FEDERAL REGISTER

VOLUME 33 • NUMBER 105

Wednesday, May 29, 1968 • Washington, D.C.

Pages 7813–7866

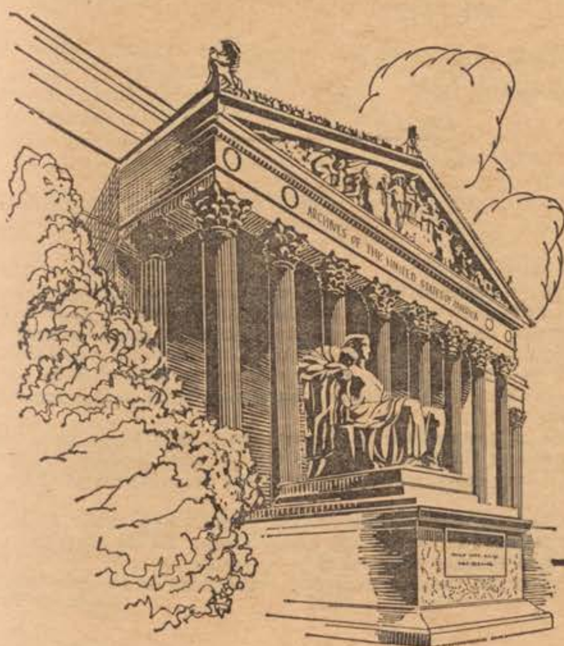
PART I

(Part II begins on page 7861)

Agencies in this issue—

Agricultural Research Service
Agriculture Department
Atomic Energy Commission
Civil Aeronautics Board
Civil Service Commission
Consumer and Marketing Service
Customs Bureau
Farm Credit Administration
Federal Communications Commission
Federal Highway Administration
Federal Maritime Commission
Federal Power Commission
Food and Drug Administration
Health, Education, and Welfare Department
Housing and Urban Development Department
Indian Affairs Bureau
Internal Revenue Service
Interstate Commerce Commission
Land Management Bureau
Oil Import Administration
Securities and Exchange Commission
Transportation Department

Detailed list of Contents appears inside.



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Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Commerce

Section 213.3114 is amended to show that the position of Night Battalion Officer at the U.S. Merchant Marine Academy is excepted under Schedule A. Effective on publication in the FEDERAL REGISTER, subparagraph (10) of paragraph (h) is amended as set out below.

§ 213.3114 Department of Commerce.

* * * * *

(h) *Maritime Administration.* * * *

(10) U.S. Merchant Marine Academy, positions of: Professors, instructors, and teachers; including heads of the Departments of Physical Training and Athletics, Ships Medicine, Ship Management, History and Languages, Mathematics and Science, Nautical Science and Engineering; the Regimental Officer; the Drill and Activities Officers; the Band and Activities Officer; the First, Second, and Third Battalion Officers, and the Night Battalion Officer.

* * * * *

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR 1954–58 Comp., p. 218)

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

[F.R. Doc. 68–6349; Filed, May 28, 1968; 8:46 a.m.]

PART 213—EXCEPTED SERVICE

Department of Commerce

Section 213.3314 is amended to show that the position of Private Secretary to the Deputy Director, U.S. Travel Service, is no longer excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (3) of paragraph (1) of § 213.3314 is revoked.

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR 1954–58 Comp., p. 218)

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

[F.R. Doc. 68–6350; Filed, May 28, 1968; 8:46 a.m.]

Title 7—AGRICULTURE

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

PART 68—REGULATIONS AND STANDARDS FOR INSPECTION AND CERTIFICATION OF CERTAIN AGRICULTURAL COMMODITIES AND PRODUCTS THEREOF

Fees and Charges for Certain Federal Inspection Services

Pursuant to sections 203 and 205 of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1622, 1624) the provisions of 7 CFR 68.42 prescribing fees in connection with the inspection of agricultural commodities administratively assigned to the Grain Division are hereby amended.

Statement of considerations. The Agricultural Marketing Act of 1946 provides for the collection of fees equal as nearly as may be to cost of inspection services rendered under its provisions. This amendment increases the hourly rate for services charged by the hour in Part 68.42 from $6.25 to $7.25 per hour. It increases the minimum fee, if any, for the appeal inspection of certain commodities from $6.25 to $7.25. The changes are necessary due to recent general salary increases of Federal employees and the increase in other costs relating to furnishing such service. The amendment also clarifies the application of the 2-hour minimum charge as applied to the inspection of U.S. Grain in Canada and corrects an error in the published fee for the appeal inspection of U.S. Grain in Canada.

The amendment also provides for additional laboratory testing services and establishes a fee for each of these services:

Section 68.42 is amended to read:

§ 68.42 Fees and charges for certain Federal inspection services.

The following fees and charges apply to the Federal inspection services specified below:

Service	*Fee or charge*
Appeal inspection:	
(a) Basis original sample:	
(1) U.S. grain in Canada and rice	[1]
(2) Other commodities	[2]
(b) Basis new sample:	
(1) All commodities	[3]
Bean, lentil, and pea inspection (including chick peas, cowpeas, split peas, and similar commodities):	
(a) Lot inspection:	
(1) Field run (quality and dockage analysis)—per lot	$4.00
(2) Other than field run (grade, class, and quality)—per lot	3.00
(In addition to the fee for analysis or grading in (1) and (2) above, a fee for sampling, checkweighing, and checkloading, if any, will be assessed at the prescribed rate.)	
(b) Sample inspection:	
(1) Field run (quality and dockage analysis)—per lot	4.00
(2) Other than field run (grade, class, and quality)—per sample	3.00
Checkloading—per man-hour	[4]7.25
Checkweighing—per man-hour	[4]7.25
Condition examination—per man-hour	[4]7.25
Extra copies of certificates—per copy	.50
Grade factor analysis (as defined in any official U.S. Standards) per factor	2.00
Hay and straw inspection:	
(a) Lot inspection:	
(1) For sampling and grading—per man-hour	7.25
(b) Sample inspection:	
(1) Grade only—per sample	4.00
(2) Factor analysis—per man-hour	7.25
Hop inspection:	
(a) Lot inspection:	
(1) For seed, leaf, and stem content—per lot	4.75
(2) Aphid infestation—per lot	7.25
(In addition to the fee for analysis in (1) and (2) above, a charge for sampling, if any will be assessed at the prescribed rate.)	
(b) Sample inspection:	
(1) For seed, leaf, and stem content—per sample	4.75
(2) Aphid infestation—per sample	7.25
Laboratory testing:	
(a) In addition to the charges, if any, for sampling or other requested service, a fee will be assessed for each laboratory analysis or test as follows:	
(1) Acidity—Greek	1.70
(2) Acid value—oil	2.35
(3) Appearance, flavor, and odor of oils	1.10
(4) Ash	1.70
(5) Baking test—bread	3.95
(6) Baking test—prepared mix	3.05
(7) Break test	3.05
(8) Calcium—AOAC	4.00
(9) Calcium enrichment	4.00
(10) Calcium carbonate	4.00
(11) Clarity of oils involving heating	1.45

See footnotes at end of table.

Service	Fee or charge
Laboratory testing—Continued	
(12) Cold test—oil	$0.75
(13) Color—bleached	2.10
(14) Color—Gardner	2.10
(15) Color—Levibond	2.10
(16) Color—Wesson	2.10
(17) Color—oil and shortening	2.10
(18) Congeal point	4.30
(19) Consistency	1.35
(20) Cooking test	1.85
(21) Crude fat	2.25
(22) Crude fiber	3.35
(23) Density	1.20
(24) Diatomaceous earth—on grain	3.05
(25) Diastatic activity of flour	2.80
(26) Enrichment—quick test	.85
(27) Falling number	1.25
(28) Fat—acid hydrolysis	4.40
(29) Fat, crude	2.25
(30) Fat, extraction	2.25
(31) Fat acidity	1.70
(32) Fat stability—AOM	4.80
(33) Fiber, crude	3.35
(34) Filth—heavy	3.05
(35) Filth—light	4.85
(36) Flash point—open and closed cup	3.05
(37) Flavor, appearance, and odor of oils	1.10
(38) Foots — heated and/or chilled	2.15
(39) Foreign material—processed grain products	2.65
(40) Free fatty acids—oil and shortening	2.35
(41) Grade and class of unprocessed grain	[5] 2.00
(42) Heating test—oil and shortening	2.25
(43) Hydrogen-ion concentration—pH	1.70
(44) Insoluble bromides	2.20
(45) Insoluble impurities — oil and shortening	2.80
(46) Iodine number or value	2.60
(47) Iron—enrichment	6.65
(48) Keeping time—oil and shortening	4.80
(49) Kjeldahl—protein	2.05
(50) Lipoid phosphoric acid	5.75
(51) Loss on heating (oil)	1.35
(52) Lysine	15.00
(53) Maltose value	2.80
(54) Marine oil in vegetable oil—qualitative	2.20
(55) Melting point—Wiley	2.60
(56) Milling—wheat to flour	4.65
(57) Moisture—distillation	2.15
(58) Moisture—oven	1.45
(59) Moisture and volatile matter—oil and shortening	1.35
(60) Nitrogen solubility index	2.60
(61) Odor, appearance, and flavor of oils	1.10
(62) Oil content—oilseeds	3.50
(63) pH—Hydrogen-ion concentration	1.70
(64) Peroxide value	1.75
(65) Peroxide value after 8 hours AOM	4.80
(66) Phosphorus—photometric	3.65
(67) Popping value—popcorn	1.50
(68) Potassium bromate—qualitative	.85
(69) Potassium bromate—quantitative	3.25
(70) Protein for cargo wheat—duplicate test required	[6] 5.45
(71) Protein—Kjeldahl	2.05
(72) Reducing sugars	8.40
(73) Refining loss—oils	5.75
(74) Refractive index	1.20

See footnotes at end of table.

Service	Fee or charge
Laboratory testing—Continued	
(75) Riboflavin	$6.60
(76) Rope spore count	11.10
(77) Salt	3.50
(78) Saponification number	3.05
(79) Sedimentation value—wheat	[6] 1.25
(80) Sieve test	2.20
(81) Smoke point	1.40
(82) Softening point	4.30
(83) Solid fat index	9.90
(84) Specific baking volume—prepared mix	3.05
(85) Specific gravity—oils	2.95
(86) Test weight per bushel—other than grain	1.20
(87) Unsaponifiable matter	5.80
(88) Viscosity	3.85
(89) Water soluble protein	2.60
(If a requested analysis or test is on the basis of a specified moisture content, a charge for an oven moisture test will also be made.)	
Lentil inspection: (See Bean inspection)	
Minimum fee for services covered by hourly rates—A minimum fee for 2 hours per man, per service request, will be assessed at the applicable hourly rate.	
New inspection (retest)—fees and charges to be based on services requested.	
Pea inspection: (See Bean inspection).	
Reinspection:	
(a) Basis original sample:	
(1) U.S. grain in Canada and rice	[1]
(2) Other commodities	[2]
(b) Basis new sample:	
(1) All commodities	[3]
Rice inspection:	
(a) Lot inspection:	
(1) For sampling, inspection for grade, factor analysis, equal to type, or milling yield—whether singly or combined—100 lbs	[7] .0125
(i) Minimum fee—per lot:	
Milled rice	2.50
Brown rice or rough rice	4.00
(2) For sampling and inspection for origin—per 100 lbs	[7] .005
(i) Minimum fee—ler lot	2.00
(3) For inspection for origin when inspected for grade, factor analysis, equal to type, or milling yield—per lot	1.00
(b) Sample inspection:	
(1) For inspection for grade, factor analysis, equal to type or milling yield—whether singly or combined—per sample:	
(i) Brown rice or rough rice (including milling yield)	3.50
(ii) Brown rice or rough rice (excluding milling yield)	2.00
(iii) Milled rice	2.00
Sampling per man-hour	[4] 7.25
Special inspection service per man-hour	[4] 7.25
Split pea inspection: (See Bean inspection).	
Standby time per man-hour	7.25
Straw inspection: (See Hay inspection).	
U.S. Grain in Canada:	
(a) Lot inspection:	
(1) For sampling and grading—per man-hour	$20.00
(b) Special services and standby time—per man-hour	20.00
(c) Sample inspection:	
(1) For grade—per sample	10.00

[1] One quarter of the fee for the original inspection. Minimum fee if any, for rice $7.25. Minimum fee, if any, for U.S. Grain in Canada $20.

[2] The applicable grading or laboratory analysis or testing charge. Minimum fee, if any, $7.25.

[3] Applicable sampling charge, if any, plus applicable grading, or laboratory analysis or testing fee.

[4] Only one fee will be charged for these services whether performed singly or concurrently. (But see minimum fee requirement.)

[5] To be used only in conjunction with the inspection of a processed product for compliance with contract specifications.

[6] No sampling fee will be assessed if a portion of an appeal simple, licenesd inspector's sample, or submitted sample is used for these tests. (In no instance will more than one sampling fee be assessed per service request.)

[7] In the case of railroad cars, the weight shall be based on weight tickets, or weight certificates, if available at the time of inspection; otherwise, on the marked capacity of the railroad car.

(Secs. 203, 205, 60 Stat. 1087, 1090, as amended; 7 U.S.C. 1622, 1624; 29 F.R. 16210, as amended, 30 F.R. 1260 as amended)

The need for increases in the fees and charges for services and the amount thereof are dependent upon facts within the knowledge of the Consumer and Marketing Service. Therefore, under the administrative procedure provision of 5 U.S.C. 553, it is found upon good cause that notice and other public rulemaking procedures on the amendments are impracticable and unnecessary.

These amendments shall become effective July 1, 1968.

Done at Washington, D.C., this 24th day of May 1968.

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

[F.R. Doc. 68-6336; Filed, May 28, 1968; 8:45 a.m.]

Chapter III—Agricultural Research Service, Department of Agriculture

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Soybean Cyst Nematode

REGULATED AREAS

Correction

In F.R. Doc. 68-6099 appearing at page 7557 of the issue for Wednesday, May 22, 1968, make the following changes:

1. On page 7558, column 2, 5th paragraph, line 2, the reference to "S¼" should read "SW¼".

2. On page 7563, column 2, following the property owned by "Nettie F. Spence" add the following material:

The property owned by W. G. Wallace, located on the west side of State Road 190, 0.4 mile southwest of the intersection of State Roads 190 and 603.

The property owned by Leroy R. Widgeen, located on the east and west sides of State Road 615, 0.2 mile south of the junction of State Roads 630 and 615.

The property owned by Frank Tullie Williams, located on the east side of State Road 621 and on the north side of State Road 619, at the junction of State Roads 621 and 619.

The property owned by Melvin M. Williams, located on the east side of State Road 625 and the north side of State Road 627 at the junction of State Roads 627 and 625.

The property owned by Melvin M. Williams, located on the east side of State Road 625 and the south side of State Road 627, at the junction of State Roads 627 and 625.

The property owned by Melvin M. Williams, located on the east side of State Road 625, 0.1 mile north of the junction of State Roads 625 and 627.

The property owned by Melvin M. Williams located on the east side of State Road 625, 0.2 mile north of the junction of State Roads 625 and 627.

The property owned by Melvin M. Williams located on the east side of State Road 625, 0.1 mile up a dirt path, 0.1 mile north of the junction of State Roads 625 and 627.

Title 12—BANKS AND BANKING

Chapter VI—Farm Credit Administration

SUBCHAPTER B—FEDERAL FARM LOAN SYSTEM

PART 611—FEDERAL LAND BANK ASSOCIATIONS

Delegation to Federal Land Banks of Farm Credit Administration Authority Over Associations

Part 611 of Title 12 of the Code of Federal Regulations is amended by adding the following at the end thereof:

DELEGATION TO FEDERAL LAND BANKS OF FARM CREDIT ADMINISTRATION AUTHORITY OVER ASSOCIATIONS

§ 611.1085 Statutory provisions.

Section 8 of the Farm Credit Act of 1953, as amended (12 U.S.C. 636g), includes the following:

The Farm Credit Administration is authorized and directed, by order or rules and regulations, to delegate to a Federal land bank such of the duties, powers, and authority of the Farm Credit Administration with respect to and over Federal land bank associations, their officers and employees, in the farm credit district wherein such Federal land bank is located, as may be determined to be in the interest of effective administration; * * * and * * * the duties, powers, and authority so delegated shall be performed and exercised under such conditions and requirements and upon such terms as the Farm Credit Administration may specify. Any Federal land bank * * * to which any such duties, powers, or authority may be delegated is authorized and empowered to accept, perform, and exercise such duties, powers, and authority as may be so delegated to it.

§ 611.1086 Bank responsibility for regulations issued by Administration.

Each Federal land bank is authorized and directed to make available to the Federal land bank associations in its farm credit district all rules and regulations and any other directives or instructions issued by the Farm Credit Administration which are applicable to such associations, their officers and employees, and each such bank is authorized and directed to assume responsibility to assure compliance therewith by such associations, their officers and employees.

§ 611.1087 Additional regulations issued by bank with Administration approval.

If the board of directors of any Federal land bank determines that it would be in the interest of effective administration, with respect to or over Federal land bank associations, their officers and employees, in its district, to issue additional rules and regulations or directives or instructions, they may be submitted for approval by the Farm Credit Administration. Upon such approval, which shall be recited in the additional rules and regulations or directives or instructions when issued by the Federal land bank, they shall be of the same force and effect as if issued by the Farm Credit Administration directly.

§ 611.1088 Further instructions by bank.

Further directives or instructions, not inconsistent with law or the rules and regulations or directives or instructions issued directly or approved by the Farm Credit Administration, may be issued by each Federal land bank in the form of letters, guides, handbooks, manuals, or otherwise as may be designed to assist and govern the Federal land bank associations, their officers or employees, in its district, in the conduct of their business and the fulfillment of their function.

(Sec. 6, 47 Stat. 14, as amended, sec. 8, 67 Stat. 394, as amended; 12 U.S.C. 665, 636g)

R. B. TOOTELL,
Governor,
Farm Credit Administration.

[F.R. Doc. 68-6383; Filed, May 28, 1968; 8:49 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 68-141]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

PART 19—CUSTOMS WAREHOUSES AND CONTROL OF MERCHANDISE THEREIN

PART 21—CARTAGE AND LIGHTERAGE

Use of Customs Form 6043, Delivery Ticket

To provide for the use of customs Form 6043, Delivery Ticket, in place of customs Forms 6043-A, 6043-C, 7500-A, and 7500-B which have been abolished, the Customs Regulations are amended as follows:

The second sentence of § 4.34(h) is amended by substituting "customs Form 6043" for "customs Form 7500-A" so that the sentence will read:

§ 4.34 Prematurely discharged, overcarried, and undelivered cargo.

* * * * *

(h) * * *

The district director of customs may issue a permit to retain such merchandise on board, or he may, upon written application of the steamship company, issue a permit on customs Form 6043 allowing such merchandise to be transferred to another vessel for return to the original foreign destination.

(80 Stat. 379, R.S. 251, section 624, 46 Stat. 759; 5 U.S.C. 301, 19 U.S.C. 66, 1624)

Paragraph (a) of § 19.9 is amended by substituting "customs Form 6043" for "customs Form 7500-A" so that that paragraph will read:

§ 19.9 Transfer to another warehouse.

(a) With the concurrence of the proprietors of the delivering and receiving warehouses, merchandise may be transferred under customs supervision and at the expense of the party requesting it from one bonded warehouse to another in the same port upon the written request of the importer or transferee to the district director of customs, who shall issue an order for such transfer on customs Form 6043.

* * * * *

(80 Stat. 379, R.S. 251, section 624, 46 Stat. 759; 5 U.S.C. 301, 19 U.S.C. 66, 1624)

The first sentence of paragraph (a) of § 21.8 is amended by substituting "on the delivery ticket, customs Form 6043" for "on the cartage or lighterage ticket, customs Form 6043-A" so that the sentence will read:

§ 21.8 Liability; reports of loss or damage.

(a) The cartman or lighterman conveying the merchandise shall be held liable under his bond for its prompt delivery in sound condition, or in no worse than the damaged condition noted on the delivery ticket, customs Form 6043, Elliott-Fisher ticket, or customs Form 7502-A, 7506, or 7512, if damage is so noted. * * *

The first sentence of paragraph (a) of § 21.9 is amended by substituting "delivery ticket, customs Form 6043" for "ticket, customs Form 6043-A"; the third sentence is amended by substituting "the delivery ticket, customs Form 6043 or on the appraising officer's release ticket at the time delivery is made" for "the permit to release, customs Form 7500-B, on the appraiser's release ticket at the time delivery is made, or on customs Form 6043-C"; the fourth sentence is amended by substituting "customs Form 6043" for "customs Form 6043-C", and the last sentence is deleted. The first sentence of paragraph (b) of § 21.9 is amended by inserting "customs Form 7502-A, 7506,

or 7512" following "withdrawal document," and by substituting "delivery ticket, customs Form 6043" for "cartage or lighterage ticket for goods carted or lightered, customs Form 6043-A, 6043-C, 7502-A, 7506, or 7512"; the last sentence is amended by substituting "delivery ticket, customs Form 6043" for "cartage and lighterage ticket, customs Form 6043-A" and by substituting "delivery ticket" for "cartage and lighterage ticket". As amended the paragraphs will read;

§ 21.9 Tickets for goods carted or lightered.

(a) When merchandise is carted or lightered and received in a bonded store or bonded warehouse, the representative of the proprietor shall check the goods against the delivery ticket, customs Form 6043, or copy of warehouse or rewarehouse permit, customs Form 7502-A, used in lieu of a ticket, and countersign such ticket or copy of the permit. A receipt shall be taken for all goods delivered from public store or bonded store. Such receipt may be taken on the delivery ticket, customs Form 6043 or on the appraising officer's release ticket at the time delivery is made. Customs Form 6043 may also be used as a receipt for goods delivered from customs custody in any other case where the district director of customs deems such receipt necessary. In case of withdrawals from bonded warehouse for consumption, the merchandise shall be released only to or upon the order of the proprietor of the warehouse, who shall acknowledge such release on customs Form 7505-A or 7505-B.

(b) The cartman or lighterman shall countersign the ticket, receipts, extra copy of warehouse or rewarehouse permit, or the copy of the entry or withdrawal document, customs Form 7502-A, 7506, or 7512, used in lieu of a delivery ticket, customs Form 6043, in the space provided as a receipt for the goods, noting any bad order or discrepancy. When available, the importing carrier's tally slip for the merchandise shall be attached to the delivery ticket, customs Form 6043, or the copy of customs Form 7502-A, 7506, or 7512 used in lieu of a delivery ticket, which accompanies the merchandise while it is being so carted or lightered in bond, for the use of customs officers only at destination.

(80 Stat. 379, R.S. 251, section 624, 46 Stat. 759; 5 U.S.C. 301, 19 U.S.C. 66, 1624)

These amendments shall become effective on the date of their publication in the FEDERAL REGISTER.

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

Approved: May 22, 1968.

MATTHEW J. MARKS,
Acting Assistant Secretary of the Treasury.

[F.R. Doc. 68-6371; Filed, May 28, 1968; 8:48 a.m.]

[T.D. 68-137]

PART 13—EXAMINATION, MEASUREMENT, AND TESTING OF CERTAIN PRODUCTS

Notification, Test of Sugar

Section 13.8(a), Customs Regulations, concerning the notification of the importer as to the average test of sugar as well as the test of each lot of sugar in his importation of sugar, molasses, and/or sirup, amended.

An employee has called attention in an approved suggestion submitted under the incentive awards program that the completion of customs Form 6463 to notify an importer of sugar, molasses, and sirup of the average test of his importation and the quantity and test of each lot from which such average is obtained results in an unnecessary expenditure of time and duplication of effort. The suggestor points out that the information used to complete that form is obtained from the Laboratory Report, customs Form 6415, which is completed in all cases involving importation of the stated commodities. The suggestor recommends that customs Form 6463 be abolished and a copy of customs Form 6415 be used in its place.

To give effect to the suggestion, the first sentence of § 13.8(a) is amended to read:

§ 13.8 Review of tests of sugar, molasses, and sirup.

(a) When the test of the sugar has been determined, the importer shall be immediately notified of the average test of the importation and also the quantity and test of each lot from which such average test is obtained by means of a copy of the Laboratory Report, customs Form 6415. * * *

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

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

Approved: May 20, 1968.

JOSEPH M. BOWMAN,
Assistant Secretary of the Treasury.

[F.R. Doc. 68-6372; Filed, May 28, 1968; 8:48 a.m.]

Title 23—HIGHWAYS AND VEHICLES

Chapter II—Vehicle and Highway Safety

PART 255—INITIAL FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Motor Vehicle Safety Standard No. 110, Tire Selection and Rims—Passenger Cars; Correction

In F.R. Doc. 68-4491 appearing at page 5949 of the issue of Thursday, April 18, 1968, subparagraph (b) was inadvertently omitted from paragraph S.4.4.1 of Motor Vehicle Safety Standard No. 110. Therefore, immediately following subparagraph (a), insert the following subparagraph:

(b) In the event of rapid loss of inflation pressure with the vehicle traveling in a straight line at a speed of 60 miles per hour, retain the deflated tire until the vehicle can be stopped with a controlled braking application.

Issued in Washington, D.C., on May 24, 1968.

LOWELL K. BRIDWELL,
Federal Highway Administrator.

[F.R. Doc. 68-6346; Filed, May 28, 1968; 8:46 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 15586]

MISCELLANEOUS AMENDMENTS TO CHAPTER

In the matter of amendment of Parts 2, 21, 74, and 91 of the Commission's rules and regulations relative to the licensing of microwave radio stations used to relay television signals to community antenna television systems.

In the second report and order in this proceeding, released on February 15, 1968, and published in the FEDERAL REGISTER on February 20, 1968, 33 F.R. 3176, the Commisssion denied the request of the Southwest Texas Educational Television Council for amendment of Part 91 of the Commission's rules to permit microwave stations authorized to relay broadcast station signals to community antenna television systems to "provide program service to local educational television stations," second report and order, FCC 68-126, paragraph 38, 39, 11 FCC 2d 709, 726. This request was made in a document that had been designated as a petition for rule making (RM-891), and though the request of the Council was denied, inadvertently the petition was not formally disposed of. Accordingly, paragraph 43 of the second report and order is corrected to read:

43. *It is further ordered,* That the various requests in the pleadings listed in the attached Appendix B and the petition of the Southwest Texas Educational Television Council (RM-891), to the extent that they may not have been granted herein, are otherwise denied.

Released: May 23, 1968.

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

[F.R. Doc. 68-6364; Filed, May 28, 1968; 8:48 a.m.]

Title 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation

[OST Docket No. 14, Amdt. 93-1]

PART 93—AIRCRAFT ALLOCATION

Issuance of Aircraft Allocations

The purpose of this amendment is to provide authority for the Director, Office of Emergency Transportation, to make available to the public, upon request, the current listing of aircraft allocations under the Civil Reserve Air Fleet Program and to discontinue the requirement for its publication in the notices section of the FEDERAL REGISTER.

Air carriers and other persons having a direct interest in changes to the allocations of aircraft under the Civil Reserve Air Fleet Program are advised of those changes by "change notifications" issued by the Office of Emergency Transportation. A semiannual allocation summary is printed and distributed to interested parties. Publication in the FEDERAL REGISTER of the same information is considered to be an unnecessary duplication and added administrative expense.

Since this amendment relates to Departmental procedures and does not lessen public availability of aircraft allocation information, I find that notice and public procedure thereon is unnecessary and the amendment may be made effective in less than 30 days.

This amendment is made under the authority of section 9 of the Department of Transportation Act (49 U.S.C. 1657).

In consideration of the foregoing, effective May 21, 1968, the last sentence of § 93.1 of Part 93 of title 49 of the Code of Federal Regulations is amended to read as follows:

§ 93.1 Issuance of aircraft allocations.

* * * * *

The current listing of aircraft allocations may be obtained upon request from the Director, Office of Emergency Transportation, Department of Transportation, Washington, D.C. 20590.

Issued in Washington, D.C., on May 21, 1968.

ALAN S. BOYD,
Secretary of Transportation.

[F.R. Doc. 68-6327; Filed, May 28, 1968; 8:45 a.m.]

Chapter X—Interstate Commerce Commission

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte 55]

PART 1100—GENERAL RULES OF PRACTICE

Application Fee

Order. At a general session of the Interstate Commerce Commission held at its office in Washington, D.C., on the 17th day of May 1968.

There being under consideration the Commission's General Rules of Practice and for good cause appearing therefor:

It is ordered, That § 1100.11 of Chapter X of Title 49 of the Code of Federal Regulations be amended to read as follows:

§ 1100.11 Application fee. (Rule 11)

An application filed under Rule 9 must be accompanied by a fee of $25. Payment must be made either in cash, or by check, or money order payable to the Interstate Commerce Commission. The fee will be returned if applicant is not admitted to practice.

(Secs. 12, 17, 24 Stat. 383, as amended, 385, as amended; secs. 204, 205, 49 Stat. 546, as amended; secs. 304, 316, 54 Stat. 933, 946; secs. 403, 417, 56 Stat. 285, 297; 49 U.S.C. 12, 17, 304, 305, 904, 916, 1003, 1017)

It is further ordered, That this amendment shall be effective June 17, 1968.

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

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68-6362; Filed, May 28, 1968; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Allocation of Income and Deductions Among Taxpayers

The proposed amendment to the regulations under section 482 of the Internal Revenue Code of 1954, relating to allocation of income and deductions appears in the FEDERAL REGISTER for April 16, 1968.

A public hearing on the provisions of this proposed amendment to the regulations will be held on Tuesday, June 18, 1968, at 10 a.m., e.d.s.t., in Room 3313, Internal Revenue Service Building, Constitution Avenue between 10th and 12th Streets NW., Washington, D.C.

Persons who plan to attend the hearing are requested to notify the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by June 11, 1968. Notification of intention to attend the hearing may be given by telephone, 202-964-3935.

JAMES F. DRING,
Director, Legislation and Regulations Division.

[F.R. Doc. 68-6461; Filed, May 28, 1968; 10:46 a.m.]

DEPARTMENT OF THE INTERIOR

Oil Import Administration

[32A CFR Ch. X]

[Oil Import Reg. 1 (Rev. 5)]

OIL IMPORT REGULATION

Allocation of Imports; Low Sulphur Residual Fuel Oil, Districts I-IV

Presidential Proclamation 3279, as amended, has been modified by Proclamation 3794 (32 F.R. 10547) in an effort to help abate air pollution. Pursuant to the Secretary of the Interior's announced intention to grant allocations of crude oil and unfinished oils to refiners in Districts I-IV, who process crude oil or unfinished oils into low sulphur residual fuel oil to be used as fuel containing not more than 1.0 percent of sulphur by weight, I propose to recommend to the Secretary an amendment to Oil Import Regulation 1, as amended, which would add to the regulation a new section 10A as set forth below. Interested persons may submit written comments, suggestions, or objections with respect to the proposal to the Administrator, Oil Import Administration, Washington, D.C. 20240, on or before June 14, 1968.

ELMER L. HOEHN,
Administrator,
Oil Import Administration.

MAY 23, 1968.

Sec. 10A Allocation of crude oil and unfinished oils—Districts I-IV based on production of low sulphur residual fuel oil to be used as fuel in Districts I-IV.

(a) As used in this section:

(1) "Low sulphur residual fuel oil" means residual fuel oil:

(i) Which is manufactured in Districts I-IV, and

(ii) Which contains not more than 1 percent of sulphur by weight, and

(iii) Which is delivered (either directly by the manufacturer or by others following its sale by him) to customers in Districts I-IV who must burn such fuel in order to comply with Federal, State, or local requirements;

(2) "Eligible applicant" means a person who is eligible for an allocation under section 10 of this regulation; and

(3) "Western Hemisphere" means North America, South America, and the West Indies.

(b) This section provides for the making of allocations of imports into Districts I-IV of crude oil and unfinished oils based upon the production and delivery in those districts of low sulphur residual fuel oil. Allocations under this section are in addition to allocations provided for under section 10 of this regulation. To the extent that the provisions of this section are inconsistent with the provisions of other sections of this regulation, the provisions of this section shall be controlling.

(c) An eligible applicant who manufactures low sulphur residual fuel oil either from crude oil imported pursuant to a license or from domestic crude oil shall receive an allocation of imports of crude oil equal to (1) 50 percent of the amount in barrels of such low sulphur residual fuel oil manufactured either from domestic crude oil or from crude oil imported under license from Western Hemisphere sources, and (2) 25 percent of the amount in barrels of such low sulphur residual fuel oil manufactured from crude oil imported under license from other than Western Hemisphere sources.

Example. Company A imports from Mid Eastern sources 1 million barrels of crude oil under its regular crude and unfinished oils license. From this crude oil Company A manufactures 400,000 barrels of residual fuel oil containing less than 1 percent sulphur. Company A sells the oil to terminal operator B, who in turn sells oil to various apartment houses in New York City; for this oil Company A would receive an additional 100,000 barrels of crude oil imports. Company A also manufactures from domestic crude 500,000 barrels of residual fuel oil containing 1 percent sulphur and sells this oil directly to the city of New York; for this residual fuel oil Company A would receive an additional 250,000 barrels of crude oil imports. Thus, Company A would get a total of 100,000 plus 250,000=350,000 barrels of additional allocations of imports of crude oil.

(d) An eligible applicant who manufactures low sulphur residual fuel oil by desulphurization of unfinished oils which were derived from crude oil produced in the Western Hemisphere and imported under a license shall receive an allocation of imports of residual fuel oil equal to the amount in barrels of the low sulphur residual fuel oil so manufactured. Residual fuel oil imported under such an allocation must be processed other than by blending by mechanical means.

Example. Under its regular crude oil and unfinished oil allocation Company X imports 1 million barrels of unfinished oil from Venezuela which is desulphurized to produce 800,000 barrels of residual fuel oil containing 1 percent sulphur by weight. Company X delivers the low sulphur oil to a public utility in New Jersey. Company X would receive an additional 800,000 barrels of imports of residual fuel oil. Company X must process other than by blending by mechanical means residual fuel oil imported under the allocation.

(e) An eligible applicant who produces low sulphur residual fuel oil by mechanically blending residual fuel oil to be used as fuel derived from crude oil produced in the Western Hemisphere and imported under a license with unfinished oils processed in his refinery capacity shall receive an allocation of imports of unfinished oils equal to the amount in barrels of the unfinished oils processed in his refinery and used in the production of the low sulphur residual fuel oil.

Example. Company Y manufactures 400,000 barrels of cutter stock in its refinery in Texas. The cutter stock is desulphurized to produce 400,000 barrels of cutter stock, which is blended by mechanical means with residual fuel oil to be used as fuel imported from Venezuela to produce a final blend of residual fuel oil to be used as fuel containing less than 1 percent of sulphur by weight. Company Y would receive an additional 400,000 barrels of unfinished oil imports.

(f) For the purpose of computing import allocations under section 10 of this regulation, crude oil or unfinished oils imported pursuant to an allocation under this section 10A or domestic oil received in exchange pursuant to the provisions of section 17 will not qualify as refinery inputs. However, the person receiving the imported crude oil or unfinished oils under an exchange agreement pursuant to section 17 may count such oils as refinery inputs.

(g) No allocation of imports of crude oil made pursuant to paragraphs (a),

(b), and (c) of section 10 of this regulation entitles a person to a license which will allow the importation of unfinished oils in excess of 15 percent of the allocation. However, the Administrator may, upon petition, allow the holder of such an allocation to import a larger percentage of unfinished oils if the holder of the allocation certifies that the imported unfinished oils will not be exchanged and that all of the oils will be desulphurized in the holder's own refinery capacity and used in the production of low sulphur residual fuel oil.

(h) The Administrator shall make an allocation under this section only upon receipt from an applicant of a certification satisfactory to the Administrator with respect to the following matters pertaining to the production and delivery of the low sulphur residual fuel oil forming the basis of the application: Location of plant in which produced; amount and sulphur content; source of crude oil or unfinished oils from which produced; delivery, either directly by applicant or following sale by applicant, to customers in Districts I–IV who are required to burn such fuel in order to comply with Federal, State, or local requirements. The Administrator may prescribe the form of certifications. An application for an allocation may be filed at any time during the period. To apply for an allocation of imports under this section, an application must be filed with the Administrator in such form as he may prescribe.

(i) No allocation made under this section shall be sold, assigned, or otherwise transferred.

[F.R. Doc. 68-6408; Filed, May 28, 1968; 8:50 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 911]

HANDLING OF LIMES GROWN IN FLORIDA

Approval of Expenses and Fixing of Rate of Assessment for 1968–69 Fiscal Year

Consideration is being given to the following proposals submitted by the Florida Lime Administrative Committee, established under the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911), regulating the handling of limes grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof: (1) That expenses that are reasonable and likely to be incurred by the Florida Lime Administrative Committee, during the period from April 1, 1968, through March 31, 1969, will amount to $12,030; and (2) that there be fixed, at $0.025 per bushel of limes, the rate of assessment payable by each handler in accordance with § 911.41 of the aforesaid marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day 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)).

Dated: May 23, 1968.

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

[F.R. Doc. 68-6337; Filed, May 28, 1968; 8:45 a.m.]

[7 CFR Part 915]

HANDLING OF AVOCADOS GROWN IN SOUTH FLORIDA

Approval of Expenses and Fixing of Rate of Assessment for 1968–69 Fiscal Year and Carryover of Unexpended Funds

Consideration is being given to the following proposals submitted by the Florida Avocado Administrative Committee, established under the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in south Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674): (1) That expenses that are reasonable and likely to be incurred by the Avocado Administrative Committee, during the period April 1, 1968, through March 31, 1969, will amount to $13,050; (2) that the rate of assessment for such period, payable by each handler in accordance with § 915.41, be fixed at $0.03 per bushel of avocados; and (3) that a portion of unexpended assessment funds amounting to $303.84 in excess of expenses incurred during the fiscal year ended March 31, 1968, be carried over in the reserve fund, established under § 915.205, in accordance with § 915.42 of said amended marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day 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)).

Dated: May 23, 1968.

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

[F.R. Doc. 68-6338; Filed, May 28, 1968; 8:46 a.m.]

[7 CFR Part 932]

[Docket No. AO-352-A1]

OLIVES GROWN IN CALIFORNIA

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

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendment of the marketing agreement and order (7 CFR Part 932), regulating the handling of olives grown in California, hereinafter referred to collectively as the "order." The order is effective pursuant to provisions of the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674), hereinafter referred to as the "act," and any amendment which may result from this proceeding will also be effective pursuant to the act.

Interested persons may file written exceptions to this recommended decision with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than 20 days after publication in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate. All such communications will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Preliminary statement. The public hearing on the record of which the recommended amendment of the order was formulated was held in Fresno, Calif., on March 21, 1968, pursuant to a notice thereof which was published in the FEDERAL REGISTER on March 2, 1968 (33 F.R. 4107). The notice contained amendment proposals which had been submitted to the Secretary of Agriculture by the Olive Administrative Committee, the administrative agency for the order.

Material issues. The material issues presented on the record were concerned with amending the order to:

(1) Redefine "natural condition olives," to permit movement of such olives in water or other preserving mediums;

(2) Change the provisions dealing with allocation of handler representation on the Olive Administrative Committee

as between cooperative and independent organizations;

(3) Change the provisions relating to assessments;

(4) Revise the provisions authorizing marketing research and development projects to include authority for any form of paid advertising;

(5) Revise the provisions on "Incoming regulations" to provide for changing the minimum standards for natural condition olives to reflect seasonal conditions, and for flexibility in meeting handlers undersize and cull obligations;

(6) Revise the provisions on outgoing regulations to provide for modification of the grade applicable to packaged olives, and for changing minimum size requirements for olives to be used in the halved, sliced, chopped and minced styles of canned ripe olives;

(7) Change the interhandler transfer provisions to provide that the disposition obligation for undersize and cull olives may be transferred with natural condition olives;

(8) Provide for exempting from regulation olives in certain types of shipments, and for specified purposes; and

(9) Make conforming changes.

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

(1) The order defines "natural condition olives" for the purpose of applying size-grading and other requirements at the incoming level. The current definition includes olives in their fresh-harvested state prior to their being placed in water or any curing or preserving solution. Such definition precludes placing olives in water or any curing or preserving solutions previous to their being weighed and size-graded. Up to now, the usual method of harvesting olives has been by hand. In recent years growers have experienced a shortage of harvesting labor. Costs of such labor has increased substantially. The industry has been attempting to develop a more efficient and less costly means of harvesting olives. Some of these methods involve harvesting by mechanical means. It has been found, however, that machine harvesting results in a considerably increased incidence of bruising of the olives, in some incidences near double that incurred in hand picking. Bruises on olives oxidize and the olives deteriorate unless the fruit is handled in a manner that will inhibit oxidization. It appears that placing the olives in water, brine, or similar solutions immediately upon removal from the tree would do this. This practice is used extensively in the handling of mechanically harvested cherries for processing, and indications are that it will prove so for olives.

To accommodate the handling of olives in water or other preserving mediums a change in the definition of "natural condition olives" is necessary.

Olives continue to manifest an appearance characteristic of fresh harvested olives for a sufficient time to permit transport to the processing plant after being placed in water or a preserving solution, and this appearance is apparent to inspectors and others who are responsible for overseeing procedures under the order. Only so long as the olives continue to manifest such appearance should the olives be considered as natural condition olives. The intent is not to restrict solution handling to mechanically harvested fruit. If it should prove beneficial, such manner of handling should be available for all olives regardless of how harvested. If the committee determines that such are necessary it should develop suitable instructions and procedures governing the handling of fruit from grove to processing plant so as to facilitate certification with respect to size grading. It is therefore concluded that the term "natural condition olives" should be redefined as hereinafter set forth.

(2) The Olive Administrative Committee established under the order consists of sixteen members. Eight positions are allocated to growers and eight to handlers. The order, within prescribed limits, provides for reallocation of the handler member positions as between cooperative handlers and independent handlers. Allocation of handler membership between these two groups is on the basis of the relative volume of olives handled. Currently this allocation is four members to cooperative handlers and four members to independent handlers. Present provisions of the order provide for allocation of not less than three members to the cooperative handler group and four members to the independent handler group with an additional member allocated to the group which handles more than 50 percent of the volume in a specified 2-year period. Initially, on this basis, the cooperative handler group was allocated three members and the independent handler group five members. Reallocation to a four and four relationship was effected in 1967 when the volume of olives handled by the cooperative group exceeded the 50 percent required in the specified period.

The record shows that this four and four relationship should be continued so long as neither group handles 65 percent or more of the volume of olives in the crop year in which nominations are made and in the immediately preceding crop year. But at any time either group handles 65 percent or more of the volume in each of such years reallocation of membership should be made to establish a five and three relationship with the group handling 65 percent being allocated five members. Further, provision should be made for the committee with the approval of the Secretary to prescribe such other allocation as may be found to be desirable to provide for equitable handler representation, generally on the basis of the relative volume of olives handled by each of the two groups. It should be understood, however, that no such reallocation should deprive either the independent or cooperative group of representation on the committee.

The current provisions of the order establishing sub-groups of independent handlers, i.e. the "4 largest" and "all other" for purposes of allocating membership within the independent group are unnecessary. The manner in which the "large" and "all other" independent handlers operate is similar, hence persons can be chosen to represent the independent group on the committee without particular regard to the relative size of operation. Further, it is impractical and undesirable to retain the provisions of the order which limit nominations from any handler organization to not more than those required to fill one member position and one alternate member position on the committee. Currently, there are but three cooperative handling organizations in the industry and such organizations are allocated four cooperative handler positions. Obviously under these circumstances it was necessary to modify this provision, as provided in the order, to permit one such organization to fill two of the positions (32 F.R. 5323). Consolidation of organizations and other changes may further reduce the number of handling organizations, hence, flexibility in the nomination and selection of handler members is essential to meet changing circumstances.

The order now authorizes the committee, with the approval of the Secretary, to redefine the districts into which the area is divided and to reapportion the grower membership among districts. The current assignment of grower membership among districts is on the basis of olive acreage. Authority for redefinition of districts and reapportionment of grower membership is now provided in the duties of the committee to recognize principally shifts in olive acreage within the districts and area. The record shows that the order should provide for reapportionment based on other factors including, in addition to acreage, the number of growers in a district, and the tonnage produced. It is not anticipated that redefinition or reapportionment will be necessary in the near future. However, if conditions should develop which indicate that redefinition or reapportionment, or both, would be desirable to effect a more equitable representation, the committee should be authorized to recommend and, with approval of the Secretary, to effectuate the same.

Based on the foregoing it is concluded that the order should be amended, as hereinafter set forth, to provide a revised basis for allocating handler and grower representations on the committee.

(3) The order should be amended as hereinafter set forth, to provide that handler assessments shall be applied only to olives to be used to produce a regulated product. Currently, assessments are applied to all such olives and to any sublots of olives diverted to nonregulated uses from lots destined for regulated products. Lots of olives acquired and used solely for fresh shipment, olive oil, salt cured oil coated olives such as Greek style, and Sicilian style olives, are not subject to assessment. Also, olives for use in production of canned ripe olives of the "tree ripened" type, or green olives, are not subject to assessment so long as

no regulations are made applicable to such packaged olives. Considerable confusion has occurred among handlers in the application of assessments to sublots of olives used in nonregulated products. Moreover, such application results in an advantage to persons who produce nonregulated products from complete lots as compared with those who produce such products from sublots.

The application of assessments only to olives which are to be used to produce a regulated product would be more equitable to handlers, reduce confusion, and improve the administration of the order, and the order should be amended accordingly. Such amendment should include the deletion of the word "solely" from § 932.16 to make it clear that no assessments are to be applied to olives exempted as therein specified. Section 932.39 should be revised to incorporate the provisions now in § 932.56 relating to assessment of olives to be used in production of canned ripe olives of the "tree ripened" type or green olives when regulated as packaged olives pursuant to § 932.52. After such revision said § 932.56 should be deleted in the interest of simplification.

In the application of assessments on the new basis, reporting requirements should be essentially the same as those currently required. Handlers should continue to report their total receipts of canning size olives which would include all olives to be used in regulated products. Undersize and cull olives should not be reported for assessment purposes. From the total canning fruit received, handlers should report the exempt use by varieties. Assessment would then be made on the remaining tonnage to be used for regulated products. Audits of handlers records could be made to verify the reports.

(4) The provisions of the order which authorize the Olive Administrative Committee to establish research and development projects designed to assist, improve, or promote the marketing, distribution and consumption of olives should be amended, as hereinafter set forth, to include authority for any form of marketing promotion, including paid advertising.

Market promotion, including paid advertising, has been engaged in by the olive industry for several years under a State of California marketing order. It was estimated that in the past 10 years sales of olives have increased by 27 percent, and it was asserted that in assessing this increase promotion and advertising should be given credit. It was advanced, without opposition, that both the State and Federal marketing orders should provide for market promotion including paid advertising to provide for essential continuity and to assure that a means of advertising would be available to the industry in the event one or the other of the orders should be terminated. A recent survey was cited which pointed out that increased income in areas of low per capita consumption represents potential new markets for olives. It also pointed out that aggressive olive marketing, including promotion, is necessary to meet competition from the increasing number of food products. The evidence indicates that authority for product promotion and advertising under the order would put the olive industry in a position to advance a more effective marketing program.

The order should authorize any or all of the forms of promotion, including paid advertising, that are permitted under the act. Promotional projects should consider both long term and short term objectives. One example of a long term objective would be to introduce the olives to persons not familiar with them. Another would be a campaign to expand markets in low consumption areas, using various educational means. A project with a short run objective would be a campaign designed to register an immediate sales response in areas where the olives have already been accepted and are being used in volume.

The following promotional and advertising techniques together with relative advantages were cited as examples of techniques which may be employed under the authorization: Publicity education is a good technique to use when promotional funds are limited, particularly if a major portion of the program is directed to the newspaper food pages. Food page publicity makes available product information, stories and recipes, many of them illustrated by color photographs. Such programs may be given free newspaper editorial space. Such space, if paid for at normal advertising rates, would be worth many times the amount paid the publicity agency. It was pointed out that the American housewife looks to the food pages of newspapers and magazines or to the local extension home economist for guidance in meal planning. They readily accept suggestions of these influences as reliable and acceptable information. The authority for promotion under the order would enable the committee to supply olive information, recipes, and publicity materials to food news editors and similar persons for appropriate distribution. It is recognized that publicity education activities do have a disadvantage in that one cannot control the message. Since editorial space cannot be bought, one cannot control an editor's handling of a story. This disadvantage is more than offset, however, by the fact that good publicity education brings the greatest return for the dollar expended.

The second promotional and advertising technique is merchandising. This involves development and distribution of point of sale material. This is a much used promotional device and should be authorized under the order. A survey of 18,000 supermarkets in 1961 showed that on an average that in June of that year there were 3,600,000 promotional pieces displayed. Three-fourths of those were related to food items, and one-fourth had to do with produce. Olives are particularly well adapted to point of sale material directed toward calling shoppers' attention to seasonal uses, stressing their attractiveness as a food garnish. Artistically developed point of sale pieces can serve a dual function of both attracting and educating the consumer. Other merchandising aids that may be utilized in an olive promotional program include recipe folders for distribution at point of sale, brochures which identify and explain olive sizes, and information bulletins on special uses. These may be particularly useful in low per capita consumption areas.

The third technique is paid advertising. This form of promotion is generally expensive, but some things can be done which are reasonable in cost and are still effective. Trade paper advertisements, together with editorial support which trade papers often give an advertiser, offer possibilities in an olive promotional program. Some newspaper advertising may be necessary to encourage the use of olive materials in food page publicity. It is recognized that newspapers are influenced in the favor of advertisers when scheduling food page editorial space. Television and radio network and magazine advertising may be available on an economic basis through development of joint ventures with one or more advertising partners which distribute complimentary food products. This is a possibility that should be explored. The committee should be permitted to consider and to utilize any of these techniques or others or a combination of them in carrying out a promotional program.

If the Olive Administrative Committee (OAC) determines that promotion or advertising should be undertaken, the costs of the program should be taken into account in budget development, both as to the additional items of expense and the assessment. In undertaking an advertisement program the committee, to the extent practicable, should carefully plan and secure approval as far in advance as possible. To the extent practicable the plan should cover more than 1 year. Expenses of planning should be authorized on the basis of budgetary approval since planning and project development must precede project approval. Also, the order authorizes a financial reserve to be used for approved expenditures, under the order. Financial reserves should be available to cover costs of planning and such other costs of the promotional program as may be necessary and approved.

In formulating projects and objectives the OAC should be authorized to secure the advice and services of persons knowledgeable in the promotional and advertising field, as well as those involved in marketing canned ripe olives. Also, to assist in expeditious and efficient planning of a promotional program OAC could establish subcommittees. Such committees could explore promotional methods, develop preliminary projects and programs, contact agencies, and make recommendations to OAC with respect thereto, and thus expedite the work of OAC. Final decisions and implementation of any recommendation of any such subcommittee should be the prerogative of OAC.

In the conduct of any promotional program the OAC should be authorized to conduct promotional projects itself, or

to contract for the conduct of such projects with an agency or agencies which specialize in this field.

In its deliberations concerning promotional and advertising projects, the OAC should give particular consideration to the expected supply of olives in relation to market requirements, the supply situation among competing areas and commodities, and the need for marketing research with respect to any marketing development activity and the need for a coordinated effort with USDA's Plentiful Foods Program. To permit the Secretary to discharge his responsibility under the order the committee should be required to submit each such project to him for his approval. In submitting such projects the committee should include recommendations as to the funds to be obtained from assessments under the order, recommendations as to any marketing research projects, and recommendations as to promotional activity and paid advertising. The committee should review its market development program annually to appraise its effectiveness. An annual report on the program should be made available to the industry and the Secretary.

(5) The order requires, among other things, that natural condition olives to be used in packaged olives shall first be size-graded, either by sample or by lot, into prescribed size-designations. These size designations are those set forth in the U.S. Standards for Grades of Canned Ripe Olives, plus two additional size designations "Petite" and "Sub-Petite," covering olives smaller than those in the designations in the Standards. The size designations are in terms of count ranges per pound. Small, the smallest designation in the Standards, includes olives ranging in count from 128 to 140, inclusive, per pound. "Petite" as currently defined in the order ranges from 140 to 180, inclusive, per pound. Hence, there is an apparent conflict between these two designations. The correct range of "Petite" is 141 to 180, inclusive, per pound, and the order should be amended, as hereinafter set forth, to reflect this range.

For regulatory purposes under the order, varieties of similar size characteristics are grouped together in specified variety groups. Only olives in specified size designations within each established variety group may be packaged as whole and whole pitted styles of canned ripe olives. In addition, the order currently permits olives one size smaller than the minimum size permitted in whole and whole pitted canned ripe olives to be used in halved, sliced, chopped, or minced styles of canned ripe olives. Olives of sizes smaller than those permitted to be used in such styles (undersize), and olives which are deemed unsuitable by the handler (culls), must be disposed of as other than canned ripe olives.

Currently, such disposition is required of all olives of variety group 1, except Ascolano, Barouni, and St. Agostino, smaller than Extra Large (approximate count 82); of all olives of variety group 1, of Ascolano, Barouni, and St. Agostino smaller than Large (approximate count 98); of all olives of variety group 2, except Obliza, smaller than Petite (approximate count 160); and of all olives of variety group 2, of the Obliza variety smaller than Small, Select or Standard (average count 135). These disposition requirements are related to the sizes established for olives at the outgoing level, permitting the use in halved, sliced, chopped, and minced styles of one size smaller for each of the respective variety groups than the minimum size permitted in the whole and whole pitted styles of canned ripe olives. At the time the order was established there was in existence a more than adequate inventory of canned ripe olives in the halved, sliced, chopped, and minced styles. Hence, one size in addition to the olives of larger sizes customarily used in such styles was considered adequate. No provision was made in the order to permit any additional sizes to be used.

In 1967–68 the production of olives was less than one-fourth of an average crop. By the time olives from the 1968–69 crop are available inventories of halved, sliced, chopped, and minced are expected to be depleted or reduced below a desirable carryover level. If such develops additional sizes doubtless will be needed to enable the olive industry to meet demands and replenish inventories. Under circumstances of severely reduced supplies or of increased demand, authority should be available in the order so that sizes which will produce a satisfactory product in such styles can be made available as necessary. The record shows that additional sizes of olives smaller than those currently permitted could be used to produce satisfactory products. Such olives include: Olives of variety group 1, except Ascolano, Barouni, and St. Agostino, of a size which individually weigh 1/105th pound or more; olives of variety group 1 of Ascolano, Barouni, and St. Agostino, of a size which individually weigh 1/180th pound or more; olives of variety group 2, except Obliza, which individually weigh 1/225th pound or more; olives of variety group 2 of the Obliza variety which individually weigh 1/180th pound or more. The order should be amended to establish these sizes as the minimum sizes of natural condition olives which may be authorized for use in the production of such styles, and to provide that the committee may recommend and the Secretary may authorize the use in such styles of any or all sizes not smaller than the foregoing. However, as will hereinafter be discussed in connection with outgoing regulations, it is not known at this time the extent to which sizes of olives smaller than those permitted in whole and whole pitted olives, but not smaller than the minimum sizes, will be needed in any crop year to provide an adequate supply of halved, sliced, chopped, and minced styles. Therefore, the authorization to so use natural condition olives of small sizes should be subject to annual recommendation by the committee and establishment by the Secretary. Such small sizes should be consistent with the sizes prescribed under the outgoing regulatory provisions.

During each crop year, sizes smaller than those authorized for use in such year in halved, sliced, chopped, and minced styles should be disposed of as other than canned ripe olives in accordance with disposition requirements of the order.

Size-grading under the order, which results in the segregation of olives into various size designations, as previously related, is on the basis of the size designations set forth in the U.S. Standards for Grades of Canned Ripe Olives, and two additional designations specified in the order for olives smaller than those covered under the Standards. Each of these size designations is in terms of a count range. For example, in the "Medium" size designation the count of olives in a pound can vary from 106–121, and in "Small" from 128–140. Obviously, olives which count 106 to the pound average larger in size than the olives in a pound which count 121. It would be to the grower's advantage for the olives to be size-graded to the 121 count, thus including a larger proportion of the smaller olives in the "Medium" size category (size designation). Conversely, it would be to the handler's advantage to size-grade the olives to the 106 count, thus including only olives of a greater average size. Ideally, size-grading should produce a count near 113, the midpoint of the range, but due to variation in the shape of olives, and imperfections in the size-grading machinery, absolute precision in size-grading is difficult to achieve. It has been found, however, that it would be practical to require a more precise result than that achieved by allowing the full range. In the past two years of operation under the order inspection procedure has required the grading to be within a narrower range, for example "Medium" was required to be size graded in the range 110–116, instead of 106 to 121. This has produced a satisfactory result, and such more precise grading should be continued. The order provisions should specifically authorize the committee to prescribe narrower limits than those specified in the Standards to govern size-grading so that this can be required if such is found to be practical. It is desirable to require the greatest degree of precision practical so as to assure equitable treatment of growers and to place handlers on the same footing in the acquisition of olives so as to effect orderly marketing and improve grower returns. It is therefore concluded that the order should be amended as hereinafter set forth to specifically authorize the committee to recommend and the Secretary to establish such other size requirements as may be deemed appropriate to accomplish the foregoing.

As previously stated, the order currently requires handlers to dispose of olives of sizes smaller than those permitted to be used in any style of canned ripe olives for other uses under supervision of the inspection service. The determination as to the quantity of each variety group which is required to be so eliminated is arrived at by the size-grading required at the incoming level, mainly on a sample basis. Currently, disposition is

required on a variety basis. That is, if the sample size-grading or lot size-grading discloses that the variety group 1 olives of the Ascolano, Barouni, and St. Agostino varieties of a handler contain 2 tons of undersize olives, he is required to dispose of as other than canned ripe olives, 2 tons of the required undersize fruit of such varieties. Likewise, handlers are required to dispose of cull fruit on a variety basis, equal in quantity and character to that disclosed at the incoming level.

The record shows that handlers have found it extremely difficult to meet the undersize and cull obligations on a variety basis. In some instances, the quantity of undersize olives subsequently lot size-graded out in one variety has exceeded the quantity established as the obligation at the incoming level for that variety, while the undersize olives so lot size-graded out of another variety has been less than the obligation so established for such variety. Similar experience was encountered with respect to the cull obligation.

Various causes are responsible for these discrepancies. Undersize and culls often are not removed at the incoming level. Instead, size-grade and cull composition of a lot is determine from a sample at that level. Immediately thereafter the olives are put into storage solutions, or into the initial processing solution. Later the olives are lot size-graded at some intermediate step of processing into the size designations prescribed in the outgoing requirements. In the processing operation olives sometimes change character. In some instances they become smaller than they were in their natural condition state, while in others they increase in size. One type of processing known as "fresh cure" which is used for certain varieties suited to it causes an increase in size. If the olives increase in size the quantity of undersize resulting from the later size-grading will be less than that determined at the incoming level; if the olives shrink the quantity of undersize will be larger. Also, olives which in their natural condition state manifest the appearance of culls may sometimes process into a desirable product, while others which do not manifest such appearance may process into an undesirable product. Because of the foregoing described unpredictable behavior of olives, and the lack of precision in size-grading equipment, it has been extremely burdensome on handlers to meet the undersize and cull obligations on a variety basis. A practical solution to the problem would be to dispense with the disposition requirement on a variety basis and to permit handlers to dispose of in nonregulated outlets a quantity of undersize olives equal to the undersize obligation without regard to variety. Likewise, a handler should be permitted to dispose of a quantity of cull olives equal to his cull obligation without regard to variety in fulfillment of his cull obligation. This would relieve the handler of burdensome and costly record keeping and other precautionary actions involved in keeping track of obligations and dispositions on a variety group basis, would enable a more efficient operation, and would permit handlers to offset undersize and cull deficits in one variety group by applying the excess undersize and culls from other variety groups. Permitting handlers to meet their undersize and cull obligations on this basis would still result in the practical elimination of the olives of each variety group which the incoming size-grading identified as smaller than those permitted in canned ripe olives, and also would result on the same basis in the elimination of the olives so identified as culls.

The order requires inspection and certification of canned ripe olives at the outgoing level. Olives at that level must meet specified grade and size requirements. Compliance with such requirements at the outgoing level will necessitate elimination of undersize and off quality olives. The purpose of size-grading at the incoming level is to undergird the outgoing requirements and to provide the growers and handlers with information as to the quantities of the different sizes of cannable olives in each lot of fruit as a basis for establishing the value of the lot. Such purpose would still be served by permitting handlers to meet disposition requirements as indicated. It is therefore concluded that the order should be amended as hereinafter set forth to permit a handler to meet his undersize obligation by disposing of a quantity of olives in non-regulated outlets equal to that determined to be undersize at the incoming level, and to so dispose of a quantity of olives equal to his cull obligation as so determined in fulfillment of his cull obligation without the necessity of a precise accounting as to the varietal composition of the olives in the disposition quantities.

The record indicates that while the application of the excess undersize and culls from variety groups which have such to cover the deficits of other variety groups should enable handlers to substantially comply with disposition requirements, it is recognized that even with such application it is possible that a handler may still have a deficit. The excess quantities may not be equal to the deficits. In such instance the handler should not be relieved of the disposition requirements but should be required to fill the deficit in undersize by disposing of olives of sizes larger than undersize, and to fill any cull deficit by disposing of olives of a quality better than culls. Moreover, each handler should be required to have on hand throughout the crop year a quantity of olives equal to that represented by his undersize and cull obligations, less any quantity previously disposed of in the approved manner, so as to assure the handler's continued compliance with the regulatory requirements of the program during the year. It would also enable the committee promptly to receive, investigate, and refer to the Department violations of the program. It is the intent that any time a handler disposes of olives without satisfying his undersize and cull obligations, that he should have on hand an adequate quantity to meet such obligation. It is recognized that prompt compliance by each handler is essential, if orderly marketing is to be achieved. The objective should be to keep handlers on as nearly an equal footing as possible. The foregoing provisions would provide a wider latitude to handlers to meet obligations, and at the same time would give incentive to them to try to meet obligations with fruit which meets undersize and cull specifications. Except in rare circumstances it is not expected that handlers will choose to dispose of cannable olives in fulfillment of obligations but such alternative should be available to them in the interest of the program. It is, therefore, concluded that the order should be amended as hereinafter set forth to reflect the foregoing alternatives for handlers to meet undersize and cull obligations.

(6) The whole and whole-pitted styles of canned ripe olives are the primary products produced in the California olive industry. The larger olives of each variety are preferred for use in the production of such products. Smaller olives of each variety are used to produce canned ripe olives of the halved, sliced, chopped, and minced styles which are considered secondary products. Olives of the smaller sizes which are permitted to be used in the secondary products but not in the primary products are often referred to as "limited use sizes." As previously related, the order now permits one such size in each variety group to be used in the production of secondary products. All styles of canned ripe olives, other than those of the "tree ripened type," are required to grade at least U.S. Grade C at the outgoing level. The order does not now contain authority for changing grade requirements except by amendment, and contains only limited authority for changing size requirements.

When the order was put into effect there was more than adequate inventory of secondary products, consequently the need for olives for such use was limited and this was reflected in setting the size restriction prescribed currently in the order. In the 1967–68 crop year a near crop failure occurred, with less than one-fourth of a crop being produced. As a result, inventories of all olives are now depleted or will be severely reduced by the time olives from the 1968–69 crop are available. The evidence shows that flexibility is needed in the order in establishing grade and size requirements so that the industry can better cope with year-to-year changes affecting the production and marketing of olives. Rigid grade and size requirements as presently fixed in the order do not permit the ready tailoring of requirements to fit the demands of the market. The order should therefore be amended as hereinafter set forth to authorize the committee, with the approval of the Secretary, to modify the grade requirements for olives at the outgoing level. Also, similar authorization, as hereinafter set forth, should be provided to enable the committee to alter size requirements for limited use sizes at the outgoing level with comparable

adjustments in related requirements for natural condition olives at the incoming level. While flexibility is necessary as the foregoing indicates, minimum size requirements for the various variety groups should be provided in the order to prohibit the use of sizes which have been found to be unsatisfactory for use in any style of canned ripe olives. The record shows that the following sizes should be eliminated from use in any style of canned olives: Olives of variety group 1, except the Ascolano, Barouni, and St. Agostino varieties of a size smaller than those which individually weigh less than 1/105th pound; olives of variety group 1, of the Ascolano, Barouni, and St. Agostino varieties of a size smaller than those which individually weigh less than 1/180th pound; olives of variety group 2, except the Obliza variety, of a size smaller than those which individually weigh less than 1/225th pound; and olives of variety group 2, of the Obliza variety, of a size smaller than those which individually weigh less than 1/180th pound.

Sizes larger than the foregoing eliminated sizes have been found to produce satisfactory secondary olive products, and in certain circumstances it may be advantageous to authorize the use of any or all such sizes. Depending upon demand and supply conditions, it may be advantageous to authorize the use of only one size smaller than the minimum permitted to be used in the whole and whole pitted styles of canned ripe olives. It is conceivable, too, that under circumstances of very heavy inventory or availability of abundant supplies of larger olives, or both, no sizes of olives smaller than those permitted in whole and whole pitted styles should be so authorized. To provide maximum flexibility for dealing with the many and various supply and demand situations that may develop from year-to-year, the order should provide that the committee may recommend and the Secretary authorize the use in secondary products of any, or all, sizes not smaller than the minimum sizes. In its consideration of any such recommendations the committee should make a careful analysis of the factors set forth in the marketing policy. If it concludes that certain of such sizes of olives should be authorized for such use, it should recommend such specific sizes as it believes should be authorized. If the Secretary concurs, he should issue an appropriate regulation specifying the sizes that can be used in halved, sliced, chopped, and minced styles of canned ripe olives. The objectives should be to permit the use in secondary products of the most desirable sizes as will tend to effectuate the purposes of the act and the order.

Likewise, the committee should be authorized after study of the grade requirements in the light of current and prospective crop and market conditions, to recommend to the Secretary modification of such requirements with respect to any style of olives regulated under the order. Basically, the grade contemplated should be U.S. Grade C with such modifications effected by increasing or decreasing tolerances for one or more grade factors as may be warranted by the circumstances. The committee in arriving at a recommendation with respect to any such modification should consider all such factors carefully and should consult with representatives of the Processed Products Inspection Service as they are familiar with the development and application of grades, and thus can provide necessary information as to the probable effect and practicability of any proposed modifications.

The notice of hearing contained a provision to fix the foregoing sizes as the size limits for olives permitted to be used in secondary products in the 1968–69 crop year. This was supported at the hearing on the basis that the current olive inventory position indicates that all olives larger than those restricted likely will be needed to replenish supplies of secondary products and to fill demands. However, offsetting testimony was presented, the burden of which was that it is not reasonable to establish specific size requirements before the crop is set on the trees, and, despite the industry's favorable inventory position, the committee should be authorized to review the situation at or near the beginning of the 1968 crop year as in any subsequent year, and to establish requirements based upon conditions then existing. It was pointed out that conditions now appear favorable for a large crop and large crops usually are associated with a production of smaller fruit. In the 1966–67 crop year when the greatest pack of halved, sliced, chopped, and minced styles of olives were packed, there was available 4,844 tons of olives of authorized limited use size available to handlers, and less than 2,000 tons were used in such styles. Returns to growers are enhanced by limiting the use in secondary products to sizes which produce better quality and this means olives of the larger sizes within the limited use category (subcanning sizes). Further, the evidence indicates that it is not in the interest of growers to permit use of a larger quantity of small sized fruit than is necessary to supply the market with secondary products and provide a reasonable carryover, as excessive inventories in the past have exerted a depressing effect upon grower prices, and limiting the use of subcanning sizes is one means of preventing development of such inventories. Under such circumstances, the committee may wish to consider establishment of a more restrictive regulation than that which would be achieved by permitting the use of the full range of subcanning olives. It is therefore concluded that the evidence weighs more heavily in favor of treating 1968 in the same manner as subsequent years. This will permit the committee to study the situation in the light of later crop and market developments and to recommend to the Secretary the sizes it deems advisable for 1968. Such recommendation for 1968 and any subsequent year should be forwarded to the Secretary along with a copy of the required marketing policy and any other information the committee considered in arriving at the recommendation.

(7) The provisions of the order providing for interhandler transfers of olives should be amended, as hereinafter set forth, to permit transfer to the receiving handler (transferee) of the undersize and cull disposition obligations on transferred lots of natural condition olives. Currently the order holds the transferring handler (transferor) responsible for meeting such obligations even though he does not lot size-grade the natural condition olives prior to transfer. It has been difficult in the administration of the order to credit the transferor with dispositions by the transferee who later lot size-graded the olives. Authorization of a procedure enabling the transfer of the obligations to the transferee along with the olives is a reasonable and practical means of overcoming this difficulty, and it would improve order administration. The transferee is in a better position to meet the obligations than the transferor on transferred lots of olives which have not been lot graded prior to transfer because such lots still contain the undersize and cull fruit. Thus, the transferee has the fruit to meet the obligation in his possession.

The current procedure which handlers are required to follow in effecting interhandler transfers requires them to complete a form providing the committee with details of the transfer. Such form can be adapted to include a certification by the transferee acknowledging to the committee his assumption of the disposition obligations on any lot of natural condition olives he receives by transfer from another handler. This should relieve the transferor of the obligation.

(8) The order should be amended, as hereinafter set forth, to provide for exemption from any or all order requirements the handling of olives in such types of shipments, or for such specified purposes, as the committee with the approval of the Secretary may prescribe. Currently, the order authorizes such exemption only for minimum quantities of olives. Occasionally, olives may fail to meet outgoing grade or size regulations. Such olives may be reprocessed to meet requirements. No other form of disposition is provided for.

Under certain circumstances, it may be more advantageous to the handler to donate for charitable consumption olives which have failed to meet requirements, or to divert them to uses or products other than canned ripe olives. It may even be to the handler's advantage to dump olives rather than to reprocess them in an attempt to meet requirements. Also, it may be advantageous to exempt handling of olives from certain requirements in the interest of facilitating research and development. The exemption authority should be on a selective basis so the committee and the Secretary can appraise the situation and relieve the shipment or other handing of olives only from such of the order requirements as may be necessary and practical. No exemption is contemplated nor should any be provided that will permit exempt olives to compete with regulated olives in normal channels of trade. The order now

provides for the establishment of safeguards to assure that exempted olives are handled only as authorized. It is concluded that broadened exemption authority should be provided in the order. This would enable the committee to establish alternative avenues for exemption if it appears that order administration, or handlers' operations, would be benefited by such exemption. The record indicates that it may be desirable to require as a safeguard execution of an agreement by the recipient specifying that exempted olives will be used only as authorized. It was testified that authority should be included in the order so any such agreement could provide for liquidated damages in connection with donations for charitable use, in the event the agreement is violated. However, it is not clear from the record how such liquidated damage provision would be used and no authority therefor is included.

(9) It was testified that the phrase "with the approval of the Secretary" in § 932.35(c) appears to contemplate cumbersome approval procedures not required in connection with other duties of the committee, and it should be deleted. However, such specific approval applies to the committee's authority to conduct "scientific and other studies" rather than to the other routine activities specified in such paragraph. No special approval should be or is required for the committee to engage in such activities. However, specific approval should be required for the committee to engage in the special studies indicated. It is therefore concluded that the phrase should not be deleted.

Except as heretofore discussed conforming changes are not required.

Rulings on proposed findings and conclusions. April 10, 1968, was fixed as the latest date for filing proposed findings and conclusions, written arguments or briefs based upon the evidence received at the hearing. Briefs were filed by the following persons and firms all located in California: Alfred A. Holve, Howard L. Rogers, Willard Hamilton, Clyde Irion, all of Lindsay; George Hoag, Herman P. Johnston, Robert C. Jones, all of Corning; Dan Lopopola, Fresno; Willard Turek, Gerber; Ira O. Well, Orinda; Frank J. Oberti, Madera; and Maurice D. L. Fuller, Jr., of Pillsbury, Madison, and Sutro, San Francisco, on behalf of Tri-Valley Growers, and G. Oberti and Sons.

All of the briefs supported the proposed amendment to authorize for years after 1968–69 an annual review and change, within prescribed limits, the minimum size requirements for natural condition olives at the incoming level and for olives used in halved, sliced, chopped, and minced styles, of canned ripe olives. Ten of the briefs, however, opposed fixing such size requirements for the 1968–69 crop year prior to the annual marketing policy meeting, required to be held each year not later than August 15.

Each point included in the briefs was fully and carefully considered, along with the evidence in the record, in making the findings and reaching the conclusions herein set forth. To the extent that any suggested findings or conclusions contained in the briefs are inconsistent with the findings and conclusions contained herein, they are denied on the basis of the facts found and stated in connection with the decision.

General findings. Upon the basis of the evidence adduced at such hearing, and the record thereof, it is found that:

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

(2) The said marketing agreement and order, as hereby proposed to be amended, regulate the handling of olives grown in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial or industrial activity specified in, a proposed marketing agreement and order upon which hearings have been held;

(3) The said marketing agreement and order, as hereby proposed to be 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 production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of olives grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of olives grown in the production area, as defined in said marketing agreement and order, as hereby proposed to be amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Recommended amendment of the marketing agreement and order. The following amendment of the order is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. Revise § 932.8 to read as follows:

§ 932.8 Natural condition olives.

"Natural condition olives" means olives in their fresh harvested state, whether or not placed in a water or other preserving medium.

2. Amend § 932.25 by deleting the final sentence and inserting in lieu thereof a sentence to read as follows:

§ 932.25 Establishment and membership.

* * * Allocation of the handler members shall be four members to represent cooperative marketing organizations, herein referred to as "cooperative handlers," and four members to represent handlers who are not cooperative marketing organizations, herein referred to as "independent handlers": *Provided,* That whenever during the crop year in which nominations are made and in the preceding crop year, the cooperative handlers or the independent handlers handled as first handler 65 percent or more of the total quantity of olives so handled by all handlers allocation shall be five members to represent the group which so handled 65 percent or more of such olives and three members to represent the group which handled 35 percent or less. The committee may, with the approval of the Secretary, provide such other allocation of producer or handler membership, or both, as may be necessary to assure equitable representation.

3. Revise § 932.29 to read as follows:

§ 932.29 Nominations.

(a) *Producer members.* (1) Nominations for producer members of the committee, and their respective alternates, shall be made at meetings of producers held by the committee at such times and places as it shall designate. The names of nominees shall be submitted to the Secretary prior to April 16 of the year in which nominations are made. The committee shall prescribe such procedure for the conduct of such meetings and for voting on the candidates selected thereat as shall be fair to all persons concerned.

(2) Only producers, including duly authorized officers or employees of producers, who are present shall participate in the nomination of producer members and alternate members. Each producer shall be entitled to cast only one vote for each nominee to be selected in the district in which he produces olives. No producer shall participate in the selection of nominees in more than one district. If a producer produces olives in more than one district, he shall select the district in which he will so participate and notify the committee of his choice.

(b) *Handler members.* (1) At a meeting or meetings called by the committee, the cooperative handlers shall nominate a qualified person for each member position and a qualified person for each alternate member position allocated to cooperative handlers as provided in § 932.25.

(2) At a meeting or meetings called by the committee, the independent handlers shall nominate a qualified person for each member position and a qualified person for each alternate member position allocated to independent handlers as provided in § 932.25.

(3) Each handler shall be entitled to cast only one vote for each nominee for cooperative handler member or alternate member or independent handler member or alternate member, as the case may be, which vote shall be weighted by the tonnages of olives handled by such handler during the crop year in which nominations are made and in the previous crop year.

4. Amend § 932.35 by revising paragraph (k) to read as follows:

§ 932.35 Duties.

The committee shall have, among others, the following duties:

* * * * *

(k) With the approval of the Secretary, to redefine the districts into which the area has been divided in § 932.21 and to reapportion the membership in accordance therewith: *Provided*, That any such changes reflect insofar as practicable shifts in olive acreage within the districts and area, the numbers of growers in the districts, the tonnage produced, and is equitable as to producers; and

* * * * *

5. Amend the first sentence of paragraph (a) of § 932.39 to read as follows:

§ 932.39 Assessments.

(a) As his pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by the committee during a fiscal year, each handler who first handles olives during such year shall pay to the committee, upon demand, assessments on all olives to be used in the production of packaged olives, including olives to be used in canned ripe olives of the "tree ripened" type or green olives when such are regulated as packaged olives pursuant to § 932.52. * * *

* * * * *

6. Revise § 932.45 to read as follows:

§ 932.45 Marketing research and development.

(a) The committee may, with the approval of the Secretary, establish or provide for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of California olives. Such projects may provide for any form of marketing promotion, including paid advertising. The expenses of such projects shall be paid from funds collected pursuant to § 932.39.

(b) In recommending projects pursuant to this section, the committee shall give consideration to the following factors:

(1) The expected supply of olives in relation to market requirements;

(2) The supply situation among competing areas and commodities; and

(3) The need for marketing research with respect to any marketing development activity and the need for a coordinated effort with USDA's Plentiful Foods Program.

(c) If the committee should conclude that a program of marketing research or development should be undertaken or continued pursuant to this section in any crop year, it shall submit the following for the approval of the Secretary:

(1) Its recommendations as to funds to be obtained pursuant to § 932.39;

(2) Its recommendations as to any marketing research projects; and

(3) Its recommendations as to promotion activity and paid advertising.

7. Revise paragraph (a) of § 932.51 to read as follows:

§ 932.51 Incoming regulations.

(a) *Minimum standards for natural condition olives.* (1) Except as otherwise provided in this section, no handler shall process any lot of natural condition olives for use in the production of packaged olives which has not first been:

(i) Weighed on scales sealed by the State of California Department of Weights and Measures, an official certified weight certificate issued thereon, and a copy of such certificate furnished to the Federal or Federal-State Inspection Service and the committee; and

(ii) Size-graded, either by sample or by lot, under the supervision of any such inspection service and classified into separate size designations and a certification issued with respect thereto by such inspection service. Such size designations shall be in accordance with those set forth in Table 1 of the U.S. Standards for Grades of Canned Ripe Olives (§§ 52.3751–52.3766 of this title) or such sizes as may be recommended by the committee and established by the Secretary: *Provided*, That, for the purpose of this part, the size designations in said Table 1 shall be deemed to include the following two additional size designations:

Designations(s)	Approximate count (per pound)	Average count (per pound)
Subpetite		181 and up.
Petite	160	141 to 180, inclusive.

Such certification shall show, in addition to the quantities by weight of the olives in the lot that are classified as being in each size or size designation, the quantity of olives classified as culls by the handler: *Provided*, That when the Secretary, upon the recommendation of the committee, issues a definition of and classification for "culls," the aforesaid quantity of culls shall be determined on the basis of such definition and in accordance with such classification.

(2) Each handler shall, under the supervision of any such inspection service, dispose of as other than canned ripe olives an aggregate quantity of olives, comparable in size and characteristics and equal to the quantities shown on the certification for each lot to be:

(i) Variety Group 1 olives, except the Ascolano, Barouni, and St. Agostino varieties, of a size which individually weigh less than 1/105th pound;

(ii) Variety Group 1 olives of the Ascolano, Barouni, and St. Agostino varities of a size which individually weigh less than 1/180th pound;

(iii) Variety Group 2 olives, except the Obliza variety, of a size which individually weigh less than 1/225th pound;

(iv) Variety Group 2 olives of the Obliza variety of a size which individually weigh less than 1/180th pound;

(v) Such other sizes for the foregoing variety groups as are not authorized for use in the production of halved, sliced, chopped, or minced styles of canned ripe olives pursuant to § 932.52; and

(vi) Olives classified as culls.

(3) Notwithstanding the provisions of subparagraph (2) of this section, a handler may (i) meet any deficit in his undersize obligation in one variety by disposing of under supervision of the inspection service, as other than canned ripe olives, an equal quantity of undersize olives of any other variety, or by so disposing of an equal quantity of olives of that or any other variety of sizes larger than undersize of a quality better than culls, and (ii) meet any deficit in his cull obligation in one variety by so disposing of an equal quantity of cull olives of any other variety, or by so disposing of an equal quantity of olives of any variety of sizes larger than undersize of a quality better than culls.

(4) Each handler shall hold at all times a quantity of olives equal to the quantities required in subparagraph (2) of this paragraph, less any quantity previously disposed of as specified in such subparagraph.

* * * * *

8. Amend § 932.52 by revising paragraph (a) (1) and (3) to read as follows:

§ 932.52 Outgoing regulations.

(a) *Minimum standards for packaged olives.* * * *

(1) Canned ripe olives, other than those of the "tree-ripened" type, shall grade at least U.S. Grade C, as such grade is defined in the then current U.S. Standards for Canned Ripe Olives (§§ 52.3751–52.3766 of this title) or as modified by the committee, with the approval of the Secretary, for purposes of this part.

* * * * *

(3) Processed olives to be used in the production of canned pitted ripe olives, other than those of the "tree-ripened" type, shall meet the same size requirements as specified in subparagraph (2) of this paragraph: *Provided*, That olives smaller than those so specified, as recommended annually by the committee and established by the Secretary, may be used in the production of halved, sliced, chopped, or minced styles of canned ripe olives, as defined in said U.S. Standards, but any such olives shall be not smaller than the following applicable minimum size:

(i) Variety Group 1 olives, except the Ascolano, Barouni, and St. Agostino varieties, of a size which individually weigh 1/105th pound;

(ii) Variety Group 1 olives of the Ascolano, Barouni, or St. Agostino varieties, of a size which individualy weigh 1/180th pound;

(iii) Variety Group 2 olives, except the Obliza variety, of a size which individually weigh 1/225th pound;

(iv) Variety Group 2 olives of the Obliza variety of a size which individually weigh 1/180th pound.

* * * * *

9. Revise § 932.54 to read as follows:

§ 932.54 Interhandler transfers.

Transfers within the area of olives from one handler to another for further handling within the area are permitted. Whenever such a transfer of olives is made, the transferring handler shall comply with all applicable regulations up to the time of such transfer, and the receiving handler shall comply with all applicable regulations subsequent to

such transfer: *Provided*, That the disposition obligations referable to transferred natural condition olives pursuant to § 932.51(a) (2) may be transferred along with the olives, in which event the receiving handler shall comply with the disposition obligations.

10. Amend § 932.55 by revising paragraph (b) to read as follows:

§ 932.55 Exemption.

* * * * *

(b) Upon the basis of the recommendation submitted by the committee or from other available information, the Secretary may relieve from any or all requirements under this part the handling of olives in such minimum quantities, in such types of shipments, or for such specified purposes (including shipments to facilitate the conduct of marketing research and development projects established pursuant to § 932.45) as the committee with the approval of the Secretary may prescribe.

* * * * *

§ 932.56 [Amended]

11. Delete § 932.56, and the word "solely" from § 932.16.

Dated: May 24, 1968.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 68-6381; Filed, May 28, 1968; 8:49 a.m.]

[7 CFR Parts 1001, 1002, 1015]

[Docket Nos. AO-14-A42, AO-71-A54, AO-305-A19]

MILK IN MASSACHUSETTS-RHODE ISLAND-NEW HAMPSHIRE, NEW YORK-NEW JERSEY, AND CONNECTICUT MARKETING AREAS

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 agreements and orders regulating the handling of milk in the Massachusetts-Rhode Island-New Hampshire, New York-New Jersey, and Connecticut marketing areas. Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 10th 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 agreements and to the orders as amended, were formulated, was conducted at New York, N.Y., on December 5-13, 1967, pursuant to notice thereof which was issued October 20, 1967 (32 F.R. 14771).

Specifically, the material issues on the record of the hearing relate to (1) a more appropriate alignment of Class I prices between the New York-New Jersey and New England markets, and (2) a return to effective formula pricing under (a) a common formula, or (b) independently operating, but similar pricing formulas.

FINDINGS AND CONCLUSIONS

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

No attempt should be made on this record to reactivate Class I formula pricing in the New York-New Jersey and New England markets. However, the New York-New Jersey Class I price should be increased by 10 cents to provide more appropriate alignment with the Massachusetts-Rhode Island-New Hampshire and Connecticut Class I prices. This can best be accomplished under existing circumstances by a specified Class I price of $6.49 in Order No. 2 through April 1969. No change need be made in the presently specified prices of $6.67 in Order No. 1 and $7.07 in Order No. 15.

The northeastern Federal milk orders have used "economic formulas" as a mechanism for determining Class I milk prices for almost two decades. These "economic formulas" are so termed because their primary movers are selected economic factors reflecting the state of the economy for the country generally and, in the case of the New England orders, the state of the economy in the local milkshed. By contrast, the prime price determinant in other Federal orders is the value of manufacturing milk as reflected by competitive pay prices for manufacturing grade milk.

Both the New England and New York-New Jersey Class I formulas employ the same basic technique in determining the Class I price. That is, the economic index is multiplied by a base price to determine the current economic index price. This price is then adjusted by a supply-demand factor to obtain a final Class I price. Prior to December 1967 the New England formulas had one additional refinement whereby, through a system of bracketing, Class I price movements occurred in 22-cent increments. This procedure eliminated minor price fluctuations and facilitated the adjustment of resale prices by handlers in multiples of one-half cent per quart.

The New England economic index is derived from a specified weighting of the U.S. wholesale commodity price index, a New England consumer income index and a New England grain-labor index. Under the terms of the order the economic index price (the economic index times the base price) cannot vary by more than a specified amount from the New York-New Jersey economic index price.

In the New York-New Jersey Class I pricing formula the economic index consists only of the U.S. wholesale commodity price index. Although the formula does not include indexes reflecting cost of production (feed-labor) or consumer purchasing power (consumer income) it is provided that a hearing shall be called, or an announcement be made as to why a hearing should not be called, if certain relationships between the wholesale price index or the Class I price and cost of production factors or manufacturing milk values are not maintained.

Because the New England formula contains additional economic movers of a more volatile nature than the U.S. wholesale price index, it has been necessary from time to time to revise the formula. Such revisions were primarily for the purpose of adjusting the basic price to relieve pressure on the supply-demand adjustment mechanism as supplies increased in response to the Class I price level. The New York-New Jersey formula, on the other hand, has been more stable and has remained relatively unchanged except for necessary adjustments to accommodate the area extension in 1957.

In late 1965 and early 1966, milk production throughout the country began to decline sharply and a series of emergency price actions were taken in an effort to stem the production decline. Because the situation was of such a general nature these emergency actions were handled on a national basis. These actions placed floors in the formulas which raised the prices above the then current levels with the result that Class I milk prices in most Federal orders are for all practical purposes specified prices. The most recent action which resulted from a national hearing held in Memphis, Tenn., on February 23, 1968, was set forth in the decision of April 15, 1968 (33 F.R. 6016), official notice of which is taken. This action further increased price levels by 28 cents through April 1969.

The mechanics necessarily employed to insure price action in the northeastern markets, using economic formula pricing, comparable with the action in markets where prices are based on manufacturing milk values have rendered the formulas completely inoperative. This procedure would undoubtedly have been necessary under any circumstances since the market situation has been complicated by recent basic changes in the Northeast markets and particularly in the New York-New Jersey market. These changes have dissipated the current usefulness of the current supply-demand adjustment mechanism in the pricing formula.

The changes include the shift from individual-handler to marketwide pooling in Delaware Valley effective June 1, 1967, and the accompanying and continuing shifts of producers, plants and

sales between New York-New Jersey and Delaware Valley, permissive standardization in New York State effective November 1, 1966, and the accompanying order changes necessary to adopt skim milk and butterfat accounting and revise the classification scheme, the substantial producer shifts between markets as a result of the suspension of the nearby differential payment provisions of the northeastern orders, and finally, the extension of regulation into southern New Hampshire effective December 1, 1967.

As a result of the continuing decline in milk production and the market changes indicated above, the spread between the New England Class I price and the New York-New Jersey Class I price widened from an average of 21 cents in 1965 to an average of 30 cents in 1966. On a monthly basis the differences ranged from a low of 9 cents in 1965 to as much as 46 cents in 1967. As the differences between the prices increased, increasing volumes of New York-New Jersey milk moved into the Massachusetts-Rhode Island market for Class I use. Official notice is taken of the monthly statistical reports of the Massachusetts-Rhode Island-New Hampshire market administrator for the months of November 1967 through March 1968. While in 1965, only 139,000 pounds of New York-New Jersey milk moved in bulk to Massachusetts-Rhode Island under a Class I assignment, the amount so moved exceeded 22 million pounds in 1966 and 23 million pounds in 1967. For the first 3 months of 1968 the movements continued at a somewhat reduced rate but were almost 2 million pounds.

Effective June 1, 1967, as a result of the emergency price actions, the difference between the New England and New York-New Jersey Class I prices was narrowed to 27 cents and through subsequent actions a difference of 28 cents has been fixed through April 1969.

New England producer interests contend that their markets are presently adequately supplied with milk but that under these present interorder Class I price relationships, milk moves in from New York-New Jersey simply because it represents a cheaper source of milk supply for New England handlers. Under the present circumstances of fixed Class I prices the result of such movements is reflected in the blended prices; i.e., a decline of the New England blended prices and enhancement of the New York-New Jersey blended price. However, regardless of the changing blended price relationship, the incentive for New England handlers to purchase New York-New Jersey milk for Class I use is unaffected.

The New York-New England Dairy Cooperative Coordinating Committee contended that closer Class I price alignment was essential to prevent these unnecessary milk movements and insure continuing market stability. They argued that such alignment under present circumstances appropriately could be accomplished only through an increase in the New York-New Jersey Class I price level. In addition, the Committee argued that the immediate implementation of a common Class I pricing formula for the New York-New Jersey and New England markets, patterned after the New England formula, was necessary to restore the industry's confidence in the pricing system.

Certain proprietary handlers in both the New York-New Jersey and New England markets took the position that the present alignment of Class I prices was, in fact, appropriate. New York-New Jersey handlers, in addition, supported the discontinuation of economic formula pricing in favor of pricing based on specified, differentials over manufacturing milk values. One substantial cooperative association with principal membership in the New York-New Jersey market, supported similar, but separate economic formulas for New York-New Jersey and New England geared to provide identical pricing initially but with freedom to adjust independently in response to changing conditions in the respective markets.

Formula pricing. The activation of formula pricing in these three markets is neither feasible nor necessary at this time. As indicated above, Class I prices in all Federal order markets have for all practical purposes been specified prices for an extended period of time. On the basis of a hearing held in Memphis, Tenn., on February 23, 1968, Class I prices generally were raised 28 cents through April 1969. In the decision of April 15, 1968, it was found that "* * *. Nationally, milk production has been declining during the last several years * * * Although the decline of one-half percent from 1966 to 1967 was the lowest percentage decline during the period, milk production for February 1968, on a daily basis was 3 percent less than for February 1967."

Long-term adequacy of milk supplies in relation to total milk and dairy product consumption will be affected by the rate of population growth and the rate of per capita consumption. In recent years population has been increasing while milk production has declined. A continued decrease in production in the face of increasing population would lead to a substantial reduction in the amount of milk available to consumers on a per capita basis. Recently, per capita consumption of milk has declined at a rate somewhat greater than population has increased. It is not possible at this time to forecast with any assurance whether the resultant recent downward trend in total consumption will continue. Obviously, the situation must be reexamined from time to time to appraise the results under existing price levels. For this reason the emergency price increase proposed herein should be limited to the period through April 1969.

At the December 5–13, 1967, hearing there was no general support for a change in the Class I price level for the New England markets. The fundamental problem under consideration was a more appropriate alignment of Class I prices between the New York-New Jersey and the New England markets. As a corollary action and to insure continuing interorder price alignment, proponents proposed the adoption of a common pricing formula geared initially to produce the existing specified prices in New England markets which the Department had previously concluded to be necessary. They contended that an immediate return to formula pricing was necessary to maintain continuing producer and consumer confidence in the Federal order program.

It is recognized that economic formula pricing in the Northeast, and particularly in New England, has had the continuing support of producers and handlers: However, because of the dramatic drop in milk production throughout the nation during the past several years, the Department concluded that the situation could most appropriately be ameliorated only through a specified Class I price guarantee. Obviously, no predetermined price level could insure correction of the situation and at the same time adequately protect the interests of consumers and the public generally. Accordingly, it was concluded that the public interest would best be served by general price adjustments to specified levels for limited periods. In this way periodic reexamination of the situation is assured to permit appraisal of the results of the current price levels and to make measured judgments with respect to future price levels.

Clearly, a return to formula pricing at this time could not serve the interests of either producers or consumers to the degree that the present fixed prices afford. It was concluded in the April 15, 1968, decision that the present specified prices were necessary to curb the downward production trend.

Even though a formula could be geared to insure the precise level of the presently specified prices in the first month of operation, the prices in subsequent months likely would be either higher or lower as a result of movements in the formula factors. It is apparent that such price movements could cause undesirable responses in either production or consumption. If the price moves too high, consumption may be unduly depressed. On the other hand, if the price moves downward, a decline in production could result in an insufficient supply of milk for fluid use.

It is impossible at this time to determine with any reasonable assurance what price level may be required after April 1969 or what price level any formula adopted would yield at that time. However, it is obvious that milk prices in the Northeast must be maintained in appropriate alignment with prices in other Federal order markets.

Modern technology makes it possible for milk to move long distances in over-the-road tankers, farm-pickup tankers or already packaged in refrigerated trucks. Therefore, milk can readily move between markets in response to price differences.

While the Northeast has been somewhat insulated from other order markets by geographic location and by intervening areas of State regulation, the situation has been substantially altered by the adoption of Federal regulation in

western Pennsylvania under the Eastern Ohio-Western Pennsylvania order effective July 1, 1968. The eastern boundary of the milkshed for that market is at least coextensive with the western boundary of the New York-New Jersey milkshed and indeed producers in that area can undoubtedly become associated with either market. In addition, there are apparent close intermarket relationships between the Eastern Ohio-Western Pennsylvania market and the Washington, D.C., and Delaware Valley markets as well as between the New York-New Jersey market and the Delaware Valley, Upper Chesapeake Bay and Washington, D.C., markets. This growing interrelationship between markets in the Northeast and markets to the West diminishes the feasibility of independent pricing for the northeastern markets.

Under established specified prices the interorder price relationships have been fixed. At this time, continuing alignment of prices could be assured only by the adoption of a pricing formula similar to that employed in markets outside the Northeast or by tightly tying any economic formula price to a specified relationship with manufacturing milk values.

Producers and certain handler interests strongly supported the adoption of a common economic formula without a specific "tie" to manufacturing milk values. It must be conceded that while the use of economic formulas in the Northeast has been a matter of considerable controversy in markets outside the Northeast, the prices resulting from such formulas, have, on the average, borne an acceptable relationship to prices in other markets. In addition, the formulas have been generally acceptable to consumers and to this end have contributed to continuing market stability.

It is concluded that the matter of an appropriate common pricing formula for northeastern markets should not be made on the basis of this record. Contrary to proponents' position, the present basis of fixed pricing is the best way of implementing market stability in this period of great uncertainty with respect to future production and consumption trends. Appropriately, the matter of a pricing formula should be reconsidered at a future hearing after marketing conditions have stabilized sufficiently to permit a longer range decision than is now possible.

Price alignment. Notwithstanding the conclusions hereinbefore set forth, some adjustment in the Class I price relationship between New York-New Jersey and New England is necessary to eliminate the cost advantage to New England handlers in the purchase of New York-New Jersey pool milk for Class I use.

On the basis of the May 1, 1968, emergency Class I price action, taken in Federal orders generally, the 201–210 mile zone Class I prices under the New England orders and the New York-New Jersey order were fixed at $6.67 and $6.39, respectively, through April 1969. This 28-cent difference in prices is somewhat less than the average difference of 30 cents experienced in 1966 but is 7 cents greater than the average difference of 21 cents experienced in 1965.

Essentially, no New York-New Jersey pool milk moved to New England for Class I use in 1965 when the price differences averaged 21 cents. However, in 1966 and 1967 when the price differences averaged 30 and 31 cents, respectively, about 2 million pounds per month of New York-New Jersey milk so moved. New England producer interests contend that the present differential of 28 cents is excessive and provides New England handlers a substantial cost advantage in purchasing New York-New Jersey pool milk rather than New England order milk for Class I use. Handlers generally opposed this position contending that customary handling charges in the New York-New Jersey market dissipate any cost advantage to New England handlers in the purchase of New York-New Jersey milk.

Handling charges may offset part of the apparent cost advantage that New England handlers have when purchasing New York-New Jersey milk for Class I use, however, it is clear that the beginning of such purchases in 1966 was not triggered by supply shortages in New England. During 1966 and 1967, the average Class I utilization of producer milk under the Massachusetts-Rhode Island order was only 61 percent. There is no apparent reason other than price why New York-New Jersey pool milk should have found a market in New England for Class I use.

Under normal circumstances if the respective formulas in New York-New Jersey and New England were fully operative the problem or intermarket transfers in response to price differences would be self-correcting. As New York-New Jersey milk moved to New England, displacing local producer receipts in Class I, the Class I utilization percentage of New England milk would decline and the supply-demand adjustment mechanism would operate to decrease the Class I price level. Conversely, the same milk movements would cause the New York-New Jersey Class I utilization percentage to increase which would then cause the New York-New Jersey Class I price to increase. When the respective Class I prices moved into appropriate alignment, the incentive for New England handlers to purchase New York-New Jersey pool milk for Class I use would be removed and intermarket movements would occur only in response to need.

Because interorder price disparities cannot be self-correcting under the existing circumstances of specified order prices, it is essential that the specified prices be appropriately aligned. Without such alignment the resulting price disparities could cause an uneconomic distribution of supply sources for the respective markets.

Price alignment presumably could be achieved by any of the following means: Raising the New York-New Jersey price, lowering the New England price, or a combination of the two. The continuing decline in milk production in the region makes the first of these alternatives the only practical remedy at this time.

The fundamental problem in providing proper price alignment in this situation is to determine the amount of adjustment necessary to remove the existing cost advantage in the procurement of New York-New Jersey pool milk. While the New York-New England Dairy Cooperative Coordinating Committee supported a 10-cent price differential, they readily conceded that it was not possible to make a precise determination of an appropriate differential. They did, however, argue that a 10-cent differential should be adopted at this time and that the matter should be reappraised at a public hearing after the end of 1 year.

Because of the overlapping milksheds and intermarket relationships between northeastern markets it is difficult to establish the precise differential which should be maintained between the New York-New Jersey and New England markets. However, under usual circumstances the difference in the basic Class I prices among Federal order markets reflects the difference in transportation costs from midwestern alternative supply areas.

Both the New York-New Jersey and Massachusetts-Rhode Island-New Hampshire orders employ a 1.2 cent per 10 miles variable transportation cost in fixing location differentials. Because of geography, milk moving from the Midwest to New York and to Boston would travel a somewhat different route. The distance from Eau Claire, Wis., for example, to the New York-New Jersey 201–210-mile zone via the normal route to New York City is 925 miles while the distance to the 201–210-mile zone via the normal route to Boston is 1,076 miles, a difference of 151 miles. Using a factor of 1.2 cents per 10-mile zone the appropriate difference in Class I price would be 18 cents.

An 18-cent differential closely approximates the average difference in the two prices (19 cents) during the 5-year period 1961–65, during which virtually no milk moved between the orders. It is concluded therefore that an 18-cent differential in the basic Class I prices is appropriate under current circumstances. To accomplish this end the price under the New York-New Jersey order should be raised by 10 cents to $6.49 for the period through April 1969.

Rulings on Proposed Findings and Conclusions

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

GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the New York-New Jersey 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 New York-New Jersey 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:

PART 1002—MILK IN NEW YORK-NEW JERSEY MARKETING AREA

In § 1002.50, the text of paragraph (a) preceding subparagraph (1) is revised to read as follows:

§ 1002.50 Class prices.

* * * * *

(a) For Class I-A milk the price during each month shall be a price computed pursuant to subparagraphs (1) through (10) of this paragraph, except that from the effective date hereof the Class I-A price each month shall be $6.49 through April 1969.

* * * * *

Signed at Washington, D.C., on May 24, 1968.

JOHN C. BLUM,
Deputy Administrator, Regulatory Programs.

[F.R. Doc. 68-6387; Filed, May 28, 1968; 8:50 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 20]

NONFRUIT SHERBETS AND NONFRUIT WATER ICES

Proposal To Establish Identity Standards

Notice is given that the International Association of Ice Cream Manufacturers, Washington, D.C., has submitted a petition proposing the establishment of definitions and standards of identity for nonfruit sherbets and nonfruit water ices.

Grounds given in the petition in support of the proposed standards are that characterizing ingredients other than fruit and fruit juices impart desirable flavors to sherbets and water ices; that the consumer desires sherbets and water ices flavored with such other characterizing ingredients; and that no consumer confusion with other frozen desserts would be occasioned by such products.

Accordingly, it is proposed that two new sections be added to Part 20 as follows:

§ 20.______ Nonfruit sherbets; identity; label statements of optional ingredients.

Nonfruit sherbets are the foods each of which conforms to the standard of identity and is subject to the requirements for label statement of optional ingredients prescribed for fruit sherbets by § 20.4, except that:

(a) (1) The provision of § 20.4(a) that the titratable acidity of the finished sherbet calculated as lactic acid is not less than 0.35 percent does not apply.

(2) The optional fruit-characterizing ingredients specified by § 20.4(b) are not used and instead the food is characterized by one or more of the following ingredients:

(i) Ground spice or infusion of coffee or tea.

(ii) Any natural food flavoring (except any having a characteristic fruit or fruit-like flavor).

(iii) Chocolate or cocoa, including sirup.

(iv) Any artificial food flavoring (except any having a characteristic fruit or fruit-like flavor).

(v) Confectionery.

(vi) Distilled alcoholic beverage, including liqueurs or wine, in an amount not to exceed that required for flavoring the sherbet.

(b) The name of each such nonfruit sherbet is "____________ sherbet," the blank being filled in with the common name of the characterizing ingredient used; for example, "peppermint sherbet." When the names of two or more characterizing ingredients are included, such names shall be arranged in order of predominance, if any, by weight of the respective characterizing ingredients used.

(c) If the characterizing ingredient used is vanilla, then the provisions of § 20.1(g)(2) (i), (ii), (iii), and (5)(i) shall apply.

§ 20.______ Nonfruit water ices; identity; label statement of optional ingredients.

Nonfruit water ices are the foods each of which conforms to the standard of identity and is subject to the requirements for label statement of optional ingredients prescribed for water ices by § 20.5, except that:

(a) (1) The provision of § 20.5(a) that the titratable acidity of the finished water ice calculated as lactic acid is not less than 0.35 percent does not apply.

(2) The optional fruit-characterizing ingredients specified by § 20.5(b) are not used and instead the food is characterized by one or more of the following ingredients:

(i) Ground spice or infusion of coffee or tea.

(ii) Any natural food flavoring (except any having a characteristic fruit or fruit-like flavor).

(iii) Chocolate or cocoa, including syrup.

(iv) Any artificial food flavoring (except any having a characteristic fruit or fruit-like flavor).

(v) Confectionery.

(vi) Distilled alcoholic beverage, including liqueurs or wine, in an amount not to exceed that required for flavoring the water ice.

(b) The name of each such nonfruit water ice is "____________ ice," the blank being filled in with the common name of the characterizing ingredient used; for example, "peppermint ice." When the names of two or more characterizing ingredients are included, such names shall be arranged in order of predominance, if any, by weight of the respective characterizing ingredients used.

(c) If the characterizing ingredient used is vanilla, then the provisions of § 20.1(g)(2) (i), (ii), (iii), and (5)(i) shall apply.

In addition to the labeling provisions proposed by the petitioner, the Commissioner of Food and Drugs proposes on his own initiative that if the proposal is adopted the provisions of § 20.1(g)(2) (i), (ii), (iii), (3)(iv), (4), (5)(i), and (6), as they are applicable to nonfruit sherbets and nonfruit water ices, shall apply regardless of the characterizing ingredients or flavors used.

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), all interested persons are invited to submit their views in writing, preferably in quintuplicate, regarding this proposal within 60 days following the date of publication of this notice in the FEDERAL REGISTER. Such views and comments should be addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, and may be

accompanied by a memorandum or brief in support thereof.

Dated: May 21, 1968.

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

[F.R. Doc. 68-6373; Filed, May 28, 1968; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

[10 CFR Part 140]

FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

Criteria for Determination of an Extraordinary Nuclear Occurrence

Correction

In F.R. Doc. 68-5515 appearing at page 6978 of the issue for Thursday, May 9, 1968, § 140.85 should appear as set forth below:

§ 140.85 Criterion II—Substantial damages to persons offsite or property offsite.

(a) After the Commission has determined that an event has satisfied Criterion I, the Commission will determine that the event has resulted or will probably result in substantial damages to persons offsite or property offsite if any of the following findings are made:

(1) The Commission finds that such event has resulted in the death or hospitalization, within 30 days of the event, of ten or more people located offsite showing objective clinical evidence of physical injury from exposure to the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material; or

(2) The Commission finds that $2,500,000 or more of damage offsite has been or will probably be sustained by any one person, or $5 million or more of such damage in the aggregate has been or will probably be sustained, as the result of such event; or

(3) The Commission finds that $5,000 or more of damage offsite has been or will probably be sustained by each of 50 or more persons, provided that $1 million or more of such damage in the aggregate has been or will probably be sustained, as the result of such event.

(b) As used in subparagraphs (2) and (3) of paragraph (a) of this section, "damage" shall be based upon estimates of one or more of the following:

(1) Total cost necessary to put affected property back into use,

(2) Loss of use of affected property,

(3) Value of affected property where not practical to restore to use,

(4) Financial loss resulting from protective actions appropriate to reduce or avoid exposure to radiation or to radioactive materials.

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 16784; FCC 68-567]

TELEVISION BROADCAST STATIONS

Table of Assignments, New Brunswick-Newark, N.J.; Report and Order Terminating Proceeding

In the matter of amendment of § 73.606 *Table of assignments,* Television Broadcast Stations (New Brunswick-Newark, N.J.), Docket No. 16784, RM-834.

1. The Commission has before it for consideration the proposal to reassign Channel 47 from New Brunswick to Newark, N.J., as follows:

City	Channel No.	
	Present	Proposed
New Brunswick, N.J.	*19, 47	*19
Newark, N.J.	13−, 68	13−, 47, 68

2. The petitioner in this proceeding is New Jersey Television Broadcasting Corp. (Jersey), licensee of WNJU-TV, operating on Channel 47. Although the channel is assigned to New Brunswick the station is licensed to serve Linden, N.J., under the 15-mile rule. In its original application for the channel the applicant stated frankly that Linden was selected only because it was the best location then available to serve the Northern New Jersey area. There was no unassigned channel in Newark at that time. Jersey stated further that service would not be specially oriented to the residents of Linden, however, they would benefit to the extent that all New Jersey residents within the coverage area would benefit from the service. After the license was granted, authority was given to identify the station with Newark as well as Linden. The main studios are also in Newark. The transmitter which is located on the Empire State Building provides Newark as well as a large surrounding area with a principal city grade signal.

3. Jersey states that the instant petition is merely a request for recognition of the current status of Station WNJU-TV. The requested change, it is pointed out, would result in no change in service, in studios, or transmitter location. The only result of the change would be to permit the station to cease its technical identification with Linden to wit, every hour on the hour.

4. The fifth report and order in Docket 14229, adopted February 9, 1966 (FCC 66-137), assigned Channel 68 to Newark. As a result two competing applications have been filed for this channel. One of the applicants, Atlantic Video Corp., is also a permittee on Channel 58 at Asbury Park (WRTV). It has requested modification of its existing construction permit to specify Channel 68, Newark in lieu of Channel 58, Asbury Park, and to locate its antenna on the Empire State Building. Location on the Empire State, however, would require a waiver of the mileage separation rules because of a short spacing with Patchogue, N.Y. Atlantic Video has filed a comment in the instant proceeding requesting that action be withheld pending final determination on applications for Channel 68, Newark. Atlantic Video's position is that if the Commission should eventually decide that Channel 68 could not be utilized from a site on the Empire State Building, then the authorization of another competitive UHF station on the Empire State Building in the same community would seriously prejudice the competitive position of the Channel 68 station and drastically reduce its chances to survive as a vigorous local outlet for the Newark area.

Conclusion. 5. Recently Atlantic Video found it necessary to amend its application to specify a transmitter site in New Jersey instead of the Empire State Building. Thus, the concern expressed over its competitive position in relation to another Newark UHF station on the Empire State Building is very much alive. On the basis of the original representations of Jersey, its primary objectives were to serve the general Northern New Jersey area. It is true that Newark is the largest city in this area, yet the situation in this case is somewhat different than in the usual metropolitan area with its inner city and suburbs radiating outward in decreasing population density. Here is a large area of concentrated industrial and residential population extending over hundreds of square miles. The ties of many of these population complexes to the city of Newark are very loose or nonexistent. Therefore, we do not sense the urgency of a television station serving the general area of Northern New Jersey to be closely identified with Newark. Rather, we believe our original attempt at dispersing assignments throughout the area has some merit. We also feel that since the transmitter of Jersey is located on the Empire State Building, switching the channel assignment from New Brunswick to Newark would tend to make the station more of a New York metropolitan area station rather than a Northern New Jersey station. Furthermore, the State of New Jersey is in a unique geographical position sandwiched as it is between the two larger and more lucrative markets of New York and Philadelphia. Yet the need for local television outlets to express New Jersey's individual social and economic identity is very real. The recent assignment of a first UHF channel to Newark for serving local needs was a step in this direction. We believe that allowing Channel 47 to be more closely identified as a New York metropolitan area station would be a step backwards.

6. In the light of the foregoing and pursuant to the authority contained in sections 4(i), and 303(d) of the Communications Act of 1934, as amended; *It is ordered,* That the petition of New Jersey Television Broadcasting Corp. to

reassign Channel 47 from New Brunswick to Newark, N.J., is denied.

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

Adopted: May 22, 1968.

Released: May 24, 1968.

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

[F.R. Doc. 68-6365; Filed, May 28, 1968; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1048]

[Ex Parte No. MC-37 (Sub-No. 14)]

COMMERCIAL ZONES

Atlanta, Ga.

DEFINITION OF THE ATLANTA, GA., COMMERCIAL ZONE

MAY 22, 1968.

At the request of interested persons, the time for filing written statements of data, views, and argument in favor of, or against, the aboxe-proposed revision of the limits of the Atlanta, Ga., commercial zone is extended to June 27, 1968. The presently assigned date is May 27, 1968. An original and seven copies of such statements should be filed with the Commission at its office at Washington, D.C.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68-6363; Filed, May 28, 1968; 8:47 a.m.]

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[1] Commissioner Wadsworth absent; Commissioner Johnson concurring in the result.

Notices

INTERSTATE COMMERCE COMMISSION

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

MAY 24, 1968.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, 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. MC-4479 (Sub-No. 8), filed May 10, 1968. Applicant: KNOXVILLE - MARYVILLE MOTOR EXPRESS, INC., 1910 University Avenue, Knoxville, Tenn. Applicant's representative: Blaine Buchanan, 1024 James Building, Chattanooga, Tenn. 37402. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general property* (except household goods, liquid commodities in bulk, fly ash, dry cement, and dry fertilizer in bulk, and dry acids, and dry acids and dry chemicals in bags and bulk), between all points in Tennessee within 50 miles of Knoxville, Tenn., serving Greeneville, Tenn., as an off-route point, *excepting from* the above-described areas all of the following routes and areas, points within 1 mile thereof, and commercial zones of all towns thereon: (A) All present routes of Skyline Transportation, Inc., under Intrastate Certificate Nos. 381 A through J, and Interstate Certificate of Registration MC 99208 and sub numbers, which routes are described as follows: (1) Between Knoxville, Tenn., and the Tennessee-North Carolina State line, serving all intermediate points: From Knoxville over Tennessee Highway 71 to Gatlinburg, Tenn., thence over Tennessee Highway 73 to junction Tennessee Highway 32 at or near Cosby, Tenn., thence over Tennessee Highway 32 to the Tennessee-North Carolina State line, and return over the same route.

(2) Between Sevierville, Tenn., and Douglas Dam, Tenn., serving all intermediate points: From Sevierville over unnumbered highways to Douglas Dam, and return over the same route. (3) Between Sevierville, Tenn., and Newport, Tenn., serving all intermediate points: From Sevierville over U.S. Highway 411 to Newport, and return over the same route. (4) Between Knoxville, Tenn., and junction Tennessee Highway 32 and Tennessee Highway 73 at or near Cosby, Tenn., serving all intermediate points: From Knoxville over U.S. Highway 70 to junction Tennessee Highway 32 at Newport, Tenn., and thence over Tennessee Highway 32 to junction Tennessee Highway 73, and return over the same route. (5) Between Knoxville, Tenn., and Melton Hill Dam Site, Tenn., serving all intermediate points; and serving off-route points within 5 miles of Melton Hill Dam Site: From Knoxville over Interstate Highway 40 to junction Tennessee Highway 95, thence over Tennessee Highway 95 to Melton Hill Dam Site, and return over the same route. (6) Between Knoxville, Tenn., and the Tennessee-Kentucky State line near Cumberland Gap, Tenn., serving all intermediate points: From Knoxville over Tennessee Highway 33 to Tazewell, Tenn., thence over U.S. Highway 25E to the Tennessee-Kentucky State Line, and return over the same route. (7) Between Knoxville, Tenn., and Lake City, Tenn., serving all intermediate points: From Knoxville over Tennessee Highway 33 to Hall's Crossroads, Tenn., and thence over U.S. Highway 441 to Lake City, and return over the same route.

(8) Between Knoxville, Tenn., and Jellico, Ky., serving all intermediate points: From Knoxville over U.S. Highway 25W to Jellico, and return over the same route. (9) Between La Follette, Tenn., and Arthur, Tenn., serving all intermediate points: From La Follette over Tennessee Highway 63 to Arthur, and return over the same route. (10) Between Morley, Tenn., and Fonde, Ky., serving all intermediate points: From Morley over Tennessee Highway 90 to the Tennessee-Kentucky State line, thence over Kentucky Highway 74 to Fonde, and return over the same route. (11) Between Knoxville, Tenn., and Tazewell, Tenn., as an alternate route for operating convenience only, in connection with carrier's authorized regular route operations, serving no intermediate points: From Knoxville over U.S. Highway 11W to junction U.S. Highway 25E, thence over U.S. Highway 25E to Tazewell, and return over the same route. (B) All present routes of Central Motor Express, Inc., under Intrastate Certificates 237, 250, 251, 851, and sub numbers and Interstate Certificate, and pending applications, under MC-68078 and sub numbers, which routes are described as follows:

(1) Between Knoxville, Tenn., and Chattanooga, Tenn., serving all intermediate points between Knoxville and junction U.S. Highways 70 and 11 (at Dixie Lee Junction, Tenn.), and between junction U.S. Highways 27 and 70 (near Rockwood, Tenn.), and Spring City, Tenn., all intermediate points between junction U.S. Highways 70 and 11 (at Dixie Lee Junction, Tenn.), and junction U.S. Highways 27 and 70 (near Rockwood, Tenn.); the off-route point of Harriman, Tenn.; and the off-route points of Rhea Springs and Washington, Tenn. From Knoxville over U.S. Highway 70 to junction U.S. Highway 27, and thence over U.S. Highway 27 to Chattanooga, and return over the same route. (2) Between Chattanooga, Tenn., and Harriman, Tenn.: From Chattanooga over U.S. Highway 27 to Harriman, and return over the same route. Service is authorized to and from all intermediate points and the off-route point of Rhea Springs, Tenn. (3) Between Knoxville, Tenn., and Loudon, Tenn., serving all intermediate points and the off-route points of Concord and Martel, Tenn.: From Knoxville over U.S. Highway 11 to Loudon, and return over the same route. (4) Between Sweetwater, Tenn., and Loudon, Tenn., serving all intermediate points: From Sweetwater over U.S. Highway 11 to Loudon, and return over the same route. (5) Between Chattanooga, Tenn., and Sweetwater, Tenn.: From Chattanooga over U.S. Highway 11 to Sweetwater, and return over the same route. Service is authorized to and from all intermediate points and the off-route point of Collegedale, Tenn.

(6) Between Chattanooga, Tenn., and Kingston, Tenn., serving all intermediate points and all off-route points within 2 miles of Tennessee Highway 58: From Chattanooga over Tennessee Highway 58 to Kingston, and return over the same route. Between Decatur and Athens, Tenn., serving all intermediate points: From Decatur over Tennessee Highway 30 to Athens, and return over the same route. Between junction Tennessee Highway 68 and U.S. Highway 27, south of the near Spring City, Tenn., and junction Tennessee Highways 58 and 68, serving all intermediate points: From junction Tenessee Highway 68 and U.S. Highway 27, south of and near Spring City, over Tennessee Highway 68 to junction Tennessee Highway 58, and return over the same route. Between Chattanooga, Tenn., and junction Tennessee Highway 2A and U.S. Highway 11, at or near Silverdale, Tenn., serving all intermediate points and the off-route point of the site of Chickamauga Dam, near Tyner: From Chattanooga over Tennessee Highway 2A to junction U.S. Highway 11 at or near Silverdale, and return over the same route. (7) To and from Clinton Engineer Works and Oak Ridge, Tenn., as off-route points in connection with said carrier's otherwise authorized regular route operations. (8) Serving the

site of the Melton Hill Dam of the Tennessee Valley Authority, located southwest of Knoxville, Tenn., on the Clinch River, and points within 5 miles thereof, as off-route points in connection with carrier's regular route operations between Knoxville, Tenn., and Chattanooga, Tenn.

(9) Between junction U.S. Highway 11 and Tennessee Highway 95 (near Lenoir City, Tenn.), and junction Tennessee Highway 95 and U.S. Highway 70, in connection with carrier's presently authorized regular route operations: From junction U.S. Highway 11 and Tennessee Highway 95 (near Lenoir City) over Tennessee Highway 95 to junction U.S. Highway 70, and return over the same route. (10) Between junction U.S. Highway 11 and Tennessee Highway 72 (near Loudon, Tenn.), and junction Tennessee Highway 72 and Tennessee Highway 58, in connection with carrier's presently authorized regular route operations: From junction U.S. Highway 11 and Tennessee Highway 72 (near Loudon) over Tennessee Highway 72 to junction Tennessee Highway 58, and return over the same route. (11) Between junction U.S. Highway 11 and Tennessee Highway 68 (near Sweetwater, Tenn.), and junction Tennessee Highways 68 and 58, in connection with carrier's presently authorized regular route operations: From junction U.S. Highway 11 and Tennessee Highway 68 (near Sweetwater) over Tennessee 68 to junction Tennessee Highway 58 and return over the same route. (12) Between Decatur, Tenn., and Dayton, Tenn., in connection with carrier's presently authorized regular route operations: From Decatur over Tennessee Highway 30 to Decatur, and return over the same route. (13) Between Cleveland, Tenn., and Dayton, Tenn., in connection with carrier's presently authorized regular route operations: From Cleveland over Tennessee Highway 60 to Dayton, and return over the same route.

(14) Between junction U.S. Highway 27 and Tennessee Highway 153, and junction Tennessee Highway 153 and Interstate Highway 75, in connection with carrier's presently authorized regular route operations: From junction U.S. Highway 27 and Tennessee Highway 153 over Tennessee Highway 153 to junction Interstate Highway 75, and return over the same route. (15) Between Athens, Tenn., and Etowah and Englewood, Tenn., as follows: From Athens, Tenn., over Tennessee Highway No. 30 to Etowah, Tenn., thence over U.S. Highway 411 to Englewood; thence over Tennessee Highway No. 39 to junction Tennessee Highway No. 30; thence over Tennessee Highway 30 to Athens, Tenn.; return over the same route. The above area after excluding Exception, to be tacked and joined to all of applicant's presently authorized routes and areas for through transportation of freight. No duplicating authority is being sought. Both intrastate and interstate authority sought.

HEARING: Tuesday, July 16, 1968, at 9:30 a.m., Tennessee Public Service Commission, C-1-110 Cordell Hull Building, Nashville, Tenn. 37219. Requests for procedural information, including the time for filing protests, concerning this application should be addressed to the Tennessee Public Service Commission, Cordell Hull Building, Nashville, Tenn. 37219, and should not be directed to the Interstate Commerce Commission.

State Docket No. M-4664 filed May 8, 1968. Applicant: PARIS MOTOR FREIGHT, INC., 1211 South Ninth Street, Fort Smith, Ark. 72901. Applicant's representative: Don A. Smith, Kelley Building, Post Office Box 43, Fort Smith, Ark. 72901. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities* (except those of unusual value, high explosives, household goods as defined by the Interstate Commerce Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), from the junction of Arkansas Highways 22 and 96, thence over Highway 96 to junction of Arkansas Highways 96 and 23 to Webb City, Ark., thence over Arkansas Highway 309 to Paris, Ark., thence over Arkansas Highway 109 to Magazine, Ark., and return over the same route, serving all intermediate points, in connection with applicant's presently authorized operations. Both intrastate and interstate authority sought.

HEARING: Friday, July 19, 1968, at 10 a.m., The Arkansas Commerce Commission, Justice Building, Little Rock, Ark. 72201. Requests for procedural information, including the time for filing protests concerning this application should be addressed to the Arkansas Commerce Commission, Justice Building, Little Rock, Ark. 72201, and should not be directed to the Interstate Commerce Commission.

State Docket No. MC 21067, filed May 20, 1968. Applicant: CENTRAL OKLAHOMA FREIGHT LINES, INC., 207 North Cincinnati, Tulsa, Okla. Applicant's representative: Rufus H. Lawson, Post Office Box 75124, Oklahoma City, Okla. 73107. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities*, over regular routes, between Oklahoma City, Okla., and Henryetta, Okla., via U.S. Highway 62, serving the intermediate points of Meeker, Prague, Boley, and Okemah, and return over the same route; between Oklahoma City, Okla., and Henryetta, Okla., via U.S. Highway 270 to its junction with State Highway 9, thence via State Highway 9 to its junction with U.S. Highway 75, thence via U.S. Highway 75 to Henryetta, serving the intermediate points of Wetumka and Weleetka, and return over the same route; between Tulsa, Okla., and Meeker, Okla., via U.S. Highway 75 to its junction with U.S. Highway 62, thence via U.S. Highway 62 to Meeker, serving the intermediate points of Okemah, Boley, and Prague, and return over the same route; between Tulsa, Okla., and Wetumka, Okla., via U.S. Highway 75, serving the intermediate point of Weleetka; alternate route over U.S. Interstate Highway 40 for operating convenience only. Both intrastate and interstate authority sought.

HEARING: Monday, June 10, 1968 (place not given). Request for procedural information, including the time for filing protests, concerning this application should be addressed to the Corporation Commission of Oklahoma, Oklahoma City, Okla. 73105, and should not be directed to the Interstate Commerce Commission.

By the Commission.

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

[F.R. Doc. 68-6358; Filed, May 28, 1968; 8:47 a.m.]

[Notice 500]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

MAY 24, 1968.

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 200 (Deviation No. 13), RISS & COMPANY, INC., 903 Grand Avenue, Kansas City, Mo. 64106, filed May 15, 1968. Carrier's representative: Ivan E. Moody, same address as applicant. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *classes A and B explosives, and military ordnance stores*, moving on Government bills of lading, over a deviation route as follows: Between Joliet, Ill., and Grand Island, Nebr., over Interstate Highway 80, 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 Joliet, Ill., over U.S. Highway 66 and Alternate U.S. Highway 66 to Springfield, Ill., thence over U.S. Highway 54 to Kingdom City, Mo., thence over U.S. Highway 40 to junction U.S. Highway 24, thence over U.S. Highway 24 to junction Kansas

Highway 18, thence over U.S. Highway 24 and Kansas Highway 18 to Fort Riley, Kans., thence over U.S. Highway 24 to junction U.S. Highway 81, thence over U.S. Highway 81 to junction U.S. Highway 34, thence over U.S. Highway 34 to junction U.S. Highway 281, thence over U.S. Highway 281 to Grand Island, Nebr., and return over the same route.

No. MC 906 (Deviation No. 7), CONSOLIDATED FORWARDING CO., INC., 1300 North 10th Street, St. Louis, Mo. 63106, filed May 16, 1968. 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 40 and Interstate Highway 57 (at or near Effingham, Ill.), over Interstate Highway 57 to junction Illinois Highway 16, thence over Illinois Highway 16 to junction U.S. Highway 150, thence over U.S. Highway 150 to junction U.S. Highway 40 (at or near Terre Haute, Ind), and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: Between junction U.S. Highway 40 and Interstate Highway 57 and Terre Haute, Ind., over U.S. Highway 40.

No. MC 2202 (Deviation No. 102), ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, Ohio 44309, filed May 14, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Austell, Ga., over U.S. Highway 78 to Villa Rica, Ga., thence over Georgia Highway 61 to Carrollton, Ga., thence over Georgia Highway 166 to the Georgia-Alabama State line, thence over Alabama Highway 46 to Heflin, Ala., thence over U.S. Highway 78 to Birmingham, Ala., and (2) from Columbus, Ga., over U.S. Highway 80 to Crawford, Ala., thence over Alabama Highway 169 to Opelika, Ala., 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 Austell, Ga., over U.S. Highway 278 to Gadsden, Ala., thence over U.S. Highway 411 to junction Alabama Highway 23, thence over Alabama Highway 23 to St. Clair, Ala., thence over U.S. Highway 11 to Birmingham, Ala., and (2) from Columbus, Ga., over U.S. Highway 280 to Opelika, Ala., and return over the same routes.

No. MC 4963 (Deviation No. 28), JONES MOTOR CO., INC., Bridge Street and Schuylkill Road, Spring City, Pa. 19475, filed May 15, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From East St. Louis, Ill., over Interstate Highway 70 to junction Interstate Highway 69, thence over Interstate Highway 69 to junction U.S. Highway 24, thence over U.S. Highway 24 to Toledo, Ohio, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From East St. Louis, Ill., over U.S. Highway 66 to junction U.S. Highway 30 at or near Joliet, Ill., thence over U.S. Highway 30 to junction U.S. Highway 41, thence over U.S. Highway 41 to Hammond, Ind., thence over U.S. Highway 20 to Toledo, Ohio, and return over the same route.

No. MC 4963 (Deviation No. 29), JONES MOTOR CO., INC., Bridge Street and Schuylkill Road, Spring City, Pa. 19475, filed May 15, 1968. 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 Connecticut Highways 8 and 4 over Connecticut Highway 8 to junction Connecticut Highway 34, thence over Connecticut Highway 34 to junction Interstate Highway 95, thence over Interstate Highway 95 to Mount Vernon, N.Y., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From junction Connecticut Highways 8 and 4 over Connecticut Highway 4 to junction U.S. Highway 7, thence over U.S. Highway 7 to junction U.S. Highway 6, thence over U.S. Highway 6 to junction New York Highway 22, thence over New York Highway 22 to Mount Vernon, N.Y., and return over the same route.

No. MC 41432 (Deviation No. 12), EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, Post Office Box 10125, Dallas, Tex. 75207, filed May 17, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between Birmingham, Ala., and Atlanta, Ga., over Interstate Highway 20, 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 Birmingham, Ala., over U.S. Highway 78 to junction Alabama Highway 202 (formerly portion U.S. Highway 78), thence over Alabama Highway 202 to Anniston, Ala., thence over U.S. Highway 431 (formerly portion U.S. Highway 78) to junction U.S. Highway 78, thence over U.S. Highway 78 to Atlanta, and return over the same route.

No. MC 108185 (Deviation No. 12), DIXIE HIGHWAY EXPRESS, INC., (TERMINAL TRANSPORT COMPANY, INC., Operator, In Part), 2625 Territorial Road, St. Paul, Minn. 55114, filed May 15, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Adams, Tenn., over U.S. Highway 41 to Evansville, Ind., thence over U.S. Highway 460 to Freeburg, Ill., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Nashville, Tenn., over U.S. Highway 41 to Adams, Tenn., thence over Tennessee Highway 76 to junction Alternate U.S. Highway 41, thence over Alternate U.S. Highway 41 to Clarksville, Tenn., thence over U.S. Highway 79 to junction Tennessee Highway 69, thence over Tennessee Highway 69 to Paris, Tenn., thence over U.S. Highway 641 (formerly Tennessee Highway 54) via Puryear, Tenn., to the Tennessee-Kentucky State line, thence continue over U.S. Highway 641 (formerly Kentucky Highway 95) to junction U.S. Highway 68, thence over U.S. Highway 68 to Paducah, Ky., thence over U.S. Highway 45 to Vienna, Ill., thence over Illinois Highway 146 to Boles (formerly West Vienna), Ill., thence over Illinois Highway 37 to Marion, Ill., thence over Illinois Highway 13 to Carbondale, Ill., thence over U.S. Highway 51 to junction Illinois Highway 154, thence over Illinois Highway 154 to Pinckneyville, Ill., thence over Illinois Highway 13 to East St. Louis, Ill., thence over the Mississippi River to St. Louis, Mo., and return over the same route.

No. MC 110264 (Deviation No. 1), ALBUQUERQUE PHOENIX EXPRESS, INC., Post Office Box 3459, Albuquerque, N. Mex. 87110, filed May 17, 1968. Carrier's representative: Paul F. Sullivan, Colorado Building, 1341 G Street NW., Washington, D.C. 20005. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Albuquerque, N. Mex., over U.S. Highway 66 (Interstate Highway 40) to junction New Mexico Highway 53, thence over New Mexico Highway 53 to the Arizona-New Mexico State line, thence over Arizona Highway 61 to junction U.S. Highway 666, thence over U.S. Highway 666 to St. Johns, Ariz., thence over Arizona Highway 61 to junction U.S. Highway 60 east of Show Low, Ariz., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Phoenix, Ariz., over U.S. Highway 60 via Globe, Ariz., to Socorro, N. Mex., thence over U.S. Highway 85 via Isleta, N. Mex., to Albuquerque, N. Mex., and return over the same route.

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Deviation No. 451) (Cancels Deviations Nos. 137 and 390), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, Ohio 44113, filed May 13, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From Cleveland, Ohio, over Interstate Highway 90 via Conneaut, Ohio, to Interchange No. 50 of Interstate Highway 90 (New York State Thruway) near Buffalo, N.Y., (2) from Cleveland, Ohio, over the Lakeland Freeway to Painesville, Ohio, (3) from junction Ohio Highway 306 and U.S. Highway 20 over Ohio

Highway 306 to junction Interstate Highway 90, (4) from junction Ohio Highway 306 and U.S. Highway 20 over Ohio Highway 306 to junction with the Lakeland Freeway, (5) from junction Ohio Highway 44 and U.S. Highway 20 over Ohio Highway 44 to junction Interstate Highway 90, (6) from junction Ohio Highway 44 and U.S. Highway 20 over Ohio Highway 44 to junction with the Lakeland Freeway, (7) from Painesville, Ohio, over present certificated route Ohio Highway 84 to junction access road, east of Painesville, Ohio, thence over access road to junction Interstate Highway 90, (8) from Madison, Ohio, over Ohio Highway 528 to junction Interstate Highway 90, (9) from Geneva, Ohio, over Ohio Highway 534 to junction Interstate Highway 90, (10) from Ashtabula, Ohio, over Ohio Highway 46 to junction Interstate Highway 90, (11) from North Kingsville, Ohio, over Ohio Highway 170 to junction Interstate Highway 90.

(12) From West Springfield, Pa., over U.S. Highway 6N to Interchange of U.S. Highway 6N and Interstate Highway 90, (13) from Girard, Pa., over present certificated route U.S. Highway 18 to junction Interstate Highway 90, (14) from Fairview, Pa., over Pennsylvania Highway 98 to junction Interstate Highway 90, (15) from Erie, Pa., over Interstate Highway 79 to junction Interstate Highway 90, (16) from Erie, Pa., over U.S. Highway 19 to junction Interstate Highway 90, (17) from Erie, Pa., over present certificated route Pennsylvania Highway 97 to junction Interstate Highway 90, (18) from Erie, Pa., over Pennsylvania Highway 8 to junction Interstate Highway 90, (19) from Northeast, Pa., over Pennsylvania Highway 89 to junction Interstate Highway 90, (20) from junction U.S. Highway 20 and Shortman Road, west of Ripley, N.Y., and near the Pennsylvania-New York State line over Shortman Road, to junction Interstate Highway 90 (New York State Thruway), (21) from Westfield, N.Y., over New York Highway 17 to Interchange No. 60 of Interstate Highway 90 (New York State Thruway), (22) from Fredonia, N.Y., east over U.S. Highway 20 to junction with Bennett Road, thence over Bennett Road, to Interchange No. 59 of Interstate Highway 90 (New York State Thruway), (23) from Dunkirk, N.Y., over Bennett Road to Interchange No. 59 of Interstate Highway 90 (New York State Thruway), (24) from junction U.S. Highway 20, New York Highway 5 and access highway to Interchange No. 58, east of Silver Creek, N.Y., near Irving, N.Y., over access highway to Interchange No. 58 of Interstate Highway 90 (New York State Thruway).

(25) From junction U.S. Highway 20 and New York Highway 75, near Athol Springs, N.Y., over present Certificated Highway 75 to Thruway access road, thence over access road to Interchange No. 57 to Interstate Highway 90 (New York State Thruway), (26) from junction New York Highway 5 and New York Highway 179, near Blasdell, N.Y., over New York Highway 179 to junction with South Park Avenue, thence over South Park Avenue to Mile Strip Road, thence over Mile Strip Road to Thruway access road, thence over access road to Interchange No. 56 of Interstate Highway 90 (New York State Thruway), (27) from Buffalo, N.Y., over Interstate Highway 190 to Interchange No. 53 of Interstate Highway 90 (New York State Thruway), and (28) from Buffalo, N.Y., over Kensington Expressway to Interchange No. 51 of Interstate Highway 90 (New York State Thruway), 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 Rochester, N.Y., over New York Highway 33 to Batavia, N.Y., thence over New York Highway 5 via Buffalo, N.Y., to Athol Springs, N.Y., thence over New York Highway 75 to junction U.S. Highway 20, thence over U.S. Highway 20 to junction New York Highway 5 (Irving), thence over U.S. Highway 20 and New York Highway 5 to Silver Creek, N.Y. (also from Dunkirk, N.Y., over New York Highway 60 to Fredonia, N.Y.), thence from Silver Creek, N.Y., over U.S. Highway 20 to Fredonia, N.Y., thence over U.S. Highway 20 via Harborcreek, Pa., to Erie, Pa., (2) from junction U.S. Highway 20 and New York Highway 75 (near Athol Springs, N.Y.), over New York Highway 75 to the New York State Thruway (at Interchange No. 57), (3) from Avon, N.Y., over U.S. Highway 20 to junction New York Highway 75 (south of Woodlawn, N.Y.), (4) from Suffern, N.Y. (Interchange No. 15), over New York State Thruway to Buffalo, N.Y. (Interchange No. 50), (5) from Buffalo, N.Y., over access streets to Interchange No. 50, (6) from Cleveland, Ohio, over U.S. Highway 20 via Painesville and Geneva, Ohio, to Erie, Pa., and (7) from Painesville, Ohio, over Ohio Highway 84 to junction Ohio Highway 534 (Harpers Corners), thence over Ohio Highway 534 to Geneva, Ohio, and return over the same routes.

No. MC 1515 (Deviation No. 452), GREYHOUND LINES, INC., (Southern Division), 219 East Short Street, Lexington, Ky. 40507, filed May 15, 1968. 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 Loxley, Ala., over Alabama Highway 59 to junction Interstate Highway 10, thence over Interstate Highway 10 to junction Florida Highway 87, thence over Florida Highway 87 to junction U.S. Highway 90 east of Milton, Fla., with the following access routes: (1) From Pensacola, Fla., over U.S. Highway 29 to junction Interstate Highway 10, and (2) from Milton, Fla., over Florida Highway 191 to junction Interstate Highway 10, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Marianna, Fla., over U.S. Highway 90 via Pensacola, Fla., to Bridgehead, Ala., thence over U.S. Highway 98 (formerly portion Alabama Highways 104 and 89) via Fairhope, Ala., to Point Clear, Ala., and return over the same route.

No. MC 1515 (Deviation No. 453), (Cancels Deviation No. 413), GREYHOUND LINES, INC. (Southern Division), 219 East Short Street, Lexington, Ky. 40507, filed May 15, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From junction Interstate Highway 59 and U.S. Highway 11, east of Toomsuba, Miss., over Interstate Highway 59 to junction Interstate Highway 10 and Interstate Highway 12, northeast of Slidell, La., with the following access routes: (a) From junction Interstate Highway 59 and Mississippi Highway 513, over Mississippi Highway 513 to Enterprise, Miss., (b) from junction Interstate Highway 59 and Mississippi Highway 528 over Mississippi Highway 528 to junction U.S. Highway 11 near Heidelberg, Miss., (c) from junction Interstate Highway 59 and U.S. Highway 49 over U.S. Highway 49 to Hattiesburg, Miss., (d) from junction Interstate Highway 59 and U.S. Highway 98 over U.S. Highway 98 to Hattiesburg, Miss., (e) from junction Interstate Highway 59 and unnumbered highway, over unnumbered highway to Purvis, Miss., (f) from junction Interstate Highway 59 and Mississippi Highway 13 over Mississippi Highway 13 to Lumberton, Miss., (g) from junction Interstate Highway 59 and Mississippi Highway 26, over Mississippi Highway 26 to Poplarville, Miss., (h) from junction Interstate Highway 59 and Mississippi Highway 53 over Mississippi Highway 53 to Poplarville, Miss., and (i) from junction Interstate Highway 59 and Mississippi Highway 43 over Mississippi Highway 43 to Picayune, Miss., and (3) from junction Interstate Highway 59, Interstate Highway 10 and Interstate Highway 12, over Interstate Highway 10 to New Orleans, La., with the following access routes: (a) From junction Interstate Highway 10 and U.S. Highway 190 over U.S. Highway 190 to junction U.S. Highway 11, and (b) from junction Interstate Highway 10 and Louisiana Highway 433 over Louisiana Highway 433 to Slidell, La., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Birmingham, Ala., over U.S. Highway 11 via Bucksville and Bos Springs, Ala., to New Orleans, La., and return over the same route.

No. MC 45626 (Deviation No. 26), VERMONT TRANSIT CO., INC., Burlington, Vt. 05401, filed May 16, 1968. 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 White River Junction, Vt., over U.S. Highway 4 to and over the

Connecticut River to West Lebanon, N.H., thence over the New Hampshire Highway 12A to junction New Hampshire Highway 103 in Claremont, N.H., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From White River Junction, Vt., over U.S. Highway 5 to Ascutney, Vt., thence over unnumbered highway to the Vermont-New Hampshire State line, crossing the Connecticut River over the Ascutney Bridge, thence over New Hampshire Highway 103 to junction New Hampshire Highway 12A in Claremont, N.H., and return over the same route.

By the Commission.

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

[F.R. Doc. 68-6359; Filed, May 28, 1968; 8:47 a.m.]

[Notice 1184]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

MAY 24, 1968.

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 52458 (Sub-No. 214), (Republication), filed April 18, 1968, published in the FEDERAL REGISTER, issue of May 9, 1968, and republished this issue. Applicant: T. I. McCORMACK TRUCKING CO., INC., Post Office Box 1047, 4107 Bells Lane, Louisville, Ky. 40201. Applicant's representative: Harris G. Andrews (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, in tank or hopper-type vehicles, from New York, N.Y., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. NOTE: The purpose of this republication is to reflect the hearing information.

HEARING: June 6, 1968, at the offices of the Interstate Commerce Commission, Washington, D.C., before Examiner George P. Morin.

No. MC 55236 (Sub-No. 148) (Republication), filed February 13, 1967, published in FEDERAL REGISTER issues of March 9, 1967, and February 16, 1967, and republished this issue. Applicant: OLSON TRANSPORTATION COMPANY, a corporation, 1970 South Broadway, Post Office Box 1187, Green Bay, Wis. 54306. Applicant's representative: K. L. Laird (same address as applicant). In the above-entitled proceeding, the examiner recommended the granting to applicant a certificate of public convenience and necessity, authorizing operation in interstate of foreign commerce, as a common carrier by motor vehicle, over irregular routes, of acids and chemicals, except acids and chemicals in bulk tank vehicles, over irregular routes, from the plantsite of the Wyandotte Chemicals Corp. at or near Port Edwards, Wis., to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri,, Montana, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin. Restriction: The service authorized herein is subject to the following condition: Tacking with other appropriate authorities of Olson Transportation Co. will be permitted at Port Edwards, and at Waukegan, Ill., to serve the territory embraced in the above States and points in the States of Delaware, Louisiana, and New York. A decision and order of the Commission, Review Board Number 4, dated May 8, 1968, and served May 16, 1968, as modified, 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 *acids and chemicals* originating at the plantsite of the Wyandotte Chemicals Corp. at or near Port Edwards, Wis., and destined to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin, 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 126149 (Sub-No. 1) (Republication), filed May 10, 1967, published in FEDERAL REGISTER issue of May 25, 1967, and republished this issue. Applicant: DENNY MOTOR FREIGHT, INC., 201 Ellen Court, New Albany, Ind. 47150. Applicant's representative: Donald W. Smith, 511 Fidelity Building, Indianapolis, Ind. 46204. By application filed filed May 10, 1967, 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, transporting: (1) *Tractors* (not including tractors with vehicle beds, bed frames, or fifth wheels), and attachments and parts thereof, when moving incidental to and in the same vehicle with tractors, but not including articles which because of size or weight require the use of special equipment from Louisville, Ky., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Louisiana, Mississippi, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Virginia, Colorado Connecticut, Delaware, Iowa, Kansas, Maryland, Michigan, Minnesota, Missouri, Nebraska, New York, Pennsylvania, Vermont, Wisconsin, and West Virginia; (2) *prefabricated buildings*, complete, knocked down or in sections and when transported in connection with the transportation of such buildings, *component parts* thereof and *equipment and materials* incidental to the erection and completion of such buildings, from New Albany, Ind., and points within one mile thereof, to points in Pennsylvania, Kentucky, Missouri, Ohio, and Illinois; and

(3) *Favoring syrup, liquid sugar, and invert sugar*, in bulk, in tank vehicles, from Louisville, Ky., to points in Alabama, Arkansas, Florida, Georgia, Iowa, Louisiana, Maryland, Illinois, Indiana, Michigan, Minesota, Mississippi, Missouri, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia. A decision and order of the Commission, Division 1, served May 17, 1968, 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 tractors (except truck tractors) and attachments therefor, from the plantsite of International Harvester Co. of Louisville, Ky., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Louisiana, Mississippi, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Virginia, Colorado, Connecticut, Delaware, Iowa, Kansas, Maryland, Michigan, Minnesota, Missouri, Nebraska, New York, Pennsylvania, Vermont, Wisconsin, and West Virginia; restricted to the transportation of shipments originating at the said plantsite and destined to points in the named destination States. 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 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 128966 (Sub-No. 1) (Republication), filed March 27, 1967, published FEDERAL REGISTER issue of April 13, 1967, and republished this issue. Applicant: METROPOLITAN CARTAGE AND LEASING, INC., 1005 St. Louis Avenue, Kansas City, Mo. Applicant's representative: Tom B. Kretsinger, 450 Professional Building, Kansas City, Mo. 64106. In the above-entitled proceeding, the examiner recommended the granting to applicant 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 the commodities, to, and from points substantially as indicated below. A decision and order of the Commission, Division 1, dated May 8, 1968, and served May 21, 1968, as modified, 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 *meats, meat products and meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and *frozen foods*, except hides, pelts, and commodities in bulk, in tank vehicles, from points in Kansas City, Mo.-Kans., commercial zone, as defined by the Commission, to points in Missouri on and west of U.S. Highway 63, restricted to the transportation of shipments destined to points in the destination territory; 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 or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 129605 (Sub-No. 1) (Republication), filed January 19, 1968, published FEDERAL REGISTER issue of February 1, 1968, and republished this issue. Applicant: RAY JOHSON, INC., Post Office Box 254, Ellington, Mo. 63638. Applicant's representative: Clinton B. Roberts, 8 South Jefferson Street, Farmington, Mo. 63640. By application filed January 19, 1968, applicant seeks a permit authorizing operations, in interstate or foreign commerce, as a contract carrier by motor vehicle, over regular routes, of the commodities from and to the points substantially as indicated below. A report and order of the Commission, Operating Rights Board, served May 9, 1968, finds that operation by applicant in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of ore and ore concentrates from the facilities of the Ozark Lead Co., near Corridon, Mo., to Glover and Buick, Mo., under a continuing contract with Ozark Lead Co., of Ellington, Mo., 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 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 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 or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 1.240 TO THE EXTENT APPLICABLE

No. MC 98327 (Sub-No. 4) (Amendment), filed August 11, 1967, published in the FEDERAL REGISTER issue of September 13, 1968, amended and republished as amended this issue. Applicant: INTERLINES-BLANKENSHIP MOTOR EXPRESS, a corporation, 2600 Eighth Street, Berkeley, Calif. 94710. Applicant's representative: Bertram S. Silver, 140 Montgomery Street, San Francisco, Calif. 94704. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: (A) *General commodities*, except those of unusual value, household goods as defined by the Commission, commodities in bulk, motor vehicles, and livestock, between points in California, as follows: (1) From San Ysidro, Calif., over U.S. Highway 101 to San Rafael, Calif., and points within 25 miles of said route; (2) From Los Angeles, Calif., over U.S. Highway 99 to Sacramento, Calif., and points within 25 miles of said route; (3) from Los Angeles over U.S. Highway 66 to San Bernardino, Calif., and points within 25 miles of said route; (4) from Los Angeles over Interstate Highway 10 to Beaumont, Calif., and points within 25 miles of said route; (5) from Los Angeles over U.S. Highway 60 to Riverside, Calif., and points within 25 miles of said route; (6) from San Francisco, Calif., over U.S. Highway 50 to Sacramento and points within 10 miles of said route; (7) from Pinole, Calif., over California Highway 4 to Stockton, Calif., and points within 10 miles of said route.

(8) from San Francisco over Interstate Highway 80 to Roseville, Calif., and points within 10 miles of said route; (9) from Sacramento over U.S. Highway 99E and 99W, and 99, to Redding, Calif., and points within 20 miles of said route, and serving off-route points within a radius of 25 miles of Redding; (10) from Alturas, Calif., over U.S. Highway 299 to Arcata, Calif., and points within 20 miles of said route; (11) from Bartle, Calif., over California Highway 89 to junction U.S. Highway 299 and points within 10 miles of said route; (12) from Oroville, Calif., over California Highway 70 to Pulga, Calif., and points within 10 miles of said route; (13) from Arcata over U.S. Highway 101 to Scotia, Calif., and points within 10 miles of said route; (14) from Williams Calif., over California Highway 20 to Upper Lake, Calif., and points within 3 miles of said route; (15) from Upper Lake over California Highway 29 to Middletown, Calif., and points within 3 miles of said route; (16) from Lower Lake, Calif., over California Highway 53 to junction California Highway 20 and points within 3 miles of said route; (17) from junction California Highway 175 and California Highway 29 at a point approximately 5 miles south of Kelseyville, Calif., over California Highway 175 to Middletown and points within 3 miles of said route; (18) from San Francisco over U.S. Highway 101 to Scotia, serving no intermediate points except as otherwise authorized; (19) from San Francisco over Highway 101 to Hopland, Calif., thence over unnumbered highway to junction California Highway 29 near Finley, Calif., serving no intermediate points except as otherwise authorized.

(20) From Vallejo, Calif., over California Highway 29 to Middletown, serving no intermediate points except as otherwise authorized; (21) from Holtville, Calif., over U.S. Highway 80 to San Diego, Calif., and points within 5 miles of said route; (22) from Westmoreland, Calif., over U.S. Highway 99 to Calexico, Calif., and points within 5 miles of said route; (23) from Niland, Calif., over California Highway 111 to Brawley, Calif., and points within 5 miles of said route; (24) from Calexico over California Highway 98 to junction U.S. Highway 80 near Coyote Wells, Calif., and points within 5 miles of said route; (25) from Wheeler Ridge, Calif., over Interstate Highway 5 to junction U.S. Highway 50 near Tracy, Calif., serving no intermediate points, except as otherwise authorized; (26) from Gilroy, Calif., over California Highway 152 to junction U.S. Highway 99 near Chowchilla, Calif., serving no intermediate points except as otherwise authorized; (27) from San Lucas, Calif., over California Highway 198 to junction U.S. Highway 99 near Goshen, Calif., serving no intermediate points except as otherwise authorized; (28) from Paso Robles, Calif., over California Highway 46 to Famoso, Calif., serving no intermediate points except as otherwise authorized; (29) from junction U.S. Highway 101 near Santa Maria, Calif., over California Highway 166 to junction U.S. Highway 99 over Wheeler Ridge, serving no intermediate points except as otherwise authorized; (30)

from Ventura, Calif., over California Highway 33 to junction U.S. Highway 50 near Banta, Calif., serving no intermediate points except as otherwise authorized.

(31) From Redding over U.S. Highway 99 to junction California Highway 89 near Mount Shasta, Calif., serving no intermediate points except as otherwise authorized; (32) from junction U.S. Highway 99 near Mount Shasta over California Highway 89 to Bartle, serving no intermediate points except as otherwise authorized, and return over the same routes serving all intermediate points not expressly excluded herein. (B) *General commodities* (except classes A and B explosives, commodities of unusual value, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and motor vehicles), (1) between Los Angeles, Indio, and Riverside, Calif., on the one hand, and, on the other, points between Indio and Blythe, Calif., on U.S. Highway 60; from Los Angeles, over U.S. Highway 60 to Blythe, Calif., serving the off-route points in California within 25 miles of Blythe; (2) between Los Angeles, Indio, and Riverside, Calif., on the one hand, and, on the other, points on U.S. Highways 60 and 86 and California Highways 111 and 115 between Beaumont, Calif., and the California-Mexican international boundary line; (a) from Los Angeles, over U.S. Highway 60 to Beaumont, Calif., thence over U.S. Highway 60 to junction California Highway 86 south of Indio, thence over California Highway 86 to the California-Mexican international boundary line, and return over the same routes; (b) also over California Highway 111 from junction near Whitewater, Calif., to the California-Mexican international boundary line; (c) also over California Highway 115 from Calipatria, Calif., to California-Mexican international boundary line.

(3) Between Boulder Park, Calif., and Winterhaven, Calif., from Boulder Park, over Interstate Highway 8 by way of Holtville, Calif. (also over California 98 by way of Calexico, Calif.) to Winterhaven, and return over the same routes, serving all intermediate points. *Irregular routes:* (c) *General commodities* except those of unusual value, household goods as defined by the Commission, commodities in bulk, motor vehicles, and livestock, (1) between points in California within an area bounded by a line beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to junction California Highway 118, approximately 2 miles west of Chatsworth; easterly along California Highway 118 to Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of San Fernando, Calif., westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa, Calif., southerly along said county road to and including the unincorporated community of Yuciapa; westerly along Redlands Boulevard to U.S. Highway 99; northwesterly along U.S. Highway 99 to the corporate boundary of Redlands, Calif., westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U.S. Highway 60; southwesterly along U.S. Highways 60 and 395 to the county road approximately 1 mile north of Perris, Calif., easterly along said county road by way of Nuevo and Lakeview, Calif., to the corporate boundary of San Jacinto, Calif., easterly, southerly, and westerly along said corporate boundary to San Jacinto Avenue; southerly along said San Jacinto Avenue to California Highway 74; westerly along State Highway 74 to the corporate boundary of Hemet, Calif., southerly, westerly, and northerly along said corporate boundary to the right-of-way of The Atchinson, Topeka & Santa Fe Railway Co.; southwesterly along said right-of-way to Washington Avenue, southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the county road intersecting U.S. Highway 395, 2.1 miles north of the unincorporated community of Temecula, Calif., southerly along said county road intersecting U.S. Highway 395, 2.1 miles north of the unincorporated community of Temecula, Calif., southerly along said county road to U.S. Highway 395; southeasterly along U.S. Highway 395 to the Riverside County-San Diego County boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to points of beginning, and servicing points within 25 miles of the boundaries of the above-described area.

(2) Between points in California (including the city of San Jose) within an area bounded by a line beginning at the point the San Francisco-San Mateo County boundary line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to junction Southern Pacific Co. right-of-way at Arastradero Road; southeasterly along the Southern Pacific Co. right-of-way of Pollard Road, including industries served by the Southern Pacific Co. spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to West Parr southerly along Capri Drive to East Parr Avenue; easterly along East Parr Avenue to the Southern Pacific Co. right-of-way; southerly along the Southern Pacific Co. right-of-way to the Campbell-Los Gatos, Calif., city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Alamaden Road; southerly along Alamaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to California Highway 17 (Oakland Road); northerly along California Highway 17 to Warm Springs, northerly along the unnumbered highway by way of Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive, and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including Richmond, Calif., southwesterly along the highway extending from Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shore line to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning, and servicing points within 25 miles of the boundaries of the above-described area.

(3) Between points in California within an area bounded by a line beginning at the northerly junction of U.S. Highways 101E and 101W (4 miles north of La Jolla); thence easterly to Miramar on U.S. Highway 395; thence southeasterly to Lakeside on the El Cajon-Ramona Highway (California Highway 67); thence southerly to Bostonia on U.S. Highway 80; thence southeasterly to Jamul on California Highway 94; thence due south to the international boundary line, between the United States and Mexico west to the Pacific Ocean and north along the coast to point of beginning, and serving points within 5 miles of the boundaries of the above-described area; (4) authority to serve Indio and Calipatria, Calif., and points on or near the California-Mexican international border as included in the said Regular Route Authority hereinabove

described shall include authority to serve off-route points in the following described territory; beginning at Coachella, Calif., thence southeast to the Main All American Canal—Coachella Branch to Winterhaven, Calif., thence south to the California-Mexican international boundary, thence westerly along the said boundary line between the United States and Mexico to junction Imperial-San Diego County line, thence north along the Imperial-San Diego County line to junction California Highway 86, thence north on California Highway 86 to Coachella, the point of beginning.

(D) *General commodities* for mail-order houses and their retail stores between points in California as follows: Antioch, Auburn, Bakersfield, Chico, Coalinga, Concord, Corte Madera, Dunsmuir, Eureka, Fremont, Fresno, Gilroy, Grass Valley, Hanford, Healdsburg, Livermore, Lodi, Lompoc, Los Banos, Los Gatos, Madera, Martinez, Marysville, Merced, Mill Valley, Modesto, Petaluma, Pittsburg, Pomona, Porterville, Red Bluff, Redding, Riverside, Roseville, Sacramento, Salinas, San Diego, San Luis Obispo, San Rafael, Santa Ana, Santa Barbara, San Bernardino, Santa Cruz, Santa Rosa, Stockton, Taft, Tracy, Tulare, Turlock, Ukiah, Vacaville, Vallejo, Monterey, Ventura, Napa, Visalia, National City, Walnut Creek, Oroville, Watsonville, Oxnard, Woodland, Paso Robles, Yreka, Oakland (and points within 50 miles of Oakland) and points within the irregular route areas authorized to be served in the preceding section. Regular Routes: (E) *Lumber and forest products* between points in California as follows: Serving all points on and within 15 miles of U.S. Highway 101 between Eureka and the California-Oregon State line, as off-route points. NOTE: Duplicating authority to be eliminated. The purpose of this republication is to set for the authority sought. This amendment is directly related to MC-F-9857 and MC-F-9859, published in the FEDERAL REGISTER issue of August 23, 1967. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 124211 (Sub-No. 115), filed May 13, 1968. Applicant: HILT TRUCK LINE, INC., 2648 Cornhusker Highway, Post Office Box 824, Lincoln, Nebr. 68501. Applicant's representative: Thomas L. Hilt (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Oils, greases, petroleum products, antifreeze, dispensers, and related articles*, from points in Buena Vista and Clay Counties, Iowa, and Douglas County, Nebr., to points in the United States, except Hawaii; and (2) *containers, additives, materials, and supplies* used in the manufacture, production and sale of oils, greases, petroleum products, antifreeze, dispensers, and related articles, from points in the United States, except Hawaii, to points in Buena Vista and Clay Counties, Iowa, and Douglas County, Nebr. NOTE: Applicant states it does not seek any duplicating authority. This application is a matter directly related to Docket No. MC-F-9818, published FEDERAL REGISTER issue of July 26, 1967. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., 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-10128. Authority sought for purchase by MIDDLE ATLANTIC TRANSPORTATION CO., INC., 976 West Main Street, New Britain, Conn. 06050, of the operating rights of SUTER, INC., 33680 Bainbridge Road, Solon, Ohio 44139, and for acquisition by FRANCIS G. PALMER, 6575 West Vernor Highway, Detroit, Mich., of control of such rights through the purchase. Applicants' attorney: John C. Bradley, 618 Perpetual Building, Washington, D.C. 20004. Operating rights sought to be transferred: *General commodities*, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier* over a regular route, between Chagrin Falls, Ohio, and Cleveland, Ohio, serving all intermediate points; and under a certificate of registration, in Docket No. MC-61117 Sub-3, covering the transportation of property, as a common carrier, in intrastate commerce, within the State of Ohio. Vendee is authorized to operate as a *common carrier* in New York, Michigan, New Jersey, Pennsylvania, Ohio, Connecticut, Massachusetts, and Rhode Island. Application has been filed for temporary authority under section 210a(b). NOTE: Docket No. MC-44592 Sub-27 is a matter directly related.

No. MC-F-10129. Authority sought for purchase by GEORGE W. KUGLER, INC., 2800 East Waterloo Road, Akron, Ohio 44312, of the operating rights of WARD E. LANNING, INC., 1957 South Sixth Street, Coshocton, Ohio, and for acquisition by GEORGE W. KUGLER, also of Akron, Ohio, of control of such rights through the purchase. Applicants' attorneys: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215, and John A. Childers, 40 South Third Street, Columbus, Ohio 43215. Operating rights sought to be transferred: *Metal casting, as a contract carrier*, over irregular routes, between Coshocton, Ohio, and points within 10 miles of Coshocton, and Newcomerstown, Ohio, and points within 10 miles of Newcomerstown, on the one hand, and, on the other, points in the Chicago, Ill., commercial zone, as defined by the Commission; *cast iron pipe and fittings, cast iron manhole covers, radiators, pig lead, jute caulking, and materials* used in the production thereof, from Newcomerstown, and Coshocton, Ohio, to points in Ohio, Michigan, Indiana, and Pennsylvania; *cast iron pipe, cast iron pipe fittings, cast iron manhole covers, pig lead, and jute caulking*, from Newcomerstown and Coshocton, Ohio, to points in West Virginia and Illinois; *scrap iron, pig iron, and returned shipments of cast iron pipe and fittings*, from points in West Virginia, and Illinois, to Newcomerstown and Coshocton, Ohio; *radiators*, from Newcomerstown and Coshocton, Ohio, to Chicago, Ill.; *cast iron pipe and cast iron pipe fittings*, from Coshocton, Ohio, to points in New York, with restriction; *cast iron pipe, cast iron pipe fittings, iron fire hydrants, iron body valves, iron valve boxes, lubricants, nuts, bolts, and plastic or rubber gaskets*, from Coshocton, Ohio, to points in Kentucky and Tennessee, with restriction; and *iron fire hydrants, body valves, iron valve boxes, lubricants, nuts, bolts, and plastic or rubber gaskets*, from Coshocton, Ohio, to points in Ohio, Michigan, Indiana, Pennsylvania, West Virginia, Illinois, and New York, with restriction. Vendee is authorized to operate as a *common carrier* in Illinois, Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and the District of Columbia; and as a *contract carrier* in Iowa, Kentucky, Missouri, Pennsylvania, Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Ohio, Rhode Island, Virginia, West Virginia, Maine, New Hampshire, Vermont, Illinois, Indiana, Michigan, North Carolina, Tennessee, South Carolina, Wisconsin, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10130. Authority sought for purchase by MOSS TRUCKING COMPANY, INC., 3027 North Tryon Avenue, Charlotte, N.C. 28208, of a portion of the operating rights of HOFFMAN RIGGING & CRANE SERVICE, INC., 560 Cortlandt Street, Belleville, N.J. 07109, and for acquisition by T. BRAGG McLEOD, also of Charlotte, N.C., of control of such rights through the purchase. Applicants' attorney and representative: Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006, and Richard L. Amster, 11 Commerce Street, Newark, N.J. Operating rights sought to be transferred: *Commodities which because of size or weight require the use of special equipment, and contractors' materials, supplies, and equipment*, moving in connection therewith which do not necessarily require the use of special equipment, and *dining cars*, as a *common carrier*, over irregular routes, between points in the District of Columbia, on the one hand, and, on the other, that part of Pennsylvania east of the Susquehanna River, the District of Columbia, Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, and Rhode Island. Vendee is authorized to operate as a *common carrier* in Georgia, Arkansas, Kentucky, Illinois, Indiana,

Louisiana, Mississippi, Missouri, Tennessee, Alabama, Florida, North Carolina, South Carolina, Vermont, Virginia, West Virginia, Ohio, Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10132. Authority sought for purchase by WALLACE-COLEVILLE MOTOR FREIGHT, INC., 404 North Sycamore, Post Office Box 1451, Spokane, Wash. 99202, of the operating rights and property of OSCOR W. NELSON AND JOHN L. NELSON, doing business as NELSON TRANSPORTATION COMPANY, AND COEUR D'ALENE MOTOR FREIGHT, 311 North Second, Coeur d'Alene, Idaho 83814, and for acquisition by OSCAR H. WILLIAMS, 3421 South Altamont, Spokane, Wash., of control of such rights and property through the purchase. Applicants' attorneys: William B. Adams, 624 Pacific Building, Portland, Oreg. 97204, and Joseph L. Thomas, 711 Old National Bank Building, Spokane, Wash. 99201. Operating rights sought to be transferred: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes between Coeur d'Alene, Idaho, and St. Maries, Idaho, serving all intermediate points except that no service is authorized in the transportation of beer and containers, groceries, and newspapers between Coeur d'Alene and points on U.S. Highway 95 north of Worley, Idaho, and between Coeur d'Alene and points north of St. Maries on Alternate U.S. Highway 95; *mail, newspapers, and express*, between Spokane, Wash., and Mullan, Idaho, serving all intermediate points in Idaho, and the off-route point of Burke, Idaho; and *beer and containers, groceries, and newspapers*, between Spokane, Wash., and Coeur d'Alene, Idaho, with no service between intermediate points, between Coeur d'Alene, Idaho, and all points north of Worley, Idaho, between Coeur d'Alene, Idaho, and all points north of St. Maries, Idaho. Vendee is authorized to operate as a *common carrier* in Washington and Idaho. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10133. Authority sought for purchase by DICK JONES TRUCKING, Post Office Box 965, Powell, Wyo. 82435, of a portion of the operating rights and certain property of J. W. COCKBURN, doing business as COCKBURN COMPANY, 556 Shoshone Street, Powell, Wyo. 82435, and for acquisition by RICHARD R. JONES, also of Powell, Wyo., of control of such rights and property through the purchase. Applicants' representative: Richard R. Jones, Post Office Box 965, Powell, Wyo. 82435. Operating rights sought to be transferred: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over a regular route, between Meeteetse, Wyo., and Billings, Mont., serving the intermediate point of Powell, Wyo., restricted to pickup and delivery of livestock, machinery, tractors, hardware, feed, petroleum products in containers, and such building materials as are dealt in by retail lumber establishments; and all other intermediate points and the off-route points within 15 miles of the above-specified route, restricted to pickup and delivery of livestock only; *dried beet pulp*, over irregular routes, from Billings, Mont., to Powell, Wyo., and points within 10 miles of Powell; *coal*, from mines within 3 miles of Bearcreek, Mont., to Powell, Wyo.; *cement and plaster*, from Trident and Hanover, Mont., to points in Park and Big Horn Counties, Wyo., *beans, peas, and empty sacks*, between Powell, Wyo., on the one hand, and, on the other, certain specified points in Montana; *livestock*, between certain specified points in Montana, on the one hand, and, on the other, points in Park and Big Horn Counties, Wyo.

Uranium ore, in bulk, from certain specified points in Montana, to the Riverton Uranium Buying Station at Riverton, Wyo., between certain specified points in Montana, restricted to shipments having an immediately subsequent movement by railroad to points beyond Montana, between points in Carbon County, Mont., and points in Park and Big Horn Counties, Wyo., for further movement in interstate commerce of rail; *livestock, emigrant movables, agricultural commodities, machinery and machinery parts, farm equipment, building materials, pipe, seed, and livestock feed*, between certain specified points in Wyoming; *livestock and emigrant movables*, between certain specified points in Wyoming, on the one hand, and, on the other, points in Colorado, Idaho, Montana, Nebraska, and Utah; *machinery and related machinery parts* when their transportation is incidental to the transportation of machinery, and *agricultural commodities*, in bulk, between certain specified points in Wyoming, on the one hand, and, on the other, points in Montana; *building material and pipe*, between certain specified points in Wyoming, on the one hand, and, on the other, points in Montana, except Billings, Mont.; and *seed, livestock feed, and agricultural commodities*, except those in bulk, between certain specified points in Wyoming, on the one hand, and, on the other, points in Montana. Vendee is authorized to operate as a *common carrier* in Wyoming, Montana, Colorado, Washington, Nebraska, South Dakota, Idaho, North Dakota, and Utah. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10134. Authority sought for control by VIRGINIA-CAROLINA FREIGHT LINES, INCORPORATED, Post Office Box 832, Martinsville, Va. 24112, of JOHNSON'S EXPRESS, INC., Post Office Box 571, Sanford, N.C., and for purchase by VIRGINIA-CAROLINA FREIGHT LINES, INCORPORATED, of the operating rights of JOHNSON'S EXPRESS, INC., and for acquisition by JAMES C. STONE, also of Martinsville, Va., of control of such rights and property through the transaction. Applicants' attorney: Spencer T. Money, Suite 411, Park Lane Building, 2025 Eye Street NW., Washington, D.C. Operating rights sought to be controlled and purchased: *Textile products*, as a *common carrier*, over irregular routes, from certain specified points in North Carolina, to Baltimore, Md., Richmond, Va., Washington, D.C., Philadelphia, Pa., and New York, N.Y.; *building materials, canned goods, and sugar*, from Wilmington, N.C., to points within 50 miles of Hamlet, N.C., including Hamlet; *canned goods, sugar, and spray materials*, from Charleston, S.C., to points within 50 miles of Hamlet, N.C., including Hamlet; *general commodities*, except classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment, from New York, N.Y., Washington, D.C., Richmond, Va., Manville, N.J., York, Pa., Baltimore, Md., and points within 10 miles of Baltimore, to points within 50 miles of Hamlet, N.C., including Hamlet; *general commodities*, except classes A and B explosives, household goods as defined by the Commission, commodities requiring special equipment, brick, clay products, fertilizer, and fresh fruits and vegetables, between points within 50 miles of Hamlet, N.C., including Hamlet; *fresh fruits and vegetables*, between points in North Carolina and South Carolina, from points in North Carolina and South Carolina, to New York, N.Y., Newark and Elizabeth, N.J., Philadelphia, Pa., Baltimore and Frederick, Md., Washington, D.C., and Norfolk and Richmond, Va., including points in the respective commercial zones of the above-named destination points; and *brick, clay products, and fertilizer*, between points within 100 miles of Hamlet, N.C., including Hamlet. VIRGINIA-CAROLINA FREIGHT LINES, INCORPORATED, is authorized to operate as a *common carrier* in South Carolina, Virginia, North Carolina, Georgia, Tennessee, Maryland, West Virginia, Pennsylvania, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-10135. Authority sought for merger into WATKINS CAROLINA EXPRESS, INC., Post Office Box 10188, Federal Station, Greenville, S.C. 29603, of the operating rights and property of SOUTHERN EXPRESS, INC., Post Office Box 10188, Federal Station, Greenville, S.C. 29603, and for acquisition by WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, Fla. 33801, and, in turn by BILL WATKINS, Post Office Box 1738, Atlanta, Ga. 30301, of control of such rights and property through the transaction. Applicants' attorney and representatives: Paul M. Daniell, Suite 1600, First Federal Building, Atlanta, Ga. 30303, Bill Watkins, Post Office Box 1738, Atlanta, Ga. 30301, and George W. Clapp, Post Office Box 10188, Greenville, S.C. 29603. Operating rights sought to be merged: *General commodities*, except those of unusual value, classes A and B explosives, dairy products, livestock, acids, household goods as defined by the Commission, commodities in bulk, and

those requiring special equipment, as a *common carrier*, over irregular routes, from points in New York in the New York, N.Y., commercial zone as defined by the Commission, Baltimore, Md., and certain specified points in New Jersey, to certain specified points in North Carolina; *general commodities*, excepting, among others, household goods and commodities in bulk, between Greenville, S.C., on the one hand, and, on the other, points within 15 miles of Atlanta, Ga., between points in Mecklenburg County, N.C., between Charlotte, N.C., on the one hand, and, on the other, certain specified points in South Carolina and North Carolina; *textile products*, from Gastonia, N.C., and points within 10 miles of Gastonia, to points in New York in the New York, N.Y., commercial zone as defined by the Commission, Baltimore, Md., and certain specified points in Pennsylvania and New Jersey.

Cotton, between points in North Carolina and South Carolina; *cotton waste*, between points within 5 miles of Gastonia, N.C., including Gastonia and those within 5 miles of Charlotte, N.C., including Charlotte, on the one hand, and, on the other, points in South Carolina within 125 miles of Gastonia, and those in South Carolina within 125 miles of Charlotte; *cotton yarn (or warps)*, from Gastonia, N.C., and points within 5 miles thereof, to Graniteville and Woodruff, S.C., and points within 5 miles of Graniteville, from Clover, S.C., to Gastonia, N.C., and points within 5 miles thereof, between Gastonia, N.C., and points within 5 miles thereof, on the one hand, and, on the other, certain specified points in South Carolina; *empty warps and cases*, from Graniteville and Woodruff, S.C., and points within 5 miles of Graniteville, to Gastonia, N.C., and points within 5 miles of Gastonia, between Gastonia, N.C., and points within 5 miles thereof, on the one hand, and, on the other, certain specified points in South Carolina; *textile waste materials and used bagging, and textile waste materials and cotton* which are within the exemption of section 203(b)(6) of the Interstate Commerce Act, when transported in the same vehicle with the commodities specified herein, between points in Alabama, Georgia, North Carolina, South Carolina, Tennessee, and Virginia. WATKINS CAROLINA EXPRESS, INC., is authorized to operate as a *common carrier* in North Carolina, South Carolina, and Georgia. Application has not been filed for temporary authority under section 210a(b). NOTE: WATKINS CAROLINA EXPRESS, INC., controls SOUTHERN EXPRESS, INC., through ownership of capital stock pursuant to authority granted in Docket No. MC-F-9351, effective June 1, 1967, and consummated August 28, 1967.

No. MC-F-10136. Authority sought for (1) purchase by GORDONS TRANSPORTS, INC., Post Office Box 2696, De Soto Station, Memphis, Tenn. 38102, of a portion of the operating rights of EUGENE PIKOVSKY, doing business as FREIGHT TRANSIT CO., 2690 North Prior Avenue, St. Paul, Minn. 55113; and (2) control and merger by GORDONS TRANSPORTS, INC., Post Office Box 2696, De Soto Station, Memphis, Tenn. 38102, of the operating rights and property of HYMAN MOTOR SERVICE CO., 425 South Sixth Street, Post Office Box 508, Quincy, Ill. 62301, and for acquisition by M. M. GORDON, 4271 Montrose, Memphis, Tenn., A. W. GORDON, JR., 4679 Walnut Grove, Memphis, Tenn., JOHN K. GORDON, 3910 Paula Drive, Memphis, Tenn., ESTHER G. CATO, 329 Clawson Cove, Memphis, Tenn., MARY G. CONAWAY, 3925 South Galloway Drive, Memphis, Tenn., and ESTATE OF A. W. GORDON, SR., 185 West McLemore, Memphis, Tenn., of control of such rights and property through the transaction. Applicants' attorney: James W. Wrape, 2111 Sterick Building, Memphis, Tenn. 38103. Operating rights sought to be (1) transferred; and (2) controlled and merged: (1) *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over a regular route, between Minneapolis, Minn., and Keokuk, Iowa, serving all intermediate points in Iowa on U.S. Highway 218 between Charles City, Iowa, and Keokuk, Iowa, including Charles City, and the off-route point of Chemolite, Minn.; and (2) *General commodities*, excepting among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Quincy, Ill., and St. Louis, Mo., serving points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone as defined by the Commission (which includes East St. Louis and Monsanto, Ill.), between Quincy, Ill., and Macomb, Ill., serving all intermediate points, and certain off-route points; over one alternate route for operating convenience only. GORDONS TRANSPORTS, INC., is authorized to operate as a *common carrier* in Illinois, Tennessee, Missouri, Indiana, Mississippi, Louisiana, Alabama, Kentucky, Georgia, Arkansas, Oklahoma, and Texas. Application has been filed for temporary authority under section 210a(b).

No. MC-F-10137. Authority sought for purchase by A. R. CRAWFORD, doing business as CRAWFORD FREIGHT LINE, 1401 Fifth Avenue SE., Aberdeen, S. Dak. 57401, of a portion of the operating rights of ALL-AMERICAN TRANSPORT, INC., 1500 Industrial Avenue, Sioux Falls, S. Dak. 57104. Applicants' attorneys: James L. Nelson, 325 Cedar Street, St. Paul, Minn. 55101, and R. G. May, 412 West Ninth, Sioux Falls, S. Dak. 57104. Operating rights sought to be transferred: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over a regular route, between Aberdeen, S. Dak., and Faith, S. Dak., serving certain intermediate and off-route points. Vendee is authorized to operate as a common carrier within the State of South Dakota. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10131. Authority sought for purchase by DATTCO, INC., 99 Newington Avenue, New Britain, Conn., of a portion of the operating rights of THE SHORT LINE OF CONNECTICUT, INCORPORATED, doing business as THE SHORT LINE, 667 Cromwell Avenue, Rocky Hill, Conn., and for acquisition by LOUIS A. DE VIVO and EDWARD P. DE VIVO, both also of New Britain, Conn., of control of such rights through the purchase. Applicants' attorneys: Thomas W. Murrett, 410 Asylum Street, Hartford, Conn. 06103, and Reubin Kaminsky, 410 Asylum Street, Hartford, Conn. 06103. Operating rights sought to be transferred: Passengers and their baggage, and express, mail, and newspapers, in the same vehicle with passengers, and baggage of passengers in a separate vehicle, as a *common carrier*, over a regular route, between Hartford, Conn., and Springfield, Mass., serving all intermediate points. Restriction: Service under the authority granted herein shall be restricted against the transportation of passengers and their baggage, and express and newspapers, in the same vehicle with passengers (1) originating at Springfield, Mass., and destined to or terminating at New London or Norwich, Conn., and (2) originating at New London or Norwich, Conn., and destined to or terminating at Springfield, Mass. Vendee is authorized to operate as a *common carrier* in Connecticut, Massachusetts, New Jersey, New York, and Rhode Island. Application has been filed for temporary authority under section 210a(b).

No. MC-F-10138. Authority sought for purchase by THE SHORT LINE, INC., 1 Sabin Street, Providence, R.I., of the operating rights and property of SHORE LINE BUS COMPANY, 25 River Street, West Warwick, R.I., and for acquisition by GEORGE M. SAGE, also of Providence, R.I., of control of such rights and property through the purchase. Applicants' attorney: S. Harrison Kahn, 733 Investment Building, Washington, D.C. 20005. Operating rights sought to be transferred: Passengers and their baggage, and express, mail, and newspapers in the same vehicle with passengers, as a *common carrier*, over regular routes, between Wakefield, R.I., and Providence, R.I., between Narragansett Pier, R.I., and Point Judith, R.I., between Westerly, R.I., and Jamestown, R.I., serving all intermediate points. Vendee is authorized to operate as a *common carrier* in Rhode Island, Massachusetts, and Connecticut. Application has been filed for temporary authority under section 210a(b).

By the Commission.

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

[F.R. Doc. 68-6360; Filed, May 28, 1968; 8:47 a.m.]

[Notice 617]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 24, 1968.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the

new rules of Ex Parte No. MC-67 (49 CFR 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 27817 (Sub-No. 76 TA), filed May 22, 1968. Applicant: H. C. GABLER, INC., Rural Delivery No. 3, Chambersburg, Pa. 17201. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Medina, N.Y., to Muscatine, Iowa, for 180 days. Supporting shipper: H. J. Heinz Co., Post Office Box 57, Pittsburgh, Pa. Send protests to: Robert W. Ritenour, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 218 Central Industrial Building, 100 North Cameron Street, Harrisburg, Pa. 17101.

No. MC 38320 (Sub-No. 12 TA), filed May 21, 1968. Applicant: CENTRAL MOTOR EXPRESS, INC., Post Office Box 216, Campbellsville, Ky. 42718. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery products*, from the plantsites and storage facilities of the Reed Candy Co. at or near Campbellsville, Ky., to points in Georgia, South Carolina, Tennessee, Ohio, Alabama, Mississippi, Louisiana, Missouri, Illinois, Indiana, and Pennsylvania, for 180 days. Supporting shipper: Frank Krause, Jr., Director of Traffic, P. Lorillard Co., 200 East 42d Street, New York, N.Y. 10017. Send protests to: Wayne L. Merilatt, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 52579 (Sub-No. 107 TA), filed May 20, 1968. Applicant: GILBERT CARRIER CORP., 1 Gilbert Drive, Secaucus, N.J. 07094. Applicant's representative: William Abel (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wearing apparel*, loose on hangers, between Philadelphia, Pa., on the one hand, and, on the other, Cleveland, Ohio; St. Louis, Mo.; West Helena, Ark.; (2) *wearing apparel*, loose on hangers, and *materials and supplies* used in the manufacture of wearing apparel, between Philadelphia, Pa., on the one hand, and, on the other, Amsterdam, N.Y.; Atlanta, Ga.; Greenville, S.C.; Peekskill, N.Y.; Pittsfield, Mass.; Rutland, Vt.; (3) *wearing apparel*, loose on hangers, from Philadelphia, Pa., to Hialeah and Miami, Fla.; (4) *materials and supplies* used in the manufacture of wearing apparel, between Philadelphia, Pa., on the one hand, and, on the other, Hialeah and Miami, Fla., for 150 days. Supporting shipper: The Villager, 19th and Alleghany Avenue, Philadelphia, Pa. 19132. Send protests to: District Supervisor Walter J. Grossmann, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, N.J. 07102.

No. MC 61592 (Sub-No. 110 TA), filed May 21, 1968. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, Iowa 52722. Applicant's representative: R. Connor Wiggins, Jr., 909 One Hundred North Main Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flakeboard, hardboard, vinyl film, plywood and dimensional lumber*, in straight and in mixed shipments, from Chester, San Diego, Los Angeles, San Francisco, and Oroville, Calif., to Wright City and Union, Mo., for 180 days. Supporting shipper: Permaneer Corp., Wright City, Mo. (General Office: 3628 Laclede Avenue, St. Louis, Mo.). Send protests to: Chas. C. Biggers, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Davenport, Iowa 52801.

No. MC 85255 (Sub-No. 30 TA), filed May 22, 1968. Applicant: PUGET SOUND TRUCK LINES, INC., Pier 62, Seattle, Wash. 98101. Applicant's representative: Clyde H. MacIver, Washington Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Palletized metal and combination metal and fiberboard cans and can parts*, between Portland, Oreg., and points in Western Washington and from Seattle, Wash., to Astoria, Oreg., for 150 days. Supporting shipper: C. H. Costello, Pacific Regional Traffic Manager, Continental Can Co., Inc., Russ Building, San Francisco, Calif. 94104. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 107496 (Sub-No. 663 TA), filed May 22, 1968. Applicant: RUAN TRANSPORT CORPORATION, Keosauqua Way at Third, 50309, Post Office Box 855, Des Moines, Iowa 50304. Applicant's representative: H. L. Fabritz (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer in suspension* (slurry), in bulk, in tank vehicles, from Vergennes, Ill., to Oakland City, Ind., for 150 days. Supporting shipper: Swift & Co., 115 West Jackson Boulevard, Chicago, Ill. 60604. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 113828 (Sub-No. 147 TA), filed May 22, 1968. Applicant: O'BOYLE TANK LINES, INCORPORATED, 4848 Cordell Avenue, Washington, D.C. 20014. Applicant's representative: Fred H. Daly, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Titanium dioxide slurry*, in bulk, from Baltimore, Md., to points in Maryland, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, and Virginia, for 180 days. Supporting shipper: Glidden-Durkee, Division of S.C.M. Corp., Baltimore, Md. Send protests to: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1220, 12th and Constitution Avenue NW., Washington, D.C. 20423.

No. MC 114533 (Sub-No. 159 TA), filed May 20, 1968. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, Ill. 60632. Applicant's representative: Stanley Komosa (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Exposed and processed film and prints, complimentary replacement film, and incidental dealer handling supplies* (except motion picture films and materials and supplies used in connection with commercial and television motion pictures), between Chicago and Mount Vernon, Ill., on the one hand, and on the other, St. Louis, Mo., (2) *eyeglasses, frames, lenses, and parts thereof*, between Chicago, Ill., on the one hand, and, on the other, St. Louis, Mo., for 150 days. Supporting shippers: King Optical Co., 1148-60 West Chicago Avenue, Chicago, Ill. 60622; Stanley Photo Service, 2838 Market Street, St. Louis, Mo. 63103; Palmer Optical Co., 5 North Wabash, Suite 826, Chicago, Ill. 60602. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Courthouse, Federal Office Building, Room 1086, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 117903 (Sub-No. 6 TA), filed May 22, 1968. Applicant: GENE ADAMS REFRIGERATED TRUCKING SERVICE, INC., 600 Cayuga Creek Road, Cheektowaga, N.Y. 14225. Applicant's representative: Herbert M. Canter, 345 South Warren Street, Syracuse, N.Y. 13202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and dairy products*, as described in sections A and B of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and *frozen foods*, except those included in the above-specified commodities, from the commercial zone of Boston, Mass., to Albany, N.Y., for further "tacking" with its Sub-No. 5 authority to points in New York

except points in Kings, Queens, Nassau, and Suffolk Counties, for 180 days. Supporting shippers: Fulton Packing Co., Inc., 10 Newmarket Square, Boston, Mass. 02118; Samuel M. Gertman Co., Inc., 40 Newmarket Square, Boston, Mass. 02118; Old Colony Packing Co., 980 Massachusetts Avenue, Boston, Mass.; Columbia Packing Co., 155 Southhampton Street, Boston, Mass. market Square, Boston, Mass. 02118; Universal C & R Beef Co., 50 Newmarket Square, Boston, Mass. 02118; Colonial Provision Co., Inc., 1100 Massachusetts Avenue, Boston, Mass. 02125; Morrison & Schiff, Inc., 35 Hichborn Street, Boston, Mass. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Office Building, 121 Ellicott Street, Buffalo, N.Y. 14203.

No. MC 124679 (Sub-No. 15 TA), filed May 21, 1968. Applicant: C. R. ENGLAND & SONS, INC., 228 West Fifth South Street, Salt Lake City, Utah 84101. Applicant's representative: Daniel B. Johnson, Perpetual Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Packinghouse products and poultry products*, from Blackwood, N.J., and Philadelphia, Pa., to points in New York, Connecticut, Rhode Island, Massachusetts, Maine, Vermont, and New Hampshire, for 180 days. Supporting shippers: Watson's Quality Turkey Products, Inc., Box 215, Blackwood, N.J. 08012; M. Lapin & Sons Co., Inc., 316-336 Callowhill Street, Philadelphia, Pa. 19123. Send protests to: John T. Vaughan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6201 Federal Building, Salt Lake City, Utah 84111.

No. MC 126118 (Sub-No. 6 TA), filed May 22, 1968. Applicant: GEORGE M. HILL, doing business as HILL TRUCKING COMPANY, Route 8, Johnson City, Tenn. 37601. Applicant's representative: Clifford E. Sanders, 321 East Center Street, Kingsport, Tenn. 37660. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Milwaukee, Wis., Cincinnati, Ohio, and Newark, N.J., to Johnson City, Tenn., and from Newark, N.J., to Bristol, Va., and Norton, Va., for 180 days. NOTE: Applicant intends to tack the authority sought herein with its existing authority under MC-126118 and various subs. Supporting shippers: Holston Valley Distributing Co., Inc., 1110-1122 Highland Avenue, Bristol, Va.; Clyce Distributing Co., Post Office Box 298, Johnson City, Tenn. 37601; Orange Crush Bottling Co., 112 Jobe Street, Johnson City, Tenn. 37601. Send protests to: J. E. Gamble, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite 803, 1808 West End Building, Nashville, Tenn. 37203.

No. MC 128878 (Sub-No. 5 TA), filed May 22, 1968. Applicant: SERVICE TRUCK LINE, INC., Post Office Box 728, Waskom, Tex. 75692. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glue stock*, in containers, from Winnfield, La., to Charleston, S.C., for 180 days. Supporting shipper: Chembond Corp., Winnfield, La. 71483. Send protests to: W. R. Atkins, District Supervisor, Bureau of Operations, Interstate Commerce Commission, T-4009 Federal Building, 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 129522 (Sub-No. 1 TA), filed May 22, 1968. Applicant: QUALITY CARRIERS OF INDIANA, INC., 100 South Calumet Street, Post Office Box 339, Burlington, Wis. 53105. Applicant's representative: Fred H. Figge (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nonalcoholic beverages*, from Munster, Ind., to Chicago, Danville, Gurnee, and Kankakee, Ill., points in Kentucky; Kansas City and St. Joseph, Mo., for 180 days. Supporting shipper: Pespi-Cola General Bottlers, Inc., 1745 North Kolmar Avenue, Chicago, Ill. 60639 (A. J. Croce, Purchasing Agent and Traffic Manager). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 129744 (Sub-No. 1 TA), filed May 22, 1968. Applicant: KENNETH ENSMINGER, doing business as ENSMINGER MOTOR LINES, 300 Franklin, Frankfort, Ill. 60423. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polysterene foam plastic trays*, from Frankfort, Ill., to points in Wisconsin, Michigan, Indiana, and Ohio, for 180 days. Supporting shipper: Mobile Chemical Co., Foam Products Department, 437 Center Road, Frankfort, Ill. 60423. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 129876 (Sub-No. 1 TA), filed May 22, 1968. Applicant: ROBERT F. DUBOIS, doing business as DUBOIS TRUCKING, Post Office Box 502, Montpelier, Vt. 05602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sand, gravel, and crushed stone*, from West Lebanon, N.H., to Randolph, Vt., for 150 days. Supporting shippers: Randolph Redi-Mix Co., 35 Central Street, Randolph, Vt.; Pinello Construction Co., Gilead Road, Bethel, Vt. Send protests to: Martin P. Monaghan, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 38, Montpelier, Vt. 05602.

No. MC 129916 TA, filed May 21, 1968. Applicant: LEWIS A. HINSON, doing business as BOWENS MOVING AND STORAGE, 15 West Empire Street, Post Office Box 822, Goldsboro, N.C. 27530. Applicant's representative: J. Ruffin Bailey, Post Office Box 2246, Raleigh, N.C. 27802. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods and personal effects*, between points in North Carolina moving on billing of exempt forwarders of household goods, for 180 days. NOTE: Applicant states it intends to provide a pickup and delivery and packing service. Supporting shippers: Richardson Transfer & Storage Co. Inc., 940 South Santa Fe Avenue, Compton Calif.; Getz Bros. & Co. (U.S.), Post Office Box 2230, Wilmington, Calif.; Bekins Van Lines Co., 820 East D Street, Wilmington, Calif.; American Ensign Van Service, Inc., Post Office Box 2270, Wilmington, Calif. 90744. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 10885, Cameron Village Station, Raleigh, N.C. 27605.

By the Commission.

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

[F.R. Doc. 68-6361; Filed, May 28, 1968; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Bureau Order 551, Amdt. 118]

AREA DIRECTORS

Delegation of Authority With Respect to Forestry Matters

MAY 22, 1968.

Bureau Order 551, an order by which the Commissioner of Indian Affairs delegates authority to Bureau Area Directors, as amended, is further amended by the addition of a new section, section 234. The revision will confer upon the Area Directors, authority for administration of timber sales from certain submarginal lands. The new section 234 reads as follows:

SEC. 234. *Timber sales, submarginal lands*. Approval of timber sales from certain submarginal lands, administered pursuant to applicable regulations in 25 CFR 141, as authorized in Amendment 74 to Secretarial Order 2508 (33 F.R. 4341).

ROBERT L. BENNETT, *Commissioner*.

[F.R. Doc. 68-6382; Filed, May 28, 1968; 8:49 a.m.]

Bureau of Land Management

[New Mexico 1565]

NEW MEXICO

Notice of Proposed Classification

MAY 22, 1968.

Pursuant to section 2 of the Act of September 19, 1964 (43 U.S.C. 1412), notice is hereby given of a proposal to classify the lands described below for disposal through exchange, under the Act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315g) as amended, for lands within Lincoln County, N. Mex.

The District Advisory Board, local governmental officials, and other interested parties have been notified of this

application. Information derived from discussions and other sources indicate that these lands meet the criterion of 43 CFR Part 2410.1-3(c)(4), which authorizes classification of lands "for exchange under appropriate authority where they are found to be chiefly valuable for public purposes because they have special values arising from the interest of exchange proponents, for exchange for other lands which we needed for the support of a Federal program." Information concerning the lands, including the record of public discussions, is available for inspection and study in the Land Office, Bureau of Land Management, U.S. Post Office and Federal Building, Santa Fe, N. Mex., and the Las Cruces District Office, 1705 North Seventh Street, Las Cruces, N. Mex.

For a period of 60 days from the date of this publication, interested parties may submit comments to the District Manager of the Las Cruces District Office.

The lands affected by this proposal are located in Lincoln and Otero Counties, N. Mex., and are described as follows:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 8 S., R. 11 E.,
Sec. 30, SE¼.
T. 23 S., R. 13 E.,
Sec. 25.
T. 24 S., R. 13 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½, and S½.
T. 24 S., R. 14 E.,
Sec. 5, SW¼SW¼;
Sec. 7, lots 1, 2, 3, 4, E½W½, and E½;
Secs. 9, 14, and 15.

The areas described aggregate 4030.28 acres.

W. J. ANDERSON,
State Director.

[F.R. Doc. 68-6334; Filed, May 28, 1968; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

SOUTH DAKOTA

Withdrawal of Approval of Certain Stockyards

Notice is hereby given that pursuant to § 78.16 of the Brucellosis Regulations (9 CFR 78.16), specific approval is withdrawn for the following stockyards in the State of South Dakota, which are currently on the list of stockyards specifically approved by the Director of the Animal Health Division under said regulations, and they are hereby removed from said list, effective June 1, 1968:

AUCTION MARKETS AND ADDRESS

Aberdeen Livestock Sales Co., Inc.—Aberdeen.
Britton Sales Pavilion—Britton.
Canton Livestock Sales Co.—Canton.
Chamberlain Livestock Sales, Inc.—Chamberlain.
Edgemont Livestock Comm. Co.—Edgemont.
Eureka Livestock Sales Comm. Co.—Eureka.
Faith Livestock Commission Co.—Faith.
Gregory Livestock Auction—Gregory.
Hub City Livestock Sales—Aberdeen.
Kimball Livestock Exchange—Kimball.
Leola Livestock Sales—Leola.
Loken's Watertown Sales Pavilion—Watertown.
Madden's Livestock Market, Inc.—St. Onge.
Martin Auction Company, Inc.—Martin.
McLaughlin Commission Co., Inc.—McLaughlin.
Mobridge Livestock Comm. Co.—Mobridge.
Rapid City Livestock Comm. Co.—Rapid City.
Schnell Livestock Market, Inc.—Lemmon.
Sisseton Livestock Sales—Sisseton.
South Dakota Livestock Sales Co.—Watertown.
Stockmen's Livestock Auction Co.—Yankton.
Sturgis Livestock Exchange, Inc.—Sturgis.
Timber Lake Livestock Co.—Timber Lake.
Webster Livestock Exchange—Webster.

This action is based upon the termination effective June 1, 1968, by the South Dakota Livestock Sanitary Board, of the Memorandum of Understanding between the South Dakota Livestock Sanitary Board and the Animal Health Division under which the above-named stockyards were specifically approved for purposes of the regulations in Part 78, 9 CFR.

On and after June 1, 1968, the requirements of the regulations in 9 CFR Part 78 applicable to interstate movements of domestic animals and bison to or from nonapproved stockyards will apply to such movements to or from these stockyards in South Dakota.

This action imposes restrictions necessary to prevent the interstate dissemination of brucellosis and should be made effective on June 1, 1968, to coincide with the termination of the Memorandum of Understanding. Accordingly, under the provisions in 5 U.S.C. 553, it is found upon good cause that publication of notice of rule-making and other public procedure in connection with this action are impracticable and good cause is found for making this action effective less than 30 days after publication hereof in the FEDERAL REGISTER.

E. E. SAULMON,
Director, Agricultural Research Service, Animal Health Division.

[F.R. Doc. 68-6384; Filed, May 28, 1968; 8:49 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

DISTRICT OFFICES

Statement of Organization, Functions, and Delegations of Authority

Part 10 (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (32 F.R. 10012) is hereby amended as follows:

In section 10-B Organization and Functions, the statement for District Offices is revised as follows:

District Offices—Obtains compliance with the Food, Drug, and Cosmetic Act as amended (excluding the Drug Abuse Control Amendments), and related Acts within the District. Conducts domestic and import investigations and inspections to assure and encourage compliance with the laws and regulations enforced by FDA in accord with broad program plans developed in cooperation with headquarters. Collects and conducts laboratory and field analyses of samples. Conducts administrative hearings on alleged violations of the Food, Drug, and Cosmetic Act as amended (excluding the Drug Abuse Control Amendments), and related acts. Analyzes inspectional and laboratory findings to determine compliance with the Food, Drug, and Cosmetic Act as amended (excluding the Drug Abuse Control Amendments) and related Acts, and initiates appropriate enforcement action. Recommends appropriate legal actions to FDA headquarters or to Office of General Counsel, DHEW, or to the concerned U.S. attorney (where direct reference seizures are authorized) and assists in carrying out approved action. Collaborates with other Districts on program activities that involve more than a single District. Provides analytical and inspectional support in programs involving food and color additive petitions, pesticide petitions, investigational new drugs and new drug applications, and development of food standards. Initiates and conducts educational and voluntary compliance programs at the District level and participates with headquarters in the conduct of national programs. Provides laboratory support services for drug abuse control programs as required. Conducts research on laboratory methodology and develops new techniques. Provides headquarters with short- and long-range plans and budget proposals for the District and cooperates with the Office of the Commissioner in the development of formal plans and budgets. Evaluates District Office operations and accomplishments, adjusts overall district plans and priorities to provide better coverage and to meet national goals and objectives, and apprises the Commissioner of significant developments, activities and problem areas. Identifies District training needs and conducts training programs developed by District or headquarters' offices for District personnel or personnel from other government agencies and industry. Maintains liaison and develops cooperative relations with Federal-State and local enforcement agencies. Provides administrative management functions as delegated by headquarters.

Exhibit X10-1, Food and Drug Administration Permanent Offices is revised as follows:

Exhibit X10-1

FOOD AND DRUG ADMINISTRATION—PERMANENT OFFICES

	Type of office	Address	ZIP code
California:			
Los Angeles	District office	1521 West Pico Blvd	90015
San Francisco	do	Room 518, Federal Office Bldg., 50 Fulton St	94102
Colorado: Denver	do	Room 573, New Customhouse Bldg., 20th and California Sts.	80202
District of Columbia:			
Washington	Headquarters	200 C St. SW	20204
Georgia: Atlanta	District office	60 Eighth St. NE	30309
Illinois: Chicago	do	Room 1222, Main Post Office Bldg., 433 West Van Buren St.	60607
Louisiana: New Orleans	do	Room 222, U.S. Customhouse Bldg., 423 Canal St.	70130
Maryland: Baltimore	do	900 Madison Ave	21201
Massachusetts: Boston	do	585 Commercial St	02109
Michigan: Detroit	do	1560 East Jefferson Ave	48207
Minnesota: Minneapolis	do	240 Hennepin Ave	55401
Missouri:			
Kansas City	District office	1009 Cherry St	64106
St. Louis	National Center for Drug Analysis.	Room 1002, U.S. Courthouse and Customhouse Bldg., 1114 Market St.	63101
New York:			
Brooklyn	District office	700 Federal Office Bldg., 850 Third Ave	11232
Buffalo	do	599 Delaware Ave	14202
Ohio: Cincinnati	do	1141 Central Parkway	45202
Pennsylvania: Philadelphia.	do	Room 1204, U.S. Customhouse Bldg., Second and Chestnut Sts.	19106
Texas: Dallas	do	3032 Bryan St	75204
Washington: Seattle	do	Room 501, Federal Office Bldg., 909 First Ave	98104

Dated: May 23, 1968.

Donald F. Simpson,
Assistant Secretary for Administration.

[F.R. Doc. 68-6374; Filed, May 28, 1968; 8:49 a.m.]

ASTRA NUTRITION, DIVISION OF ASTRA PHARMACEUTICAL PRODUCTS, INC.

Notice of Withdrawal of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Astra Nutrition, Division of Astra Pharmaceutical Products, Inc., Neponset Street, Worcester, Mass. 01606, has withdrawn its petition (FAP 8A2259), notice of which was published in the Federal Register of February 9, 1968 (33 F.R. 2802), proposing an amendment to § 121.1202 *Whole fish protein concentrate* to provide for the safe use of whole fish protein concentrate prepared from herring by solvent extraction with isopropyl alcohol.

Dated: May 22, 1968.

R. E. Duggan,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 68-6375; Filed, May 28, 1968; 8:49 a.m.]

UBS CHEMICAL CO.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 8B2294) has been filed by UBS Chemical Co., a division of the A. E. Staley Manufacturing Co., 491 Main Street, Cambridge, Mass. 02142, proposing that § 121.2599 *Vinylidene chloride copolymer coatings for nylon film* be amended to provide for the safe use of phenyl acid phosphate as an optional adjuvant substance employed in the production of vinylidene chloride copolymer food-content coatings for nylon film.

Dated: May 22, 1968.

R. E. Duggan,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 68-6376; Filed, May 28, 1968; 8:49 a.m.]

E. I. DU PONT DE NEMOURS & CO., INC.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 8B2293) has been filed by E. I. du Pont de Nemours & Co., Inc., 1007 Market Street, Wilmington, Del. 19898, proposing that paragraph (c)(4)(i) of § 121.2562 *Rubber articles intended for repeated use* be amended to change from 6 weight percent to 8 weight percent the specified maximum 1,4-hexadiene polymer content of ethylene-propylene-1,4-hexadiene copolymer elastomers employed in the formulation of rubber articles intended for repeated food-contact use.

Dated: May 22, 1968.

R. E. Duggan,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 68-6377; Filed, May 28, 1968; 8:49 a.m.]

E. I. DU PONT DE NEMOURS & CO., INC.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 8B2295) has been filed by E. I. du Pont de Nemours & Co., Inc., 1007 Market Street, Wilmington, Del. 19898, proposing that paragraph (b)(3)(xxv) of § 121.2514 *Resinous and polymeric coatings* be amended to lower from 300 to 100 the specified minimum centistokes viscosity of silicone release agents employed in resinous and polymeric food-contact coatings.

Dated: May 22, 1968.

R. E. Duggan,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 68-6378; Filed, May 28, 1968; 8:49 a.m.]

ELANCO PRODUCTS CO.

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 8F0721) has been filed by the Elanco Products Co., a division of Eli Lilly and Co., Indianapolis, Ind. 46206, proposing the establishment of tolerances for negligible residues of the herbicide trifluralin (α,α,α-trifluoro-2-,6-dinitro-*N,N*-dipropyl-*p*-toluidine) in or on the raw agricultural commodity groups nuts and stone fruits at 0.05 part per million.

The analytical method proposed in the petition for determining residues of the herbicide is a gas chromatographic technique.

Dated: May 22, 1968.

R. E. Duggan,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 68-6379; Filed, May 28, 1968; 8:49 a.m.]

Office of the Secretary

OFFICE FOR CIVIL RIGHTS

Delegation of Authority

On December 4, 1967, the Director of the Office for Civil Rights officially delegated certain functions of his office to the Director of Operations (32 F.R. 17899). I hereby delegate to each Regional Civil Rights Director the operating functions detailed in paragraphs 1, 2, and 3 of that delegation of authority, with the exception of the acceptance of statements of compliance for continuing State programs under § 80.4(G) of the regulation. For the present time I also reserve authority to determine whether recipients which are subject to a termination order have returned to compliance

and are again eligible to receive Federal aid.

Dated: May 23, 1968.

RUBY A. MARTIN,
Director, Operations Division, Office for Civil Rights.

[F.R. Doc. 68-6380; Filed, May 28, 1968; 8:49 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

DIRECTOR, MODEL CITIES STAFF, REGION III (ATLANTA)

Redelegation of Authority With Respect to Model Cities Program

Redelegation of authority. The Director, Model Cities Staff, Region III (Atlanta), is hereby authorized to exercise the power and authority of the Secretary of Housing and Urban Development to the extent redelegated to the Regional Administrator and to the Deputy Regional Administrator in section A of the redelegations of authority by the Assistant Secretary for Demonstrations and Intergovernmental Relations effective November 27, 1967 (32 F.R. 17496, Dec. 6, 1967), with respect to the Model Cities Program under Title I of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3301-3313) except the authority to authorize waivers of contract provisions.

(Redelegations of Authority by Assistant Secretary for Demonstrations and Intergovernmental Relations effective Nov. 27, 1967 (32 F.R. 17496, Dec. 6, 1967))

Effective date. This redelegation of authority shall be effective as of February 9, 1968.

EDWARD H. BAXTER,
Regional Administrator, Region III.

[F.R. Doc. 68-6344; Filed, May 28, 1968; 8:46 a.m.]

DIRECTOR, MODEL CITIES STAFF, REGION IV (CHICAGO)

Redelegation of Authority With Respect to Model Cities Program

The Director, Model Cities Staff, Region IV (Chicago), is hereby authorized to exercise the power and authority of the Secretary of Housing and Urban Development to the extent redelegated to the Regional Administrator and to the Deputy Regional Administrator in section A of the redelegations of authority by the Assistant Secretary for Demonstrations and Intergovernmental Relations effective November 27, 1967 (32 F.R. 17496, Dec. 6, 1967), with respect to the model cities program under Title I of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3301-3313) except the authority to authorize waivers of contract provisions.

(Redelegations of Authority by Assistant Secretary for Demonstrations and Intergovernmental Relations effective Nov. 27, 1967 (32 F.R. 17496, Dec. 6, 1967))

Effective date. This redelegation of authority shall be effective as of May 2, 1968.

FRANCIS D. FISHER,
Regional Administrator, Region IV.

[F.R. Doc. 68-6345; Filed, May 28, 1968; 8:46 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-321]

GEORGIA POWER CO.

Notice of Receipt of Application for Construction Permit and Facility License

Georgia Power Co., 270 Peachtree Street NW., Atlanta, Ga. 30303, has filed an application dated May 3, 1968, pursuant to section 104(b) of the Atomic Energy Act of 1954, as amended, for authorization to construct and operate a boiling water nuclear power reactor on its approximately 2,100-acre site on the south side of the Altamaha River in northwestern Appling County, about 11 miles north of Baxley, Ga.

The proposed nuclear power plant, designated by the applicant as the Edwin I. Hatch Nuclear Plant Unit 1 is designed for initial operation at approximately 2,436 megawatts thermal with a gross electrical output of approximately 813 megawatts.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md. this 22d day of May 1968.

For the Atomic Energy Commission.

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

[F.R. Doc. 68-6332; Filed, May 28, 1968; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 19625]

SHULMAN, INC.

Notice of Prehearing Conference

Aggregate weight rule proposed by Shulman, Inc.

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on June 5, 1968, at 10 a.m., e.d.s.t., in Room 211, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Robert M. Johnson.

Dated at Washington, D.C., May 23, 1968.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 68-6347; Filed, May 28, 1968; 8:46 a.m.]

[Docket No. 18265]

REOPENED TU MVL GA USSR (AEROFLOT)

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on May 31, 1968, at 10 a.m., e.d.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Robert L. Park.

Dated at Washington, D.C., May 24, 1968.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 68-6348; Filed, May 28, 1968; 8:46 a.m.]

FEDERAL MARITIME COMMISSION

COMPAGNIE MALGACHE DE NAVIGATION AND LYKES BROS. STEAMSHIP CO., INC.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. J. Curl, Assistant Vice President Traffic, Lykes Bros. Steamship Co., Inc., 821 Gravier Street, New Orleans, La. 70150.

Agreement No. 9722, between Compagnie Malgache De Navigation and Lykes Bros. Steamship Co., Inc., proposes the establishment of a through billing arrangement for the movement of cargo from ports in Malagasy, Mauritius, Reunion, and the Comores Islands to U.S. Gulf ports with transshipment at South and East African ports (Cape Town to Mombasa, inclusive), or at Tamatave or other Malagasy ports, in accordance with

the terms and conditions set forth in the agreement.

Dated: May 24, 1968.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 68-6354; Filed, May 28, 1968; 8:47 a.m.]

COMPAGNIE MALGACHE DE NAVIGATION AND LYKES BROS. STEAMSHIP CO., INC.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. J. Curl, Assistant Vice President Traffic, Lykes Bros. Steamship Co., Inc., 821 Gravier Street, New Orleans, La. 70150.

Agreement No. 9723, between Compagnie Malgache De Navigation and Lykes Bros. Steamship Co., Inc., proposes the establishment of a through billing arrangement for the movement of packaged general cargo from U.S. Gulf ports (Brownsville to Key West, inclusive) to ports in Malagasy, Comores, Mauritius, and the Reunion Islands with transshipment at South African ports (Cape Town to Beira, inclusive) or at ports in the Malagasy Republic, in accordance with the terms and conditions set forth in the agreement.

Dated: May 24, 1968.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 68-6355; Filed, May 28, 1968; 8:47 a.m.]

NORTH ATLANTIC MEDITERRANEAN FREIGHT CONFERENCE

Notice of Petition Filed for Approval

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 814).

Interested parties may inspect a copy of the current contract form and of the petition, reflecting the changes proposed to be made in the language of said contract, at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to the proposed changes and the petition, including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the petition (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of application to modify an approved Exclusive Patronage (Dual Rate) Contract filed by:

Mr. Burton H. White, Burlingham, Underwood, Wright, White and Lord, 25 Broadway, New York, N.Y. 10004.

There has been filed on behalf of the North Atlantic Mediterranean Freight Conference (Agreement No. 9548, as amended) an application to modify its form of merchant's contract pursuant to section 14b of the Shipping Act, 1916. The proposed contract modification in Article 11(a) adds currency devaluation to those conditions beyond the control of the Conference under which it may increase rates on not less than 15 days' written notice to the Merchant who retains the right to notify the Conference in writing of his intent to suspend the contract insofar as such increase is concerned.

Dated: May 24, 1968.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 68-6356; Filed, May 28, 1968; 8:47 a.m.]

CIVIL SERVICE COMMISSION

DISTRICT OF COLUMBIA GOVERNMENT

Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission has found on May 23, 1968, that there is a manpower shortage for the single position of Vice President for Administration and Finance, Washington Technical Institute, Washington, D.C.

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

[F.R. Doc. 68-6352; Filed, May 28, 1968; 8:46 a.m.]

ATTORNEY (ESTATE TAX), NATIONWIDE[1]

Notice of Adjustment of Minimum Rates and Rate Ranges

Under authority of 5 U.S.C. 5303 and Executive Order 11073, the Civil Service Commission has established special minimum salary rates and rate ranges as follows:

GS-905 Attorney (Estate Tax)

Geographic Coverage: Nationwide
Effective Date: First day of the first pay period beginning on or after May 19, 1968.

PER ANNUM RATES

Grade	1[1]	2	3	4	5	6	7	8	9	10
GS-7	$7,634	$7,859	$8,084	$8,309	$8,534	$8,759	$8,984	$9,209	$9,434	$9,659
GS-9	8,592	8,861	9,130	9,399	9,668	9,937	10,206	10,475	10,744	11,013

[1] Corresponding statutory rates: GS-7—5th; GS-9—3d.

All new employees in the specified occupational levels will be hired at the new minimum rates.

As of the effective date, the agency will process a pay adjustment to increase the pay of employees on the rolls in the affected occupational levels. An employee who immediately prior to the effective date was receiving basic compensation at one of the statutory rates shall receive basic compensation at the corresponding numbered rate authorized by this letter on and after such date. The pay adjustment will not be considered an equivalent increase within the meaning of 5 U.S.C. 5335.

Under the provisions of section 3-2b, Chapter 571, FPM, agencies may pay the travel and transportation expenses to first post of duty, under 5 U.S.C. 5723, of new appointees to positions cited.

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

[F.R. Doc. 68-6353; Filed, May 28, 1968; 8:47 a.m.]

[1] NOTE: This action extends to the newly established job category of Attorney (Estate Tax), GS-905-7/9, the special rates established for Estate Tax Examiner, GS-920-7/9. The action is being taken primarily as an interim device to permit a period of orderly transition as the recruitment of persons for estate tax work in the Internal Revenue Service is shifted from series GS-920 to GS-905.

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 18137; FCC 68M-830]

CHICKASAW TELEPHONE CO. AND AMERICAN TELEPHONE AND TELEGRAPH CO.

Order Continuing Hearing

In the matter of Chickasaw Telephone Co., and American Telephone and Telegraph Co. (A.T. & T.), Revision of A.T. & T. Tariff FCC No. 260, Private Line Service, to establish a monthly supplemental charge for Type 2001 channels; and supplemental charges for foreign exchange (Type 2006 channels) in general.

Pursuant to a prehearing conference as of this date, *It is ordered*, That the hearing now scheduled for June 19, 1968, be and the same is hereby continued without date.

Issued: May 22, 1968.

Released: May 23, 1968.

Federal Communications Commission,
[seal] Ben F. Waple,
Secretary.

[F.R. Doc. 68-6367; Filed, May 28, 1968; 8:48 a.m.]

[Docket No. 18135; FCC 68M-829]

BRIAN E. COBB

Order Continuing Hearing

In re application of Brian E. Cobb, Reno, Nev., Docket No. 18135, File No. BPH-6064, for construction permit.

It is ordered, Pursuant to the understanding reached during prehearing conference, that the hearing in the above-entitled proceeding is hereby continued from June 12, 1968 to September 4, 1968, and will be convened on that date at 10 a.m., in the offices of the Commission, Washington, D.C.

Issued: May 22, 1968.

Released: May 23, 1968.

Federal Communications Commission,
[seal] Ben F. Waple,
Secretary.

[F.R. Doc. 68-6366; Filed, May 28, 1968; 8:48 a.m.]

[Docket Nos. 18198, 18199; FCC 68-564]

COMMUNITY BROADCASTING COMPANY OF HARTSVILLE AND EASTERN CAROLINA BROADCASTERS, INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Harold Bledsoe and Edmond F. Baddour doing business as Community Broadcasting Company of Hartsville, Hartsville, S.C., Docket No. 18198, File No. BP-16995, requests: 1490 kc, 250 w, U, Class IV; Eastern Carolina Broadcasters, Inc., Florence, S.C., Docket No. 18199, File No. BP-17083, Requests 1490 kc, 250 w, 1 kw-LS, U, Class IV; for construction permits.

1. The Commission has before it the above-captioned applications which are mutually exclusive in that simultaneous operation of the stations as proposed would result in prohibitive overlap as defined by § 73.37 of the Commission's rules.

2. Based on figures and information provided by Eastern Carolina Broadcasters, Inc. (Eastern Carolina), it will need a total of $44,380 to construct and operate the proposed station for 1 year without revenue. This applicant proposes to meet its financial requirements through the sale of its capital stock in the amount of $25,000 and a bank loan commitment of $25,000. However, although the two major subscribers (119 shares ($11,900) each) of the corporation's capital stock have submitted balance sheets, neither reflects sufficient quick assets with which to meet their aforesaid respective stock purchase commitments. Hence, a financial issue is included as to this applicant.

3. After examination of section IV of each of the captioned applications, the Commission is unable to conclude that the applicants have met all four informational requirements set out in Minshall Broadcasting Company, Inc., 11 FCC 2d 796 at 797. Thus, we are unable to determine whether the applicants are aware of and responsive to the needs of their respective communities. Accordingly, a Suburban issue[1] is included as to both applicants.

4. On the basis of the application of Community Broadcasting Company of Hartsville (Hartsville), as amended, this proposal fails to provide the nighttime city coverage required by § 73.188(a) of the rules in that the proposed nighttime limitation contour does not cover the entire city of Hartsville. Therefore, an appropriate city coverage issue is specified herein as to Hartsville.

5. The site photograph of Eastern Carolina is inadequate in that it is not of sufficient clarity to determine whether there are any structures or obstructions of any kind in the vicinity of the antenna site which would cause re-radiation and distortion of the proposed omnidirectional radiation pattern. Accordingly, a transmitter site issue is included as to this applicant.

6. Regarding Eastern Carolina, Frank L. Martin will be president, general manager, and 44 percent owner; A. P. Skinner III, will be vice president, secretary, station manager, and 44 percent owner; and M. W. Pell will be treasurer, chief engineer, and 10 percent owner. In view of the fact that Messrs. Martin and Pell are presently sales manager and chief engineer, respectively, of standard broadcast Station WOLS, Florence, S.C. (the same town to be served by Eastern Carolina), any grant to this applicant will contain the customary condition regarding severance of said connections with the existing station.

[1] Suburban Broadcasters, 3 FCC 1021, 20 RR 951 (1961).

7. From the information before the Commission it appears that except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, because the applications are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues set forth below.

8. *Accordingly, it is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine the areas and populations which would receive primary service from the proposed operations and the availability of other primary service to such areas and populations.

(2) To determine, with respect to the application of Eastern Carolina:

(a) Whether the two major stock subscribers, Frank L. Martin and A. P. Skinner III, have sufficient quick assets to meet their stock purchase commitments;

(b) Whether, in light of evidence adduced pursuant to (a) above, the applicant is financially qualified.

(3) To determine the efforts made by the above applicants to ascertain the community needs and interests of the areas to be served and the means by which the applicants propose to meet those needs and interests.

(4) To determine whether the proposal of Community Broadcasting Company of Hartsville would provide coverage of the city sought to be served, as required by § 73.188(a)(1) of the Commission's rules, and, if not, whether circumstances exist which would warrant a waiver of said section.

(5) To determine whether the transmitter site proposed by Eastern Carolina Broadcasters, Inc. is satisfactory with particular regard to any conditions that may exist in the vicinity of the antenna system which would distort the proposed antenna radiation pattern.

(6) To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

(7) To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if either, of the applications should be granted.

9. *It is further ordered*, That, in the event of a grant of the Eastern Carolina Broadcasters, Inc., application, the construction permit shall contain the following condition:

Program tests will not be authorized until permittee has submitted satisfactory evidence that Frank L. Martin has severed all connections with Station WOLS, Florence, S.C., and that M. W. Pell is no longer chief engineer.

10. *It is further ordered*, That, in the event of a grant of the Community

Broadcasting Company of Hartsville application, the construction permit shall contain the following condition:

Horizontal inverse distance field intensity at 1 mile shall be reduced to essentially 160 mv/m per 1 kilowatt or 80 mv/m for 250 watts by the addition of a series resistor in the transmission line. Before program tests are authorized, the permittee shall submit sufficient field intensity measurement data to show that radiation has been reduced as proposed.

11. *It is further ordered*, That, in the event of a grant of either application, the construction permit shall contain the following condition:

Permittee shall accept such interference as may be imposed by existing 250 watt Class IV stations in the event they are subsequently authorized to increase power to 1,000 watts.

12. *It is further ordered*, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

13. *It is further ordered*, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: May 22, 1968.

Released: May 24, 1968.

FEDERAL COMMUNICATIONS COMMISSION,[2]

[SEAL] BEN F. WAPLE, *Secretary*.

[F.R. Doc. 68-6368; Filed, May 28, 1968; 8:48 a.m.]

[Docket Nos. 18202, 18203; FCC 68-566]

RADIO KYNO, INC., AND INTERNATIONAL RADIO, INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Radio KYNO, Inc., Fresno, Calif., Docket No. 18202, File No. BPH-6118, Requests: 95.5 mc, No. 238; 50 kw; 318 feet; International Radio, Inc., Fresno, Calif., Docket No. 18203, File No. BPH-6202, Requests: 95.5 mc, No. 238; 50 kw; 272 feet; for construction permits.

1. The Commission has under consideration the above captioned and described applications which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference.

2. Since no determination has yet been reached on whether the antenna proposed by International Radio, Inc., would constitute a menace to air navigation, an issue regarding this matter is required.

3. According to its application International Radio, Inc., would require a total of approximately $80,000 to construct and operate for 1 year without revenue. To meet this requirement it relies on funds on deposit of $2,680, a loan from a stockholder of $20,000 and profits from existing operations of $6,000, for a total of $28,680. Therefore, an issue will be specified to determine the availability of the additional $51,320 which would be required for construction and first-year operation.

4. International Radio, Inc., proposes approximately 50 percent duplicated programs while Radio KYNO, Inc., proposes independent operation. Therefore, evidence regarding program duplication will be admissible under the standard comparative issue. When duplicated programing is proposed, the showing permitted under the standard comparative issue will be limited to evidence concerning the benefits to be derived from the proposed duplication, and a full comparison of the applicants' program proposals will not be permitted in the absence of a specific programing inquiry—Jones T. Sudbury 8 FCC 2d 360, FCC 67-614 (1967).

5. Except as indicated below, the applicants are qualified to construct and operate as proposed. However, because of their mutual exclusivity, the Commission is unable to make the statutory finding that a grant of the applications would serve the public interest, convenience and necessity, and is of the opinion that the applications must be designated for hearing on the issues set forth below.

6. *It is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by International Radio, Inc., would constitute a menace to air navigation.

2. To determine whether International Radio, Inc., has available to it the additional $51,320 required to cover construction and first-year operation of its proposed station and thus demonstrate its financial qualifications.

3. To determine, if issues one and two are resolved in International Radio, Inc.'s favor, which of the proposals would better serve the public interest.

4. To determine in the light of the evidence adduced pursuant to the foregoing issues, which of the applications for construction permit should be granted.

7. *It is further ordered*, That the Federal Aviation Administration is made a party to the proceeding.

8. *It is further ordered*, That to avail themselves of the opportunity to be heard, the applicants and party respondent herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney shall, within twenty (20) days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

9. *It is further ordered*, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: May 22, 1968.

Released: May 24, 1968.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE, *Secretary*.

[F.R. Doc. 68-6369; Filed, May 28, 1968; 8:48 a.m.]

[Docket Nos. 18193-18195; FCC 68M-831]

SERVICE ELECTRIC CABLE TV, INC.

Order Scheduling Hearing

In re requests for order to show cause directed against the following CATV operations: Service Electric Cable TV, Inc., trading as Mountain City TV Co., Hazelton, Pa., Docket No. 18193, SR-3716, SR-1710; Service Electric Cable TV, Inc., trading as TeleService Co. of Wyoming Valley, Wilkes-Barre, Pa., Docket No. 18194, SR-3716, SR-278; Service Electric Cable TV, Inc., Mahanoy City, Pa., Docket No. 18195, SR-3716, SR-5710, SR-276.

It is ordered, That Chester F. Naumowicz, Jr. shall serve as Presiding Officer in the above-entitled proceeding; that the hearing therein shall be convened on July 24, 1968, at 10 a.m.; and that a prehearing conference shall be held on June 28, 1968, commencing at 9 a.m.; and, *It is further ordered*, That all proceedings shall take place in the offices of the Commission, Washington, D.C.

Issued: May 20, 1968.

Released: May 23, 1968.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE, *Secretary*.

[F.R. Doc. 68-6370; Filed, May 28, 1968; 8:48 a.m.]

[2] Commissioner Wadsworth absent.

[1] Commissioner Wadsworth absent.

FEDERAL POWER COMMISSION

LANDS WITHDRAWN IN PROJECT NOS. 1015 AND 1042

Order Vacating Withdrawals Under Section 24 of the Federal Power Act

MAY 21, 1968.

Application has been filed by the U.S. Forest Service (Applicant) for vacation of the power withdrawals pertaining to the following described lands of the United States located within the Prescott National Forest:

A. All unpatented portions of the lands located approximately in section 30, T. 12½ N., R. 1 W., Gila and Salt River Meridian, lying within 25 feet of the center line of the transmission line location beginning at the end of the existing Sheldon Transmission Line, thence in a southwesterly direction through Prescott National Forest to proposed Chase Mine Substation, Chase Mine, as shown on a map designated "Exhibit K" and entitled "Showing The Arizona Power Company's Right-of-Way—Chase Mine Transmission Line—Through Prescott National Forest and Private Lands, Prescott, Yavapai County, Arizona, July 29, 1929", and filed in the office of the Federal Power Commission on August 22, 1929.

B. All unpatented portions of the lands located approximately in unsurveyed sections 34, 35, 36, T. 12½ N., R. 2 W., and section 3, T. 12 N., R. 2 W., Gila and Salt River Meridian, lying within 25 feet of the center line of the transmission line location shown on a map designated "Exhibit K" and entitled "Showing The Arizona Power Company's Right-of-Way, Davis Dunkirk Mines Transmission Line, Prescott National Forest, Public and Private Lands, Prescott, Yavapai County, Arizona", and filed in the office of the Federal Power Commission on December 12, 1929.

All unpatented portions of the lands located approximately in unsurveyed NE¼, Sec. 35, T. 12½ N., R. 2 W., Gila and Salt River Meridian, lying within 25 feet of the center line of the transmission line location shown on a map designated "Exhibit K" and entitled "Showing Right of Way of the Arizona Power Company Harlan Transmission Line through Prescott National Forest, Prescott, Yavapai County, Arizona", and filed in the office of the Federal Power Commission on May 6, 1932.

All portions of the following tracts lying within 25 feet of the center line of the transmission line location shown on a map designated "Exhibit K" and entitled "Map Showing Right of Way of The Arizona Power Corporation, Groom Creek Transmission Line, Amendment No. 2 to Project No. 1042 Through Public, Private, and Prescott National Forest Land", and filed in the office of the Federal Power Commission on June 18, 1936.

GILA AND SALT RIVER MERIDIAN

T. 12½ N., R. 2 W., (unsurveyed),
Sec. 23, W½W½;
Sec. 26, W½W½;
Sec. 35, NW¼NW¼;

T. 13 N., R. 2 W.,
Sec. 15, lots 4, 5, 6, 10, 11;
Sec. 22, lots 2, 8;
Sec. 23, lots 5, 10, 11, 13, 14;
Sec. 26, lots 20, 28, 29, 30, 33, 34;
Sec. 35, lots 5, 7, 8, 14, 15.

Applicant advises that some of the subject lands are involved in proposed land exchanges which will result in measureable benefit to the United States because of a more efficient administration of National Forest lands.

The above-described lands lie a few miles south of Prescott, Ariz.

The lands described in A above, comprising about 8 acres, are withdrawn pursuant to the filing on August 22, 1929 of an application for license for transmission line Project No. 1015. The lands described in B above, comprising about 44 acres, are withdrawn pursuant to the filing on December 12, 1929, as supplemented on May 6, 1932, and June 18, 1936, of an application for license for transmission line Project No. 1042.

While licenses for Project Nos. 1015 and 1042 were issued their surrender was accepted by the Commission by its order issued August 1, 1944 (not published) in which the Commission found that the transmission lines comprising Project Nos. 1015 and 1042, among other lines, "serve primarily as parts of the licensee's public utility system, and are not within the licensing authority of the Commission under the Federal Power Act." Following the Commission's action, some of the lines were dismantled and the lands occupied thereby were restored to a condition satisfactory to Applicant. The remaining lines are operating under Forest Service special use permits whether or not they are within the power withdrawal area.

The Commission finds: The power value of the subject lands is for transmission line purposes, all as recognized by the Forest Service Special Use Permits. The withdrawals pertaining to the lands pursuant to the filing of applications for licenses serve no useful purpose and should be vacated.

The Commission orders: The withdrawals of the subject lands pursuant to the applications for licenses for Project Nos. 1015 and 1042 are hereby vacated.

By the Commission.

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

[F.R. Doc. 68-6328; Filed, May 28, 1968; 8:45 a.m.]

[Docket No. CP68-313]

GAS SERVICE CO. AND PANHANDLE EASTERN PIPE LINE CO.

Notice of Application

MAY 21, 1968.

Take notice that on May 14, 1968, The Gas Service Co. (Applicant), 700 Scarritt Building, Kansas City, Mo. 64142, filed in Docket No. CP68-313 an application pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing Panhandle Eastern Pipe Line Co. (Respondent) to establish physical connection of its facilities with the facilities proposed to be constructed by Applicant and to sell and deliver to Applicant volumes of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to provide firm natural gas service to the Franklin County Consolidated School No. 288 presently under construction in Franklin County, Kans. The estimated peak-day and annual requirements are 120 Mcf and 3,800 Mcf, respectively.

The Applicant proposes to construct and operate 4,135 of 2-inch main, 10 feet of 2-inch service line, one regulator, one meter and one odorizer. Total estimated cost is $7,217. Since Applicant has received a state certificate authorizing the proposed service, no statement with respect to financing is submitted pursuant to § 250.6(12) of the Commission's regulations under the Natural Gas Act.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before June 17, 1968.

GORDON M. GRANT, *Secretary*.

[F.R. Doc. 68-6329; Filed, May 28, 1968; 8:45 a.m.]

[Docket No. RI63-346 etc.]

SUN OIL CO.

Order Severing and Terminating Proceedings

MAY 21, 1968.

Sun Oil Co. (Sun) on February 8, 1968, filed a motion in the above-captioned proceedings requesting termination of such proceedings which cover a jurisdictional sale of natural gas derived from new gas well gas from the Brown Bassett Field, Crockett County, Tex., Permian Basin area, under its FPC Gas Rate Schedule No. 151. These proceedings involve an increase in rate from 16 cents to 17 cents per Mcf, less contractual deductions for treating the gas, which results in a net price of less than 14.25 cents per Mcf from its purchaser, El Paso Natural Gas Co.[1] The contract provides for the deduction by the buyer of the actual cost of removing the diluent content in the delivered gas, but not in excess of 4.5 cents per Mcf.

In its motion, Sun states that on July 12, 1966, it filed a quality statement, in compliance with Opinion No. 468, 34 FPC 241, which reflects an applicable area ceiling rate of 14.25 cents per Mcf (a base rate of 16.5 cents, less treating cost of 1.92 cents and downward B.t.u. adjustment of 0.33 cent per Mcf), and, among other things, that its net price received in these proceedings has ranged

[1] These proceedings cover a locked-in period. A higher increased rate of 18 cents per Mcf subject to contractual dedications for a net rate of 14.055 cents per Mcf has been accepted subsequent to the commencement of these proceedings.

from a low of 12.5 cents to a maximum of 13.947339 cents per Mcf.

By order issued August 5, 1965, as amended by order issued November 12, 1965, 34 FPC 424, 1287, Docket Nos. RI63-346 and RI66-18 were consolidated in the Permian Basin show cause proceeding, Docket No. AR61-1. Accordingly, since the net contract rate collected by Sun under the rate proceedings herein is less than the applicable area ceiling rate, good cause exists for severing these proceedings from the show cause proceeding in Docket No. AR61-1, for terminating the proceedings in Docket Nos. RI63-346 and RI66-18, and for discharging the refunding obligations in said terminated proceedings.

The Commission orders: For the foregoing reasons, Docket Nos. RI63-346 and RI66-18 are severed from the show cause proceeding in Docket No. AR61-1, the refund obligations in Docket Nos. RI63-346 and RI66-18 are discharged, and the proceedings in Docket Nos. RI63-346 and RI66-18 are terminated.

By the Commission.

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

[F.R. Doc. 68-6330; Filed, May 28, 1968; 8:45 a.m.]

[Docket No. RI68-625]

DATA FOR CONTINUING REGULATION OF INDEPENDENT PRODUCER RATES

Notice of Inquiry

MAY 21, 1968.

1. The Supreme Court recently affirmed the Commission's opinion and orders in the Permian Basin Area Rate Cases, ______ U.S. ______ (Nos. 90, et al., October Term 1967, decided May 1, 1968). The Commission now desires the assistance of interested parties in developing the means by which the Commission may secure relevant up-to-date information for continuing review of producer rates. While sources for some information may now be available,[1] it appears that the Commission may have to collect data directly through the establishment of a report to be regularly supplied by independent producers.

2. The Commission requests the views and suggestions of interested persons about what Commission data collection system would be most appropriate for continuing producer rate regulation. Those submitting comments favoring data collection are requested also to submit proposed report forms.

3. This notice is a first step toward establishing an appropriate data system. We anticipate other steps, including conferences and publication for comment of any data system or report form the Commission designs.

[1] Such sources may well be strengthened as a result of the work of the Interagency Petroleum Statistics Task Force (under the leadership of the Department of the Interior) and the American Petroleum Institute's Petroleum Statistics Liaison Group.

4. This inquiry is instituted under the authority of section 14(a) of the Natural Gas Act (52 Stat. 828 (1938); 15 U.S.C. 717(m) to aid in the enforcement of section 4(e), 5(a), 8(a), and 10(a) of the Act (52 Stat. 822, 823, 825, 826 (1938); 76 Stat. 72 (1962); 15 U.S.C. 717c, 717d, 717g, 717i).

5. Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426 not later than September 3, 1968, data, views, and comments in writing concerning the matter under investigation. An original and 14 conformed copies should be filed with the Commission. It may later appear appropriate to require cross service among the parties submitting views and comments. Submissions to the Commission should indicate the name and address of the person to whom correspondence should be addressed. Those who have no present comments or requests but want to receive correspondence in this matter should also submit the name and address of the person to whom correspondence should be addressed. It may also appear appropriate to hold conferences in this matter; written comments should include any request for a conference together with the reasons and agenda therefor. We are directing Leo E. Forquer, Assistant General Counsel, of our staff to be chairman of conferences in this matter. The Commission will consider all submissions before acting on this inquiry.

By direction of the Commission.

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

[F.R. Doc. 68-6331; Filed, May 28, 1968; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-2265]

BANK FIDUCIARY FUND

Notice of Filing of Application for Exemption

MAY 23, 1968.

Notice is hereby given that Bank Fiduciary Fund ("Applicant"), c/o Dorsey, Burke & Griffin, 44 Wall Street, New York, N.Y. 10005, a New York corporation which is registered as a diversified open-end management investment company under the Investment Company Act of 1940 ("Act") has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission exempting it from the provisions of section 22(e) and thereby permitting it to value its assets quarterly for the purpose of redemptions.

Applicant was organized under a New York statute which authorized the creation of mutual trust investment companies to serve as a medium for the common investment of trust funds held by small banks and trust companies in the State of New York. Applicant was designed to provide an investment medium for these smaller banks and trust companies, whose trust assets in many cases are not of sufficient size to make the establishment of their own legal common trust funds practical.

Applicant is presently authorized to issue 300,000 shares of capital stock of $1 par value. Purchase of Applicant's shares is limited by the New York statute to trust companies and state or national banks having trust powers which have their principal offices within the State of New York, and their nominees. Thus, it is restricted to intrastate operation, within the exemption of section 3(a)(11) of the Securities Act of 1933. Banks or trust companies operating their own legal common trust funds are not eligible to purchase applicant's shares.

Applicant started in business on April 29, 1955. On October 31, 1955, Applicant's shares were held by 31 banks and trust companies holding 23,289 shares with an aggregate value of $2,375,160.53. As of October 31, 1967, there were 56 participating banks and trust companies holding 216,308 shares having an aggregate market value of $25,227,987.71. Present indications are that future growth, if any, will be somewhat more limited.

Applicant, since its inception, has had a contract with the Manufacturers Hanover Trust Company of New York City to serve as custodian, investment adviser, transfer agent, registrar, and depositary for Applicant's funds.

Applicant's powers to invest are limited both by law and regulation of the Banking Board of the State of New York so that, except for obligations of the United States, Applicant may not invest more than 10 percent of its assets in the securities of any one issuer nor may its investments in the stock of any corporation exceed 5 percent of the total number of shares of stock of such corporation as are outstanding at the time of acquisition by Applicant.

Investment in and redemption of Applicant's shares by those qualified to hold the same are permitted only on designated valuation dates. The Banking Board of the State of New York has fixed the last business days of January, April, July, and October of each year as mandatory valuation dates, and Applicant's Board of Directors has power to designate such other dates as it may deem desirable. The value of each share of Applicant's stock shall be determined on any designated valuation date on the basis of market value according to the formula prescribed by the New York State Banking Board which has been incorporated in Applicant's bylaws.

Applicant's enabling statute empowers the Banking Board of the New York State Banking Department to regulate the conduct and management of Applicant's affairs and to prescribe, among other things: (1) The records and accounts to be kept by Applicant; (2) the procedures to be followed in the sale or redemption of Applicant's shares; (3) the methods and standards to be employed in determining the value of Applicant's shares and the investment of its assets; and (4) the maximum proportionate shares of Applicant which may

be apportioned or sold to any one trust company or bank. Applicant's activities are regulated accordingly under General Regulation No. 19 promulgated on December 29, 1954, by the Banking Board of the State of New York.

Applicant contends that compliance with section 22(e) of the Investment Company Act of 1940 would be burdensome not only on participating banks but especially its own operations. Applicant points out that it was established to provide economical common trust fund facilities for participating banks ar 1 that all expenses for operating Bank Fiduciary Fund are chargeable to the income account. Accordingly, it is represented that the increase in operating expenses which compliance with section 22(e) would entail would adversely affect earnings of the Fund and would be a heavy burden on the beneficiaries of small trusts which the Fund was supposed to benefit and thus far has benefited.

Specifically, applicant seeks to be relieved from compliance with the provisions of section 22(e) of the Investment Company Act of 1940 which, in substance, prohibits a registered investment company from suspending the right of redemption or postponing the date of payment for satisfaction upon redemption of any redeemable securities, in accordance with its terms, for more than 7 days after the tender of such security, except under certain conditions specified in section 22(e).

In light of the statutory limitation on Applicant's investment activities and the supervision of the New York State Banking Department, Applicant believes that compliance with the provisions of section 22(e) of the Investment Company Act of 1940 is not required for the protection of the trusts of participating banks. Although the Board of Directors of the Applicant does have the right to change the valuation dates, the matter has never been considered by the Board because the quarterly dates have proven entirely satisfactory.

For these reasons, Applicant requests that the Commission enter an order pursuant to section 6(c) exempting Applicant from the provisions of section 22(e) of the Investment Company Act of 1940 and urges that such an exemption is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Investment Company Act of 1940.

Notice is further given that any interested person may, not later than June 10, 1968, 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 reasons for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant 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.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 68-6333; Filed, May 28, 1968; 8:45 a.m.]

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PART II

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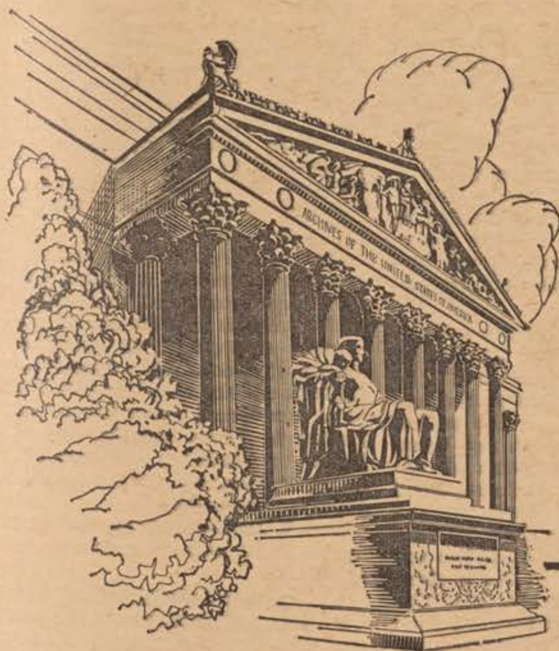
Standby Defense Food Orders



Procedure Governing Petitions and Appeals and Food Management

DEPARTMENT OF AGRICULTURE

Office of the Secretary

PROCEDURE GOVERNING PETITIONS AND APPEALS AND FOOD MANAGEMENT

Notice of Standby Defense Food Orders

On May 3, 1967, there were published in the FEDERAL REGISTER (32 F.R. 6826, et seq.) notices of Proposed Standby Defense Food Order No. 1, relating to procedures governing petitions and appeals, and Proposed Standby Defense Food Order No. 2, relating to food management. Interested persons were afforded a period of 90 days for submitting written data, views, or comments. On August 2, 1967 (32 F.R. 11239) the 90-day period was extended to September 5, 1967.

After consideration of data, views, and comments filed pursuant to the said notices, and other information available to the Department, it has been concluded that Proposed Standby Defense Food Order No. 1 should be adopted in the form in which it was published; and Standby Defense Food Order No. 2 as proposed should be adopted with certain minor modifications.

Accordingly, Standby Defense Food Orders No. 1 and No. 2 are published below. Both are part of the regular, ongoing defense preparedness plans of the Department. Both are standby measures, designed to be issued and made effective, under applicable authority, only if this country is attacked with nuclear weapons.

STANDBY DEFENSE FOOD ORDER NO. 1

PROCEDURE GOVERNING PETITIONS AND APPEALS

Sec.
1 Purpose.
2 Definitions.
3 Basis for petitions.
4 Procedure for filing and contents of petitions.
5 Action on petitions and right of appeal.
6 Appeals Board.
7 Procedure for filing appeals.
8 Action on appeals.

AUTHORITY: Secs. 101, 701–705, 707, 709, 713, 64 Stat. 799 et seq., as amended (50 U.S.C. App. 2071, 2151–2155, 2157, 2159, 2163); E.O. 10480, as amended (50 U.S.C. App., Note under sec. 2153); E.O. 10998 (27 F.R. 1524, 3 CFR, 1959–63 Comp., p. 543); Defense Mobilization Order 8400.1 (28 F.R. 12164, 32A CFR DMO 8400.1).

SECTION 1. *Purpose.* This order sets forth the procedure for filing petitions, for actions on such petitions, and for appeals from such actions, pursuant to Defense Food Orders providing for petitions and appeals under this order.

SEC. 2. *Definitions.* (a) "Defense Food Order" means (1) a Defense Food Order, Suborder, or Amendment thereof issued by an authorized representative of the U.S. Department of Agriculture, or (2) other order, regulation, or directive under defense authorities, administered in whole or in part by the U.S. Department of Agriculture.

(b) "Order Administrator" means any person designated to administer the Defense Food Order which is the subject of a petition or appeal.

(c) "Appeals Board" means the U.S. Department of Agriculture Defense Food Order Appeals Board established pursuant to section 6 hereof.

(d) "Petition" means a written request signed by a person, or his authorized representative, seeking relief from the provisions of a Defense Food Order.

(e) "Appeal" means a written request signed by a person, or his authorized representative, seeking review by the Appeals Board of final action taken on a petition by the Order Administrator.

SEC. 3. *Basis for petitions.* The basis for a petition shall be exceptional or unreasonable hardship or other grounds as may be provided in the Defense Food Order under which a petition is filed.

SEC. 4. *Procedure for filing and contents of petitions.* Petitions shall be filed with the appropriate Order Administrator. Each petition shall set forth all pertinent facts, the Defense Food Order involved, the nature of the relief sought, and the justification therefor.

SEC. 5. *Action on petitions and right of appeal.* (a) The Order Administrator shall consider the petition and notify the petitioner in writing as to the action taken. Within 10 days after receiving such notification of the action taken, the petitioner may request in writing reconsideration thereof by the Order Administrator, stating new evidence or other basis for such reconsideration.

(b) Following reconsideration, the Order Administrator shall promptly notify the petitioner in writing of his determination. The petitioner may file an appeal, in the manner prescribed in section 7 of this order, within 15 days after receiving such notification of the determination.

SEC. 6. *Appeals Board.* There is hereby established a United States Department of Agriculture Defense Food Order Appeals Board, which shall consider all appeals filed pursuant to this order. The Secretary of Agriculture shall appoint the Appeals Board consisting of three members, each with an alternate, one of whom shall be appointed as Chairman. In the absence of a member of the Board, his alternate shall act in his place. Agreement by two members of the Appeals Board shall constitute a determination by the Board.

SEC. 7. *Procedure for filing appeals.* An appeal shall be filed with the Order Administrator and shall set forth (1) the name, address, and business of the appellant; (2) the nature of the action appealed from, including but not being limited to, its date, case, or other identifying number, and the Defense Food Order involved; (3) the basis for the appeal; and (4) a request for a hearing and the justification therefor, if the appellent desires a hearing in the matter.

SEC. 8. *Action on appeals.* (a) The Order Administrator shall forward such appeal promptly to the Appeals Board. The Appeals Board shall docket such appeal and, in its discretion, may hold a formal or informal hearing on such appeal either upon its own initiative or upon request by the appellant.

(b) If a hearing is to be held, the Appeals Board shall fix the date, time, and place and shall so notify the appellant and the Order Administrator. The Appeals Board may also arrange for participation in such hearing by other appropriate persons or government officials. An appellant may be represented by counsel or other person. If he is represented by counsel or other person but is not present at the hearing, the appellant must notify the Appeals Board in writing that he has authorized such counsel or other person to represent him.

(c) The Chairman of the Appeals Board shall notify in writing the appellant, the Order Administrator, and other parties to the appeal, of its decision. Within 15 days following receipt of such notification of the decision of the Appeals Board, the appellant or any other party to the appeal may file a request that such decision be reconsidered. Upon a showing of good cause in such request, the Appeals Board shall reconsider its decision, and promptly notify the parties of its final action.

STANDBY DEFENSE FOOD ORDER NO. 2

FOOD MANAGEMENT

Sec.
1 Purpose.
2 Definitions.
3 Territorial scope.
4 Applicability.
5 Contracts and other obligations.
6 Resupply bases.
7 Regulatory provisions.
8 Petitions for relief from hardship.
9 Exceptions.
10 Reports, records and communications.
11 Investigations, inspections and audits.
12 Violations.

AUTHORITY: Secs. 101, 701–705, 707, 709, 713, 64 Stat. 799 et seq., as amended (50 U.S.C. App. 2071, 2151–2155, 2157, 2159, 2163); E.O. 10480, as amended (50 U.S.C. App., Note under sec. 2153); E.O. 10998 (27 F.R. 1524, 3 CFR, 1959–63 Comp., p. 543); Defense Mobilization Order 8400.1 (28 F.R. 12164, 32A CFR DMO 8400.1); Assignment of Defense Responsibilities in USDA (29 F.R. 3820), as amended; Delegation 1—Emergency Delegation of Priorities and Allocations Powers (29 F.R. 3824).

SEC. 1. *Purpose.* The purpose of this order is to provide a means for the orderly maintenance of processing, storage, and wholesale distribution of food in the present emergency. It provides also a means of encouraging conservation and efficient utilization of food. It is intended as a temporary mechanism, to be replaced by more specific and specially tailored procedures when conditions improve sufficiently to render such procedures practicable.

SEC. 2. *Definitions.* As used in this order and in suborders issued pursuant hereto:

(a) "Order Administrator" means the Secretary of Agriculture or any employee of the U.S. Department of Agriculture to whom authority has been or hereafter may be delegated to issue and

administer this Order or suborders pursuant to its provisions.

(b) "Person" means any individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative of any of the foregoing. For purposes of this order, the term also includes the U.S. Government and any agency thereof, and the government of each of the States, Commonwealths, and Territories, the District of Columbia, and any of their political subdivisions and agencies, but such inclusion is with respect only to their status as customers.

(c) "Food" means all commodities and products, simple, mixed, or compound, or compliments to such commodities or products, that are capable of being eaten or drunk, by either human beings or animals, irrespective of other uses to which such commodities or products may be put, at all stages of processing from the raw commodity to the products thereof in vendible form for human or animal consumption. For the purposes of this Order the term "food" shall also include all starches, sugars, vegetable and animal fats and oils, cotton, tobacco, wool, mohair, hemp, flax fiber, and naval stores but shall not include any such material after it loses its identity as an agricultural commodity or agricultural product.

(d) "Food facilities" means any or all individual plants or establishments in which or from which food is processed, stored, or distributed to customers.

(e) "Food producer" means any person operating a farm, ranch, or other enterprise for the production of unprocessed food for sale.

(f) "Food processor" means any person engaged in the business of altering or converting food from a raw, live, or semiprocessed state to a processed product ready for consumption or further processing.

(g) "Food wholesaler" means any person engaged in the business of assembling food for sale or other distribution to persons other than ultimate consumers. The term includes purveyors to hotels and restaurants; the bulk warehouse operations of any person distributing food primarily to his wholly owned, member, or associated, food retailers; such persons as assemblers or country shippers of fruits and vegetables, eggs, and other foods similarly handled; and food producers when selling or distributing food of their own production to other than assemblers, country shippers, processors, or ultimate consumers. The term relates only to establishments where food is assembled, stored, packed, or repacked or otherwise handled, and excludes brokers and other agents.

(h) "Respondent" means any food processor or food wholesaler who is subject to the provisions of this Order.

(i) "Food retailer" means any person engaged in the business of distributing food to ultimate consumers including among others, any person engaged in (1) the operation of food stores which are wholly owned by a chain or are members of or associated with a wholesaling cooperative or association; (2) the operation of an institutional or in-plant food service or other away-from-home eating place; or (3) on-site preparation of food incidental to on-site consumption or sale to ultimate consumers.

(j) "Customer" means any person, other than an ultimate consumer, to whom a food wholesaler or food processor sells or delivers food under the provisions of this order or to whom he customarily has sold or delivered food.

(k) "Ultimate consumer" means any natural person or household procuring, holding, or preparing food for final consumption by such a person or within such a household, and any person receiving food service at an institutional, in-plant or other away-from-home eating place.

(l) "Distribute" or "distribution" means the act of consigning or physically moving, transferring or delivering food to customers.

(m) "Lot" or "shipment" means any specific quantity, usually a number of packages or a bulk quantity by weight or volume, of food being or to be (1) sold, offered, or contracted for sale; (2) processed, offered, or contracted for processing; or (3) transported, offered, or contracted for transportation.

(n) "Resupply base" means either or both of the specific terms defined as follows:

(1) "Special Product Base" is a quantity to which a special and separate percentage rate of resupply is applied, and means that quantity, in terms of dollar volume, of sugar and sweeteners, or other specified food or group of foods found to be in critically short supply or because of its nature to be inappropriate for inclusion in a General Products Base, which a particular respondent distributed to a particular customer during a specified base period, computed in accordance with section 6 hereof;

(2) "General Products Base" is an aggregate quantity to which a general percentage rate of resupply is applied, and means that quantity, in terms of aggregate dollar volume, of all of the types or kinds of food, except foods excluded pursuant to section 6(c)(3) hereof, which a particular respondent distributed to a particular customer during a specified base period, computed in accordance with section 6 hereof.

SEC. 3. *Territorial scope.* The provisions of this order and of any suborders issued pursuant hereto shall be applicable within ____________.[1]

SEC. 4. *Applicability.* Subject to the exceptions provided for in section 9 hereof, the provisions of this order and of any suborders issued pursuant hereto shall apply:

(a) To any or all persons with respect to the operation and utilization of their respective food facilities; and

(b) To any or all persons with respect to distribution of food, except those persons specifically and individually exempted from the provisions hereof by an applicable suborder issued pursuant hereto: *Provided,* That no such suborder shall be issued unless and until the Order Administrator is satisfied that distribution of the food stocks of the persons thus exempted is being regulated by the government of the State or a subdivision thereof in a manner having substantially the same effects as those required to accomplish the purposes hereof with respect to distribution of food.

SEC. 5. *Contracts and other obligations.* (a) Except with respect to military requirements as provided for in section 7(e) hereof, the provisions of this order and of suborders issued pursuant hereto and the requirements thereunder shall be observed without regard to contracts or obligations heretofore or hereafter entered into, or any rights accrued or payments made thereunder.

(b) No person shall be held liable for damages or penalties for any default under any contract when such default results directly or indirectly from compliance with this order or any suborder issued pursuant hereto or any requirements thereunder.

SEC. 6. *Resupply bases*—(a) *General.* Resupply bases shall be one or the other, or both, of the kinds defined in paragraph (n) of section 2 hereof. They shall be established according to the general rules set forth in this section, and to the specific provisions of any applicable suborder issued pursuant hereto. In the event of termination of suborders pursuant to the provisions of section 7(a)(2)(i) hereof, resupply bases established pursuant to any terminated suborders shall remain in full force and effect unless and until a subsequent suborder issued pursuant hereto requires modification or termination thereof.

(b) *Who shall establish resupply bases.* (1) Each respondent shall establish from his own records resupply bases for each of his regular customers as required under this order or any suborder issued pursuant hereto: *Provided,* That in the case of the Armed Forces of the United States, no such bases shall be established; and in lieu thereof, the provisions of section 7(e) hereof shall be applicable.

(2) The Order Administrator shall establish resupply bases for persons for whom respondents have no records of prior distribution, and in doing so he may rely upon the records of such persons or upon such other information as is available to him.

(c) *General rules for establishment of resupply bases.* (1) For purposes of this order, each respondent shall classify his operations according to the following classes: (i) "Continuous," meaning that respondent's distribution of food proceeds at a substantially constant rate throughout the year, or (ii) "Intermittent," meaning that respondent's distribution of food characteristically increases or decreases markedly in certain seasons of the year because of the

[1] EXPLANATORY NOTE (Not part of this order): This Order may be issued simultaneously at any or all operating levels of the USDA emergency organizations. Only this provision and the suborders provided for will vary. The description of the specific jurisdiction to be inserted in this space may be amended from time to time by the Order Administrator at State or higher levels to meet prevailing conditions.

seasonal activities of some or all of his customers; or that it varies seasonally because of the seasonal nature of production and distribution of the food processed or distributed. If the Order Administrator determines that any respondent is incorrectly classified, he may require such respondent to change such classification as the Order Administrator deems appropriate to accomplish the purposes of this order.

(2) A Special Product Base shall be established separately for sugar and other sweeteners and for each food or combination of foods identified in appropriate suborders issued pursuant hereto. Each such Special Product Base shall be the average weekly dollar volume of the particular food distributed by a respondent to a particular customer during a specified base period.

(3) Each General Products Base shall be the average weekly dollar volume of distribution by a respondent to a particular customer during a specified base period, except that there shall be excluded from such bases the dollar volume of (i) foods for which Special Product Bases are required; (ii) foods with respect to which a respondent is excepted from the provisions hereof by the provisions of section 9 hereof; and (iii) nonfood products.

(4) The base periods for the purposes of establishing resupply bases shall be (i) for continuous respondents, the 8 calendar weeks last preceding the first nuclear attack upon the United States, or such earlier 8-week period as is specified by the Order Administrator; and (ii) for intermittent respondents a moving period consisting of the quarter year 1 year prior to the quarter in which distribution is being made or is to be made pursuant hereto.

(d) *Adjustment of resupply bases.* The Order Administrator may adjust any resupply base when he determines that such base is incorrect, unrepresentative, or in any manner inconsistent with the purposes of this order. Any request for such adjustment shall be treated as a Petition for Relief From Hardship pursuant to the applicable provisions of section 8 hereof.

(e) *Assignment and reassignment of resupply bases.* (1) The Order Administrator may assign all or part of the resupply bases established by him pursuant to section 6(b)(2) hereof to one or more respondents, who thereafter shall treat the persons for whom they are established as their regular customers. The Order Administrator shall give notice of such an assignment to the assignee or assignees.

(2) The Order Administrator may reassign any or all resupply bases among respondents for as long as is necessary to accomplish the purposes of this order. In so doing he shall recognize to the extent practicable the historical respondent-customer relationships, and shall give notice of such a reassignment to both the initial and subsequent assignees.

(3) Respondents having more than one facility under common general management within the territorial scope of one Order Administrator may interchange or combine the resupply bases established by each such facility: *Provided,* That any such interchange or combination shall maintain the identity and integrity of individual customer resupply bases, and that notice thereof shall be given immediately to the Order Administrator and each affected customer.

SEC. 7. *Regulatory provisions*—(a) *General.* (1) No person shall process or distribute food, or contract or otherwise agree to do so, contrary to the applicable provisions of this Order or of any suborder issued pursuant hereto.

(2) Suborders issued pursuant hereto and applicable within a Metropolitan Area, a county or a State shall be subject to the following limitations:

(i) Whenever an Order Administrator issues any suborders pursuant hereto, he shall provide therein as he deems necessary or advisable for supersedure, on dates specified, of any or all suborders theretofore issued by Order Administrators of lesser territorial scope within his jurisdiction;

(ii) In any event, whenever this order is terminated all suborders issued pursuant to it likewise shall terminate except as to completion of products then being processed and to deliveries already in transit pursuant thereto; and

(iii) The termination of this order or of any suborder issued pursuant to it shall not operate to relieve any respondent of liability pursuant to section 12 hereof with respect to any violation committed prior to such termination.

(b) *Food processing.* (1) Food processors shall use raw food, partially processed food and ingredients in such manner and in such minimum or maximum proportions, at such maximum rates, and for the processing of such food products, as are specified from time to time in applicable suborders issued pursuant hereto.

(2) No food processor shall process food products in excess of such maximum aggregate quantities or such maximum output rates as are specified from time to time in applicable suborders issued pursuant hereto, or process products the processing of which is prohibited by any suborder issued pursuant hereto.

(3) Respondents having more than one facility under common general management within the territorial scope of one Order Administrator may interchange or combine such maximum aggregate quantities or maximum output rates as are established pursuant to subsection (b)(2) of this section: *Provided,* That no such interchange or combination shall (i) operate to increase the total quantity or total rate of processing otherwise authorized; (ii) adversely affect any customer with respect to deliveries required or permitted pursuant to the provisions of this section 7; or (iii) be put into effect without immediate notice to affected customers and the Order Administrator.

(c) *Fitness for human consumption.* (1) Each respondent shall take all reasonable precautions to assure that food distributed by him for human consumption is fit for such consumption, or is such that the end products processed therefrom will be fit for such consumption when processing is completed.

(2) Whenever the Order Administrator has knowledge, from any source deemed by him to be authoritative, that food being processed or distributed, or offered for processing or distribution for human consumption, is unfit for such consumption or unlikely to be fit for such consumption after processing, he shall restrict or prohibit, by suborder issued pursuant hereto, the processing or distribution of such food, or require the processing thereof into specified food products; and any such restriction, prohibition or requirement may apply to any or all foods, singly or by groups or classifications, or to any or all individual lots or shipments thereof, or may specify points or areas of origin from which any or all shipments for processing or distribution are restricted or prohibited, or may effect any combination of the foregoing, as the Order Administrator deems necessary to accomplish the purposes of this paragraph.

(d) *Distribution for civilian use.* (1) As a condition of obtaining food for his operations, each respondent is required hereby to supply food to customers for whom resupply bases have been established by or assigned to him pursuant to the applicable provisions of section 6 hereof and of suborders issued pursuant hereto. Such distribution by each respondent shall be substantially equitable among such customers, including assigned customers, in relation to their respective shares of the aggregate of all such resupply bases established by or assigned to such respondent, but no respondent shall be held responsible for failure to distribute as required for reasons beyond his control. If for any reason a respondent cannot supply food to a particular customer, he immediately shall notify the Order Administrator.

(2) No respondent shall distribute food to any customer at rates in excess of such percentages of aggregate and individual General Products Bases and Special Product Bases as are prescribed in applicable suborders issued from time to time pursuant hereto, except that a respondent need not break cases, boxes, bags, or other customary pricing units solely to comply with such rates.

(3) Distribution for civilian use shall be on the basis of 1 week's supply: *Provided, however,* That the Order Administrator (i) may authorize individual respondents to distribute multiples of 1 week's supply at correspondingly longer intervals, to any or all of their customers in view of unusual circumstances, and (ii) may authorize all respondents, by suborder issued pursuant hereto, to distribute multiples of 1 week's supply, at correspondingly longer intervals, to any or all of their customers if he determines that such action will promote more orderly and efficient distribution.

(e) *Set-asides for Armed Forces.* (1) Any respondent who supplied one or more kinds of food to the Armed Forces of the

United States during the 12 calendar months last preceding the date of the first nuclear attack upon the United States shall set aside for such Armed Forces, (i) a portion of his inventory of each such kind of food on hand on the effective date of this order, and (ii) a portion of his subsequent daily receipts or processing output of each such kind of food in accordance with the requirements of subparagraphs (2) and (3) of this paragraph: *Provided*, That no such set-asides shall be required with respect to any food which by its nature cannot be set aside and stored as required in this paragraph, nor shall any such set-aside be required in addition to those provided for in subparagraphs (4) and (5) of this paragraph during the period in which deliveries are being made pursuant to outstanding contracts with the Armed Forces.

(2) The quantity of each such kind of food to be set aside by a respondent shall be not less than (i) the percentage which his volume of deliveries of such food to the Armed Forces, during such twelve month period, was of his total deliveries of such food to all customers during such period; or (ii) such other percentage as may be prescribed by the Order Administrator in an applicable suborder issued pursuant hereto. The quantity of each such food to be set aside shall be determined on the basis of weight, measure, number, or dollar volume, at the option of the respondent.

(3) For purposes of subparagraphs (1) and (2) of this paragraph, there is established hereby a set-aside period during which quantities of food required to be set aside shall remain available for purchase, or for contracts to purchase, by the Armed Forces. The initial set-aside period shall be the 30 calendar days, or such other number of days as may be specified in a suborder issued pursuant hereto, next following the effective date of this order. The quantites required to be set aside during such initial set-aside period shall be cumulative with respect to the applicable percentage of daily receipts or processing output, in addition to the same percentage of the quantity in inventory at the beginning of such period. Thereafter, such set-aside period shall progress or move forward, a day at a time, so that the end of a current set-aside period occurs at the close of each calendar day. Quantities required to be set aside after the initial set-aside period shall be cumulative only with respect to receipts or processing output during each set-aside period. Quantities of food set aside prior to the commencement of any such set-aside period no longer shall be required to remain set aside.

(4) Any respondent who has contracted to furnish to the Armed Forces of the United States, food of types or in packages not customarily distributed in civilian commercial channels shall set aside the undelivered portions of such contracts for a period of 60 days after the effective date of this order or the date of processing, acquisition or packaging thereof subsequent to the effective date of this order, or such other period as may be prescribed in applicable suborders issued pursuant hereto. Unless the Armed Forces furnish, confirm or revise delivery schedules within such period, the set-aside required by this subparagraph shall terminate.

(5) Any respondent who has contracted to furnish to such Armed Forces food of types and in packages customarily distributed in civilian commercial channels shall set aside the undelivered portions of such contracts for a period of 30 days after the effective date of this order or the date of processing or acquisition thereof subsequent to the effective date of this order, or such other period as may be prescribed in applicable suborders issued pursuant hereto. Unless the Armed Forces furnish, confirm or revise delivery schedules within such period, the set-aside required by this subparagraph shall terminate.

(6) Any food owned by the Armed Forces shall be set aside and remain under the control of and subject to disposition by such Armed Forces, regardless of location or temporary custody for storage or processing.

SEC. 8. *Petitions for relief from hardship.* Any person affected by this order or any suborder issued pursuant hereto who considers that compliance therewith would work an exceptional or unreasonable hardship upon him may file a petition for relief pursuant to the provisions of Defense Food Order No. 1.

SEC. 9. *Exceptions.* Except as provided otherwise in applicable suborders issued pursuant hereto, this order shall not apply to any person:

(a) In his capacity as an ultimate consumer;

(b) In his capacity as a food retailer;

(c) In his capacity as a producer using food for feeding poultry or livestock or for planting crops;

(d) With respect to processing or distributing agricultural products and byproducts commonly classed as "animal or poultry feed," and by their nature either unfit for human consumption or unfit for such consumption without further processing;

(e) With respect to processing or distributing "seed" in its commonly understood meaning, including all seeds which customarily are sold for planting for the production of agricultural crops;

(f) With respect to distribution of raw, live, unprocessed or semiprocessed food or ingredients to a respondent for processing;

(g) With respect to moving to a safer place food in danger of loss or damage from the elements or the effects of attack, or moving food from one location to another for such purposes as storage, salvage, regrading, repacking or other handling necessary for its preservation in good condition;

(h) With respect to assembling, preparing for market in fresh form, and distributing fluid milk or fresh fruits and vegetables except potatoes;

(i) With respect to cotton, tobacco, wool, mohair, hemp, flax fiber, inedible agricultural fats and oils, naval stores, or other agricultural products defined as food but not ingestible by humans;

(j) In his capacity as a carrier or public warehouseman, with respect to food in his custody but not owned by him; or

(k) Who otherwise is a respondent but is identified in any suborder issued pursuant to section 4(b) hereof as exempt from the provisions hereof with respect only to distribution of food.

SEC. 10. *Reports, records and communications.* (a) All reports required to be filed hereunder and all communications concerning this order, unless otherwise provided, shall be addressed to the Order Administrator, Defense Food Order No. 2, in care of the Chairman of the USDA County or Metropolitan Area Defense Board having jurisdiction over the location of the respondent making the report.

(b) Each respondent, within two days after the effective date hereof or after Civil Defense authorities permit access to his business premises, shall report as above, by any means available, his food stocks ready for distribution, his remaining capability to process, store, or distribute food (whichever is applicable) and the specific reasons for any inability to function at preemergency capacity. Supplemental information relating to food stocks ready for distribution, capability, requirements for goods and services, and availability of raw materials may be required at any subsequent time.

(c) Each respondent shall maintain complete and accurate records from which he determined General Products and Special Product Bases, and of his use of, inventories of, and transactions in food, for a period of 3 years after the date of suspension or termination of this Defense Food Order No. 2 or such shorter period as may be authorized in writing by the Order Administrator (or other authorized representative of the Secretary of Agriculture). Records may be retained in the original form or by microfilm or other legible, permanent process.

SEC. 11. *Investigations, inspections and audits.* The Order Administrator or any designated representative of the Secretary of Agriculture is authorized to make such investigations and to make such inspections and audits of the books, records, and other writings, premises and food stocks of any person subject to this order, as he may deem necessary for the enforcement or administration of this order or any suborder issued hereunder, and in connection therewith to exercise the subpoena power under section 705 of the Defense Production Act of 1950, as amended (50 U.S.C. 2155), after defining the scope and purpose of the investigation, inspection or audit to which the subpoena relates.

SEC. 12. *Violations.* Any person who violates or who conspires to violate any provision of this order or any suborder issued pursuant hereto may be denied all benefits under any order or suborder issued under defense authorities and administered by the U.S. Department of

Agriculture, enjoined from further violation, and in case of willful violation, prosecuted under any or all applicable laws.

The foregoing Standby Defense Food Orders are adopted, and shall be issued by Order Administrators under the prescribed conditions unless modified by the Secretary of Agriculture prior to such issuance. The exercise of such delegated authority by any person shall not operate to limit the emergency authority otherwise delegated to such person.

Done at Washington, D.C., this 23d day of May 1968.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 68-6339; Filed, May 28, 1968; 8:50 a.m.]