portion of the issue will be considered substantial if the purchases of such portion by persons independent of the issuer are sufficient to establish the fair market value of the obligations included in such issue. In determining whether the purchases are sufficient to establish the fair market value, all the surrounding facts and circumstances will be considered, including the number of independent purchasers, the aggregate amount purchased by each such independent purchaser, and the number of transactions. In the case of a large issue, purchases of a small percentage of the outstanding obligations may be considered purchases of a substantial portion of the issue; whereas, in the case of a small issue, purchases of a larger percentage of the outstanding obligations will ordinarily be required. The price paid for a substantial portion of the issue may be determined in the manner provided in subparagraph (3) of this paragraph.

(c) *Limitations on holdings of obligations.* (1) Immediately following acquisition of the obligation by the employees' trust or the supplemental unemployment benefit trust.

* * * * *

(2) (i) * * *

(ii) For purposes of subparagraph (1) of this paragraph, the amounts of the obligations held by the trust and by persons independent of the issuer shall be computed on the basis of the face amount of the obligations.

PAR. 12. Section 1.503(h)-3 is revised to read as follows:

§ 1.503(h)-3 Effective dates.

(a) Section 503(h) and §§ 1.503(h)-1 and 1.503(h)-2 are effective in the case of an employees' trust described in section 401(a) for taxable years ending after March 15, 1956. Thus, if during a taxable year ending before March 16, 1956, an employees' trust made a loan which meets the requirements of section 503(h), such loan will not be treated as made without the receipt of adequate security and will not cause loss of exemption for taxable years ending after March 15, 1956, although such loan was not considered adequately secured when made.

(b) (1) In the case of obligations acquired by an employees' trust described in section 401(a) before September 2, 1958, which were held on that date, the requirements described in paragraphs (c) and (d) of § 1.503(h)-2 which were not satisfied immediately following the acquisition shall be treated as satisfied at that time if those requirements would have been satisfied had the obligations been acquired on September 2, 1958. For example, on January 3, 1955, an employees' trust described in section 401(a) purchased through the New York Stock Exchange unsecured debentures issued by the employer corporation. Under section 503(h) the acquisition of such debentures by the trust will not be treated for taxable years ending after March 15, 1956, as a loan made without the receipt of adequate security if the debentures were held by the employees' trust on September 2, 1958, and if the requirements of paragraphs (c) and (d) of § 1.503(h)-2 which were not met on January 3, 1955, were met on September 2, 1958, as if that date were the date of acquisition.

(2) In the case of obligations acquired before September 2, 1958, which were not held by the employees' trust described in section 401(a) on that date, only the requirement described in paragraph (b) of § 1.503(h)-2 must be satisfied for section 503(h) to be applicable to such acquisition. For example, if on December 5, 1956, an employees' trust lent money to the employer corporation by purchasing a debenture issued by the employer and if the trust sold the debenture on August 1, 1958, such loan would not be treated as made without the receipt of adequate security if the requirement described in paragraph (b) of § 1.503(h)-2 was met on December 5, 1956.

(c) Section 503(h) and §§ 1.503(h)-1 and 1.503(h)-2 are effective in the case of supplemental unemployment benefit trusts described in section 501(c)(17) with respect to loans made, renewed, or, in the case of demand loans, continued after December 31, 1959.

(d) See paragraph (b)(2) of § 1.503(c)-1 for the effective dates for the application of the definition of adequate security.

PAR. 13. Section 1.511 is amended by revising paragraph (a)(2)(A) and paragraph (b)(2), and by adding a historical note at the end thereof. These amended and added provisions read as follows:

§ 1.511 Statutory provisions; imposition of tax on unrelated business income of charitable, etc., organizations.

SEC. 511. *Imposition of tax on unrelated business income of charitable, etc., organizations*—

(a) *Charitable, etc., organizations taxable at corporation rates.* * * *

(2) *Organizations subject to tax*—

(A) *Organizations described in section 501 (c) (2), (3), (5), (6), and (17), and section 401(a).* The taxes imposed by paragraph (1) shall apply in the case of any organization (other than a church, a convention or association of churches, or a trust described in subsection (b)) which is exempt, except as provided in this part, from taxation under this subtitle by reason of section 401(a) or of paragraph (3), (5), (6), or (17) of section 501(c). Such taxes shall also apply in the case of a corporation described in section 501 (c)(2) if the income is payable to an organization which itself is subject to the taxes imposed by paragraph (1) or to a church or to a convention or association of churches.

* * * * *

(b) *Tax on charitable, etc., trusts.* * * *

(2) *Charitable, etc., trusts subject to tax.* The tax imposed by paragraph (1) shall apply in the case of any trust which is exempt, except as provided in this part, from taxation under this subtitle by reason of section 501(c) (3) or (17) or section 401(a) and which, if it were not for such exemption, would be subject to subchapter J (sec. 641 and following, relating to estates, trusts, beneficiaries, and decedents).

* * * * *

[Sec. 511 as amended by sec. 3, Act of July 14, 1960 (Pub. Law 86-667, 74 Stat. 535)]

PAR. 14. Section 1.511-2 is amended by revising paragraphs (a)(1) and (b). These amended provisions read as follows:

§ 1.511-2 Organizations subject to tax.

(a) (1) The taxes imposed by section 511(a)(1) apply in the case of any organization (other than a church, a convention or association of churches, or a trust described in section 511(b)(2)) which is exempt (except as provided in sections 511 through 515) from taxation under section 501(a) as an organization described in section 501(c) (3), (5), (6), or (17), or section 401(a). A corporation described in section 501(c)(2) exempt from taxation under section 501(a) holding property for an organization which itself is subject to the tax or for a church or a convention or association of churches, is also subject to the tax imposed by section 511(a)(1).

* * * * *

(b) The taxes imposed by section 511 (b) apply in the case of any trust which is exempt (except as provided in sections 511 through 515) from taxation under section 501(a) as an organization described in section 501(c) (3) or (17), or section 401(a), and which, if it were not for such exemption, would be subject to the provisions of subchapter J, chapter 1, of the Code. In the case of a trust described in section 401(a), the tax imposed by section 511(b) and this section shall apply only for taxable years beginning after June 30, 1954. In the case of a trust described in section 501(c) (17), the tax imposed by section 511(b) and this section shall apply only for taxable years beginning after December 31, 1959. An organization which is considered as "trustee" of a stock bonus, pension, or profit-sharing plan described in section 401(a), or a supplemental unemployment benefit trust described in section 501(c)(17) (regardless of the form of such organization) is subject to the taxes imposed by section 511(b)(1) on its unrelated business income. However, if such an organization conducts a business which is a separate taxable entity on the basis of all the facts and circumstances, for example, as a corporation or an association taxable as a corporation, the business will be taxable as a feeder organization described in section 502.

PAR. 15. Paragraph (b) of § 1.513 is amended by revising paragraph (b)(2) and by adding a historical note at the end thereof. These amended and added provisions read as follows:

§ 1.513 Statutory provisions; unrelated trade or business.

Sec. 513. *Unrelated trade or business.* * * *

(b) *Special rule for trusts.* * * *

(2) A trust described in section 401(a), or section 501(c)(17), which is exempt from tax under section 501(a);

* * * * *

[Sec. 513(b)(2) as amended by sec. 4, Act of July 14, 1960 (Pub. Law 86-667, 74 Stat. 536)]

PAR. 16. Section 1.514(c) is amended by adding a new subparagraph (8) and a historical note. These amended and added provisions read as follows:

§ 1.514(c) Statutory provisions; business leases; business lease indebtedness.

Sec. 514. *Business leases.* * * *

(c) *Business lease indebtedness.* * * *

(8) *Trusts described in section 501(c)(17).*—

(A) In the case of a trust described in section 501(c)(17), or in the case of a corporation described in section 501(c)(2), all of the stock of which was acquired before January 1, 1960, by a trust described in section 501(c)(17), any indebtedness incurred by such trust or such corporation before January 1, 1960, in connection with real property which is leased before January 1, 1960, and any indebtedness incurred by such trust or such corporation on or after such date necessary to carry out the terms of such lease, shall not be considered as an indebtedness with respect to such trust or such corporation for purposes of this subsection.

(B) In the application of paragraph (1), if a trust described in section 501(c)(17) forming part of a supplemental unemployment compensation benefit plan lends any money to another trust described in section 501(c)(17) forming part of the same plan, such loan shall not be treated as an indebtedness of the borrowing trust, except to the extent that the loaning trust—

(i) Incurs any indebtedness in order to make such loan;

(ii) Incurred indebtedness before the making of such loan which would not have been incurred but for the making of such loan; or

(iii) Incurred indebtedness after the making of such loan which would not have been incurred but for the making of such loan and which was reasonably foreseeable at the time of making such loan.

[Sec. 514(c) as amended by sec. 5, Act of July 14, 1960 (Pub. Law 86-667, 74 Stat. 536)]

PAR. 17. Section 514(c)-1 is amended by adding a new paragraph (j) at the end thereof. These added provisions read as follows:

§ 1.514(c)-1 Business lease indebtedness.

* * * * *

(j) *Certain trusts described in section 501(c)(17).* (1) In the case of a supplemental unemployment benefit trust described in section 501(c)(17), or in the case of a corporation described in section 501(c)(2) all of the stock of which was acquired before January 1, 1960, by such a trust, any indebtedness incurred by such trust or such corporation before such date, in connection with real property which is leased before such date, and any indebtedness incurred by such trust or such corporation on or after such date necessary to carry out the terms of such lease, shall not be considered as an indebtedness described in section 514(c) and in this section.

(2) If a supplemental unemployment benefit trust described in section 501(c)(17) lends any money to another such supplemental unemployment benefit trust forming part of the same plan, for the purpose of acquiring or improving real property, such loan will not be treated as an indebtedness of the borrowing trust except to the extent that the loaning trust—

(i) Incurs any indebtedness in order to make such loan;

(ii) Incurred indebtedness before the making of such loan which would not have been incurred but for the making of such loan; or

(iii) Incurred indebtedness after the making of such loan which would not have been incurred but for the making of such loan and which was reasonably foreseeable at the time of making such loan.

PAR. 18. Paragraph (a)(5) of § 1.6012-3 is amended to read as follows:

§ 1.6012-3 Returns by fiduciaries.

(a) *For estates and trusts.* * * *

(5) *Trusts with unrelated business income.* Every fiduciary for a trust, described in section 501(c)(3) or (17), or section 401(a), which is otherwise exempt from tax under section 501(a), and which is subject to the tax imposed on unrelated business taxable income by section 511(b)(1), shall make a return on Form 990-T for each taxable year if the trust has gross income, included in computing unrelated business taxable income for such taxable year, of $1,000 or more. The filing of a return of unrelated business income does not relieve the fiduciary of such trust from the duty of filing other required returns.

* * * * *

PAR. 19. Paragraph (i) of § 1.6033-1 is amended to read as follows:

§ 1.6033-1 Returns by exempt organizations.

* * * * *

(i) *Unrelated business tax returns.* In addition to the foregoing requirements of this section, certain organizations otherwise exempt from tax under section 501(a) and described in section 501(c)(2), (3), (5), (6), or (17) or section 401(a) which are subject to tax on unrelated business taxable income are also required to file returns on Form 990-T. See paragraph (e) of § 1.6012-2 and paragraph (a)(5) of § 1.6012-3 for requirements with respect to such returns.

[F.R. Doc. 67-8969; Filed, Aug. 1, 1967; 8:46 a.m.]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 32]

Hunting

HATCHIE NATIONAL WILDLIFE REFUGE, TENN.

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Migratory Bird Conservation Act of February 18, 1929, as amended (45 Stat. 1222; 16 U.S.C. 715), and the Endangered Species Preservation Act of October 15, 1966 (80 Stat. 926, 16 U.S.C. 668aa), it is proposed to amend 50 CFR 32.11 and 32.21, by the addition of Tennessee National Wildlife Refuge, Tenn., to the list of areas open to the hunting of migratory game birds; and Hatchie National Wildlife Refuge, Tenn., to the list of areas open to upland game hunting.

It has been determined that the regulated hunting of upland game on Hatchie National Wildlife Refuge and migratory game birds on Tennessee National Wildlife Refuge may be permitted as designated without detriment to the objectives for which the areas were established.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections, with respect to this proposed amendment, of the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

1. Section 32.11 is amended by the addition of the following area as one where hunting of migratory game birds is authorized:

§ 32.11 List of open areas; migratory game birds.

* * * * *

TENNESSEE

TENNESSEE NATIONAL WILDLIFE REFUGE

* * * * *

2. Section 32.21 is amended by the addition of the following area as one where hunting of upland game is authorized:

§ 32.21 List of open areas; upland game.

* * * * *

TENNESSEE

HATCHIE NATIONAL WILDLIFE REFUGE

* * * * *

JOHN S. GOTTSCHALK,
Director, Bureau of Sport Fisheries and Wildlife.

JULY 27, 1967.

[F.R. Doc. 67-8952; Filed, Aug. 1, 1967; 8:45 a.m.]

Oil Import Administration

[32A CFR Ch. X]

[Oil Import Reg. 1, Rev. 5]

ALLOCATIONS OF IMPORTS, LOW SULPHUR RESIDUAL FUEL OIL

Notice of Proposed Rule Making

Presidential Proclamation 3279, as amended, has been modified to help abate air pollution on both the East and West Coasts.

The amended proclamation has redefined residual fuel oil as follows: "Residual fuel oil—topped crude oil or viscous residuum which has a viscosity of not less than 45 seconds Saybolt Universal at 100° F. and crude oil which has a viscosity of not less than 45 seconds Saybolt Universal at 100° F. and which is to be used as fuel without further processing other than by blending by mechanical means." This new definition expands the viscosity range of fuel oil and permits imports under a residual fuel oil license of oil of lower viscosity than was heretofore permitted. By permitting imports of residual fuel oil of lower viscosity than in the past, the industry's capability to supply greater quantities of low sulphur fuel oil will be enhanced. Accordingly, subparagraph (7), of paragraph (g) of section 22 of the Oil Import Regulation 1, as amended, will be so revised.

In addition, the amended proclamation authorizes the Secretary of the Interior, to allocate imports of low sulphur residual fuel oil to marketers of this fuel in District V who have access to ocean terminals and to grant allocations of imports of crude oil and unfinished oils to refiners in all districts, who process imported crude oil or unfinished oils into low sulphur residual fuel oil to be used as fuel. In order to implement these provisions of the amendatory proclamation, I propose to issue amendments to Oil Import Regulation 1, as amended, which would embody the following plan:

(1) Persons in the business of selling residual fuel oil in District V who have access to deepwater terminals, either by ownership or throughput agreements and a recent history of inputs of residual fuel oil to such terminals would be granted an allocation of imports of residual fuel oil to be used as fuel containing not more than a percent of sulphur by weight, as the Secretary of the Interior may determine in consultation with the Secretary of Health, Education, and Welfare. The quantity of individual allocations would be that amount of low sulphur residual fuel equaling the difference between individual certified availability of domestic supply and estimates of requirements of low sulphur residual fuel oil to be used as fuel to meet consumer demand in District V.

(2) In Districts I–IV and District V, eligible persons with refinery capacity who are receiving allocations of imports of crude and unfinished oils would be given additional allocations based on the low sulphur residual fuel oil produced from crude oil or unfinished oils imported pursuant to their allocations. The additional allocations of crude oil and unfinished oils would not exceed the quantity of low sulphur residual fuel oil produced from imported crude for United States consumption. Provisions would be made to adjust "inputs" so that there would be no pyramiding of "inputs" for the purpose of enlarging individual import allocations.

Example: Any eligible person who receives an allocation of imports of crude oil and unfinished oils of 1 million barrels for the allocation period January 1–December 31, 1968, manufactures 100,000 barrels of low sulphur residual fuel oil from his imported foreign crude oil or unfinshed oil. Upon receipt of certification by the Oil Import Administration, the applicant would be entitled to receive an additional allocation not to exceed 100,000 barrels of crude oil. Further, if he manufactures 10,000 barrels of low sulphur residual fuel oil from this additional imported crude oil he would be entitled to receive a second additional allocation of 10,000 barrels of crude oil and unfinished oils. However, for the purpose of computing import allocations under section 10 or 11 of Oil Import Regulation 1 for future allocation periods crude oil imported under an additional allocation and processed would not qualify as "refinery inputs".

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections (six copies) with respect to the proposed plan to the Administrator, Oil Import Administration, Washington, D.C. 20240, on or before August 15, 1967.

STEWART L. UDALL,
Secretary of the Interior.

JULY 29, 1967.

[F.R. Doc. 67-9064; Filed, Aug. 1, 1967; 9:40 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 724]

FIRE-CURED, DARK AIR-CURED, AND VIRGINIA SUN-CURED TOBACCO

Sale, Lease, and Transfer of Acreage Allotments for 1967 and Subsequent Crop Years

Notice of determinations to be made with respect to sale, lease, and transfer of fire-cured, dark air-cured, and Virginia sun-cured tobacco acreage allotments for 1967 and subsequent crop years.

Pursuant to the Agricultural Adjustment Act of 1938, as amended, and as further amended through the addition of section 318 by P.L. 90–51, approved July 7, 1967, hereinafter referred to as the "Act," the Secretary is preparing to make determinations regarding the provisions of section 318 of the Act.

Section 318 of the Act provides as follows:

(a) Notwithstanding any other provision of law, the Secretary, if he determines that it will not impair the effective operation of the tobacco marketing quota or price support programs, (1) may permit the owner and operator of any farm for which a fire-cured, dark air-cured, or Virginia sun-cured tobacco acreage allotment or acreage-poundage quota is established under this Act to sell or lease all or any part or the right to all or any part of such allotment or quota to any other owner or operator of a farm for transfer to such farm; and (2) may permit the owner of a farm to transfer all or any part of such allotment or quota to any other farm owned or controlled by him.

(b) Transfers under this section shall be subject to the following conditions: (1) No allotment or quota shall be transferred to a farm in another county; (2) no transfer of an allotment or quota from a farm subject to a mortgage or other lien shall be permitted unless the transfer is agreed to by the lienholders; (3) no sale of a farm allotment or quota from a farm shall be permitted if any sale of allotment or quota to the same farm has been made within the three immediately preceding crop years; and (4) no transfer of allotment or quota shall be effective until a record thereof is filed with the county committee of the county to which such transfer is made and such committee determines that the transfer complies with the provisions of this section.

(c) The transfer of an allotment or quota under this section shall have the effect of transferring also the acreage history and marketing quota attributable to such allotment or quota and if the transfer is made prior to the determination of the allotment or quota for any year the transfer shall include the right of the owner or operator to have an allotment or quota determined for the farm for such year: *Provided*, That in the case of a transfer by lease the amount of the allotment or quota shall be considered for purposes of determining allotments or quotas after the expiration of the lease to have been planted on the farm from which such allotment is transferred.

(d) The land in the farm from which the entire tobacco allotment or quota has been transferred shall not be eligible for a new farm tobacco allotment or quota during the 5 years following the year in which such transfer is made.

(e) If the normal yield established by the county committee for the farm to which the allotment is transferred does not exceed the normal yield established by the county committee for the farm from which the allotment is transferred by more than 10 per centum, the transfer shall be approved acre for acre. If the normal yield for the farm to which the allotment is transferred exceeds the normal yield for the farm from which the allotment is transferred by more than 10 per centum, the county committee shall make a downward adjustment in the amount of the acreage allotment transferred by multiplying the normal yield established for the farm from which the allotment is transferred by the acreage being transferred and dividing the result by the normal yield established for the farm to which the allotment is transferred.

(f) Any lease under this section may be made for such term of years not to exceed five as the parties thereto agree, and on such other terms and conditions except as otherwise provided in this section as the parties thereto agree.

(g) Under the provisions of this section not more than 10 acres of allotment may be transferred to any farm: *Provided*, That the total acreage allotted to any farm after such transfer shall not exceed 50 per centum of the acreage of cropland in the farm.

(h) The lease of any part of a tobacco acreage allotment or acreage-poundage quota under this section determined for a farm shall not affect the allotment or quota for the farm from which such allotment or quota is transferred or the farm to which it is transferred, except with respect to the crop year or years specified in the lease. The amount of the acreage allotment and acreage-poundage quota which is leased from a farm shall be considered for purposes of determining future allotments and quotas to have been planted to tobacco on the farm from which such allotment or quota is leased and the production pursuant to the lease shall not be taken into account in establishing allotments or quotas for subsequent years for the farm to which such allotment is leased. The lessor shall be considered to have been engaged in the production of tobacco for purposes of eligibility to vote in the referendum.

(i) If the sale or transfer under this section occurs during a period in which the farm is covered by a conservation reserve contract, cropland conversion agreement, or other similar land utilization agreement the rates of payment provided for in the contract or agreement of the farm from which the transfer is made shall be subject to an appropriate adjustment, but no adjustment shall be made in the contract or agreement of the farm to which the transfer is made.

(j) The Secretary shall prescribe such regulations and other terms and conditions as he deems necessary for the administration of this section.

The issues involved in these determinations are: (1) Whether the sale, lease, and transfer of fire-cured, dark air-cured, or Virginia sun-cured tobacco acreage allotments would impair the effective operation of the tobacco marketing quota or price support program for such kind of tobacco for 1968 and subsequent years, (2) whether the sale, lease, and transfer of acreage allotments for any such kind of tobacco would, if made effective for the 1967 crop, impair the 1967 marketing quota or price support program for such kind of tobacco in view of the fact that it is too late to plant any of such kinds of tobacco for 1967, and (3) development of regulations for operation of the program if put into effect. Consideration will be given to data, views, and recommendations pertaining to the proposed determinations, rules, and regulations covered by this notice which are submitted in writing to the Director, Policy and Program Appraisal Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to the notice will be made available for public inspection at such times and in a manner convenient to the public business (7 CFR 1.27(b)). All submissions must be postmarked not later than 15 days from the date of publication of this notice in the FEDERAL REGISTER.

Signed at Washington, D.C., on July 26, 1967.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 67-8964; Filed, Aug. 1, 1967; 8:46 a.m.]

Consumer and Marketing Service

[7 CFR Part 989]

[Docket No. AO 198-A6]

RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Decision and Referendum Order With Respect to Proposed Amendment of Marketing Agreement and Order, as Amended

Pursuant to the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held in Fresno, Calif., on April 24–27, 1967, after notice thereof published in the FEDERAL REGISTER (32 F.R. 5690) on proposals to amend the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California. The amended marketing agreement and the amended order are effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

On the basis of the evidence adduced at the hearing, and the record thereof, the recommended decision in this proceeding was filed on June 22, 1967, with the Hearing Clerk, U.S. Department of Agriculture, and notice thereof, affording opportunity to file written exceptions thereto, was published June 27, 1967, in the FEDERAL REGISTER (F.R. Doc. 67-7196; 32 F.R. 9084).

The material issues, findings and conclusions, and general findings of the recommended decision set forth in the FEDERAL REGISTER (F.R. Doc. 67-7196; 32 F.R. 9084) are hereby approved and adopted as the material issues, findings and conclusions, and general findings of this decision as if set forth in full herein, except as they are modified by correction of typographical errors and rulings on the exceptions as hereinafter set forth.

Correction of typographical errors. The third sentence of the penultimate paragraph of the discussion on material issue (11) in the recommended decision which reads, "If any such sale is approved, the offer to handlers should be made as now provided in paragraphs (d) and (h) of new § 989.67 but price determination should continue as presently prescribed in § 989.66(b)" should be corrected to read as follows: "If any such sale is approved, the offer to handlers should be made as now provided in paragraphs (d) and (h) of new § 989.67 but price determination should continue as presently prescribed in § 989.67(b)".

Rulings on exceptions. Exceptions to the recommended decision were filed, within the prescribed time, by the following: A Setrakian, on his own behalf; Allen F. Mather for Sun-Maid Raisin Growers of California; Ernest A. Bedrosian for the Raisin Bargaining Association; C. W. Bonner for Bonner Packing Co.; Dan Hoak for West Coast Growers and Packers, Inc.; W. L. Jackson for the Raisin Administrative Committee; and R. L. Engell for Del Monte Corp.

These exceptions have been considered carefully and fully, in connection with the evidence in the record and the proposed findings and conclusions of the recommended decision in arriving at the findings and conclusions set forth herein. To any extent that the findings and conclusions contained herein are at variance with any of the exceptions pertaining thereto, such exceptions are denied on the basis of the findings and conclusions relating to the issues to which the exceptions refer.

The exceptions, and the rulings thereon, are as follows:

Two exceptors took the position that provision should not be made to include the newly formed cooperative bargaining association within the framework of the order. They contended that to do so would cause the Raisin Advisory Board and the Raisin Administrative Committee to be producer dominated to an even greater degree. This reason, and others, which the two exceptors gave for excluding the cooperative bargaining association was presented at the public hearing and was in proposed findings and conclusions filed subsequent to said hearing. However, the preponderance of evidence was that a cooperative bargaining association has become a major entity in the raisin industry and should directly participate in the industry's marketing decisions. This was the appropriate conclusion of the recommended decision and hence the exception is denied.

Three exceptors requested that the initial release percentage in recommended § 989.54(b) be increased from "not less than 65 percent" to 75 or even 85 percent to assure adequate early supplies of free tonnage raisins. However, the recommended decision notes that 65 percent will release approximately 91,000 tons and this is adequate for September-February shipments. No later than February 15, the committee is required to recommend the change of percentage which will release the full desirable free tonnage. The provision is flexible enough to assure adequate free tonnage supplies in that the initial release may exceed 65 percent or, in the alternative, the full release may occur prior to February 15 of a crop year. Hence, the exceptions are denied.

An exception was taken to the recommended decision not adopting the proposal in the notice of hearing which would permit the committee to require handlers to set aside a portion of their acquisitions prior to the establishment of free and reserve percentages for the crop year. The latter occurs in October whereas the crop year begins the first of September. In the opposite sense, handler exceptors protested the recommended deletion of the right to use reserve tonnage, in free tonnage outlets, up to November 15 of the crop year. Under present provisions of the order, handlers have had temporary opportunity to defer set aside of reserve tonnage even after percentages were established.

However, this deferment being inconsistent with the supply stabilizing intent of new § 989.54, the recommended decision correctly concluded that the provision for deferment should be deleted. The decision also concluded that provision should be made for a portion of the desirable free tonnage to be withheld early in the crop year. Since handlers in general carry into the crop year sufficient supplies to meet September free tonnage needs and shipments of new crop are negligible, little purpose would be served by having the withholding requirement effective on new crop in September. It should be effective early in October and this can be achieved by the committee recommending, on or before September 1, and the Secretary proposing in September whether the preliminary free tonnage percentage is to release 65 percent or a higher percentage of the desirable free tonnage. Then, as soon as the crop estimate is known and the committee computes and recommends the appropriate free and reserve percentages, the percentages can be promptly established. Accordingly, the exceptions are denied.

Several exceptors indicated that paragraph (c) of § 989.54 should either be deleted or revised to make it more restrictive as to possible changes of the free tonnage percentage. While the paragraph is presently in the order to assure full flexibility of adjustment to unforeseen circumstances, it admittedly poses the issue as to whether the committee could, for relatively minor reasons, recommend a late in the crop year change of such matters of marketing policy as the final free tonnage percentage. Such could adversely affect market stability and is not within the intended scope nor the historic usage of the provision. Hence, the exceptions are granted and there is added to the penultimate paragraph of the discussion (32 F.R. 9087) on material issue (8) in the recommended decision the following: "With respect to paragraph (c) of new § 989.54, the committee should be restricted as to any modification of its marketing policy to that arising from a national emergency, crop failure, or other major changes in economic conditions. Such would assure, under normal conditions, continuity of policy and maintenance of market stability throughout the crop year". Section 989.54(c) is revised accordingly.

Exceptions were taken to recommended paragraph (j) of § 989.67 as permitting uncertainty among raisin packers as to the actual free tonnage supply. Exceptors indicated that the language of said paragraph would lead handlers to possibly believe they would be able to purchase reserve raisins for use as free tonnage after the final free percentage is established prior to or in February of each crop year. If such were permitted in normal crop years, it would continue the price instability which has been a characteristic of the sale of free tonnage raisins. While the interpretation of the exceptors is not consistent with the discussion under material issue (11), the fact that the interpretation arose means the exceptions should be granted. Hence, the second sentence of the penultimate paragraph of the discussion on material issue (11) in the recommended decision should be revised to read as follows: "Thus, the committee should not be permitted to sell reserve tonnage unless it finds, and the Secretary approves, that because of a national emergency, crop failure, major change in economic conditions or an inadequate carryover for September shipment the free tonnage outlets cannot be reasonably well supplied by the tonnage released to the industry by the final free percentage". In other words, once the free tonnage is set for the crop year it should remain a fixed amount throughout any normal crop year. However, since additional supplies can only be obtained from the carryin in an average year, this could result in an inadequate carryout and hence inability to supply the September demand unless an offer of reserve tonnage is made to supply the temporary needs of handlers. Paragraph (j) of § 989.67 is revised accordingly.

Exceptions were taken to the proviso at the end of paragraph (j) of § 989.67 and request made that it be deleted. However, the proviso is presently in the order, it states how prices may be determined for reserve tonnage when there is a downward trend to prices, no evidence was presented on the record to alter methods of price determinations, and no change of this provision is warranted as a conforming change arising from other changes. Accordingly these exceptions are denied.

Amendment of the amended marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement, as Amended, Regulating the Handling of Raisins Produced from Grapes Grown in California" and "Order Amending the Order, as Amended, Regulating the Handling of Raisins Produced from Grapes Grown in California" which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the aforesaid rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Referendum order. Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), it is hereby directed that a referendum be conducted among producers who, during the period July 1, 1966, through June 30, 1967 (which period is hereby determined to be a representative period for the purpose of such referendum), have been engaged in the State of California, in the production for market of grapes which were sun-dried or dehydrated by artificial means until they became raisins to determine whether such producers favor the issuance of the said annexed order amending the order, as amended, regulating the handling of raisins produced from grapes grown in California.

Charles Fuqua, Martin Kelly, and Joseph C. Genske of the Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, are hereby designated referendum agents of the Secretary of Agriculture to conduct said referendum severalty or jointly.

The procedure applicable to the referendum shall be the "Procedure for the Conduct of Referenda in Connection with Marketing Orders for Fruits, Vegetables, and Tree Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended" (30 F.R. 15414).

The ballots used in the referendum shall contain a summary describing the terms and conditions of the proposed amendatory order.

Any producer entitled to vote in the referendum who does not receive a copy of the aforesaid annexed order, voting instructions, or a ballot or other necessary information will be able to obtain the same from any of the County Directors of Agricultural Extension in the California Counties of Fresno, Kern, Kings, Madera, Merced, Stanislaus, and Tulare, or from Charles Fuqua, Fresno Marketing Field Office, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, Room 3114, Federal Building, 1130 O Street, Fresno, Calif. 93721, or Dower T. Mohun, San Francisco Marketing Field Office, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, Room 836, 630 Sansome Street, San Francisco, Calif. 94111.

It is hereby ordered, That all of this decision and referendum order, except the annexed marketing agreement, as amended, be published in the FEDERAL REGISTER. The regulatory provisions of the said marketing agreement, as amended, are identical with those contained in the said order, as amended, and as further amended by the annexed order which will be published with this decision.

Dated: July 27, 1967.

GEORGE L. MEHREN,
Assistant Secretary.

Order [1] *Amending the Order, as Amended, Regulating the Handling of Raisins Produced From Grapes Grown in California*

§ 989.0 **Findings and determinations.**

(a) *Previous findings and determinations.* The findings and determinations hereinafter set forth are supplementary, and in addition, to the findings and determinations made in connection with the issuance of the order and the previously issued amendments hereby ratified and affirmed except insofar as such prior findings and determinations may be in conflict with the findings and determinations set forth herein. (For prior findings and determinations see 14 F.R. 5136;

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

20 F.R. 6435; 21 F.R. 8182; 25 F.R. 12814; 29 F.R. 9482.)

(b) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure effective thereunder (7 CFR Part 900), a public hearing was held in Fresno, Calif., on April 24-27, 1967, on a proposed amendment of the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California. On the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

(2) The said order, as amended and as hereby further amended, regulates the handling of raisins produced from grapes grown in California in the same manner as, and is applicable only to persons in the respective classes of commercial or industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The said order, as amended and as hereby further amended, is limited in 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 orders applicable to subdivisions of the area of production would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of raisins in the production area covered by the order, as amended and as hereby further amended, which would require different terms applicable to different parts of such area; and

(5) All handling of raisins produced from grapes grown in the area of production is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

It is, therefore, ordered, That, on and after the effective date hereof, all handling of raisins produced from grapes grown in California shall be in conformity to, and in compliance with, the terms and conditions of the said order, as amended, and as hereby further amended as follows:

1. Add a new section, § 989.12a, as follows:

§ 989.12a Cooperative bargaining association.

"Cooperative bargaining association" means a nonprofit cooperative association of raisin producers engaged within the area in bargaining with handlers as to price and otherwise arranging for the sale of natural condition raisins of its members.

2. Revise § 989.13 to read:

§ 989.13 Processor.

"Processor" means any person who receives or acquires natural condition raisins, off-grade raisins, other failing raisins (as defined in paragraph (f) of § 989.59), or raisin residual material and uses them or it within the area, with or without other ingredients, in the production of a product other than raisins, for market or distribution.

3. Revise § 989.14 to read:

§ 989.14 Packer.

"Packer" means any person who, within the area, stems, sorts, cleans, or seeds raisins, grades stemmed raisins, or packages raisins for market as raisins: *Provided,* That:

(a) No producer with respect to the raisins produced by him, and no group of producers with respect to raisins produced by the producers comprising the group, and not otherwise a packer, shall be deemed a packer if he or it sorts or cleans (with or without water) such raisins in their unstemmed form;

(b) Any dehydrator shall be deemed to be a packer, with respect to raisins dehydrated by him, only if he stems, cleans with water subsequent to such dehydration, seeds or packages them for market as raisins;

(c) The committee may, with the approval of the Secretary, restrict the exceptions as to permitted cleaning if necessary to cause delivery of sound raisins; and

(d) No person shall be deemed a packer by reason of the fact he repackages for market (with or without additional preparation) packed raisins which, in the hands of a previous holder, have been inspected and certified as meeting the applicable minimum grade standards for packed raisins.

§ 989.24 [Amended]

4. At the end of the sentence in § 989.24(b) change the period to a colon and add the following: "*Provided,* That raisins which are certified as off-grade raisins shall continue to be such until successfully reconditioned or for purposes of disposition become 'other failing raisins' pursuant to § 989.59(f)".

§ 989.26 [Amended]

5. Revise the first sentence of § 989.26 to read: "A Raisin Advisory Board is hereby established consisting of 46 members, of whom 35 shall represent producers, 8 shall represent handlers, 2 shall represent dehydrators, and one shall represent the cooperative bargaining association(s)".

6. Revise § 989.27 to read:

§ 989.27 Eligibility.

No person shall be selected or continue to serve as a member or alternate member of the board, who is not actively engaged in the business of the group which he represents, either in his own behalf, or as an officer, agent, or employee of a business unit engaged in such business: *Provided,* That, any handler eligible to represent a particular size group shall continue to represent for the entire term the size group for which he was selected. The committee shall certify during April of each crop year each member's and alternate member's eligibility to continue to serve on the board.

7. Revise §989.28 to read:

§ 989.28 Term of office.

(a) *Producer members.* The terms of one-third or approximately one-third of the producer members and producer alternate members of the board shall end on April 30 of each year, but each such member and alternate member shall continue to serve until his respective successor is selected and has qualified. The producer members and producer alternate members of the board shall serve for terms of three years beginning May 1 and ending April 30 of the third following year.

(b) *Handler, dehydrator, and cooperative bargaining association members.* The handler, dehydrator, and cooperative bargaining association members, and their respective alternates, shall each serve for terms of one year, beginning May 1 and ending April 30 of the following year, but each shall continue to serve until his respective successor is selected and has qualified.

8. Revise § 989.29(a) and (b) (1) and (2) to read:

§ 989.29 Initial members and nomination of successor members.

(a) *Initial members.* Members and alternate members of the board serving immediately prior to the effective date of this amended subpart shall, if thereafter they are also eligible, continue to serve on the board for their specified terms of office and until their respective successors have been selected and have qualified.

(b) *Nomination for successor members.* Nominations for successor members and alternate members of the board shall be made as set forth in subparagraphs (1) to (6) of this paragraph.

(1) The board shall give reasonable publicity of a meeting or meetings of producers, handlers and dehydrators, and if applicable, cooperative bargaining association(s), for the purpose of making nominations for member and alternate member positions to be filled on the board: *Provided,* That with respect to producer members and producer alternate members, a meeting or meetings shall be held in each district for which nominations are to be made to fill producer member and producer alternate member positions on the board: *And provided further,* That member and alternate member nominations of handlers, dehydrators, and cooperative bargaining association(s) may be made to the board by mail in lieu of meetings.

(2) Only producers as defined in § 989.11, engaged as such with respect to the most recent grape crop in the particular district for which nominations are to be made, may nominate, or vote for, any producer member or producer alternate member for such district. Any

producer so engaged with respect to the most recent grape crop in the particular district for which nominations are to be made, may be nominated to represent said district as a producer member or producer alternate member of the board; in the event any of such nominees are engaged as producers in more than one district, he may be a nominee for only one district. One or more eligible producers for each producer member position to be filled on the board may be proposed for nomination and one or more eligible producers for each alternate member position to be filled may be proposed for nomination. Each producer shall cast only one vote with respect to each position for which nomination is to be made. The person receiving a majority of the votes with respect to each producer member or producer alternate member position shall be the persons to be certified to the Secretary as the nominee for each such position. In the event no person receives a majority, there shall be a run-off vote between the two persons receiving the largest number of votes. The eligibility of each producer voting in a nomination meeting shall be certified by the committee during or after the meeting, and, in the event one or more who voted was not eligible and this may have affected the result of any nomination vote, another meeting with respect to such nomination shall be held.

* * * * *

9. Revise § 989.30 to read:

§ 989.30 Selection.

The Secretary shall select producer, handler, dehydrator, and cooperative bargaining association members and alternate members in the numbers specified in § 989.26, or pursuant to § 989.26a or § 989.26b, as applicable, and with the qualifications specified in § 989.27. Such selections may be made from the nominations certified pursuant to § 989.29 or from other eligible producers, handlers, dehydrators, or cooperative bargaining association officers or employees.

10. Revise the first sentence of § 989.35 to read:

§ 989.35 Meetings.

The board shall meet at the call of its chairman or its vice-chairman when acting as chairman, or at the call of any three members. * * *

11. Revise § 989.36 to read:

§ 989.36 Duties.

The duties of the board shall consist of the conducting of meetings for the purpose of making nominations for membership on the board and the certifying of nominations made for such purpose to the Secretary, the making of nominations to the Secretary for member and alternate member positions on the committee, the making of recommendations to the committee with respect to marketing policy, the free and reserve percentages, and other operational matters as it deems proper or as the committee may request.

§ 989.39 [Amended]

12. Revise the second sentence of § 989.39 and add a new third sentence to read: "Such committee shall consist of 15 members, of whom 8 shall represent producers, 5 shall represent handlers, one shall represent dehydrators, and one shall represent the cooperative bargaining association(s). The producer members shall be selected to represent such district or groups of districts as the committee may establish with the approval of the Secretary".

13. Revise § 989.39b to read:

§ 989.39b Changes in producer representation.

The Secretary, on recommendation of the committee, may change the total number of producer members on the committee and may change the number of producer members which shall be selected to represent particular districts or groups of districts. In making any such change consideration shall be given to such factors as changes in producer and handler membership on the board, representation of the several producing districts, maintenance of producer positions as majority of the committee, and geographical shifts in the number of producers and in raisin production within the area.

§ 989.40 [Amended]

14. Delete the first sentence of § 989.40.

§ 989.42 [Amended]

15. In the first sentence of § 989.42(a), delete the proviso and change the colon to a period.

16. In § 989.42, reletter paragraphs (d) and (e) to (e) and (f), respectively, and add a new paragraph (d) reading:

(d) *Cooperative bargaining association member.* The cooperative bargaining association(s) member and alternate member on the board shall be the association nominees for member and alternate member of the committee.

17. Revise § 989.43 to read:

§ 989.43 Selection.

The Secretary shall select producer, handler, dehydrator, and cooperative bargaining association members and alternate members of the committee in the numbers specified in § 989.39 or pursuant to § 989.39(a) or § 989.39(b), as applicable, and with the qualifications specified in § 989.40. Such selections may be made from the nominations certified pursuant to § 989.42, or from any other eligible producers, handlers, dehydrators, or cooperative bargaining association officers or employees.

§§ 989.54–989.57, 989.63, 989.64 [Deleted]

18. Delete present §§ 989.54, 989.55, 989.56, 989.57, 989.63 and 989.64 and insert in lieu thereof the following:

§ 989.54 Marketing policy.

(a) *Desirable free tonnage.* On or before September 1 of each crop year the committee shall review shipment data and other matters relating to tons of raisins which can be sold as the free tonnage of any varietal type. This tonnage to be sold in the ensuing crop year shall be designated as "desirable free tonnage." Until changed by the committee, with the approval of the Secretary, the desirable free tonnage shall be 140,000 tons for Natural Thompson Seedless raisins.

(b) *Free and reserve percentages.* On or before October 5 of each crop year (except that this date may be extended by the committee not more than 5 days if warranted by a late crop) the committee shall recommend to the Secretary a preliminary free tonnage percentage which will release not less than 65 percent of the desirable free tonnage established for any varietal type. Upon a committee determination that field prices are firmly established and open price contracts have been closed as to price on at least 65 percent of the tonnage acquired by packers not marketing cooperatives, or such other percent as is recommended by the committee and approved by the Secretary, but no later than February 15, the committee shall recommend to the Secretary a free percentage which will tend to release the full desirable free tonnage. Prior to February 15, an interim change of percentage may be made to release less than the full tonnage. The difference between any preliminary or final free tonnage percentage and 100 percent shall be the reserve percentage. In developing its free and reserve percentages for any varietal type, the committee shall consider and report to the Secretary on the following factors:

(1) The estimated tonnage held by producers, handlers, and for the account of the committee at the beginning of the crop year;

(2) The expected general quality and any modifications of the minimum grade standards;

(3) The estimated tonnage of standard and off-grade raisins which will be produced;

(4) If different than the desirable free tonnage, the estimated trade demand for raisins in free tonnage outlets;

(5) An estimated desirable carryout at the end of the crop year for free tonnage and, if applicable, for reserve tonnage;

(6) The estimated market requirements for raisins outside free tonnage outlets, considering the estimated world raisin supply and demand situation;

(7) Current prices being received and the probable general level of prices to be received for raisins by producers and handlers;

(8) The trend and level of consumer income;

(9) Any prohibition of trade practices, pursuant to § 989.62, intended for the crop year; and

(10) Any other pertinent factors bearing on the marketing of raisins including the estimated supply of and demand for other varietal types and regulations applicable thereto.

(c) *Modification.* In the event the committee subsequently deems it advisable to modify its marketing policy on any crop, because of national emergency, crop failure or other major change in economic conditions, it shall hold a meeting for that purpose, and file a report thereof with the Secretary within five days (exclusive of Saturdays, Sundays, and holidays) after holding of such meeting, which report shall show each modification, the bases therefor, as well as the recommendation of the board.

(d) *Verbatim record*. The committee shall file with its report to the Secretary a verbatim record of that portion of its meeting or meetings relating to its marketing policy.

(e) *Publicity and notice*. The committee shall promptly give reasonable publicity to producers, dehydrators, handlers, and the cooperative bargaining association(s) of each meeting to consider a marketing policy or any modification thereof, and each such meeting shall be open to them. Similar notice shall be given to producers, dehydrators, handlers, and the cooperative bargaining association(s) of each marketing policy report or modification thereof, filed with the Secretary and of the Secretary's action thereon. Copies of all marketing policy reports shall be maintained in the office of the committee, where they shall be made available for examination by any producer, dehydrator, handler, or cooperative bargaining association representative. The committee shall notify handlers, dehydrators, and cooperative bargaining association(s) of the Secretary's action on percentages by registered or certified mail.

§ 989.55 Regulation by the Secretary.

(a) Whenever the Secretary finds from the recommendation and supporting information supplied by the committee, or from other available information, that to designate or modify the percentages for any varietal type of standard raisins acquired by handlers during any crop year which shall be free tonnage and reserve tonnage, respectively, would tend to effectuate the declared policy of the act, he shall designate such percentages and such modifications thereof as are consistent with § 989.54(b). In the event the Secretary subsequently finds from the recommendations and supporting information supplied by the committee, or from any other available information, that modification, suspension, or termination of any such designation will tend to effectuate the declared policy of the act, he shall so modify, suspend, or terminate such designation. No such modification shall decrease the free percentage initially designated by the Secretary. The Secretary shall notify the committee promptly of each such percentage fixed.

§ 989.58 [Amended]

19. Revise the first sentence of subparagraph (1) of § 989.58(d) to read:

(d) *Inspection and certification*. (1) Each handler shall cause an inspection and certification to be made of all natural condition raisins acquired or received by him, except with respect to: (i) An interplant or interhandler transfer of off-grade raisins as described in paragraph (e)(2) of this section, unless such inspection and certification are required by rules and procedures made effective pursuant to this amended subpart; (ii) an inter-plant or inter-handler transfer of free tonnage raisins as described in § 989.59(e); (iii) raisins received from a dehydrator which have been previously inspected pursuant to subparagraph (2) of this paragraph; (iv) any raisins for which minimum grade and condition standards are not then in effect; (v) raisins received from a cooperative bargaining association which have been inspected and are in compliance with requirements established pursuant to subparagraph (3) of this paragraph; and (vi) any raisins, if permitted in accordance with such rules and procedures as the committee may establish with the approval of the Secretary, acquired or received for disposition in eligible nonnormal outlets. * * *

20. Add a new subparagraph, subparagraph (3), to § 989.58(d), reading:

(3) The committee may, in accordance with rules and the procedures established with the approval of the Secretary, authorize handlers to receive or acquire without further inspection and certification, natural condition raisins, standard or off-grade, which have been inspected, certified and held, in compliance with committee requirements, at a receiving station of a cooperative bargaining association.

§ 989.59 [Amended]

21. Revise paragraph (c) of § 989.59 to read:

(c) *Publicity and notice*. The committee shall give prompt and reasonable notice to producers, dehydrators, handlers, and the cooperative bargaining association(s) of each recommendation submitted by it to the Secretary and of each regulation issued by the Secretary. Notice of such regulation shall be given to all handlers of record by registered or certified mail.

22. In the first sentence of § 989.59(f), delete the words "any raisins acquired by a handler as standard raisins which subsequently fail to meet the applicable grade and condition standards for shipment or final disposition as raisins" and substitute therefor, "other failing raisins" and following the first sentence insert "For the purposes of disposition and reporting, 'other failing raisins' means any raisins received or acquired by a handler either as standard raisins or off-grade raisins, which are processed to a point where they qualify as packed raisins but fail to meet the applicable minimum grade standards for packed raisins."

23. Revise § 989.66 to read:

§ 989.66 Reserve tonnage generally.

(a) The standard raisins acquired by a handler which are designated as reserve tonnage shall be held by him for the account of the committee and subject to the applicable restrictions of this part.

(b) (1) Each handler shall hold in storage all reserve tonnage acquired by him until he has been relieved of such responsibility by the committee, either by delivery to the committee, or otherwise. Such handler shall store such reserve tonnage raisins in natural condition without addition of moisture and in such manner as will maintain the raisins in the same condition as when he acquired them, except for normal and natural deterioration and shrinkage, and except for loss through fire, acts of God or other conditions beyond the handler's control: *Provided*, That in the case of Layer Muscat raisins, the committee may permit handlers to satisfy the applicable reserve tonnage obligations with residual Muscat raisins obtained by them in layering operations subject to such safeguards as it may prescribe.

(2) Reserve tonnage acquired or held by a handler shall be stored separate and apart from other raisins to such extent and identified in such manner as the committee shall specify in its rules and procedures with the approval of the Secretary.

(3) Each handler may, under the direction and supervision of the committee, substitute for any quantity of reserve tonnage raisins a like quantity of free tonnage raisins of like quality and varietal type and of the same or more recent year's production. Each such handler shall give the committee reasonable advance notice of his intention to substitute, the exact location of the raisins for which substitution is to be made, and arrange with the committee a mutually satisfactory time for the substitution.

(4) The committee may, after giving reasonable notice, require a handler to deliver to it, or to anyone designated by it, at such handler's warehouse or at such other place as the raisins may be stored, part or all of the reserve tonnage raisins held by him. The committee may require that such delivery consist of natural condition raisins, or it may arrange for such delivery to consist of packed raisins.

(c) Each handler shall, at all times, hold in his possession or under his control reserve tonnage referable to his acquisitions of standard raisins, less any quantity of such reserve tonnage released to him by a change of percentages, delivered by him pursuant to instructions of the committee, or sold to him by the committee.

(d) Reserve tonnage raisins delivered by any handler to the committee, or to any person designated by it, whether in the form of natural condition raisins or packed raisins shall meet the applicable minimum grade or grade and condition standards, except for normal and natural deterioration. The committee shall have the authority to require, in its discretion and at its expense, such reinspection and certification of reserve pool tonnage raisins as it may deem necessary.

(e) In the event the committee offers to handlers reserve tonnage raisins for contract packing or for sale in export, as provided in § 989.67, each handler shall be given the opportunity to pack or purchase his share of each offer.

(f) Handlers shall be compensated for receiving, storing, handling and inspection of that tonnage of reserve raisins determined by the final reserve percentage of a crop year and held by them for the account of the committee, in accordance with a schedule of payments established by the committee and approved by the Secretary. A box rental shall be paid by the committee to producers or handlers for boxes used in storing reserve tonnage raisins beyond the crop year of acquisition in accordance with a rental schedule established by the committee and approved by the Secretary. The handler compensation shall be reviewed annually and shall be paid, as to the amount determined to be earned and unpaid, as soon as practicable after the end of the second quarter of the crop year and quarterly thereafter. Any handler may request the committee, by registered or certified mail, at any time after July 15 of a crop year to remove reserve tonnage raisins of the current crop year which remain in his possession. At any time in a crop year, a handler may request removal of reserve tonnage raisins of the prior crop year. In each instance, he may request that the committee provide the necessary containers for any such removal. When so requested as to current crop year raisins, the committee shall make the removal, the availability of containers, storage space and time of request permitting, by September 15 of the subsequent crop year, and as to raisins of the prior crop year, within 30 days, supplying the necessary containers if so requested. If any handler makes such a request, the committee shall immediately give notice thereof to the Secretary.

(g) The committee shall have the authority, in its discretion, to obtain loans, nonrecourse or otherwise, on any part of the reserve tonnage not subject to release as desirable free tonnage and to pledge or hypothecate the raisins on which such loans are obtained as security therefor: *Provided*, That in every such case, there shall be included in the loan agreement a provision to the effect that, in case the lender obtains possession or control of such raisins, he will dispose of them in such a manner as will not tend to defeat the objectives of this amended subpart. The net proceeds of any such loan shall be distributed by the committee pursuant to paragraph (h) of this section.

(h) The net proceeds from the disposition of reserve tonnage raisins of any varietal type shall be distributed by the committee to the respective producers, or their successor in interest thereto, on the basis of the volume of their respective contributions to the reserve tonnage of such varietal type. Distribution of the proceeds in connection with the reserve tonnage contributed by a non-profit cooperative marketing association which has authority to market the raisins of its members and to allocate the proceeds therefrom to such members shall be made to such association. Advance or progress payments may be made by the committee, in conformity with the provisions of this paragraph, as sufficient funds become available.

24. Revise § 989.67 to read:

§ 989.67 **Disposal of reserve raisins.**

(a) The committee shall dispose of all reserve tonnage raisins in such a manner as to achieve, as nearly as may be practicable, complete disposal of such raisins by November 1 of the subsequent crop year. Any reserve tonnage raisins held unsold by the committee on November 1 of the subsequent crop year shall be physically disposed of promptly in any available outlet not competitive with normal market channels for free tonnage raisins or sales of new crop reserve tonnage raisins in export: *Provided*, That, whenever the Secretary approves of a finding by the committee or finds, on the basis of information otherwise available to him that because of national emergency, crop failure or other major change in economic conditions, retention of reserve tonnage raisins carried over is warranted, the foregoing requirements as to disposal shall not apply and such carried over raisins may be disposed of in any outlet recommended by the committee and approved by the Secretary.

(b) Reserve tonnage raisins shall be disposed of by the committee: (1) By sale to handlers for sale in specified outlets or for resale to exporters for sale in export outlets; (2) by direct sale to any agency of the U.S. Government for noncompetitive use; (3) by direct sale to foreign government agencies or foreign importers in any country not listed pursuant to paragraph (c) of this section or where the procurement of raisins is so regulated as to preclude purchases from domestic handlers; (4) by gift; and (5) by any other means consistent with the provisions of this section, and in outlets noncompetitive with those for free tonnage raisins.

(c) The committee shall sell reserve raisins to handlers for export sale to countries on a list established by the Secretary, on the basis of the recommendation of the committee or from other available information. The recommended list shall be submitted by the committee to the Secretary at the time it submits its recommendation as to volume percentages, and in recommending such list the committee shall give consideration to the pertinent factors enumerated in § 989.54. The list shall not be changed except upon approval by the Secretary of a recommendation by the committee subsequent to its review of such pertinent factors. No country may be removed from the list unless a finding is made by the committee that such removal and subsequent direct sale by the committee shall not lead to disruption of sales of reserve tonnage raisins by handlers in other countries on the list and a further finding that, although handlers have been able to offer reserve tonnage raisins at competitive prices to the country to be removed, there remains an unfulfilled demand in such country which has not been supplied by handlers and which could be supplied by the committee at the same prices by means of direct sale. No country may be added to the list unless a finding is made by the committee that such addition represents a practical means of making sales of reserve raisins to such country.

(d) (1) Reserve tonnage raisins shall be sold to handlers at prices and in a manner intended to maximize producer returns and achieve complete disposition of such raisins by or before November 1 of the subsequent crop year. No offer shall be made until 5 days (exclusive of Saturdays, Sundays, and holidays) have elapsed from the time it files with the Secretary complete information as to varietal type, quantity, and price involved in such offer, and the Secretary may disapprove the offer or any term thereof: *Provided*, That, at any time prior to the expiration of the 5-day period, the offer may be made to handlers upon the committee receiving from the Secretary notice that he does not disapprove the making of the offer. Subject to the same conditions as are set forth in the preceding sentence with respect to the making of such offer, the committee may withdraw an offer to sell reserve tonnage raisins to handlers or may extend the offer period but not when such extensions would deprive one or more handlers of any opportunity to purchase raisins. If the committee includes in its terms of sale the minimum packer resale prices (effective pursuant to provisions of its export sales agreement with packers) it shall review annually the costs which determine the spread between the committee's sale price of natural condition raisins and the packer's resale price of packed raisins and make such adjustments as it concludes are appropriate.

(2) An offer of reserve tonnage for export may be either an open-as-to-tonnage offer to handlers to purchase at a price and to export reserve tonnage each holds for the account of the committee, consistent with the probable final reserve percentage, or may be an offer of a specific tonnage. If the former, and a handler has insufficient reserve tonnage to meet his needs, the commitee may accept arrangements with other handlers to supply reserve tonnage. If the latter, each handler's share of the reserve tonnage offered prior to November 1 of any crop year shall be determined as the same proportion of the quantity offered that the free tonnage raisins acquired by him during the preceding crop year is of the free tonnage raisins acquired by all handlers during the preceding crop year who remain handlers. Subsequent to October 31, each handler's share shall be determined as the same proportion of the quantity offered that the free tonnage raisins acquired by the handler during the then current crop year is of the total free tonnage raisins acquired by all handlers during the then current crop year. With respect to any offer other than the initial offer, each handler's share of the total quantity offered as of that date (the then current offer plus all prior offers of that crop year) shall first be determined by the appropriate formula. His share of the current offer shall then be determined by subtracting from his share of

the total quantity offered, the total of his share of prior offers from the beginning of the crop year. If any handler did not acquire raisins during the preceding crop year, the basis for his share of any quantity of reserve tonnage raisins offered prior to November 1 shall be his acquisitions of free tonnage raisins during the then current crop year. The current free tonnage acquisitions of all such new handlers shall, for the purposes of determining the shares of all handlers prior to November 1 be added to the total acquisitions of free tonnage raisins during the preceding crop year of all handlers in business at the time the offer is made.

(3) At any time during a crop year when there is an accumulation of unsold reserve tonnage raisins previously offered by the committee for sale to handlers for resale in export, the committee may make a special offer to sell such unsold tonnage, or any portion thereof, to handlers for such resale. Each handler's share of any such offer shall be determined as the same proportion of the quantity offered that the free tonnage raisins acquired by him during the then current crop year is of the total free tonnage raisins acquired by all handlers during such year. The committee may provide with respect to such a special offer that any reserve tonnage unpurchased at the end of the share reservation period will be reoffered to handlers without regard to shares and that approval for handler's applications for purchase may be made in the same order in which the applications are received by the committee. The committee may allocate and deliver to any handler, holding insufficient special offer tonnage, sufficient such tonnage to fulfill his purchase in such a special offer and his purchase in any reoffer. The cost of transporting any such reserve tonnage raisins from one handler to another shall be paid by the committee from reserve pool funds.

(4) Whenever essentially all of the reserve tonnage raisins have been offered and any unpurchased or unoffered tonnage is offered to handlers, approval of applications may be made in the same order in which the applications are filed with the committee.

(5) Whenever a handler's share or allocation pursuant to this subparagraph is less than or exceeds his holdings of reserve tonnage by a minor quantity, the committee may adjust the handler's share or allocation so as to avoid the cost of the physical transfer. The maximum quantity by which a handler's share or allocation may be so allocated shall be prescribed in rules and procedures which the committee shall establish with the approval of the Secretary.

(e) The committee may sell reserve tonnage raisins as provided in paragraph (b)(3) of this section only when such country is not included in the list of specified countries established pursuant to paragraph (c) of this section and may sell reserve tonnage raisins to foreign government agencies of foreign importers in any country removed from such list. No agreement to sell reserve tonnage raisins shall be entered into by the committee until 5 days (exclusive of Saturdays, Sundays, and holidays) have elapsed from the time it files with the Secretary complete information as to varietal type, quantity, price, and foreign country involved in any such proposed sale, and the Secretary may disapprove such sale or any term thereof: *Provided*, That, at any time prior to the expiration of the 5-day period, the sale may be made upon the committee receiving from the Secretary notice that he does not disapprove the making of the sale.

(f) Whenever the committee determines, prior to the beginning of a crop year, that the orderly disposition of reserve tonnage of that crop year would be promoted by the committee replacing any portion of or all handler export shipments of free tonnage raisins, to other than free tonnage outlets, made prior to the committee's first offer to sell reserve tonnage, but after September 1 it may do so and may specify such requirements and conditions as are necessary to carry out the replacement consistent with the objectives of this amended subpart. The committee may establish a price for such replacement tonnage which is higher, the same as, or lower than that for reserve tonnage in the first offer of the crop year and shall announce such replacement tonnage price prior to or at the beginning of the crop year. Any such replacement offer by the committee shall be governed by those provisions of paragraph (d)(1) of this section which prescribe prior action by the Secretary on committee offers to sell tonnage to handlers.

(g) The committee may refuse to sell reserve tonnage raisins for export: (1) To any handler who is in default on any previous purchase of reserve tonnage raisins from the committee; (2) to any handler currently not in compliance with the provisions of a sales agreement covering reserve tonnage raisins, executed by such handler with the committee; or (3) to any handler who signifies an intention to sell reserve tonnage to or through any person who has previously failed to complete a sale of reserve tonnage raisins to a foreign buyer and such raisins remain to be exported and remain unsold to any foreign buyer in an eligible export market.

(h) Each packer's share of an offer of reserve tonnage raisins for contract packing shall be determined as the same proportion that the reserve tonnage raisins acquired by him is of the reserve tonnage raisins acquired by all packers. In the event that any packer fails to contract for packing any or all of his share of any offer, the remaining portion thereof shall be reoffered by the committee to all packers who contracted for packing all of their respective shares, in proportion to their respective acquisitions: *Provided*, That, if such amount which packers fail to contract for packing does not exceed 250 tons, or if it is necessary to deviate from the foregoing in order to meet terms and conditions of shipment, the committee may, in its discretion, allocate such reserve tonnage raisins among packers as it deems appropriate, but the shares of packers in subsequent offers of reoffers shall be adjusted accordingly.

(i) In the event the committee determines that the applicable procedures as specified in paragraphs (d) and (h) of this section will not provide an allocation for handlers which is suitable for a particular situation, the committee, with the approval of the Secretary, may establish such modifications of procedures, consistent with § 989.66(e), as will facilitate the disposition of reserve tonnage through handlers.

(j) The committee shall not sell reserve tonnage of any varietal type to handlers to provide them with raisins to sell as free tonnage unless it finds, and the Secretary approves, that because of national emergency, crop failure, major change of economic conditions or an inadequate carryover for September shipment the free tonnage outlets cannot be reasonably well supplied by the tonnage released to the industry as a whole by the final free percentage for that varietal type. Any quantities made available for such sale to handlers shall be offered to them in the same manner as in (d)(1) of this section, with shares determined pursuant to paragraph (h) of this section. However, such raisins shall not be sold at a price below that which the committee concludes reflects the average price received by producers for free tonnage of the same varietal type purchased by handlers during the current crop year up to the time of any offer for sale of reserve tonnage by the committee, to which shall be added the costs incurred by the committee on account of the receiving, inspecting, storing, insuring, and holding of said raisins: *Provided*, That, where the outlook for the next crop year or other factors have caused a downward trend in the prices received by producers for free tonnage packed raisins, reserve tonnage may be sold to handlers at the currently prevailing or the approximate computed field price for free tonnage raisins, as determined by the committee.

§ 989.68 [Deleted]

25. Delete § 989.68.

§ 989.69 [Amended]

26. Revise the first sentence of § 989.69 by deleting the words "and surplus".

27. Revise § 989.71 to read:

§ 989.71 Disposition of unsold reserve tonnage in above parity situations.

In the event that the Secretary should find, during a crop year when reserve tonnage percentages have been designated and are in effect pursuant to this part, that the estimated season average price for raisins for that crop year will be in excess of the price level contemplated by the provisions of section 2(1) of the act, he shall issue an order providing for the orderly disposition of the unsold reserve tonnage then on hand, in such outlets, at such time, and in accordance with such terms and conditions, as he may determine to be appropriate in the circumstances. In determining the liquidation procedures and terms, the Secretary shall give consideration to the data and recommendations, if any, which may be submitted by the committee.

28. Revise paragraph (b) of § 989.73 to read:

§ 989.73 Reports.

* * * * *

(b) *Acquisition reports*. Each handler shall submit to the committee in accordance with such rules and procedures as are prescribed by the committee, with the approval of the Secretary, certified reports, for such periods as the committee may require, with respect to his acquisitions of each varietal type of raisins during the particular period covered by such report, which report shall include, but not be limited to: (1) The total quantity of standard raisins acquired; (2) the quantity of reserve tonnage referable to his acquisitions of standard raisins; (3) the locations of such reserve tonnages; (4) the total quantity of off-grade raisins acquired pursuant to § 989.58(e)(1)(i); and (5) cumulative totals of such acquisitions from the beginning of the then current crop year to and including the end of the period for which the report is made. Upon written application made to the committee, a handler may be relieved of submitting such reports after completing his packing operations for the season. Upon request of the committee, each handler shall furnish to the committee, in such manner and at such times as it may require, the name and address of each person from whom he acquired raisins and the quantity of each varietal type of raisins acquired from each such person.

* * * * *

§ 989.79 [Amended]

29. In the penultimate sentence of § 989.79 delete the words "or surplus".

30. Revise paragraphs (a) and (b) of § 989.80 to read:

§ 989.80 Assessments.

(a) Each handler shall, with respect to free tonnage acquired by him, and any reserve tonnage released or sold to him for use in free tonnage outlets, pay to the committee, upon demand, his pro rata share of the expenses (exclusive of expenses for receiving, handling, holding, or disposing of reserve pool tonnage) which the Secretary finds will be incurred, as aforesaid, by the committee during each crop year. Such handler's pro rata share of such expenses shall be equal to the ratio between the total free tonnage acquired by such handler plus any reserve tonnage released or sold to him for use as free tonnage, during the applicable crop year and the total free tonnage acquired by all handlers plus all reserve tonnage released or sold to all handlers for use as free tonnage, during the same crop year: *Provided*, That (1) in computing the total free tonnage acquired by a particular handler, there shall be excluded all standard raisins (recovered by the reconditioning of off-grade raisins) acquired by the handler and which comprise the assessable portion of another handler pursuant to paragraph (b) of this section, and (2) the computation of the total free tonnage acquired by all handlers shall not be similarly reduced.

(b) Each handler who reconditions off-grade raisins but does not acquire the standard raisins recovered therefrom shall, with respect to his assessable portion of all such standard raisins, pay to the committee, upon demand, his pro rata share of the expenses which the Secretary finds will be incurred by the committee each crop year. Such handler's pro rata share of such expenses shall be equal to the ratio between the handler's assessable portion (which shall be a quantity equal to the free tonnage portions of such handler's standard raisins which are acquired by some other handler or handlers) during the applicable crop year and the total free tonnage acquired by all handlers, plus all reserve tonnage released or sold to all handlers for use as free tonnage, during the same crop year.

* * * * *

31. Revise § 989.82 to read:

§ 989.82 Expenses of reserve raisin operations.

The committee is authorized to incur such expenses as are reasonable and are necessary in discharging its obligations, pursuant to this part, with respect to the receiving, handling, holding, or disposing of any quantity of reserve pool raisins held for the account of the committee. The committee is authorized to pay any taxes assessed against raisins held by or for the account of the committee on the first Monday in March, in the reserve pool established pursuant to this subpart: *Provided*, That any equity holder may pay his own taxes upon giving notice to the committee on or before May 1 of each year of his intention to do so. All pool expenses shall be deducted from the proceeds obtained by the committee from the sale or other disposal of such reserve raisins held for the account of the committee.

32. Revise § 989.84 to read:

§ 989.84 Disposition limitation.

No handler shall dispose of free or reserve tonnage raisins, off-grade raisins, or other failing raisins (as defined in § 989.59(f)), except in accordance with the provisions of this subpart or pursuant to regulations issued by the committee.

§ 989.96 [Amended]

33. Revise § 989.96 by (1) deleting the words in (b) "Three members", in (c) "Five members", in (d) "Three members", in (e) "Three members", in (f) "Three members", in (g) "Effective May 1, 1961, three members", and in each instance inserting in lieu of the deletions: "One member"; and (2) adding at the end a new paragraph (h) as follows:

(h) The remaining members shall be allocated to the districts so as to achieve, as nearly as practicable, representation by each member of one-thirty-fifth of the total raisin production or total number of producers or such other fraction as may result from changes pursuant to § 989.26b.

[F.R. Doc. 67-8965; Filed, Aug. 1, 1967; 8:46 a.m.]

[7 CFR Part 993]

[Docket No. AO 201-A6]

DRIED PRUNES PRODUCED IN CALIFORNIA

Notice of Extension of Time for Filing Written Exceptions To Recommended Decision on Proposed Amendment of Marketing Agreement, as Amended, and Order, as Amended

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674), and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given that the time fixed in the recommended decision dated July 14, 1967 (32 F.R. 10579), with respect to proposed amendment of the marketing agreement, as amended, and Order No. 993, as amended (7 CFR Part 993), regulating the handling of dried prunes produced in California, for filing written exceptions to such decision is hereby extended to and including November 1, 1967. Request for this extension of time was made by the Prune Administrative Committee, acting for the industry, so as to afford interested persons additional time to consider the recommended amendatory action.

Dated: July 26, 1967.

CLARENCE H. GIRARD,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 67-8992; Filed, Aug. 1, 1967; 8:48 a.m.]

[7 CFR Part 1073]

[Docket No. AO-173-A21]

MILK IN WICHITA, KANS., MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Wichita, Kans., marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the fifth day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Preliminary statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Wichita, Kansas, on June 15, 1967, pursuant to notice thereof which was issued June 5, 1967 (32 F.R. 8247).

The material issue on the record of the hearing relates to revision of the Class I price supply-demand adjustment.

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

Revision of the supply-demand adjustment. The supply-demand adjustment to the Class I price of the Wichita order should be revised.

The supply-demand adjustment should continue to be based on changes in the quantity of producer milk received by handlers regulated under the order and the quantity of such milk assigned to Class I use. The current supply-demand ratio should reflect the relationship of producer milk to producer milk in Class I for the 12-month period ending with the second month preceding the pricing month, adjusted for trend by the same relationship in the fourth preceding month. A standard annual utilization percentage ranging from 133 to 137 in which no adjustment would apply to the Class I price should replace the present varying monthly standard percentages, the midpoints of which average 135.6 percent annually. The Class I price would be increased by one cent for each percentage point less than 133 and would be decreased by the same rate for each percentage point the current supply-demand ratio is more than 137.

The two cooperative associations representing most of the producers in the area proposed elimination of the adjustor, or in the alternative, that a 12-month mover be used to replace the present seasonally varied 2-month movers and that gross Class I sales replace the present producer milk in Class I as a measure of demand. Standard utilization percentages of 125 to 135 were proposed to replace seasonally varied ratios ranging from 116–126 as the lowest to 145–155 as the highest for any 2-month period of the year.

The Wichita order was amended September 1, 1966. At that time the Southwest Kansas order was consolidated with the Wichita order and the marketing areas were combined with the addition of some previously unregulated territory in Kansas. Also, the present supply-demand adjustment was established, based on the relationship of producer milk to producer milk used in Class I under the two separate orders using the supplies and sales that prevailed in 1964 and 1965.

The present supply-demand adjustment adjusts the Class I price each month according to the relationship of producer receipts to producer receipts used in Class I for the second and third months preceding the pricing month. This "current utilization percentage" is then compared with a "standard utilization percentage" for the pricing month. Any amount by which the current utilization percentage is greater than the maximum standard utilization percentage decreases the Class I price. Conversely, any amount by which the current utilization percentage is less than the minimum standard utilization percentage increases the Class I price. The rate of adjustment is based upon the extent to which deviation percentages of the most recent 2-month period were also present in the two such periods immediately preceding. For deviation in the current period, the rate of adjustment is one-half cent per point; one-half cent per point is added for each of the preceding two periods in which a deviation of like nature and extent had occurred.

This supply-demand adjustment that became effective September 1, 1966, reflected a relatively stable marketing situation during the 2 years prior to the merger of the orders. The present adjustor gives a relatively fast response in changing the Class I price to reflect significant changes in the supply-sales balance. It has provided a reasonable measure of the supplies necessary to provide an adequate supply and reserve for the fluid milk needs of the Wichita market. Use of the longer term 12-month mover will delay the effect of changes in the supply-demand balance on the Class I price.

One of the cooperative associations in the Wichita market, the Southwest Milk Producers Association, in addition to supplying producer milk to the Wichita market and the nearby Neosho Valley market, exports about 22 percent of its total member milk in bulk for fluid use to outlets located to the south and west of Wichita. These outside accounts have in recent years approximated about 22 percent of the association's total member milk.

Recently, one of these outlets closed its bottling operation to which the association had marketed milk as producer milk under the Rio Grande Valley order for the past 2 years. The volume of milk delivered to this plant and pooled under the Rio Grande Valley order averaged 1.6 million pounds per month during a 24-month period. Beginning in May 1967 the milk used to supply this outlet is currently pooled under the Wichita order, where it is used in manufactured milk products.

Because the present Wichita order Class I price supply-demand adjustor is relatively quick acting, this additional quantity in Class II use has resulted in a rapid reduction from month-to-month in the local supply-demand adjustment. The adjustment for supply versus demand has declined from plus four cents in March 1967 to zero in April, minus 1 cent in May, minus 8 cents in June to an indicated minus 15 cents in July 1967. (The July adjustment was suspended pending action on the record of this hearing.)

This situation is a reflection of the cooperative's loss of Class I sales. Although this loss of Class I sales represents a situation which should be reflected in lower Class I prices if no substitute outlets are acquired, it is doubtful if the rapid price adjustment now provided is desirable or necessary.

Proponent cooperatives proposed that gross Class I utilization be used as a measure of demand. Gross Class I utilization would include producer milk in Class I (excluding interhandler transfers), other source milk and overage in Class I, plus Class I milk disposed of in the marketing area by nonpool plants (excluding producer-handlers). They maintained that a monthly average of 15,000 pounds of other order milk allocated to Class I uses in the market and 1.6 to 2.2 million pounds of milk sales monthly on routes in the area from plants of handlers regulated by other orders has displaced producer milk from such uses and should be reflected in the supply-demand utilization ratio.

The supply-demand adjustments should be based on the amount of producer milk in Class I instead of on the proposed gross Class I utilization of handlers, including marketing area Class I sales of handlers regulated by other orders. The gross utilization proposed reflects the quantities of both producer milk and other source milk in Class I disposition. The other order milk disposition in this area is a measure of demand for the milk supply in the other order market. Inclusion of such sales of other order milk in the Wichita supply-demand adjustment would not be a measure of demand for producer milk in this market. The measure of demand should be limited to producer milk allocated to Class I under this order. The adjustor will then use as the supply factor only producer milk which is affected by any price adjustment computed, and the Class I sales assigned to such receipts. Since the price of producer milk is what is affected by the adjustor, it is logical that the amount of producer milk paid for as Class I be the demand factor under the order. The use of this factor will avoid need for adjustment to avoid duplication through classification of packaged milk inventories in Class I.

There is little difference between gross Class I sales of Wichita pool handlers and the producer milk classified as Class I under the order. The producer proposal, however, would have included in the demand side of the adjustor route sales of other order plants in the Wichita marketing area without any receipts of such plants. The difference between the demand factor proposed and the utilization of producer milk in Class I is fairly substantial, over 5 percent. In evident recognition of this proposed change in the demand factor, proponents had proposed that the supply-sales ratio to be used as a norm be reduced. The midpoints of the present seasonally varied 2-month norms average 135 percent on an annual basis. The midpoint of the standard utilization ratio proposed was 130 percent.

Since the demand factor will continue to be the producer milk classified as Class I, the normal supply to sales ratio should continue to be 135 percent. The range within which no adjustment occurs should, however, be less than the 10 percentage points provided for the present seasonally varied 2-month norms. This range is designed to prevent price movements from random variations in the supply-sales relationship during short periods of time. The use of 12-month relationships dampens the influence of such random variations and thus makes unnecessary substantial range of no adjustment. Under the 12-month proposal herein provided a total of four points of no adjustment should suffice. It is provided, therefore, that when the current supply-demand ratio is less than 133 the price should be increased and that when it exceeds 137 it should be decreased.

Proponents proposed that the actual 12-month relationship ending with the second month preceding the pricing month be adjusted by adding any amount by which the ratio had increased over the ratio computed 2 months earlier or by subtracting any amount by which it was less than the same earlier ratio. A current utilization ratio so adjusted gives added weight to changes that have occurred recently within the 12-month experience. This adjustment for current trends may prevent the 12-month mover from providing adjustments inappropriate for current conditions, and should be adopted.

The rate of adjustments per percentage point of deviation outside these maximum and minimum percentages should be 1 cent as proposed by producers. The present maximum rate is 1.5 cents for each percentage point deviation beyond the maximums and minimums in three successive 2-month periods. In view of the changes in the range of maximum and minimum percentages, 1 cent corresponds fairly closely to the rate which presently varies by whether the deviation has occurred for one, two or three successive 2-month periods.

The annual ratio of producer receipts to producer milk assigned to Class I was 133.41 percent in 1965 and 129.30 percent in 1966. The 12-month ratio of producer receipts to producer milk used in Class I, adjusted for trend as proposed, averaged 131.84 for the 24-month period (applicable to the pricing months of June 1965 through May 1967) ranging from 128.55 for December 1966 to 137.84 for August 1965.

The adjustor provided herein would have increased the Class I price in the 24-month period beginning in June 1965 by an average of less than 2 cents per month. Had the receipts now in the Wichita pool which were formerly sold to an out-of-State account been pooled since July 1964 without increase in sales, the adjustor would have reduced the price an average of 2.7 cents per month. Based upon producer receipts and Class I utilization in May and June (official notice is hereby taken of data released by the Market Administrator for such months) the adjustor proposed herein would have reduced the August price by 2 cents as compared with the 13 cents reduction provided by the present adjustor. If the milk supplies recently added to the pool continue to be pooled without a corresponding increase in sales, the price will gradually be reduced further. While in time reductions could approximate those of the present adjustor, the timing and extent of such adjustments are much more predictable so that the cooperative and its member producers can make plans based upon more precise knowledge of future adjustments.

It is appropriate that the Class I price of the local market be adjusted to reflect these supplies of producer milk for Class I uses now being attached to the local pool. However, the precipitate effect of reduction in the Class I price as a result of these additional supplies should be minimized to avoid undue disorder and uneconomic shifts in producer deliveries. A gradual reflection in the Class I price of recent changes in marketing practices will assist in maintaining a market for producer milk in this market and provide opportunity for adjustment in supplies and sales to reestablish a balance in production for local and out-of-State sales. The proposed supply-demand adjustor which provides for a gradual long-term effect on the Class I price is appropriate for the retention of orderly marketing conditions in this market.

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

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

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

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

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

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

Section 1073.51(a) is revised to read as follows:

§ 1073.51 Class prices.

* * * * *

(a) *Class I milk.* The price for Class I milk at plants located in Zone 1 shall be the basic formula price for the preceding month plus $1.60, plus 20 cents through April 1968, subject to a supply-demand adjustment computed pursuant to subparagraphs (1) and (2) of this paragraph. Such price shall not be less than the Class I price established for the same month pursuant to Part 1064 (Greater Kansas City) of this chapter, nor more than the Greater Kansas City Class I price plus 60 cents:

(1) For each month calculate a utilization ratio as follows:

(i) Calculate a utilization ratio for the 12-month period ending with the second preceding month by dividing the total receipts of producer milk in such period by the total volume of producer milk in Class I milk in such period and multiply by 100;

(ii) Add or subtract, respectively, any amount by which the percentage computed pursuant to subdivision (i) of this subparagraph is greater or less than the comparable utilization ratio calculated for the 12-month period ending with the fourth preceding month; and

(iii) The result rounded to the nearest percent shall be known as the utilization ratio.

(2) For each percentage by which the utilization ratio calculated for the month pursuant to subparagraph (1) of this paragraph exceeds 137, subtract 1 cent from the Class I price, and for each percentage by which it is less than 133, add 1 cent to the Class I price.

* * * * *

Signed at Washington, D.C., on July 28, 1967.

CLARENCE H. GIRARD,
Deputy Administrator, Regulatory Programs.

[F.R. Doc. 67-8991; Filed, Aug. 1, 1967; 8:48 a.m.]

[9 CFR Part 328]

OLEOMARGARINE OR MARGARINE

Definition and Standard of Identity

Notice is hereby given, in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to the authority conferred by the Meat Inspection Act, as amended (21 U.S.C. 71-91) and paragraphs 306 (b) and (c) of the Tariff Act of 1930, as amended (19 U.S.C. 1306 (b) and (c)), it is proposed to amend as follows, § 328.1 of the Meat Inspection Regulations (9 CFR 328.1) relating to the definition and standard of identity for oleomargarine or margarine, issued under said Acts, in order to provide further assurance that meat food products will not be sold in interstate or foreign commerce under false or deceptive names.

1. In subparagraph (2) of § 328.1(a), subdivision (v) would be redesignated as (viii), and the following sentences would be substituted for the introductory text of the subparagraph:

(2) One of the articles (or combinations) named under subdivision (i), (ii), (iii), (iv), (v), (vi), or (vii) of this subparagraph is intimately mixed with the fat ingredient or ingredients. The ingredients named under subdivisions (i), (ii), (iii), (iv), and (v) of this subparagraph are pasteurized and then subjected to the action of harmless bacterial starters. The term "milk" as used in this subparagraph means cow's milk.

2. Section 328.1(a)(2) would be further amended by adding thereto new subdivisions (v), (vi), and (vii), reading, respectively, as follows:

(v) Any combination of two or more of the articles (or combinations) named under subdivisions (i), (ii), (iii) and (iv) of this subparagraph.

(vi) In case only of the fat ingredient named under subparagraph (1)(ii) of this paragraph, any combination of finely ground soybeans and water, in which the weight of the finely ground soybeans is not less than 10 percent of the weight of the water. The finely ground soybeans are subjected to a heat treatment before or after mixing with the water. The soybeans may or may not be dehulled.

(vii) Water in lieu of any of the articles (or combinations) designated in subdivision (i), (ii), (iii), (iv), (v), or (vi) of this subparagraph.

3. Section 328.1(a)(3) would be revised by changing subdivision (iv) to read:

(iv) Any safe and suitable artificial flavoring substance that imparts to the food a flavor in semblance of butter. Such artificial flavoring substances are deemed to be safe for use in oleomargarine or margarine which contains any fat ingredient named under subparagraph (1)(i) of this paragraph if they have been approved for such use by the Administrator, and they are deemed to be safe for use in other oleomargarine or margarine if they are used in conformity with regulations established pursuant to section 409 of the Federal Food, Drug and Cosmetic Act or their use is otherwise lawful under that Act.

4. Section 328.1(a)(3) would be further amended by adding two new subdivisions (xi) and (xii) to read as follows:

(xi) Potassium sorbate, in an amount not to exceed 0.1 percent by weight of the finished oleomargarine or margarine.

(xii) Calcium disodium EDTA (calcium disodium ethylenediaminetetraacetate) in an amount not to exceed 75 parts per million by weight of the finished oleomargarine or margarine.

5. In § 328.1, paragraph (b) would be revised, and new paragraph (c) would be added, to read, respectively, as follows:

(b) The name of the food for which a definition and standard of identity is prescribed by this section is "oleomargarine" or "margarine." The presence of optional ingredients, provided for in paragraph (a) of this section, in the finished product shall be declared as follows:

(1) Fat ingredients shall be declared first in the ingredient statement by the name of the specific fat or oil or stearin used. Where combinations of fat ingredients are used, the names shall be arranged in order of decreasing predominance. If any fat ingredient is hydrogenated, the ingredient statement shall include the word "Hydrogenated" or "hardened" at such place or places in the list of fats as to indicate which fats are hydrogenated: For example, "corn oil, hardened soybean oil."

(2) Immediately following the listing of fat ingredients, other optional ingredients used shall be named in the order of decreasing predominance.

(i) The optional ingredients butter, salt, water, cream, milk, skim milk, nonfat dry milk and water, ground soybeans and water, lecithin, mono- or diglycerides, and sodium sulfo-acetate derivatives of mono- or diglycerides shall each be declared by those terms.

(ii) Artificial colors shall be declared by the statement "Artificially colored" or "Artificial coloring added" or "With added artificial coloring."

(iii) Artificial flavors shall be declared by the statement "Artificially flavored" or "Artificial flavoring added" or "With added artificial flavoring."

(iv) Oleomargarine or margarine that contains the optional ingredients citric acid, isopropyl citrate, stearyl citrate, or calcium disodium EDTA shall be labeled by the statement "________ added as a preservative" or "________ added to protect flavor." Oleomargarine or margarine that contains the optional ingredient sodium benzoate or benzoic acid shall be labeled by the statement "________ added as a preservative" or "________ as a preservative" or "With added ________ as a preservative." Oleomargarine or margarine that contains the optional ingredient potassium sorbate shall be labeled by the statement "________ added as a preservative" or "________ added to retard mold growth." The blank in each of the statements in this subdivision is filled in with the common name of the preservative ingredient used.

(v) Vitamin A shall be declared by the statement "Vitamin A added" or "With added vitamin A." Vitamin D shall be declared by the statement "Vitamin D added" or "With added vitamin D."

(vi) Where two or more optional ingredients named in paragraph (a)(3) of this section are used, the words "Added" or "With Added" need appear only once, either at the beginning or end of the list of such ingredients declared.

(3) Wherever the name "oleomargarine" or "margarine" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words and statements prescribed in this section, showing the ingredients used, shall immediately and conspicuously precede or follow, or in part precede and in part follow, such name, without intervening written, printed, or other graphic matter.

(c) Colored oleomargarine or colored margarine which is packed for retail sale and contains any ingredient named under paragraph (a)(1)(i) of this section must also comply with the requirements of § 317.8(c)(53) of this chapter.

Statement of consideration. For over a year the margarine industry has operated under two different standards of identity for commodities designated as "oleomargarine" or "margarine," one standard for products containing animal fat issued under the Meat Inspection Act, the other standard issued under the Federal Food, Drug and Cosmetic Act for products subject to that Act. This proposal would eliminate such differences to the extent possible. Primarily, the differences involve the manner of identification of fats and oils on the label; and permission for the use of combinations of water or water and finely ground soybeans, the use of all safe and suitable artificial flavoring substances which impart to margarine a flavor in semblance of butter, and the use of potassium sorbate or calcium disodium EDTA (calcium disodium ethylenediaminetetraacetate).

Butterlike flavoring substances have been permitted by the Food and Drug Administration in the standard for oleomargarine and margarine issued under the Federal Food, Drug and Cosmetic Act (21 CFR Part 45) since 1941. Many consumers prefer this butterlike flavor that is imparted to fried foods. The use of water alone in lieu of other water solutions or suspensions would not significantly change the moisture or nutritional content of the product. It has been demonstrated that in high temperature frying such product does not scorch, or discolor and is free of off-flavors. The definition and standard for oleomargarine or margarine under the Federal Food, Drug and Cosmetic Act has provided for the use of these ingredients since April 6, 1966.

To assist the consumer in making a knowledgeable selection, the identification of the specific fat or oil used should be declared in the ingredient statement. There are ethnic and dietary reasons for requiring that the species of animal fat used be specifically identified. This would make labeling of noncolored oleomargarine or margarine as fully informative with respect to such ingredients as is now required by the regulation in 9 CFR 317.8(c)(53) for colored margarine under the Meat Inspection Act and for all oleomargarine or margarine under the Federal Food, Drug and Cosmetic Act. The other changes are proposed to conform the wording of the standard under the Meat Inspection Act to the standard under the Federal Food, Drug and Cosmetic Act.

Historically, the two standards have been kept quite similar, so that a manufacturer of a margarine containing animal fats and vegetable oils could comply with both standards at once. The proposed amendments would further coordinate the two standards for the purposes of alleviating confusion in the oleomargarine industry and enabling the processors to provide consumers with more versatile and more informatively labeled products.

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 publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Done at Washington, D.C., this 28th day of July 1967.

R. K. SOMERS,
Deputy Administrator, Consumer Protection, Consumer and Marketing Service.

[F.R. Doc. 67-8990; Filed, Aug. 1, 1967; 8:48 a.m.]

FEDERAL RESERVE SYSTEM

[12 CFR Part 220]

[Reg. T]

CREDIT BY BROKERS, DEALERS, AND MEMBERS OF NATIONAL SECURITIES EXCHANGES

Financing Transactions in a Specialist's Account

The Board of Governors of the Federal Reserve System is considering amending § 220.4(g) to permit more than one creditor to join in financing transactions in a specialist's account when an appropriate committee of an Exchange designated as requiring reports under that section determines that emergency market conditions warrant such action.

As amended, § 220.4(g) would read as follows (the proposed change consisting of the addition of the last two sentences):

§ 220.4 Special accounts.

* * * * *

(g) *Specialist's account.* In a special account designated as a specialist's account, a creditor may effect and finance, for any member of a national securities exchange who is registered and acts as a specialist in securities on the exchange, such member's transactions is a specialist in such securities, or effect and finance, for any joint adventure in which the creditor participates, any transactions in any securities of an issue with respect to which all participants, or all participants other than the creditor, are registered and act on a national securities exchange as specialists. Such specialist's account shall be subject to the same conditions to which it would be subject if it were a general account except that if the specialist's exchange, in addition to the other requirements applicable to specialists, is designated by the Board of Governors of the Federal Reserve System as requiring reports suitable for supplying current information regarding specialists' use of credit pursuant to this paragraph, the requirements of § 220.6(b) regarding joint adventures shall not apply to such account and the maximum loan value of a registered security in such account shall be determined by the creditor in good faith. If an appropriate committee of such designated exchange determines that emergency market conditions warrant such action, it may authorize additional creditors to join in financing transactions in a specialist's account for as long as such conditions continue, but not for more than 2 weeks unless such committee determines that such conditions continue to exist. Such account shall not be used in connection with any distribution in which the specialist or any creditor financing transactions in the account participates.

* * * * *

On some occasions, public interest in a particular registered stock has been aroused to such an extent, with resulting large price fluctuations and volume of orders, that the stock exchange specialist assigned to the stock has not had sufficient resources to make the large purchases or sales that were necessary if he was to fulfill his duty to maintain a "fair and orderly market" in the stock; and apparently no single creditor has been willing to undertake the risk involved in financing such large operations by the specialist.

Accordingly, the Board proposes to amend § 220.4(g) of Regulation T, the section providing for "specialist's accounts", to permit more than one creditor to join in financing transactions in such an account when an appropriate committee of the Exchange determines that emergency market conditions warrant such action. The final sentence of the amendment is designed to make explicit in this connection the principle that the section does not create an exception to any applicable rule or regulation other than those sections of Regulation T which are specifically mentioned.

This notice is published pursuant to section 553(b) of Title 5, United States Code, and section 1(b) of the Rules of Procedure of the Board of Governors of the Federal Reserve System (12 CFR 262.1(b)).

To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant data, views, or arguments. Any such material should be submited in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 21, 1967.

Dated at Washington, D.C., the 25th day of July, 1967.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 67-8951; Filed, Aug. 1, 1967; 8:45 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A 1184]

ARIZONA

Order Providing for Opening of Public Lands

1. In an exchange of lands made under the provisions of Section 8 of the Act of June 28, 1934 (48 Stat. 1272), as amended by section 3 of the act of June 26, 1936 (49 Stat. 1976; 43 U.S.C. 315g), the following described lands have been reconveyed to the United States:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 12 S., R. 29 E.,
Sec. 24, N½, SW¼ and W½ SE¼;
Sec. 33, N½NE¼;
Sec. 34, S½NW¼;
Sec. 35, NW¼NE¼.
T. 12 S., R. 30 E.,
Secs. 16 and 29;
Sec. 30, lots 1, 2, 3 and 4, E½W½ and NE¼;
Sec. 34, NW¼ and NE¼SW¼.
T. 13 S., R. 29 E.,
Sec. 3, lots 1 and 2, and S½NE¼;
Sec. 11, NW¼.
T. 13 S., R. 30 E.,
Sec. 1, lot 3, SW¼SW¼ and SE¼;
Sec. 3, lots 1, 2, 3 and 4, and S½NE¼;
Sec. 4, lots 3 and 4, S½NW¼ and S½;
Sec. 5, lots 1, 2, 3 and 4, S½N½ and S½.

The area described aggregates 4,621.75 acres.

2. The lands are located in Cochise County, approximately 4½ miles northwest of San Simon, Ariz. Topography is flat to slightly undulated. Soils are sandy to sandy loam. Vegetation consists of creosote bush, burro weed, snake weed, and various annual grasses. The lands have value for watershed, grazing, and wildlife which can best be managed under the principles of multiple use.

3. Subject to valid existing rights, the provisions of the present multiple-use classification, A 467, published April 27, 1967, 32 F.R. 6526, and the requirements of applicable laws, these lands will be opened to application, petition, location, and selection. Any valid petition application filed will be considered on its merits.

4. This order shall become effective at 10 a.m. on August 30, 1967.

5. Inquiries concerning these lands shall be addressed to U.S. Bureau of Land Management, Arizona Land Office, Room 3022, Federal Building, Phoenix, Ariz. 85025.

FRED J. WEILER,
State Director.

JULY 25, 1967.

[F.R. Doc. 67-8953; Filed, Aug. 1, 1967; 8:45 a.m.]

[Group 232]

WASHINGTON

Notice of Filing of Plat of Survey and Order Providing for Opening of Lands

JULY 24, 1967.

1. Plat of survey of the land described below will be officially filed in the Land Office, Portland, Oreg., effective at 10 a.m. on August 29, 1967.

WILLAMETTE MERIDIAN

T. 12 N., R. 9 E.,
Sec. 7, lots 1, 2, 3, 4, 5, 6, and 7, S½NE¼, SE¼NW¼, E½SW¼, and SE¼.

The areas described aggregate 632.76 acres of public land.

2. The land described in Paragraph 1 is located adjacent to the south bank of the Cowlitz River in Lewis County. This land varies in elevation from 1,000 feet to 3,000 feet in elevation above sea level. The land rises steeply from the northwest corner toward the southeast corner. The land is primarily valuable for the production of commercial timber, and supports a growth of Douglas fir, white fir, associated minor species, and an understory of native hardwoods. Access is by foot from Washington Highway No. 5 which is near the northwest corner of the area.

3. The land described as lots 1, 2, 5, 6, and 7, S½NE¼, SE¼NW¼, E½SW¼, and SE¼, sec. 7, is national forest land and by this order is hereby opened to such forms of disposition as may by law be made of such land.

4. The land described as lots 3 and 4, sec. 7, is opened to petition, application, and selection, as outlined in paragraph 5 below. No application for the land will be allowed under the nonmineral public land laws, unless or until the land has been classified. Any application that is filed will be considered on its merits. The land will not be subject to occupancy or disposition until it has been classified.

5. Subject to any existing valid rights and the requirements of applicable law, the land described in paragraph 4 hereof is hereby opened to filing of petition-application and selection in accordance with the following:

a. Applications and selections under the nonmineral public land laws, and offers under the mineral leasing laws may be presented to the manager mentioned below, beginning on the date of this order. Such applications, selections, and offers will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs.

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications and selections under the nonmineral public land laws presented prior to 10 a.m., on August 29, 1967, will be considered as simultaneously filed at that hour. Rights under such applications and selections and offers filed after that hour will be governed by the time of filing.

6. Persons claiming preference rights based upon settlement, statutory preference, or equitable claims must enclose properly executed statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries concerning the land shall be addressed to the Manager, Land Office, Bureau of Land Management, 729 Northeast Oregon Street (Post Office Box 2965), Portland, Oreg. 97208.

IRVING W. ANDERSON,
Manager, Land Office.

[F.R. Doc. 67-8954; Filed, Aug. 1, 1967; 8:45 a.m.]

National Park Service

YOSEMITE NATIONAL PARK

Notice of Intention To Extend Concession Contract

Pursuant to the provisions of section 5, Public Law 89-249, public notice is hereby given that 30 days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to extend the concession contract with Best's Studio, Inc., authorizing it to continue to provide concession facilities and services for the public at Yosemite National Park, Calif., for a period of 1 year from October 1, 1967, through September 30, 1968.

The foregoing concessioner has performed its obligations under the contract to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice.

Interested parties should contact the Chief of Concessions Management, National Park Service, Washington, D.C.

20240, for information as to the requirements of the proposed extension.

Dated: July 26, 1967.

EDWARD A. HUMMEL,
Assistant Director,
National Park Service.

[F.R. Doc. 67-8955; Filed, Aug. 1, 1967; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

KANSAS AND SOUTH DAKOTA

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the States of Kansas and South Dakota natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

KANSAS

Chase. Lyon.
Douglas. Miami.
Leavenworth.

SOUTH DAKOTA

Sully.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1968, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 28th day of July 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67-8994; Filed, Aug. 1, 1967; 8:48 a.m.]

NEBRASKA

Designation of Area for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named county in the State of Nebraska natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

NEBRASKA

Gosper.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named county after June 30, 1968, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 28th day of July 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67-8995; Filed, Aug. 1, 1967; 8:48 a.m.]

FOOD MANAGEMENT

Proposed Standby Defense Food Order; Extension of Time for Submitting Written Data, Views or Comments

On May 3, 1967, there was published in the FEDERAL REGISTER (32 F.R. 6826) a notice of a proposed Standby Defense Food Order to aid in carrying out the emergency responsibility of the U.S. Department of Agriculture in the event of nuclear attack upon the United States. The said notice provided a period of 90 days following publication for the submission of written data, views, or comments concerning the proposal.

It now appears that an additional period should be allowed for such submissions. Therefore, any person who wishes to submit written data, views, or comments concerning the aforesaid proposal may do so by filing them, in duplicate, not later than September 5, 1967, at the Defense Programs Branch, Transportation and Warehouse Division, Consumer and Marketing Service, U.S. Department of Agriculture, Room 503, Pomponio Plaza Building, 1735 North Lynn Street, Arlington, Va. 22209 (telephone: 521-5600, extension 4125).

All written submissions made pursuant to the original notice or this extension will be made available for public inspection at such times and places and in the manner convenient to the public business (7 CFR 1.27(b)).

It should be noted that the foregoing address is different from the address shown in the original notice.

Done at Washington, D.C., this 28th day of July 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67-8996; Filed, Aug. 1, 1967; 8:48 a.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

MOORE-McCORMACK LINES, INC.

Notice of Application for Change in Cruise Program

Notice is hereby given that Moore-McCormack Lines, Inc., has requested approval to make the following modification of its program with respect to the SS "Argentina" during 1967. The two cruises proposed are in lieu of one Caribbean cruise as previously published in the FEDERAL REGISTER of June 18, 1966 (31 F.R. 8547) and approved by the Maritime Subsidy Board on August 4, 1966.

Commences	Terminates	Itinerary
Dec. 19	Dec. 23	New York, Nassau, Port Everglades.
Dec. 24	Jan. 6	Port Everglades, Cristobal, Kingston, Curacao, Barbados, St. Thomas, San Juan, Port Everglades.

Any person, firm or corporation having any interest, within the meaning of Public Law 87-45, in the foregoing who desires to offer data, views, or arguments should submit the same in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20235, by close of business on August 15, 1967.

In the event an opportunity to present oral argument is also desired, specific reason for such request should be included. The Maritime Subsidy Board will consider these comments and views and take such action with respect thereto as in its discretion it deems warranted.

Dated: July 31, 1967.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 67-9004; Filed, Aug. 1, 1967; 8:49 a.m.]

UNITED STATES LINES, INC.

Notice of Application

Notice is hereby given that United States Lines, Inc. has applied for a maximum of 26 subsidized sailings annually with freight ships to be operated on Trade Route No. 26 between U.S. Pacific Coast ports (Washington-Mexican border) and ports in the United Kingdom, Republic of Ireland, Continental Europe (Germany to the northern border of Portugal), and Baltic-Scandinavian ports.

Any person, firm, or corporation having any interest in such application and desiring a hearing on issues pertinent to section 605(c) of the Merchant Marine Act, 1936, as amended, 46 U.S.C. 1175, should by the close of business on August 15, 1967, notify the Secretary, Maritime Subsidy Board, in writing in triplicate, and file petition for leave to intervene in accordance with the Rules and Procedure of the Maritime Subsidy Board.

In the event a section 605(c) hearing is ordered to be held, the purpose thereof will be to receive evidence relevant to (1) whether the application is one with respect to a vessel to be operated on a service, route or line served by citizens of the United States which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of U.S. registry in such service route or line is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Martime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

Dated: July 31, 1967.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 67-9047; Filed, Aug. 1, 1967; 8:49 a.m.]

National Bureau of Standards

NBS RADIO STATIONS

Notice of Standard Frequency and Time Broadcasts

In accordance with the National Bureau of Standards policy of giving monthly notices regarding changes of phases in seconds pulses, notice is hereby given that there will be an adjustment in the phase of seconds pulses emitted from radio station WWVB, Fort Collins, Colo. On September 1, 1967, the clock at the station will be retarded by 200 ms at 0000 hours, UT, as announced by the Bureau International de l'Heure (BIH) for the stepped atomic time (SAT) system. The successive time pulses emitted from station WWVB are one second apart. The carrier frequency is 60 kHz and is broadcast without offset.

Notice is also hereby given that there will be no adjustment in the phases of time signals emitted from radio stations WWV, Fort Collins, Colo., and WWVH, Maui, Hawaii, on September 1, 1967. During 1967, the pulses will occur at intervals which are longer than one second by 300 parts in 10^{10}, due to the offset to be maintained in carrier frequencies, as coordinated by the BIH.

Phase adjustments, when made, insure that the emitted pulses from all stations will remain within about 100 ms of the UT2 scale. They are made necessary because of changes in the speed of rotation of the earth with which the UT2 scale is associated. Daily UT2 information is obtained from weekly forecasts of extrapolated UT2 clock readings provided by the U.S. Naval Observatory in accordance with the close cooperation maintained between the two agencies.

A. V. ASTIN,
Director.

JULY 26, 1967.

[F.R. Doc. 67-8979; Filed, Aug. 1, 1967; 8:47 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

LICENSED BIOLOGICAL PRODUCTS

Notice is hereby given that pursuant to section 351 of the Public Health Service Act, as amended (42 U.S.C. 262), and regulations issued thereunder (42 CFR Part 73), the following establishment license and product license actions have been taken from January 1, 1967 to June 30, 1967, inclusive.

These lists are supplementary to the lists of licensed establishments and products in effect on January 1, 1967, published on February 4, 1967 in 32 F.R. 2463–2480.

ESTABLISHMENT LICENSES ISSUED

Product	Establishment	License No.	Date
	Community Blood Bank of Marion County, Inc., Indianapolis, Ind.	398	1-23-67
	Blood Bank of Deaconess Hospital, Inc., Evansville, Ind.	399	2- 6-67
	National Blood Service of Philadelphia, Inc., Philadelphia, Pa.	400	2-13-67
	Chattanooga Blood Center, Inc., Chattanooga, Tenn.	401	4-20-67
	Palo Alto-Stanford Hospital Center, Palo Alto, Calif.	402	4-20-67
	St. Joseph Hospital, Inc., Baltimore, Md.	403	6-23-67

PRODUCT LICENSES ISSUED

Product	Establishment	License No.	Date
Aggregated Radio-Iodinated (I^{131}) Albumin (Human).	Mallinckrodt Chemical Works	77	1- 4-67
Packed Red Blood Cells (Human)	Central Blood Bank of Pittsburgh	234	1-17-67
Citrated Whole Blood (Human)	Community Blood Bank of Marion County, Inc.	398	1-23-67
Normal Serum Albumin (Human)	Pitman-Moore, division of the Dow Chemical Co.	110	2- 6-67
Citrated Whole Blood (Human)	Blood Bank of Deaconess Hospital, Inc.	399	2- 6-67
Anti-Fy^{b} Serum	Chas. Pfizer & Co., Inc.	164	2-10-67
Heparinized Whole Blood (Human)	National Blood Service, Inc.	396	2-10-67
Tetanus Immune Globulin (Human)	E. R. Squibb & Sons, Inc.	52	2-13-67
Citrated Whole Blood (Human)	National Blood Service of Philadelphia, Inc.	400	2-13-67
Single Donor Plasma (Human)	do		
Normal Serum Albumin (Human)	Parke, Davis and Co.	1	3-31-67
BCG Vaccine	Connaught Medical Research Laboratories	73	3-31-67
Packed Red Blood Cells (Human)	Spokane & Inland Empire Blood Bank	203	4-10-67
Whole Blood (Human)	Chattanooga Blood Center, Inc.	401	4-20-67
Tetanus Toxoid Aluminum Phosphate Precipitated.	Massachusetts Public Health Biologic Laboratories.	64	5- 9-67
Whole Blood (Human)	Palo Alto-Stanford Hospital Center	402	5- 9-67
Typhus Vaccine	Lederle Laboratories Division, American Cyanamid Co.	17	5-24-67
Typhus Vaccine	The National Drug Co., Division of Richardson-Merrell, Inc.	101	5-24-67
Antihemophilic Factor (Human)	Courtland Laboratories	171	6- 8-67
Whole Blood (Human)	St. Joseph Hospital, Inc.	403	6-23-67
Aggregated Radio-Iodinated (I^{131}) Albumin (Human).	Abbott Laboratories	43	6-23-67
Whole Blood (Human)	Chicago Blood Donor Service, Inc.	169	6-23-67
Whole Blood (Human)	New Hanover Memorial Hospital Blood Bank	326	6-23-67
Whole Blood (Human)	Holy Cross Hospital of Silver Spring Blood Bank	309	6-23-67

ESTABLISHMENT LICENSES REVOKED WITHOUT PREJUDICE

Product	Establishment	License No.	Date
	Institut Pasteur, Paris, France	11	3- 9-67
	Detroit Blood Service, Inc., Detroit, Mich.	262	3-31-67

PRODUCT LICENSES REVOKED WITHOUT PREJUDICE

Product	Establishment	License No.	Date
Poison Ivy Extract	Wyeth Laboratories, Inc.	3	1-17-67
Poison Oak Extract	do		
Resuspended Red Blood Cells (Human)	Hyland Division Travenol Laboratories, Inc.	140	3- 6-67
Diphtheria Antitoxin	Institut Pasteur	11	3- 9-67
Tetanus Antitoxin	do		
Cholera Vaccine	do		
Typhoid Vaccine	do		
Staphylococcus Toxoid	do		
Citrated Whole Blood (Human)	Detroit Blood Service, Inc.	262	3-21-67
Packed Red Blood Cells (Human)	do		
Single Donor Plasma (Human)	do		
Scarlet Fever Streptococcus Toxin	The National Drug Co., Division of Richardson-Merrell, Inc.	101	5- 9-67
Allergenic Extracts	Sherman Laboratories	30	5-19-67
Typhus Vaccine (Epidemic)	The National Drug Co., Division of Richardson-Merrell, Inc.	101	
B. *histolyticus* Antitoxin	Lederle Laboratories Division, American Cyanamid Co.	17	5-24-67
B. *oedematiens* Antitoxin	do		
B. *sordellii* Antitoxin	do		
Perfringens Antitoxin	do		
V. *septique* Antitoxin	do		
Poliomyelitis Immune Globulin (Human).	do		
Typhus Vaccine (Epidemic)	do		
Citrated Whole Blood (Human)	James Walker Memorial Hospital Blood Bank	326	6-23-67
Do	Holy Cross Hospital of Silver Spring, Inc.	309	6-23-67
Do	Chicago Blood Donor Service, Inc.	169	6-23-67
Heparinized Whole Blood (Human)	do		

ESTABLISHMENT LICENSES REVOKED WITHOUT PREJUDICE AND REISSUED

Establishment		License No.	Date
Revoked	Reissued		
Travenol Laboratories, Inc., Morton Grove, Ill., and Cleveland, Miss.	....	184	1-11-67
Hyland Laboratories, Los Angeles, Calif.	Travenol Laboratories, Inc., Los Angeles, Calif.; Morton Grove, Ill., and Cleveland, Miss.	140	1-11-67
Community Blood and Plasma Service, Inc., Birmingham, Ala. and New York, N.Y.	Community Blood and Plasma Service, Inc., Birmingham, Ala.; Mobile Ala.; Jackson, Miss., and New York, N.Y.	224	1-27-67
Southern Michigan Blood Center, Inc., Detroit and Saginaw, Mich.	Michigan Community Blood Center, Detroit and Saginaw, Mich.	272	3-15-67
Bencard Allergy Unit, Beecham Research Laboratories, Ltd., Brentford, Middlesex, England.	Beecham Group, Ltd., Worthing, Sussex, England.	364	4-12-67
Cleveland Biologicals, Inc., Cleveland, Ohio.	Cleveland Biologicals, Inc., Cleveland, Ohio, and Akron, Ohio.	301	4-20-67
Nuclear Consultants Division, Mallinckrodt Chemical Works, Maryland Heights, Mo.	Mallinckrodt Chemical Works, Maryland Heights, Mo.	77	5- 9-67
National Bio Serums, Inc., Brooklyn, N.Y.	National Bio Serums, Inc., Port Reading, N.J....	349	6- 8-67
James Walker Memorial Hospital Blood Bank, Wilmington, N.C.	New Hanover Memorial Hospital Blood Bank, Wilmington, N.C.	326	6-23-67
Holy Cross Hospital of Silver Spring, Inc., Silver Spring, Md.	Holy Cross Hospital of Silver Spring Blood Bank, Silver Spring, Md.	369	6-23-67

Approved:

RODERICK MURRAY,
Director, Division of Biologics Standards, National Institutes of Health, Public Health Service, U.S. Department of Health, Education, and Welfare.

Approved:

J. STEWART HUNTER,
Assistant to the Surgeon General for Information, Public Health Service, U.S. Department of Health, Education, and Welfare.

[F.R. Doc. 67-8868; Filed, Aug. 1, 1967; 8:45 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-276]

GEORGIA INSTITUTE OF TECHNOLOGY

Notice of Proposed Issuance of Provisional Construction Permit

The Atomic Energy Commission ("the Commission") is considering the issuance of a provisional construction permit, as set forth below, to Georgia Institute of Technology (hereinafter "Georgia Tech"). The provisional construction permit would authorize Georgia Tech to receive at The University of Akron's campus at Akron, Ohio, transport to and possess and store on the campus in Atlanta, Ga., but not to assemble, components and fuel of the Model AGN-201, Serial No. 104, nuclear reactor presently located on The University of Akron's campus at Akron, Ohio, for later use as a nuclear reactor facility.

Within 15 days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing, and any person whose interest may be affected by the issuance of this provisional construction permit may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's "Rules of Practice", 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, a notice of hearing or an appropriate order will be issued.

For further details with respect to this proposed license, see (1) the applications from Georgia Tech dated January 18 and 26, 1967, and June 14, 1967, and supplement dated June 28, 1967, and (2) a related Safety Evaluation prepared by the Division of Reactor Licensing, which are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the Safety Evaluation may be obtained at the Commission's Public Document Room or upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

For the Atomic Energy Commission.

Dated at Bethesda, Md., this 28th day of July 1967.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

PROPOSED PROVISIONAL CONSTRUCTION PERMIT

The Atomic Energy Commission (hereinafter "the Commission") having found that:

a. The application for license complies with the requirements of the Atomic Energy Act of 1954, as amended (hereinafter "the Act"), and the Commission's regulations set forth in Title 10, Chapter 1, CFR;

b. The AGN-201, Serial No. 104, reactor is a utilization facility as defined in the Commission's regulations contained in Title 10, Chapter 1, CFR, Part 50, "Licensing of Production and Utilization Facilities";

c. Georgia Institute of Technology has submitted sufficient technical information concerning the receipt, transfer, possession, and storage of the reactor component parts and fuel to provide reasonable assurance that these activities can be undertaken without endangering the health and safety of the public;

d. The issuance of a provisional construction permit to Georgia Institute of Technology for the receipt, transfer, possession, and storage of the reactor component parts, 700 grams of U^{235}, and the byproduct materials in the manner proposed in the application will not be inimical to the common defense and security or to the health and safety of the public;

e. Georgia Institute of Technology is financially and technically qualified to receive, transport, possess and store the reactor component parts and fuel in accordance with the regulations contained in Title 10, Chapter 1, CFR; and

f. Georgia Institute of Technology is a nonprofit educational institution and will store the disassembled reactor components and fuel for later use for the conduct of educational activities. Georgia Institute of Technology is therefore exempt from the financial protection requirement of subsection 170a of the Act;

Provisional Construction Permit No.—, effective as of the date of issuance, is issued as follows:

1. This license applies to the component parts and fuel of the AGN-201, Serial No. 104, nuclear reactor formerly operated by the University of Akron under AEC Facility License No. R-24, Docket No. 50-64, and described in Georgia Institute of Technology's applications to the Commission dated January 18 and 26, 1967, and June 14, 1967, and supplement dated June 28, 1967 (hereinafter "the application").

2. Subject to the conditions and requirements incorporated herein, the Commission hereby licenses Georgia Institute of Technology:

A. Pursuant to section 104c of the Act and Title 10, CFR, Chapter 1, Part 50, "Licensing of Production and Utilization Facilities", to (1) receive the reactor component parts at their present location on the University of Akron's campus at Akron, Ohio, and to transport them to the campus of Georgia Institute of Technology in Atlanta, Ga., and (2) to possess and store, but not to assemble, the disassembled reactor component parts for later use as a nuclear facility in accordance with the procedures and limitations described in the application and this license;

B. Pursuant to the Act and Title 10, CFR, Chapter 1, Part 70, "Special Nuclear Material", to receive, transport, possess and store at the new location, but not to use, 700 grams of U^{235} as reactor fuel, and

C. Pursuant to the Act and Title 10, CFR, Chapter 1, Part 30, "Rules of General Applicability to Licensing of Byproduct Material", to receive, transport, possess and store at the new location, but not to separate, such byproduct material as may be contained in the reactor component parts and fuel supplied by the University of Akron.

3. This license shall be deemed to contain and be subject to the conditions specified in the following Commission regulations (Title 10, CFR, Chapter 1): Part 20, section 30.34 of Part 30, sections 50.54 and 50.55 of Part 50, and section 70.32 of Part 70, and is subject to all applicable provisions of the Act and rules, regulations, and orders of the Commission now or hereafter in effect, and is subject to the additional conditions specified below:

A. The receipt, transportation, possession, and storage of the reactor and fuel shall be accomplished in accordance with procedures described in the application.

B. Georgia Institute of Technology is exempt from the requirements of section 70.24 (a)(1) for a monitoring system. This exemption only applies to the storage of that portion of the fuel from the Model AGN-201, Serial No. 104, nuclear reactor which will be stored in the Radioisotopes Laboratory of the Radioisotopes Storage Facility. No more than 350 grams of U^{235} will be stored in the Radioisotopes Laboratory.

C. This construction permit is contingent upon the execution of an indemnity agreement as required by section 170 of the Act.

4. This Provisional Construction Permit authorizes the possession of the disassembled reactor component parts and the fuel for storage purposes only, and does not permit the licensee to assemble the reactor component parts, use the fuel, or undertake construction of a nuclear reactor facility without further written authorization from the Commission.

5. This Provisional Construction Permit shall expire at midnight, June 30, 1968.

Date of Issuance:

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations Division of Reactor Licensing.

[F.R. Doc. 67-9043; Filed, Aug. 1, 1967; 8:49 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 18756]

DEUGRO INTERNATIONAL TRANSPORT, INC.

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding is assigned to be held on August 9, 1967, at 10 a.m. (local time) in Room 911, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the undersigned Examiner.

Dated at Washington, D.C., on July 27, 1967.

[SEAL] WALTER W. BRYAN,
Hearing Examiner.

[F.R. Doc. 67-8982; Filed, Aug. 1, 1967; 8:47 a.m.]

DELAWARE RIVER BASIN COMMISSION

HYDROELECTRIC POWER POLICY

Notice of Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Thursday, August 17, 1967, on a proposed amendment to its Comprehensive Plan relating to hydroelectric power and energy at the Tocks Island project. The hearing will be held in the Auditorium Building of the New Jersey Cultural Center (immediately west of the State Capitol) on West State Street in Trenton beginning at 9:30 a.m. The proposed amendment to the Comprehensive Plan is attached to this notice.[1]

[1] Amendment filed as part of the original document.

Any person or organization wishing to testify at the public hearing is requested to register with the Secretary to the Commission either by mail or telephone not later than 5 p.m. on August 16, 1967. Written statements may be submitted for the record. Written statements from those who cannot attend will be made a part of the record if mailed or delivered before the hearing is adjourned. 609-883-9500.

W. BRINTON WHITALL,
Secretary.

JULY 27, 1967.

[F.R. Doc. 67-8876; Filed, Aug. 1, 1967; 8:49 a.m.]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License 609]

BRIDGETTS & CO., INC.

Notice of Compliance With Order To Show Cause

Notice is hereby given that Bridgetts & Co., Inc., 27 Pearl Street, New York, N.Y. 10004, has complied with the Commission's Order to Show Cause dated July 18, 1967, and published in the FEDERAL REGISTER (32 F.R. 10892), by filing an effective surety bond with the Commission.

JAMES E. MAZURE,
Director,
Bureau of Domestic Regulation.

[F.R. Doc. 67-8997; Filed, Aug. 1, 1967; 8:48 a.m.]

[Independent Ocean Freight Forwarder License No. 990]

CIRCLE FORWARDERS, INC.

Order To Show Cause

On July 10, 1967, the Insurance Company of North America notified the Commission that the surety bond filed pursuant to Section 44(c), Shipping Act, 1916 (46 U.S.C. 841(b)) by Circle Forwarders, Inc., 4461 West Jefferson, Detroit, Mich. 48209, would be canceled effective August 10, 1967.

Section 44(c) of the Shipping Act, 1916 (46 U.S.C. 841(b)) and Section 510.5(f) of General Order 4 (46 C.F.R.) provide that no license shall remain in force unless such forwarder shall have furnished a bond.

Section 44(d) of the Shipping Act, 1916 (46 U.S.C. 841(b)) provides that licenses may, after notice and hearing, be suspended or revoked for willful failure to comply with any provision of the Act, or with any lawful rule of the Commission promulgated thereunder.

Now, therefore, by virtue of authority vested in me by the Federal Maritime Commission, as set forth in Manual of Orders, Commission Order 201.1 (revised), Section 6.03.

It is ordered, That Circle Forwarders, Inc. on or before August 3, 1967, either (1) submit a valid bond effective on or before August 10, 1967, or (2) show cause in writing or request a hearing to be held at 10 a.m. on August 7, 1967, in Room 505, Federal Maritime Commission, 1321 H Street NW., Washington, D.C. 20573, to show cause why its license should not be suspended or revoked pursuant to Section 44(d), Shipping Act, 1916.

It is further ordered, That License No. 990 be forthwith revoked if the licensee fails to comply with this order.

It is further ordered, That a copy of this order to show cause and all subsequent orders in this matter be served upon the licensee and be published in the FEDERAL REGISTER.

JAMES E. MAZURE,
Director,
Bureau of Domestic Regulation.

[F.R. Doc. 67-8998; Filed, Aug. 1, 1967; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. RI67-423 etc.]

HUNT OIL CO. ET AL.

Order Modifying Suspension Order

JULY 25, 1967.

Hunt Oil Company, Docket No. RI67-423; H. L. Hunt et al., Docket No. RI67-424; Hassie Hunt Trust (Operator) et al., Docket No. RI67-425.

Hunt Oil Co., H. L. Hunt et al. and Hassie Hunt Trust (Operator) et al. (collectively referred to as Hunt) filed on June 27, 1967, an application for rehearing and reconsideration of the Commission's suspension order issued June 7, 1967, in the above-entitled proceedings requesting that they be permitted to continue collection of their presently effective rates during the suspension period provided in the June 7 order with respect to their rate increases, in lieu of the 20-cent reduced rates accepted by that order. In the alternative, Hunt requests permission to withdraw the rate filings involved here.

Hunt filed on May 8, 1967, rate charges for four of their sales of natural gas from the South Louisiana Area which were treated as two-step changes.[1] The first step decreased the then effective rates of 23.55 cents, 23.6 cents, and 23.25 cents[2] to the 20-cent initial rates authorized for these sales in Opinion No. 436. These reductions were accepted as of the date of filing by the June 7 order. The second step of such filings increased the 20-cent rates to 23.25 cents and 23.55 cents. These increases were suspended in the June 7 order for 5 months from the date of filing.

Hunt contends that we have erroneously interpreted each of their rate filings as comprising two separate rate changes, whereas they intended each of the filings to constitute a single rate change.[3] Hunt points out that if the fil-

[1] Supplemental No. 3 to Hunt Oil Co.'s FPC Gas Rate Schedule No. 50, and Supplement No. 4 to H. L. Hunt et al. FPC Gas Rate Schedule No. 29 and Hassie Hunt Trust (Operator) et al. FPC Gas Rate Schedule Nos. 24 and 29, respectively.

[2] These rates are in effect pursuant to the stay provisions of Opinion No. 436-A.

[3] Hunt concedes, however, that their filings were reasonably susceptible of the interpretation placed upon them.

ings had been interpreted in the manner intended by them such filings would have been suspended for 5 months, but their rates during this period would not have been reduced to 20 cents per Mcf as provided in the June 7 order. In support of their position Hunt refers to the order issued May 6, 1964 in Hassie Hunt Trust (Operator) et al., Docket Nos. RI64-733, et al. where the Commission suspended for 5 months rate decreases from 20 cents to 19 cents but did not require Hunt to reduce their 20-cent rates to the 16-cent initial rate authorized in Opinion No. 412.[4]

The filings by Hunt in this case were treated as two-step filings based on our interpretation of their proposed rate changes. We have no objection, however, to treating each rate filing as a single rate change and would have done so in the first instance had Hunt's intent been clear. In view thereof, we shall modify the June 7 order so as to eliminate the acceptance of the 20-cent initial rates. The 23.25-cent and 23.55-cent suspended rate changes will continue under suspension as provided in that order.[5] In the meantime Hunt may continue collection during the suspension period of the 23.55-cent, 23.6-cent and 23.25-cent rates now in effect, subject, however, to the stay provisions of Opinion No. 436-A and the refund obligations contained therein.[6]

The Commission orders: For the reasons set forth above, Paragraph (B) of the order issued June 7, 1967, in the above-entitled proceedings, which provides for the acceptance of the 20-cent rates, is deleted.

By the Commission.

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

[F.R. Doc. 67-8948; Filed, Aug. 1, 1967; 8:45 a.m.]

[Docket Nos. CP67-187 etc.]

PACIFIC GAS TRANSMISSION CO. AND EL PASO NATURAL GAS CO.

Order Consolidating Proceedings, Granting Interventions and Fixing Date for a Prehearing Conference

JULY 26, 1967.

Pacific Gas Transmission Co., El Paso Natural Gas Co., CP67-187, CP67-188, CP67-217.

On December 23, 1966 Pacific Gas Transmission Co. (Pacific Gas) filed in Docket No. CP67-188 an application pursuant to section 3 of the Natural Gas Act requesting authorization to import an additional 211,000 Mcf of natural gas per day from Canada and in Docket No. CP 67-187 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities to transport this gas to Pacific Gas and Electric Co., its customer in the California market. Notice of these applications was issued on January 14, 1967 (32 F.R. 428).

On January 30, 1967 El Paso Natural Gas Co. (El Paso) filed in Docket No. CP67-217 an application pursuant to section 7 of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the construction and operation of facilities to transport and sell additional volumes of gas to its customers in California and along its Southern Division System east of California. El Paso's Maximum Daily Design Capacity would be increased by 310,282 Mcf per day. El Paso proposes to deliver an additional firm daily quantity of 103,212 Mcf of gas to Pacific Gas and Electric (PG&E), 154,130 Mcf to Southern California Gas Co. and Southern Counties Gas Co. of California (jointly referred to as Southern) and 52,940 to its customers east of California. Notice of this application was issued on February 15, 1967 (32 F.R. 2913).

Petitions seeking leave to intervene in these proceedings were filed as follows:

Petitioner	Date of filing	
	CP67-187 and 188	CP67-217
Texas Independent Producers & Royalty Owners Association.	1-27-67	
Permian Basin Petroleum Association.	1-27-67	
West Central Texas Oil & Gas Association.	1-27-67	
Northwest Pipeline Corp.	2- 6-67	
Cascade Natural Gas Corp.	2- 6-67	
El Paso Natural Gas Co.	2- 6-67	
California Gas Producers Association.	2- 6-67	2-23-67
Pacific Gas & Electric Co.	2- 6-67	3- 3-67
Independent Petroleum Association of America.	2- 6-67	
Washington Natural Gas Co.	2- 6-67	3- 3-67
Transwestern Pipeline Co.	2- 6-67	2-23-67
City & County of San Francisco	2- 6-67	3- 6-67
Independent Oil & Gas Producers of California.	2-13-67	2-23-67
Southern California Gas Co. & Southern Counties Gas Co. of California.		2-27-67
Arizona Public Service Co.		3- 3-67
San Diego Gas & Electric Co.		3- 3-67
City of Los Angeles		3- 3-67

Notices of intervention were filed in these proceedings by the following parties: (1) Public Utility Commissioner of Oregon; (2) The People of The State of California and The Public Utilities Commission of the State of California; (3) State of Texas and The Railroad Commission of Texas; (4) Idaho Public Utilities Commission; (5) Washington Utilities and Transportation Commission.

On March 10, 1967, the California Gas Producers Association and the Independent Oil and Gas Producers of California filed a motion to consolidate the above-styled proceedings. The latter organizations represent numerous California gas producers from whom PG&E purchases natural gas. It is their contention that PG&E's market will not expand at a sufficient rate to utilize all of the additional gas that that company will acquire in the next few years in the event the Commission issues the certificates sought by the applicants in the above-styled proceedings. It is the fear of these California producers that in the event that PG&E does acquire an over-supply of natural gas as a result of the issuance of certificates sought in these proceedings they will suffer revenue losses because PG&E will be forced to cut back on its natural gas purchases from local sources of supply.

Answers to the Motion to Consolidate were filed by El Paso, The State of Texas, Pacific Gas, PG&E, Southern, San Diego Gas and Electric Co., and the Public Utility Commissioner of Oregon (Oregon). All but Oregon opposed the Motion to Consolidate.

Issues which have been raised and which we believe are present in this proceeding require that a formal hearing be held on the applications. These issues make it apparent that the applications should be consolidated for a joint hearing. Accordingly, we will require that a formal hearing be held at the earliest reasonable time. In order to expedite the matter it would seem appropriate that those issues which will be tried be specified insofar as possible.

A review of the applications, the petitions to intervene, and the motion raises questions which we feel must be disposed of in this proceeding. Among these, and without limitation to the presentation of other questions by the parties, are the following:

1. Is there a market at this time for the volumes of gas proposed to be transported and sold in these applications?

2. Should the Commission permit the importation of the volumes of gas herein proposed without limitation, in the light of the facts in this case?

3. Is it preferable that other markets along the route of either pipeline receive the gas proposed to be transported and sold, in preference to the proposed markets herein? Should provision be made for those markets?

4. Are there alternative means available to meet the requirements of the customers proposed to be served which would be more preferable than the proposal herein?

We find that there should be a resolution of these issues without foreclosing a consideration of any other issues which may be raised. In order to expeditiously process this matter, the parties should be required to set forth any other issues which they believe are involved. To accomplish this, we will require that the parties to the proceeding submit, in writing, on or before September 27, 1967, a specification, in detail, of any other issues which they believe are present in this matter. We will thereafter institute a prehearing conference to be held before an examiner on October 17, 1967. At this conference all parties should attempt further to limit the issues in this proceeding, to stipulate as to evidentiary

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[4] The rate reduction to 16 cents had been stayed pending judicial review.

[5] While 3 of the 4 proposed changes are nominally decreased rate filings, they also represent increases above the initial rate determined to be proper in Opinion No. 436. For this reason, the 5-month suspension periods provided in the June 7 order remain justifiable.

[6] The 10th Circuit on Mar. 9, 1967, in *Pan American Petroleum Corp., et al. v. F.P.C.* affirmed the Commission's in-line base price determination in Opinion No. 436, but remanded the proceedings to the Commission for further consideration of the tax reimbursement allowance, among other things.

matters, to resolve those issues which are capable of resolution on agreed evidence, and to use any other possible means to dispose of this matter consistent with due process and the Natural Gas Act.

The Commission finds:

(1) It is desirable to allow the above-named petitioners to intervene in these proceedings in order to show what further action may be appropriate under the circumstances in the administration of the Natural Gas Act.

(2) The processing of this proceeding will be expedited by the filing of statements of proposed issues by the participants herein and discussion thereafter at a prehearing conference, prior to the submittal of prepared testimony on the issues involved.

(3) It is necessary and appropriate that the proceedings in the above-named applications be consolidated for hearing and decision. It appears that the scheduling of a prehearing conference prior to the formal hearing may be in the public interest.

The Commission orders:

(A) The above-designated matters are consolidated for the purposes of hearing and disposition.

(B) Each of the above-mentioned Petitioners is permitted to intervene in these proceedings subject to the rules and regulations of the Commission: *Provided, however*, That the participation of such interveners shall be limited: to matters affecting asserted rights and interests specifically set forth in the petitions to intervene: *And provided, further*, That the admission of such interveners shall not be construed as recognition by the Commission that they or any of them might be aggrieved by any order or orders entered in these proceedings.

(C) The parties to this proceeding shall submit in writing on or before September 27, 1967, a statement of the issues which they believe have been raised by the above-docketed applications. The statement of issues need not include those issues already noted by the Commission in this order. Said statement of issues shall be served on the other parties to the proceeding and the Commission staff, in accordance with the Commission's rules.

(D) A prehearing conference be convened in the proceedings entitled Pacific Gas Transmission Co., et al., Docket Nos. CP67-187 et al. in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. on October 17, 1967, at 10 a.m., e.d.s.t. The Chief Examiner will designate an appropriate officer of the Commission to preside at the prehearing conference and at the formal hearing of these matters, pursuant to the Commission's rules of practice and procedure. The Examiner shall fix a date of hearing and, subject to further order of the Commission, shall be responsible for the conduct of these proceedings.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-8949; Filed, Aug. 1, 1967; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-2137]

INSURANCE SECURITIES TRUST FUND

Notice of Filing of Application

JULY 26, 1967.

Notice is hereby given that Insurance Securities Trust Fund ("ISTF"), 100 California Street, San Francisco, Calif. 94120, a California trust registered under the Investment Company Act of 1940 ("Act") as an open-end diversified investment company, has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission exempting from the provisions of section 22(d) certain sales at a reduced sales load, or without sales load, upon the reinvestment of the proceeds of Participating Agreements upon maturity. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

Insurance Securities Incorporated ("ISI") is the principal underwriter for, and investment adviser of, ISTF. Under the Trust Agreement, ISI is entitled to be paid a creation fee or sales load of 8.85 percent on each Single Payment Participating Agreement and a like amount on the aggregate amount paid on each Accumulative Plan Participating Agreement. Until recently, investors who wished to reinvest all or a portion of the proceeds of a matured Participating Agreement in a new Participating Agreement paid the full 8.85 percent sales load applicable to new Participating Agreements.

Beginning March 27, 1967, ISI, by waiver, eliminated the sales load on the reinvestment at maturity (or within 60 days thereafter) in the single payment security then being issued by ISTF of all or a portion of the proceeds payable upon maturity of any Participating Agreement issued on or after March 27, 1967. At the same time ISI, by waiver, also reduced from 8.85 percent to 5 percent the sales load on the reinvestment at maturity (or within 60 days thereafter) in the single payment security then being issued by ISTF of all or a portion of the proceeds payable upon maturity of any Single Payment Participating Agreement or Accumulative Plan Participating Agreement issued, outstanding and fully paid as of March 24, 1967. In the case of any Accumulative Plan Participating Agreement issued and outstanding as of March 24, 1967, but not fully paid as of that date, all or a portion of the maturity proceeds may, within 60 days following maturity, be reinvested in the single payment security then being issued by ISTF subject to a sales load of 5 percent of the lesser of (a) that portion of the maturity proceeds which is equal to the net asset value on maturity of the sum of the net asset value of such Participating Agreement as of March 24, 1967, and any amounts withdrawn therefrom but not repaid as of March 24, 1967, or (b) the amount reinvested. The minimum amount which may be reinvested without load or at the reduced load of 5 percent is $1,000, or the entire proceeds upon maturity if such proceeds are less than $1,000.

ISI intends, subject to satisfactory resolution of problems of tax considerations and administrative feasibility, to propose to the board of directors of ISTF, for proposal in turn to investors in ISTF, amendments to the Trust Agreement that would effectuate substantially the following results: (1) Each holder of a Participating Agreement issued and outstanding as of March 24, 1967, would have a right to convert immediately prior to maturity all or a portion of his equity in the Participating Agreement into the form of single payment security then currently being issued by the Trust Fund, at a fee commensurate with the reduced 5 percent sales load as described above; (2) provide a similar conversion right, but with no fee for such conversion, to each holder of a Participating Agreement issued on or after March 27, 1967, and prior to the effective date of the amendments to the Trust Agreement; and (3) provide that prior to maturity of any Participating Agreement issued from and after the effective date of such amendments, such Participating Agreement will be replaced, at no charge to the investor and with no act required on his part, with the form of single payment security then currently being issued by ISTF.

ISTF asserts that the transactions described above do not and will not violate the terms or the intent of section 22(d) of the Act. It represents, however, that because the proposed incorporation of the terms of the transactions into the Trust Agreement will result in that document providing for one creation fee or sales load upon the issuance of redeemable securities for newly invested funds, and a lesser creation fee or no creation fee upon the issuance of redeemable securities for reinvested funds, it is applying for the order requested so as to avoid any possible prejudice to the rights of any investor.

Section 22(d) of the Act provides: "No registered investment company shall sell any redeemable security issued by it to any person except either to or through a principal underwriter for distribution or at a current public offering price described in the prospectus, and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person except a dealer, a principal underwriter or the issuer, except at a current public offering price described in the prospectus: *Provided, however*, That nothing in this subsection shall prevent a sale made (i) pursuant to an offer of exchange permitted by section 11 hereof including any offer made pursuant to clause (1) or (2) of section 11(b); (ii) pursuant to an offer made solely to all registered holders of the securities, or of a particular class or series of securities issued by the company proportionate to their holdings or proportionate to any cash distribution made to them by the company (subject to appropriate qualifications designed solely to avoid issuance of fractional securities); or (iii) in accordance with rules and regulations of the Commission made pursuant to subsection (b) of section 12."

Section 6(c) of the Act provides: "The Commission, by rules and regulations upon its own motion, or by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of this title or of any rule or regulation thereunder, 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 this title."

Notice is further given that any interested person may, not later than August 11, 1967, 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 should 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 ISTF 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 this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-8957; Filed, Aug. 1, 1967; 8:45 a.m.]

INTERAMERICAN INDUSTRIES, LTD.

Order Suspending Trading

JULY 27, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the capital stock of Interamerican Industries, Ltd., Calgary, Alberta, Canada, being traded in the United States otherwise than on a national securities exchange is required in the public interest and for the protection of investors.

It is ordered, Pursuant to section 15 (c)(5) of the Securities Exchange Act of 1934, that trading in the United States in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period July 28, 1967, through August 6, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-8958; Filed, Aug. 1, 1967; 8:45 a.m.]

[70-4511]

NEW ENGLAND ELECTRIC SYSTEM

Notice of Proposed Amendment of Debenture Indenture

JULY 27, 1967.

Notice is hereby given that New England Electric System ("NEES"), 441 Stuart Street, Boston, Mass. 02116, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 thereof as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

In 1947, pursuant to an order of the Commission under section 11(e) of the Act (26 SEC 1), New England Power Association, the predecessor company of NEES, issued $75 million of debentures and $10 million of 10-year serial notes. The Indenture relating to the debentures contained covenants specifying the amount of funded debt and preferred stock that might be issued by subsidiary companies and funded debt that might be issued by the parent company. The filing states, among other things, that since 1947 NEES has increased its common-share equity by over $185 million, thereby increasing its consolidated common-share equity ratio at December 31, 1966, to 36.7 percent. Of said $85 million of debt issued by the parent company in 1947, only $43,476,000 of the 3¼ percent Debentures, due 1977, remain outstanding.

NEES now proposes to amend the Indenture to substitute for security issues tests based upon consolidated capitalization and surplus in place of the present test based upon consolidated net assets. As amended, the Indenture will permit a maximum consolidated funded debt ratio of 65 percent of consolidated capitalization and surplus and will reduce the maximum funded debt of NEES itself to 15 percent thereof. In addition, it will provide for a minimum consolidated common-share equity ratio of 30 percent. In the computation of consolidated common equity, minority interests in the common equities of subsidiary companies are not to be included therein except pursuant to specific authorization of the Commission, but, in the computation of consolidated capitalization and surplus, such minority interests are to be included and shown separately as such. The issue of debt and equity securities by NEES and its subsidiary companies remains, as heretofore, subject to the standards and requirements of sections 6 and 7 of the Act.

The declaration states that the written consent of holders of not less than 66⅔ percent in principal amount of the outstanding debentures are required for the adoption of the proposed amendments and that the five principal holders of the debentures, representing over $38 million of the $43,476,000 of debentures presently outstanding, have orally agreed to the substance of the proposed amendments. It is further stated that the solicitation of consents from debenture holders will be subject to the exemption provided by Rule 62(b)(1), since NEES has not and will not solicit consents from more than 10 such holders.

Fees and expenses in connection with the proposed transaction are estimated not to exceed $23,000, including a legal fee of $6,000 and charges, at cost, of the system service company of $12,000. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than August 18, 1967, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certifiate) should be filed with the request. At any time after said date, the declaration, as filed or as amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-8959; Filed, Aug. 1, 1967; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

July 28, 1967.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the Federal Register.

Long-and-Short Haul

FSA No. 41082—*Cast iron soil pipe from Holt, Ala.* Filed by O. W. South, Jr., agent (No. A5047), for interested rail carriers. Rates on cast iron soil pipe and related articles, in carloads, from Holt, Ala., to Quakertown, Pa.

Grounds for relief—Private truck competition.

Tariff—Supplement 57 to Southern Freight Association, agent, tariff ICC S-243.

FSA No. 41083—*Steel or wrought iron pipe from Minnequa, Colo.* Filed by Southwestern Freight Bureau, agent (No. B-8996), for interested rail carriers. Rates on pipe, steel, or wrought iron, in carloads, as described in the application, from Minnequa, Colo., to Cleburne, Tex. and points taking the same rates.

Grounds for relief—Short-line distance formula and grouping.

Tariff—Supplement 72 to Southwestern Freight Bureau, agent, tariff ICC 4620.

By the Commission.

[seal] H. Neil Garson, *Secretary.*

[F.R. Doc. 67-8971; Filed, Aug. 1, 1967; 8:46 a.m.]

[Notice 457]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

July 28, 1967.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission, under the Commission's Deviation Rules Revised, 1957 (49 CFR 211.1(c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1(d)(4)).

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

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

Motor Carriers of Property

No. MC 2202 (Deviation No. 95) (Cancels Deviation No. 40), ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, Ohio 44309, filed July 17, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Charleston, S.C., over Interstate Highway 26 to junction U.S. Highway 276, near Laurens, S.C., thence over U.S. Highway 276 to Greenville, S.C., and (2) from Charleston, S.C., over Interstate Highway 26 to Asheville, N.C., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Charleston, S.C., over U.S. Highway 78 to junction U.S. Highway 301, thence over U.S. Highway 301 to junction U.S. Highway 21, thence over U.S. Highway 21 to Columbia, S.C., thence over U.S. Highway 76 to junction South Carolina Highway 14, thence over South Carolina Highway 14 to junction U.S. Highway 276, thence over U.S. Highway 276 to Greenville, S.C., and (2) from Charleston, S.C., over the above described route to Greenville, S.C., thence over U.S. Highway 25 to Asheville, N.C., and return over the same routes.

No. MC 2202 (Deviation No. 96), ROADWAY EXPRESS, INC., 1077, Gorge Boulevard, Post Office Box 471, Akron, Ohio 44309, filed July 17, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between Oklahoma City, Okla. and Checotah, Okla., over Interstate Highway 40, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Oklahoma City, Okla., over U.S. Highway 62 to junction U.S. Highway 75, at Henryetta, Okla., thence over U.S. Highway 266 to Checotah, Okla., and return over the same route.

No. MC 99744 (Sub-No. 2) (Deviation No. 1) (Correction), VICTOR GROTHAUS, DBA GROTHAUS EXPRESS, 201 East Fourth Street, Kingsley, Iowa 51028, filed June 30, 1967. Carrier's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68102. Published in the Federal Register July 12, 1967, should be corrected to read as follows: Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction U.S. Highway 59 and Iowa Highway 141, approximately 3 miles north of Denison, Iowa, over Iowa Highway 141, to junction Interstate Highway 29 near Sloan, Iowa, thence over Interstate Highway 29 to Sioux City, Iowa, and return over the same route with no transportation for compensation, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Omaha, Nebr., over U.S. Highway 30 to Denison, Iowa, (2) from Denison, Iowa, over U.S. Highway 59 to junction U.S. Highway 20, and (3) from junction U.S. Highway 20 and 59 over U.S. Highway 20 to Sioux City, Iowa, and return over the same routes, with no transportation for compensation, except as otherwise authorized.

Motor Carriers of Passengers

No. MC 1515 (Deviation No. 394) (Cancels Deviation No. 206), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, Ohio 44113, filed July 17, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express*, and *newspapers* in the same vehicle with passengers over a deviation route as follows: From Columbus, Ohio, over Interstate Highway 70 to junction Indiana Highway 3, approximately 1 mile north of Spiceland, Ind., thence over Indiana Highway 3 to junction U.S. Highway 40 at Dunreith, Ind., with the following access routes (1) from Springfield, Ohio, over present certificated U.S. Highway 40 to junction Interstate Highway 70 east of Harmony, Ohio, (2) from Springfield, Ohio, over Ohio Highway 4 to junction Interstate Highway 70 north of Enon, Ohio, (3) from Dayton, Ohio, over Ohio Highway 4 to junction Interstate Highway 70 southwest of Medway, Ohio, (4) from Dayton, Ohio, over Ohio Highway 49 to junction Interstate Highway 70 northwest of Taylorsburg, Ohio, (5) from Richmond, Ind., over U.S. Highway 40 to junction Interstate Highway 70 east of Richmond, Ind., (6) from Richmond, Ind., over U.S. Highway 35 to junction Interstate Highway 70 northwest of Richmond, Ind., and (7) from junction Interstate Highway 70 and Indiana Highway 1A, over Indiana Highway 1A to junction U.S. Highway 40, approximately 2 miles east of Cambridge City, Ind., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service routes as follows: (1) From Dayton, Ohio, over Ohio Highway 4 to Springfield, Ohio, (2) from Springfield, Ohio, over U.S. Highway 40 via Summerford and West Jefferson to Columbus, Ohio, also from Summerford over Ohio Highway 142 to West Jefferson, Ohio, (3) from Washington, Pa., over U.S. Highway 40 via Springfield, Ohio to Brandt, Ohio, (4) from Dayton, Ohio, over U.S. Highway 35 to Richmond, Ind., thence over U.S. Highway 40 via Stilesville to Manhattan, Ind., (5) from Brandt, Ohio, over U.S. Highway 40 to junction U.S. Highway 35, and (6) from Springfield, Ohio, over Ohio Highway 4 to Dayton, Ohio, and return over the same routes.

No. MC 61598 (Deviation No. 4), SMOKY MOUNTAIN STAGES, INC., Post Office Box 2387, Charlotte, N.C. 28201, filed July 19, 1967. Carrier's representative: Edward G. Villalon, 1735 K Street NW., Washington, D.C. 20006. Carrier proposes to operate as a *common* *carrier*, by motor vehicle, of *passengers and their baggage*, and *express, and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Marietta, Ga., over Georgia Highway 120 to junction U.S. Highway 41, thence over U.S. Highway 41 to junction Franklin Road, thence over Franklin Road to junction Interstate Highway 75, thence over Interstate Highway 75 to Atlanta, Ga., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: Between Marietta, Ga., and Atlanta, Ga., over U.S. Highway 41.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67-8972; Filed, Aug. 1, 1967; 8:46 a.m.]

[Notice 1090]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JULY 28, 1967.

The following publications are governed by Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER issue of April 20, 1966, which became effective May 20, 1966.

The publications hereinafter set forth reflect the scope of the applications *as filed* by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 76065 (Sub-No. 16) (Amendment), filed March 6, 1967, published FEDERAL REGISTER issue of March 23, 1967, amended July 21, 1967, and republished as amended this issue. Applicant: EHRLICH - NEWMARK TRUCKING CO., INC., 248 West 35th Street, New York, N.Y. 10001. Applicant's representative: Martin Werner, 2 West 45th Street, New York, N.Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, loose, on hangers, and *materials and supplies* used in the manufacture of wearing apparel, between New York, N.Y., Trenton, N.J., Philadelphia and Harrisburg, Pa., Wilmington, Del., Baltimore, Md., and Washington, D.C., and points in their respective Commercial Zones, as defined by the Commission, on the one hand, and, on the other, points in Appomattox, Shenandoah, and Lancaster Counties, Va., and Norfolk, Newport News, Roanoke, Richmond, and Portsmouth, Va.

NOTE: The purpose of this republication is to correctly set forth the destination territory, and add the hearing information. *HEARING:* September 18, 1967, in Hearing Room B, Federal Trade Commission, 14th Floor, 30 Church Street, New York, N.Y., before Examiner Edith H. Cockrill.

No. MC 85465 (Sub-No. 10) (Republication), filed July 22, 1965, published FEDERAL REGISTER issue of August 11, 1965, and republished this issue. Applicant: WEST NEBRASKA EXPRESS, INC., Post Office Box 350, Scottsbluff, Nebr. Applicant's representative: John P. Thompson, Capitol Life Center, Denver, Colo. 80203. By application filed July 22, 1965, applicant seeks a certificate of public convenience and necessity authorizing operation in interstate or foreign commerce, as a common carrier, by motor vehicle, over regular routes, of general commodities (except those of unusual value, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), (1) from Scottsbluff, Nebr., to Rapid City, S. Dak.; from Scottsbluff over Nebraska Highway 71 to junction Nebraska Highway 2, thence over Nebraska Highway 2 to junction U.S. Highway 20 at Crawford, Nebr., thence over U.S. Highway 20 to junction U.S. Highway 385, thence over U.S. Highway 385 to junction U.S. Highway 16, thence over U.S. Highway 16 to Rapid City, and return over the same route, serving the intermediate point of Crawford and the off-route point of Chadron, Nebr., and (2) from Alliance, Nebr., to Rapid City, S. Dak.; from Alliance over U.S. Highway 385 to junction U.S. Highway 16, and thence over U.S. Highway 16 to Rapid City, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only, in connection with applicant's presently authorized regular-route operations. A Report of the Commission, Review Board Number 2, decided July 14, 1967, finds that the present and future public convenience and necessity require operation by applicant as a *common carrier* by motor vehicles, over regular routes, of *general commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Scottsbluff, Nebr., and Rapid City, S. Dak., from Scottsbluff over Nebraska Highway 71 to junction Nebraska Highway 2, thence over Nebraska Highway 2, to junction U.S. Highway 20 at Crawford, Nebr., thence over U.S. Highway 20 to junction U.S. Highway 385, thence over U.S. Highway 385 to junction U.S. Highway 16, thence over U.S. Highway 16 to Rapid City, and return over the same route, serving the intermediate point of Crawford and the off-route point of Chadron, Nebr., subject to the restriction that the authority granted herein shall not be tacked or joined directly or indirectly, with any authority now held by applicant for the purpose of performing any through service. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 113678 (Sub-No. 110) (Republication), filed March 8, 1965, published FEDERAL REGISTER issue of March 25, 1965, and republished this issue. Applicant: CURTIS, INC., 770 East 51st Avenue, Denver, Colo. 80216. Applicant's representative: Duane W. Acklie, Post Office Box 2028, Lincoln, Nebr. By application filed March 8, 1965, applicant seeks a certificate of public convenience and necessity authorizing operation in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of meats, meat products, meat byproducts, dairy products, and articles distributed by meat packinghouses, as described in sections A, B and C, of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), between Greeley and Denver, Colo. NOTE: Applicant states the sole purpose of the instant application is for tacking with existing authority held in Docket No. MC 113678. A Report of the Commission, Review Board Number 2, dated July 14, 1967, served July 21, 1967, finds that the present and future public convenience and necessity require operations by applicant as a *common carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, of *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, between Denver and Greeley, Colo., restricted against joinder with the authority granted herein in No. MC 113678 (Sub-Nos. 98, 102, 111, 131, 148, and 157), and from Denver, Colo., to points in Alabama, Louisiana, Mississippi, Minnesota, Nebraska, North Dakota, South Dakota, points in the part of Iowa, on and west of U.S. Highway 169 (except Sioux City, Iowa, and its commercial zone), Kansas, Missouri, and Wisconsin. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 117119 (Sub-No. 389) (Republication), filed July 21, 1966, published FEDERAL REGISTER issue of September 1, 1966, and republished this issue. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., Elm Springs, Ark. 72728. Applicant's representative: John H. Joyce, 26 North College, Fayetteville, Ark. 72702. By application filed July 21, 1966, as amended, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes (1) of engravers' plates zinc, peto distillate, and (2) of chemicals and photographer's materials, in vehicles equipped with temperature controlled devices, restricted against transportation in bulk, in tank vehicles, from and to the points indicated below. An Order of the Commission, Operating Rights Board, dated July 14, 1967, and served July 21, 1967, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of (1) engravers' plates zinc, (2) petroleum distillate, (3) chemicals, and (4) photographers' materials from Brooklyn and Bronx, N.Y., to Joplin, Mo.; to Little Rock, Hot Springs, and Texarkana, Ark.; to Tulsa and Oklahoma City, Okla.; to Dallas, Houston, Fort Worth, San Antonio, Austin, Waco, and Corpus Christi, Tex.; to Wichita and Parsons, Kans.; to Denver and Colorado Springs, Colo.; to Los Angeles and San Francisco, Calif.; and to Memphis, Tenn., restricted against transportation of the commodities in bulk, in tank vehicles; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 117304 (Sub-No. 15) (Republication), filed December 9, 1966, published FEDERAL REGISTER Issue of January 6, 1967, and republished this issue. Applicant: DON PAFFILE, doing business as, PAFFILE TRUCK LINES, 2906 29th Street North, Lewiston, Idaho 83501. By application filed December 9, 1966, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of wood chips and sawdust, in bulk, in special equipment, from St. Maries, Coeur d'Alene, and Albeni Falls, Idaho, to Millwood, Wash. An Order of the Commission, Operating Rights Board No. 1, dated July 13, 1967, and served July 21, 1967, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of *wood chips*, in bulk, from St. Maries and Coeur d'Alene, Idaho, and the millsite of the Diamond National Corp. at Albeni Falls near Priest River, Idaho, to Millwood, Wash.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 128231 (Republication), field May 18, 1966, published FEDERAL REGISTER issue of June 16, 1966 and republished this issue. Applicant: JAY SMITH PRODUCT, INC., Post Office Box 233, Springdale, Ark. Applicant's representatives: Nancy Peyatt & Lester M. Bridgeman, Woodward Building, Washington, D.C. By application filed May 18, 1966, applicant seeks a permit authorizing operation, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of frozen poultry, frozen poultry with dressing, and frozen precooked poultry product, from the plantsites and storage facilities of Tyson's Foods, Inc., in Springdale, Rogers, and Lincoln, Ark., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah, Washington, and Wyoming, under a continuing contract with Tyson's Foods, Inc., of Springdale, Ark. An order of the Commission, Operating Rights Board No. 3, decided July 5, 1967, and served July 24, 1967, finds that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, (1) of *frozen poultry products*, and (2) of *frozen poultry and frozen poultry with dressing*, when moving in mixed loads with frozen poultry products, from the plantsites and storage facilities of Tyson's Foods, Inc., at Springdale, Rogers, and Lincoln, Ark., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah, Washington, and Wyoming, under a continuing contract or contracts with Tyson's Foods, Inc., of Springdale, Ark., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen of for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE OF FILING OF PETITIONS

No. MC 22285 (Notice of Filing of Petition for Waiver of Rule 1.101(e) of the Commission's General Rules of Practice and to Reopen the Above-Entitled Proceeding for Reconsideration or Further Hearing), filed June 26, 1967. Petitioner: OSCAR DUNCAN, Rolla, Mo. Petitioner's representative: Thomas F. Kilroy, Suite 913 Colorado Building, 1341 G Street, NW., Washington, D.C. 20005. Petitioner predecessor in interest to Charles Duncan, holds the following certificate authorizing the transportation by motor vehicle, over regular routes: Between Vichy, Mo., and International Stockyards, Ill.: *General commodities*, except articles of unusual value, and except dangerous explosives, household goods (when transported as separate and distinct service in connection with so-called household movings), commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading, from Vichy over U.S. Highway 63 to Rolla, Mo., thence over U.S. Highway 66 to International Stockyards; and *Fertilizer, mill feed*, and *roofing*, from International Stockyards over the above-specified route to Vichy. Service is authorized to and from the intermediate points of Rolla, St. James, Knobeview, Fanning, Cuba, and St. Louis, Mo., and East St. Louis, Ill.; and off-route points within 20 miles of Rolla. Irregular routes: *Household goods*, between Rolla, Mo., and points and places within 15 miles of Rolla, on the one hand, and, on the other, points and places in Illinois. Petitioner has always believed he could transport general commodities with certain exceptions, between Vichy and the St. Louis area. However, in order to remove any cloud on this two-way general-commodity authority, petitioner requests the Commission waive Rule 1.101(e), accept this petition for reconsideration or further hearing, and assign the petition for hearing at the same time and place as No. MC-F-9556, and an application filed by petitioner on June 23, 1967, in MC 22285 Sub. No. 1, published in the FEDERAL REGISTER, issue of July 13, 1967. Any interested person desiring to participate, may file an original and six copies of his written representations, views or argument in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 108524 (Sub-No. 1) (Notice of filing of petition for reinstatement of permit), filed July 6, 1967. Petitioner: CARTAGE, INC., South Bend, Ind. Petitioner's representative: John E. Lesow, 3737 North Meridian Street, Indianapolis, Ind. 46208. Petitioner previously held a Permit dated September 2, 1948, authorizing it to conduct operations as a contract carrier, transporting: Such commodities as are dealt in by retail grocery stores, but not including malt beverages, over irregular routes, from South Bend, Ind., to points in St. Joseph, Porter, La Porte, Elkhart, Lagrange, Noble, Kosciusko, Marshall, Fulton, Starke, Pulaski, and Whitley Counties, Ind., and to points in Berrien, St. Joseph and Cass Counties, Mich., and empty containers used in the transportation of the above-described commodities, on return. Pursuant to an order in MC-C-2253, dated December 12, 1958, the above-referred-to permit was revoked. Petitioner states that at the time the permit was revoked its business became intrastate in nature, however, its shipper's requirements have been revised so that the shipments are interstate in nature. By the instant petition, petitioner prays that its petition be granted, and that the permit which was revoked by order of the Commission be reinstated. Any interested person desiring to participate, may file an original and six copies of his written representations, views or argument in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATION FOR CERTIFICATE OR PERMIT WHICH IS TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 1.240 TO THE EXTENT APPLICABLE

No. MC 2202 (Sub-No. 327), filed July 21, 1967. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Akron, Ohio 44309. Applicant's representative: Russell R. Sage, 2001 Massachusetts Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving points in Rhode Island as off-route points in connection with applicant's existing regular route authority. NOTE: This application is directly related to MC-F-9829, published in the FEDERAL REGISTER this issue. If a hearing is deemed necessary, applicant requests it be held at Providence, R.I., or Washington, D.C.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-9823. Authority sought for purchase by BILL HODGES TRUCK COMPANY, INC., Route No. 4, Box 340, Oklahoma City, Okla. 73111, of a portion of the operating rights of L. C. JONES TRUCKING COMPANY, Post Office Box 4368, Oklahoma City, Okla., and for acquisition by HAROLD L. HODGES, 4701 Northeast 23d Street, Oklahoma City, Okla., JAMES D. HODGES, 1816 Hillcrest, Woodward, Okla., W. CLARENCE HODGES, AND MARGARET HODGES, EXECUTRIX OF THE ESTATE, 4300 North Bryant, Oklahoma City, Okla., of control of such rights through the purchase. Applicants' attorney: Rufur H. Lawson, Post Office Box 75124, Oklahoma City, Okla. 73107. Operating rights sought to be transferred: *Machinery, equipment, materials,* and *supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their products and byproducts, and *machinery, equipment, materials,* and *supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, except the stringing and picking up of pipe in connection with main or trunk pipelines, as a *common carrier*, over irregular routes, between points in Oklahoma, on the one hand, and, on the other, points in Nebraska, North Dakota, and South Dakota; and in pending Docket No. MC-19564 Sub 58, that portion seeking a certificate of public convenience and necessity, covering the transportation of (1) earth drilling machinery and equipment, and (2) machinery, equipment, materials, supplies and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in Oklahoma, on the one hand, and, on the other, points in Nebraska, North Dakota, and South Dakota. (This authority was granted pursuant to Decision and order, by Division 1, dated December 28, 1966, and supplemented April 18, 1967, in MC-4964 Sub 31 et al. The certificate in MC-19564 Sub 58 has not been issued yet.) Vendee is authorized to operate as a *common carrier* in Oklahoma, Kansas, and Texas. Application has been filed temporary authority under section 210a(b).

No. MC-F-9824. Authority sought for purchase by SHIPPERS DISPATCH, INC., 1216 West Sample Street, South Bend, Ind., of a portion of the operating rights of SUPREME EXPRESS AND TRANSFER CO., 411 South 15th Street, St. Louis, Mo., and for acquisition by A. D. HUFFMAN and ROY L. ROELKE, both also of South Bend, Ind., of control of such rights through the purchase. Applicants' attorneys: G. M. Rebman, 314 North Broadway, St. Louis, Mo. 63102 and Ernest E. Brooks, II, 1301 Ambassador Building, St. Louis, Mo. 63101. Operating rights sought to be transferred: *General commodities*, except those of unusual value, Classes A and B explosives, malt beverages, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment, as a *common carrier*, over irregular routes, between points in the St. Louis, Mo.-East St. Louis, Ill., Commercial Zone, as defined by the Commission, on the one hand, and, on the other, points in St. Louis County, Mo., not within said commercial zone. Vendee is authorized to operate, as a *common carrier*, in Indiana, Ohio, Michigan, Missouri, and Illinois. Application has not been filed for temporary authority under Section 210a(b).

No. MC-F-9825. Authority sought for control and merger by SITES SILVER WHEEL FREIGHTLINES, INC., 1321 Southeast Water Avenue, Portland, Oreg. 97214, of the operating rights and property of LESTER FREIGHT LINES, INC., 1404 Northwest Overton Street, Portland, Oreg., and for acquisition by GEORGE A BROWNING, JR., also of Portland, Oreg., of control of such rights and property through the transaction. Applicant's attorney: Kenneth G. Thomas, 1321 Southeast Water Avenue, Portland, Oreg. 97214. Operating rights sought to be controlled and merged: *General commodities*, with certain specified exceptions, and numerous other specified commodities, as a *common carrier* over regular and irregular routes, from, to, and between certain specified points in the States of Oregon and Washington, serving numerous intermediate and off-route points, with restrictions, as more specifically described in Docket No. MC-28733 and sub-numbers thereunder. SITES SILVER WHEEL FREIGHTLINES, INC., is authorized to operate, as a *common carrier* in Oregon and Washington. Application has been filed for temporary authority under Section 210a(b).

No. MC-F-9826. Authority sought for continuance in control by SAM BONCARO, Post Office Box 489, East North Street, Geneva, N.Y., of PURDIE EXPRESS LINES, INC., Stanley, N.Y., upon issuance to it of a certificate applied for in pending Docket No. MC-120157 Sub 1. Applicants' attorney: Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006. Operating rights sought to be controlled: In pending Docket No. MC-120157 Sub 1, covering the transportation of *foodstuff, in containers*, as a *common carrier*, over irregular routes, from Hamlin, Holley, and Williamson, N.Y., to those points in that part of New York on and west of U.S. Highway 9, on and south of New York Highway 49 and on and north of New York Highway 17. SAM BONCARO holds no authority from this Commission. However, he controls HOWARD'S EXPRESS, INC., Post Office Drawer, East North Street, Geneva, N.Y. 14456, which is authorized to operate as a *common carrier*, in New York, and New Jersey. Application has not been filed for temporary authority under Section 210a(b).

No. MC-F-9827. Authority sought for purchase by ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn., of the operating rights and property of A. E. KNAPP, doing business as SCHUELKE TRUCKING, New London, Wis., and for acquisition by HAROLD E. ANDERSON, 1020 14th Avenue South, St. Cloud, Minn., ELMER ANDERSON and MABEL S. ANDERSON, both of Isle, Minn., of control of such rights through the purchase. Applicants' attorneys: Donald A. Morken, 1000 First National Bank Building, Minneapolis, Minn. 55402 and John T. Porter, 708 First National Bank Building, Madison, Wis. 53703. Operating rights sought to be transferred: *Cucumbers*, in brine, in barrels, as a *common carrier*, over irregular routes, from Galloway and Manawa, Wis., to points in Illinois, Iowa, and Minnesota; *animal feed*, and *poultry feed*, from Bartonville, Ill., to certain specified points in Wisconsin; *manufactured art stone*, from New London, Wis., to points in Illinois, Michigan, and Minnesota; *lumber*, and *shingles*, from New London, Wis., to points in that part of Illinois located on and north of U.S. Highway 36; *condensed milk*, from New London, Wis., to certain specified points in Illinois; *canned goods*, and *preserves*, from New London, Wis., to points in Illinois and Minnesota; *new furniture, built-up, wood, doors, sash*, and *woodwork*, from New London, Wis., to points in Illinois, Minnesota, the Upper Peninsula of Michigan, and those in that part of Indiana on and west of U.S. Highway 31, and on and north of U.S. Highway 24; *lumber*, from points in the Upper Peninsula of Michigan, to New London, Wis.; *veneer*, from Chicago, Ill., to New London, Wis.; *glassware*, from Alton, Ill., and Lapel, Ind., to New London, Wis.; *tin plate*, from East Chicago, Ind., to New London, Wis.; *materials and supplies used in the manufacture of furniture and woodwork*, from certain specified points in Illinois, to New London, Wis.; *household goods*, between New London, Wis., and points within 35 miles of New London (not including Appleton and Oshkosh, Wis.), on the one hand, and, on the other, points in Illinois, Minnesota, Michigan, and Indiana; *machinery*, between New London, Wis., on the one hand, and, on the other, points in Illinois, Minnesota, and the Upper Peninsula of Michigan; *building materials*, between New London, Wis., on the one hand, and, on the other, points in the Chicago, Ill., commercial zone as defined by the Commission; and *fertilizer*, from Plymouth and Indianapolis, Ind., to certain specified points in Wisconsin; with restrictions. Vendee is authorized to operate as a *common carrier*, in all points in the United States (except, Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC-F-9828. Authority sought for control by ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, Ark. 72901, of C.E.I. & I. EXPRESS, INC., 1245 South West Street., Indianapolis, Ind. 46225, and for acquisition by ARKANSAS BEST CORPORATION, also of Fort Smith, Ark., of control of C. E. I. & I. EXPRESS, INC., through the acquisition by ARKANSAS-BEST FREIGHT SYSTEM, INC. Applicants' attorneys: Thomas Harper, Kelley Building, Post Office Box 43, Fort Smith, Ark., and Kirkwood Yockey, Suite 501, Union Federal Building, Indianapolis, Ind. 46204. Operating rights sought to be controlled: *General commodities*, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, as a *common carrier*, over regular routes, between Cincinnati, Ohio, and Indianapolis, Ind., serving all intermediate points, and serving points in Marion County, Ind., except Julietta and Indianapolis, Ind., as intermediate and off-route points; over one alternate route for operating convenience only. ARKANSAS-BEST FREIGHT SYSTEMS, INC., is authorized to operate as a *common carrier*, in Ohio, Texas, Indiana, Missouri, Oklahoma, Illinois, Kansas, Arkansas, Louisiana, Mississippi, Tennessee, and Wisconsin. Application has been filed for temporary authority under section 210a (b).

No. MC-F-9829. Authority sought for purchase by ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, Ohio 44309, of the operating rights of ROCKET TRANSPORT, INC., 156 Valley Street, East Providence, R.I., and for acquisition by GALEN J. ROUSH, also of Akron, Ohio, of control of such rights through the purchase. Applicants' attorney: Russell R. Sage, 2001 Massachusetts Avenue NW., Washington, D.C. 20036. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC-99500 Sub 1, covering the transportation of property, as a *common carrier*, in intrastate commerce, within the State of Rhode Island. Vendee is authorized to operate as a *common carrier*, in Alabama, Arkansas, Connecticut, Delaware, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New York, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, Wisconsin, West Virginia, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b). NOTE: Docket No. MC-2202 Sub 327 is a matter directly related.

No. MC-F-9830. Authority sought for purchase by TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, Tex. 75222 of a portion of the operating rights of MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, Ill. 60629, and for acquisition by MIDWEST EMERY FREIGHT SYSTEM, INC., and in turn by MILTON D. RATNER, both also of Chicago, Ill.

Applicants' attorneys: Axelrod, Goodman & Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Operating rights sought to be transferred: *Such merchandise* as is dealt in by wholesale or retail food business houses, and in connection therewith, *equipment, materials, and supplies* used in the conduct of such business (except in bulk), as a *common carrier*, over irregular routes, between Muscatine, Iowa, on the one hand, and, on the other, Louisville, Ky., and points in Illinois, Indiana, and Michigan; and *frozen foods*, from certain specified points in Missouri, to points in Connecticut, Delaware, Indiana, Maine (except points north of Maine Highway 25), Maryland, Massachusetts, Michigan, New Jersey, New York, New Hampshire, Vermont, Ohio, Pennsylvania, and Rhode Island, and from Carrollton, Mo., to points in Illinois (except Chicago, Ill.), Iowa, Kentucky, Tennessee, Minnesota, Virginia, West Virginia, Wisconsin, and the District of Columbia. Vendee is authorized to operate as a *common carrier*, in all States (except Alaska and Hawaii). Application has not been filed for temporary authority under Section 210a(b).

No. MC-F-9831. Authority sought for purchase by WINGATE TRUCKING COMPANY, INC., 1004 21st Avenue, Albany, Ga., of a portion of the operating rights of W. J. LANDES, doing business as LANDES' GARAGE, 115 South Augusta Street, Staunton, Va., and for acquisition by W. D. WINGATE, 1152 Mary Avenue, Albany, Ga., of control of such rights through the purchase. Applicants' attorney: Mosby J. Williams, 111 Peoples Federal Building, Roanoke, Va. Operating rights sought to be transferred: *Wooden billets*, under refrigeration, as a *contract carrier*, over irregular routes, from Chelsea, Lincoln, Post Mills, Waits River, and Groton, Vt., and port of entry on the United States-Canada boundary line at or near North Troy, Vt., to Monticello, Ga., and from the port of entry on the United States-Canada boundary line near North Troy, Vt., to Greenville, S.C., with restrictions. Vendee is authorized to operate, as a *common carrier*, in Georgia, Alabama, Florida, Illinois, Indiana, Kentucky, Maryland, Michigan, North Carolina, Ohio, South Carolina, Tennessee, Virginia, Wisconsin, Mississippi, and Louisiana. Application has not been filed for temporary authority under Section 210a(b). NOTE: Dual authority is involved.

No. MC-F-9832. Authority sought for purchase by FOOD TRANSPORT, INC., Post Office Box 1041, York, Pa., of a portion of the operating rights of MILLER'S MOTOR FREIGHT, INC., Post Office Box 345-183, York, Pa., and for acquisition by PAUL W. HIVELY, 237 Dewdrop Road, York, Pa., STEWART LLOYD, 2100 Pleasant View Drive, York, Pa., and J. LOUIS SHULTZ, 508 Carlisle Road, Hanover, Pa., of control of such rights through the purchase. Applicants' attorney: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Operating rights sought to be transferred: *Canned goods*, as a *common carrier* over irregular routes, from Littletown, Pa., to points in New York (except New York, N.Y.) and Ohio. Vendee is authorized to operate, as a *common carrier*, in Pennsylvania, Florida, Maryland, Alabama, Georgia, New Jersey, Louisiana, Texas, New York, Mississippi, West Virginia, Virginia, Delaware, Ohio, Tennessee, Rhode Island, Connecticut, Massachusetts, North Carolina, and the District of Columbia. Application has not been filed for temporary authority under Section 210a(b).

No. MC-F-9834. Authority sought for purchase by IDEAL TRUCK LINES, INC., 912 North State Street, Norton, Kans., of a portion of the operating rights of ZIP TRANSFER, INC., McCook, Nebr., and for acquisition by R. E. BLICKENSTAFF, C. D. BLICKENSTAFF, and FRED L. GILHOUSEN, all of Norton, Kans., of control of such rights through the purchase. Applicants' attorneys: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603, and Einar Viren, 904 City National Bank Building, Omaha, Nebr. 68102. Operating rights sought to be transferred: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier*, over regular routes, between Haigler, Nebr., and Bartley, Nebr., serving all intermediate points except Indianola, Nebr., between Bartley, Nebr., and junction U.S. Highway 83 and Nebraska Highway 23 near Maywood, Nebr., between McCook, Nebr., and Ogallala, Nebr., serving all intermediate points, between Venango, Nebr., and junction U.S. Highways 6 and 34 near Culbertson, Nebr., serving all intermediate points, and the off-route point of Wallace, Nebr., between Palisade, Nebr., and Venango, Nebr., serving all intermediate points, and the off-route points of Enders and Champion, Nebr.; and *general commodities*, excepting as above, over irregular routes, between points in Nebraska within a 50-mile radius of Danbury, Nebr. Vendee is authorized to operate as a *common carrier* in Missouri, Kansas, Nebraska, and Colorado. Application has been filed for temporary authority under section 210a(b). NOTE: MC-F-9835 (GRAVES TRUCK LINE, INC.—PURCHASE (PORTION)—ZIP TRANSFER, INC.) concurrently filed, and published same issue.

No. MC-F-9835. Authority sought for purchase by GRAVES TRUCK LINE, INC., 739 North 10th Street, Salina, Kans., of the remaining portion of the operating rights and property of ZIP TRANSFER, INC., McCook, Nebr., and for acquisition by WILLIAM H. GRAVES, JOHN A. GRAVES, both also of Salina, Kans., LOWELL P. GRAVES, 92 Shawnee Avenue, Kansas City, Kans., and DWIGHT L. GRAVES, 3402 West Harry, Wichita, Kans., of control of such rights and property through the purchase. Applicants' attorneys: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603, and Einar Viren, 904 City National Bank Building, Omaha, Nebr. 68102. Operating rights sought to be transferred: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment, as a *common carrier*, over a regular route, between Denver, Colo., and Saint Francis, Kans., serving no intermediate points, but serving Bird City, Kans., as an off-route point; *general commodities*, excepting, as above, over irregular routes, between points in that part of Colorado east of the Continental Divide, on the one hand, and, on the other, points in Cheyenne County, Kans.; *livestock, grain, livestock feed, seeds, salt, building materials, contractor's tools*, and *equipment, agricultural machinery* and *tools, coal, wood, fencing materials*, and *posts, scrap metals*, and *junk*, between points in Cheyenne, Rawlins, and Sherman Counties, Kans., Yuma County, Colo., and Dundy County, Nebr., on the one hand, and, on the other, Denver, Colo., between points in Cheyenne, Rawlins, and Sherman Counties, Kans., and Yuma County, Colo., on the one hand, and, on the other, points in Dundy County, Nebr., and between points in Cheyenne, Rawlins, and Sherman Counties, Kans., on the one hand, and, on the other, points in Yuma County, Colo. Vendee is authorized to operate as a *common carrier* in Kansas, Missouri, Colorado, Wyoming, Nebraska, Iowa, Oklahoma, Texas, New Mexico, Arkansas, Louisiana, North Dakota, and South Dakota. Application has been filed for temporary authority under section 210a(b). NOTE: MC-F-9834 (IDEAL TRUCK LINES, INC.—PURCHASE PORTION)—ZIP TRANSFER, INC.) concurrently filed, and published same issue.

No. MC-F-9836. Authority sought for purchase by CONSOLIDATED COPPER-STATE LINES, 1220 West Washington Boulevard, Montebello, Calif. 90640, of the operating rights of TIMBERLINE EXPRESS, INC., 9089 South State Street, Sandy, Utah, and for acquisition by HOWARD W. STEELE, also of Montebello, Calif., of control of such rights through the Purchase. Applicants' attorney: Haze Burch, 411 North Central, First National Bank Building, Phoenix, Ariz. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC-120030 Sub 1, covering the transportation of general freight, as a *common carrier*, in intrastate commerce, within the State of Arizona. Vendee is authorized to operate, as a *common carrier*, in California, Arizona, Texas, New Mexico, and Utah. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67-8973; Filed, Aug. 1, 1967; 8:47 a.m.]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

JULY 28, 1967.

The following applications for motor carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. M-1045, filed July 13, 1967. Applicant: LEO A. YANTZER, doing business as CENTER FREIGHT LINES, Center, N. Dak. Applicant's representative: F. J. Smith, Suite 200, Professional Building, Bismarck, N. Dak. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities* between Bismarck and Mandan, N. Dak., on the one hand and Center, N. Dak., and points within 5 miles of Center, N. Dak., on the other, via U.S. Highways 10 and 94 and North Dakota State Highway 25; and between Center, N. Dak., and points within 5 miles thereof and Fort Clark, N. Dak., and points within 5 miles thereof via State Highway 25 and County road. Both intrastate and interstate authority sought.

HEARING: Not yet assigned. Requests for procedural information, including the time for filing protests, concerning this application should be addressed to the North Dakota Public Service Commission, Bismarck, N. Dak. 58501, and should not be directed to the Interstate Commerce Commission.

State Docket No. MT-4523, filed July 3, 1967. Applicant: TURCO'S REFRIGERATED DELIVERY SERVICE, INC., Box 67, Mahopac Avenue, Amawalk, N.Y. 10501. Applicant's representative: Morris Honig, 150 Broadway, New York, N.Y. 10038. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *dairy products*, between New York City, on the one hand, and, on the other, points in Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, Sullivan, Ulster, and Westchester Counties, N.Y. Both intrastate and interstate authority sought.

HEARING: Not yet assigned. Requests for procedural information, including the time for filing protests, concerning this application should be addressed to the New York State Public Service Commission, 55 Elk Street, Albany, N.Y. 12225, and should not be directed to the Interstate Commerce Commission.

State Docket No. A 49548, filed July 13, 1967. Applicant: KERNER TRUCKING

SERVICE, INC., 3687 Bandini Boulevard, Los Angeles, Calif. 90023. Applicant's representative: Donald Murchison, 211 South Beverly Drive, Beverly Hills, Calif. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities*, with the usual exceptions, to, from and between points and places located in the Los Angeles Basin Region, described as: Beginning at the intersection of the westerly boundary of the city of Los Angeles and the Pacific Ocean, thence northerly and easterly along the boundary of the city of Los Angeles to its point of first intersection with the boundary of the Angeles National Forest; thence along the southerly boundary of the Angeles National Forest, and southerly boundary of the San Bernardino National Forest to the point of first intersection of the southerly boundary of the San Bernardino National Forest and the San Bernardino-Riverside County line, thence westerly along the San Bernardino-Riverside County line to a point on said line distant 5 miles east from the junction of said county line and U.S. Highway 91, thence southwesterly along a line parallel to and distant 5 miles from U.S. Highway 91, State Highway 55, to its junction with the Pacific Ocean; thence westerly and northerly along the coast line of the Pacific Ocean to the point of beginning. Both intrastate and interstate authority sought.

HEARING: Not yet assigned. Requests for procedural information, including the time for filing protests, concerning this application should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should not be directed to the Interstate Commerce Commission.

By the Commission.

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

[F.R. Doc. 67-8975; Filed, Aug. 1, 1967; 8:47 a.m.]

[Notice 15]

MOTOR CARRIER TRANSFER PROCEEDINGS

JULY 28, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), 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-69632. By order of July 24, 1967, the Transfer Board approved the transfer to Hawkey Transportation, Inc., Redding, Calif., of Certificate of Registration No. MC-28167 (Sub-No. 2), issued December 18, 1963, to Mary F. Moss and Harold H. Coe, a partnership, doing business as Carl Ingalls Trucking Co., Bakersfield, Calif., authorizing transportation in interstate or foreign commerce pursuant to Certificate of Public Convenience and Necessity granted in Decision No. 48291, dated February 17, 1953, by the Public Utilities Commission of the State of California. Raymond A. Greene, Jr., 405 Montgomery Street, San Francisco, Calif. 94104, attorney for applicants.

No. MC-FC-69692. By order of July 24, 1967, the Transfer Board approved the transfer to Hampshire Trucking Co., Inc., Romney, W. Va. 26757, of the operating rights of Harold W. Good, Wardensville, W. Va. 26851, in Certificates Nos. MC-1539 and MC-1539 (Sub-No. 4), issued July 12, 1949, and August 4, 1950, respectively, authorizing the transportation, over regular routes, of mineral water and carbonated beverages, live poultry and eggs, lime, animal and poultry feed, general commodities, with specified exceptions, and over irregular routes, of livestock, poultry, lumber and barrel staves, scrap iron, coal and fertilizer, between specified points in West Virginia, Washington, D.C., Baltimore, Md., Virginia, and Pennsylvania, varying with the commodities transported. Donald E. Freeman, 172 East Green Street, Post Office Box 806, Westminster, Md. 21157, representative for applicants.

No. MC-FC-69761. By order of July 24, 1967, the Transfer Board approved the transfer to Rainwater Trucking Co., Inc., Fort Smith, Ark. 72901, of the operating rights of OK Transfer & Storage Co., Inc., Fort Smith, Ark. 72901, in Certificate No. MC-30275, issued July 3, 1947, authorizing the transportation of heavy machinery and wooden or metal poles, over irregular routes, between points in Oklahoma on and east of U.S. Highway 77 and those in Arkansas on and west of U.S. Highway 65. J. W. Durden, Post Office Box 43, Fort Smith, Ark. 72901, attorney for applicants.

No. MC-FC-69771. By order of July 24, 1967, the Transfer Board approved the transfer to Emma Peters, doing business as Fremont Express Co., Fremont, Nebr., of Certificate No. MC-99919 (Sub-No. 1), issued January 5, 1959, to Herbert Peters, doing business as Fremont Express Co., Fremont, Nebr., authorizing the transportation of general commodities, with usual exceptions, over specified routes between Fremont, Nebr., and Omaha, Nebr., serving all intermediate points. Emma Peters, 136 East Washington Street, Fremont, Nebr. 68025, representative for applicants.

No. MC-FC-69775. By order of July 24, 1967, the Transfer Board approved the transfer to Merle W. Merchant, Inc., West Palm Beach, Fla., of Certificate of Registration No. MC-97119 (Sub-No. 1) evidencing a right to engage in interstate or foreign commerce, issued May 12, 1964 to T. L. Hudkins, LaBelle, Fla., covering transportation within the State of Florida. John T. Bond, 1955 Northwest 17th Avenue, Miami, Fla. 33125, attorney for applicants.

No. MC-FC-69776. By order of July 24, 1967, the Transfer Board approved the transfer to Garrett Transportation Co., Inc., Somerville, Mass., of Certificate of Registration No. MC-99438 (Sub-No. 1) issued March 10, 1965 to Embassy Transportation Co., Inc., Boston, Mass., evidencing a right to engage in interstate or foreign commerce between points in Massachusetts. Frank J. Weiner, 536 Granite Street, Braintree, Mass. 02184, attorney for transferee. Francis J. Newton, Jr., 6 Beacon Street, Boston, Mass. 02108, attorney for transferor.

No. MC-FC-69783. By order of July 24, 1967, the Transfer Board approved the transfer to CMC Trucking Co., a corporation, Nutley, N.J., of the operating rights in Permit No. MC-124959 issued November 6, 1963, to R & H Trucking Co., Inc., Belleville, N.J., authorizing the transportation of: Prefabricated stairs, doors, windows, locksets, trim and plywood, and installation material, from Belleville, N.J., to points in Connecticut, Delaware, New York, Maryland, and Pennsylvania. Robert B. Pepper, 297 Academy Street, Jersey City, N.J. 07306, representative for applicants.

No. MC-FC-69784. By order of July 24, 1967, the Transfer Board approved the transfer to Beall's Express, Inc., Thurmont, Md., of the operating rights in Certificate No. MC-71558 issued August 10, 1944, to Otto Beall, doing business as Beall's Express, Thurmont, Md., authorizing the transportation of: General commodities, with the usual exceptions, but including the transportation of household goods, between Frederick, Md. and Lancaster, Pa., and between specified points in Maryland. William J. Little, 1513 Fidelity Building, Baltimore, Md. 21201, attorney for applicants.

No. MC-FC-69786. By order of July 24, 1967, the Transfer Board approved the transfer to George A. Fetzer, Inc., Augusta, N.J., of the operating rights in Certificate No. MC-104104 issued January 9, 1958, to George A. Fetzer, Augusta, N.J., authorizing the transportation of: Livestock from points in Michigan, New York, Ohio, and Pennsylvania to points in New Jersey, and New York; Building materials, chemicals, furniture, foodstuffs, and paper, between points in specified counties in New Jersey and New York. James J. Farrell, 201 Montague Place, South Orange, N.J. 07079, representative for applicants.

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

[F.R. Doc. 67-8976; Filed, Aug. 1, 1967; 8:47 a.m.]

[4th Rev. S.O. 562, ICC Order No. 228; Amdt. 2]

CHICAGO, BURLINGTON & QUINCY RAILROAD CO.

Rerouting and Diversion of Traffic

Upon further consideration of ICC Order No. 228 (Chicago, Burlington &

Quincy Railroad Co.) and good cause appearing therefor:

It is ordered, That:

ICC Order No. 228 be, and it is hereby amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date*. This order shall expire at 11:59 p.m., October 31, 1967, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., July 31, 1967, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement, and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., July 28, 1967.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 67-8977; Filed, Aug. 1, 1967; 8:47 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—AUGUST

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during August.

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