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TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

DEPARTMENT OF THE ARMY

Effective upon publication in the FEDERAL REGISTER, the headnote of paragraph (c) of § 6.105 is redesignated to read "Corps of Engineers" and subparagraphs (1) and (2) of paragraph (c) are amended as set out below.

§ 6.105 *Department of the Army.*

* * *

(c) *Corps of Engineers.* (1) Land appraisers employed on a temporary basis for a period not to exceed one year on special projects where knowledge of local values or conditions or other specialized qualifications not possessed by appraisers regularly employed by the Corps of Engineers are required for successful results.

(2) Nonsupervisory positions of custodial laborer (levels 1, 2, and 3) and general laborer (levels 2 and 3) on survey, construction, short-term maintenance, or floating-plant operations, where because of turnover, lack of housing facilities, mobility of work site, or remoteness of personnel servicing facilities, an adequate labor force can be recruited only by immediate gate hiring on a local basis. This authority can be used only when the Commission has determined that it is specifically applicable to a given situation; ordinarily, it will not be used for employment in Civil Service central office, regional, and branch office cities or in cities where there is a local Board of U. S. Civil Service Examiners to service the employing establishment.

(R. S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U. S. C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 57-8150; Filed, Oct. 2, 1957; 8:54 a. m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

POST OFFICE DEPARTMENT

Effective upon publication in the FEDERAL REGISTER, paragraph (b) (1) of § 6.109 is revoked.

(R. S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U. S. C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 57-8151; Filed, Oct. 2, 1957; 8:54 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter I—Farm Credit Administration

Subchapter B—Federal Farm Loan System

PART 10—FEDERAL LAND BANKS GENERALLY

INTEREST RATES ON LOANS MADE THROUGH ASSOCIATIONS

In order to reflect approvals which have been given to increased interest rates on Federal land bank loans made through national farm loan associations, § 10.41 of Title 6 of the Code of Federal Regulations, as amended (21 F. R. 10167; 22 F. R. 133, 653, 1318, 1586, 2095, 3863, 6214, 7129), is hereby further amended, effective October 1, 1957, by substituting "5½" for "5" in the lines with "Louisville" and "Wichita" therein.

(Sec. 6, 47 Stat. 14, as amended; 12 U. S. C. 665. Interprets or applies secs. 12 "Second", 17 (b), 39 Stat. 370, 375, as amended; 12 U. S. C. 771 "Second", 831 (b))

[SEAL] A. T. ESGATE,
Acting Governor,
Farm Credit Administration.

[F. R. Doc. 57-8139; Filed, Oct. 2, 1957; 8:52 a. m.]

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FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

Subchapter A—General Rules and Regulations

[Order No. 32; Docket No. 3666]

PARTS 71–78—EXPLOSIVES AND OTHER DANGEROUS ARTICLES

MISCELLANEOUS AMENDMENTS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 19th day of September 1957.

The matter of revision of certain regulations governing the transportation of explosives and other dangerous articles, formulated and published by the Commission, being under consideration, and

It appearing that Notice No. 32, dated July 19, 1957, setting forth certain proposed amendments to the said regulations, and the reasons therefor, and stating that consideration was to be given thereto, was published in the FEDERAL REGISTER on August 8, 1957 (22 F. R. 6349), pursuant to the provisions of section 4 of the Administrative Procedure Act; that pursuant to said notice interested parties were given an opportunity to be heard with respect to said proposed amendments; that written views or arguments were submitted to the Commission with respect to the proposed amendments;

And it further appearing that said views and arguments with respect to the proposed amendments are such as to warrant revision at this time of certain of the proposed amendments, and that in all other respects the proposed amendments set forth in the above-referred to Notice No. 32 are deemed justified and necessary:

It is ordered, That the aforesaid regulations governing the transportation of explosives and other dangerous articles be, and they are hereby, amended in the manner and to the extent set forth in Notice No. 32, dated July 19, 1957, as revised by the specific modifications set forth as follows:

1. Revise the amendatory text to § 73.31; amend footenote g to § 73.31 paragraph (g) (9) table 1.

2. In § 78.210–12 amend paragraph (a) (1).

3. In § 78.293–4 add paragraph (d).

It is further ordered, That this order shall become effective December 18, 1957 and shall remain in effect until further order of the Commission;

It is further ordered, That compliance with the herein prescribed and amended regulations is hereby authorized on and after the date of service of this order;

And it is further ordered, That copies of this order be served upon all parties of record herein, and that notice shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing a copy thereof with the Director, Division of Federal Register.

(Sec. 204, 49 Stat. 546, as amended, sec. 835, 62 Stat. 739; 49 U. S. C. 304, 18 U. S. C. 835)

By the Commission, Division 3.

[SEAL] HAROLD D. MCCOY, *Secretary.*

PART 72—COMMODITY LIST OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL ARTICLES SUBJECT TO PARTS 71–78 OF THIS CHAPTER

Amend § 72.5 Commodity List (15 F. R. 8265, 8268, Dec. 2, 1950) (17 F. R. 1558, Feb. 20, 1952) as follows:

§ 72.5 *List of explosives and other dangerous articles.* (a) * * *

Article	Classed as	Exemptions and packing (see sec.)	Label required if not exempt	Maximum quantity in 1 outside container by rail express
(Change)				
[9]Cement, liquid, n. o. s. *Smokeless powder for cannon or small arms. See* Propellant explosives, class A explosives or High explosives.	F. L.	73.118, 73.119, 73.132	Red	16 gallons.
Vinyl chloride, inhibited	F. G.	73.302, 73.308, 73.314, 73.315	Red gas	300 pounds.
(Add)				
Carbon dioxide gas, liquefied ("mining device"). *Liquefied carbon dioxide gas ("mining device"). See* Carbon dioxide gas, liquefied ("mining device").	Nonf. G.	73.308 (a), Note 5	Green	6 pounds.

PART 73—SHIPPERS

SUBPART A—PREPARATION OF ARTICLES FOR TRANSPORTATION BY CARRIERS BY RAIL FREIGHT, RAIL EXPRESS, HIGHWAY, OR WATER

In § 73.31 amend paragraph (a) table; cancel Note 11 to paragraph (a) table and redesignate Note 12 to paragraph (a) table as Note 11; amend footnote g to paragraph (g) (9) table 1; amend paragraph (k) (22 F. R. 4788, 4789, July 9, 1957) (22 F. R. 2224, April 4, 1957) (15 F. R. 8279, Dec. 2, 1950) to read as follows:

§ 73.31 *Qualification, maintenance, and use of tank cars.* (a) * * *

Where these regulations call for specification Nos.—	These specification containers may also be used subject to the provisions of the following notes—
103 [4] [6] [8] and 103-W. [4] [6] [8]	ARA-II [1] [4] [5], III [4] [6] [8] and IV. [6] [8]
103A [4] and 103A-W [4]	ARA-II [2] [4] and III. [2] [4]
103B [4] and 103B-W [4]	ARA-II [4] and III, [4] rubber lined.
103C-W [11]	103C. [8] [11]
103D-W, 103E-W, 103A-N-W.	(See Note 10.)
104 [6] [8] and 104-W [6] [8]	ARA-IV. [6] [8]
105A100 and 105A100-W.	104A [7] and 104A-W. [7]
105A100-AL-W	104A-AL-W. [7]
105A300-W	ARA-V, [3] ICC-105 [3] and 105A300. [3]
105A400-W	105A400.
105A500-W	105A500.
105A600-W	105A600.
106A500 and 106A500-X.	ICC-27 tanks mounted on a car and classified as multi-unit tank prior to Oct. 1, 1930. [9]
106A800 and 106A800-X.	None.
106A800NCI	None.
107A****	None.

* * * * * *

[11] 103C, 103C-W and 103A-AL-W (§§ 78.283 and 78.292 of this chapter) tank cars built prior to August 31, 1956 equipped with a safety valve having a pressure setting of 45 psi. may be used. Cars equipped with 45 psi safety valves may be continued in service but these valves may be reset to 35 psi. by changing the spring to a design suitable for the decreased pressure setting.

* * * * * *

(g) * * *

(9) * * *

[5] See § 73.31 (a) Note 11.

* * * * * *

(k) Tank cars equipped with interior heater coils, except when coils are rendered inoperative by blocking off the inlet and outlet, must be loaded with heater coil inlet and outlet caps off during entire time tanks are being loaded and show no leakage with caps off.

* * * * * *

SUBPART B—EXPLOSIVES; DEFINITIONS AND PREPARATION

In § 73.101 amend paragraph (a) (15 F. R. 8296, Dec. 2, 1950) to read as follows:

§ 73.101 *Small-arms ammunition.* (a) Small-arms ammunition must be packed in pasteboard or other inside boxes or must be in metal clips packed in securely closed strong wooden boxes, fiberboard boxes, or metal containers. When in clips, the clips must be so designed as to protect the primers from accidental injury.

* * * * * *

SUBPART C—FLAMMABLE LIQUIDS; DEFINITION AND PREPARATION

In § 73.118 amend paragraph (c) (25) (20 F. R. 8100, Oct. 28, 1955) to read as follows:

§ 73.118 *Exemptions for flammable liquids.* * * *

(c) * * *

(25) Dimethylhydrazine, unsymmetrical.

* * * * * *

2. In § 73.132 amend the heading and introductory text of paragraph (a) (20 F. R. 8101, Oct. 28, 1955) to read as follows:

§ 73.132 *Cement, liquid, n. o. s., container cement, linoleum cement, pyroxylin cement, rubber cement, tile cement, wallboard cement, and coating solution.*

(a) Cement, liquid, n. o. s., container cement, linoleum cement, pyroxylin cement, rubber cement, tile cement, wallboard cement, and coating solution must be packed in specification containers as follows:

* * * * *

SUBPART D—FLAMMABLE SOLIDS AND OXIDIZING MATERIALS; DEFINITION AND PREPARATION

1. In § 73.153 amend paragraph (b) (21 F. R. 364, Jan. 19, 1956) to read as follows:

§ 73.153 *Exemptions for flammable solids and oxidizing materials.* * * *

(b) Liquid or solid organic peroxides (see § 73.244 (a)), except acetyl benzoyl peroxide, solid, and benzoyl peroxide, in strong outside containers having not over 1 pint or 1 pound net weight of the material in any one such package, having inside containers securely packed and cushioned with incombustible cushioning are, unless otherwise provided, exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77, except § 77.817 of this chapter, and Part 197 of the I. C. C. Motor Carrier Safety Regulations.

* * * * *

2. In § 73.157 add paragraph (a) (3) (15 F. R. 8304, Dec. 2, 1950) to read as follows:

§ 73.157 *Benzoyl peroxide, chlorobenzoyl peroxide (para), lauroyl peroxide, or succinic acid peroxide, wet.* (a) * * *

(3) Spec. 12B (§ 78.205 of this chapter). Fiberboard boxes, with inside fiber containers securely closed by taping or gluing, or inside securely closed paper bags lined with 0.002 inch thick polyethylene, not over 1 pound capacity each. Except for lauroyl peroxide, wet, each inside container must be surrounded by asbestos or fire-resistant cushioning material which will protect the contents with equal efficiency. Gross weight in spec. 12B65 (§ 78.205 of this chapter) boxes may be more than 65 but not more than 80 pounds provided net weight of contents does not exceed 50 pounds.

3. In § 73.234 add paragraph (a) (4) (19 F. R. 1278, March 6, 1954) to read as follows:

§ 73.234 *Sodium nitrite.* (a) * * *

(4) Spec. 37A (§ 78.131 of this chapter). Metal drums constructed of steel having minimum thickness of 24 gauge. Bolted or lever-lock closure rings authorized provided drums withstand test prescribed by § 78.131–11 of this chapter. Authorized gross weight not over 425 pounds.

SUBPART E—ACIDS AND OTHER CORROSIVE LIQUIDS; DEFINITION AND PREPARATION

1. In § 73.245 add paragraph (a) (18) (15 F. R. 8313, Dec. 2, 1950) to read as follows:

§ 73.245 *Acids or other corrosive liquids not specifically provided for.* (a) * * *

(18) Spec. 12A (§ 78.210 of this chapter). Fiberboard boxes with inside glass bottles not over 1 gallon capacity each. Not more than 4 inside containers exceeding 5 pints capacity each shall be packed in the outside container.

2. In § 73.247 add Note 1 to paragraph (a) (6) (22 F. R. 2226, Apr. 4, 1957) to read as follows:

§ 73.247 *Acetyl chloride, antimony pentachloride, benzoyl chloride, benzyl chloride, chromyl chloride, pyro sulfuryl chloride, silicon chloride, sulfur chloride (mono and di), sulfuryl chloride, thionyl chloride, tin tetrachloride (anhydrous), and titanium tetrachloride.* (a) * * *

(6) * * *

NOTE 1: Stabilization of benzyl chloride is not required when loaded in tanks which are made from 99% pure nickel and otherwise comply with all the requirements of Specification 103A–W.

* * * * *

3. In § 73.252 add paragraph (a) (4) (15 F. R. 8315, Dec. 2, 1950) to read as follows:

§ 73.252 *Bromine.* (a) * * *

(4) Spec. MC 310 (§ 78.330 of this chapter). Tank motor vehicles. The tank must have a steel shell thickness of ⅜" minimum and must be lined with lead of at least ⅜" thickness. The water weight capacity of the tank must not be more than 5100 pounds and the maximum quantity of liquid bromine loaded into the tank must not be more than 15,000 pounds or 300 percent of the water weight capacity of the tank, whichever quantity is the lesser. In no case shall the quantity loaded be less than 98 percent of the quantity the tank is authorized to carry.

* * * * *

4. In § 73.257 add paragraph (a) (11) (15 F. R. 8315, Dec. 2, 1950) to read as follows:

§ 73.257 *Electrolyte (acid) or corrosive battery fluid.* (a) * * *

(11) Spec. 12A (§ 78.210 of this chapter). Fiberboard boxes with inside glass bottles not over 1 gallon capacity each. Not more than 4 inside containers exceeding 5 pints capacity each shall be packed in the outside container.

* * * * *

5. In § 73.258 add paragraphs (a) (2) and (3) (15 F. R. 8315, Dec. 2, 1950) to read as follows:

§ 73.258 *Electrolyte, acid, or alkaline corrosive battery fluid, packed with storage batteries.* (a) * * *

(2) Electrolyte, acid, or alkaline corrosive battery fluid included with storage batteries and filling kits may be packed in strong plywood or wooden boxes when shipments are made by, for, or to the Departments of the Army, Navy, or Air Force of the United States Government in outside containers of their specifications provided the electrolyte, acid, or alkaline corrosive battery fluid is packed in polyethylene bottles not over 32-ounce capacity each and not more than 20 bottles securely separated from storage batteries and kits may be shipped in one outside package.

(3) Spec. 12B (§ 78.205 of this chapter). Fiberboard boxes with not more than 12 inside containers of polyethylene or oher material resistant to the lading, not over 64-ounce capacity each. Polyethylene containers that are not rigid or semi-rigid in nature must be contained in other strong inside containers; minimum thickness of polyethylene or other plastic material shall be not less than 0.003 inch for any film sheet for multi-wall containers or not less than 0.006 inch for single-wall containers. Inside containers must be adequately separated from the storage battery. Authorized gross weight not over 65 pounds. (See § 78.205–33 of this chapter).

6. In § 73.260 amend paragraphs (c) (1) and (2) (21 F. R. 672, Jan. 31, 1956) (17 F. R. 4294, May 10, 1952) to read as follows:

§ 73.260 *Electric storage batteries, wet.* * * *

(c) * * *

(1) Slip cover or fiberboard box must fit snugly and provide inside top clearance of at least ½ inch above battery terminals and filler caps with reinforcement in place. Assembled for shipment, the bottom edges of the slip cover may extend to the base of the battery but must not expose more than 1 inch thereof.

(2) Top of slip cover or fiberboard box must have interior reinforcement (insert or saddle) of fiberboard, wood, or other material of equal strength and rigidity so formed that any superimposed weight will bear only and directly downward on the top edges of the battery case or intercell connectors (straps); or be protected by a scored one piece coverliner of 200-pound test (Mullen or Cady) double faced corrugated fiberboard extending from the base of the battery on one side, across the top of the battery and to the base of the battery on the opposite side. When top of slip cover or fiberboard box consists of only one thickness of material, reinforcement must have a plane surface of same interior dimensions and thickness. Reinforcement must be of a height to provide minimum clearance required above and must be constructed to remain securely in place or be fastened to slip cover or fiberboard box.

* * * * *

7. In § 73.262 add paragraph (a) (7) (15 F. R. 8316, Dec. 2, 1950) to read as follows:

§ 73.262 *Hydrobromic acid.* (a) * * *

(7) Spec. 12A (§ 78.210 of this chapter). Fiberboard boxes with inside glass bottles not over 5 pints capacity each. Not more than six 5-pint glass bottles may be packed in one outside container.

* * * * *

8. In § 73.263 add paragraph (a) (16) (21 F. R. 9357, Nov. 30, 1956) to read as follows:

§ 73.263 *Hydrochloric (muriatic) acid, hydrochloric (muriatic) acid mixtures, hydrochloric (muriatic) acid solution, inhibited, sodium chlorite solution, and*

cleaning compounds, liquid, containing hydrochloric (muriatic) acid. (a) * * *

(16) Spec. 12A (§ 78.210 of this chapter). Fiberboard boxes with inside glass bottles not over 5 pints capacity each. Not more than six 5-pint glass bottles may be packed in one outside container.

* * * * *

9. In § 73.272 add paragraph (c) (6) (15 F. R. 8321, Dec. 2, 1950) to read as follows:

§ 73.272 *Sulfuric acid.* * * *

(c) * * *

(6) Spec. 12A (§ 78.210 of this chapter). Fiberboard boxes with inside glass bottles not over 5 pints capacity each. Not more than six 5-pint glass bottles may be packed in one outside container.

* * * * *

10. In § 73.289 add paragraph (a) (12) (16 F. R. 11779, Nov. 21, 1951) to read as follows:

§ 73.289 *Formic acid and formic acid solutions.* (a) * * *

(12) Spec. 12A (§ 78.210 of this chapter). Fiberboard boxes with inside glass bottles not over 5 pints capacity each. Not more than six 5-pint glass bottles may be packed in one outside container.

SUBPART F—COMPRESSED GASES; DEFINITION AND PREPARATION

1. § 73.308 amend Note 5 to paragraph (a) (15 F. R. 8326, Dec. 2, 1950) to read as follows:

§ 73.308 *Compressed gases in cylinders.* (a) * * *

NOTE 5: Mining devices consisting of a cylinder containig carbon dioxide with a heating element are authorized for shipment under the following conditions: Cylinders shall be of steel, have a calculated bursting pressure of at least 39,000 pounds per square inch, be fitted with a frangible disc that will operate at not over 57 percent of that pressure, be able to withstand a drop of 10 feet so as to strike crosswise on a steel rail while under internal pressure of at least 3,000 pounds per square inch, and be charged with not over 6 pounds of carbon dioxide gas at a filling density of not over 85 percent. (See Note 12 of this section); the cylinders are exempted from specification requirements other than the foregoing; the device must be shipped in strong boxes or must be wrapped in heavy burlap and bound by 12 gauge wire with the wire completely covered by friction tape. Wrapping must be applied so as not to interfere with the functioning of the frangible disc safety device. Shipments must be described as "liquefied carbon dioxide gas (mining device)" and must be marked, labeled, and certified as prescribed for liquefied carbon dioxide.

* * * * *

2. In § 73.312 amend paragraph (a) (1) (19 F. R. 6269, Sept. 29, 1954) to read as follows:

§ 73.312 *Liquefied petroleum gas.* (a) * * *

(1) Spec. 3,[1] 3A, 3AA, 3B, 3E, 4, 4A, 4B, 4BA, 4B240X[1] (see appendix A to Subpart C of Part 78 of this chapter), 4B240FLW, 4B240ET, 4E, or 9, 25,[1] 26,[1] 38,[1] or 41 (§§ 78.36, 78.37, 78.38, 78.42, 78.48, 78.49, 78.50, 78.51, 78.54, 78.55, 78.68, 78.63 or 78.67 of this chapter). Cylinders authorized under § 73.34 (a) to (e) may be used.

(No change in Note 1.)

* * * * *

3. In § 73.314 amend paragraph (a) table; amend Note 2; amend the introductory text of paragraphs (a) and (b) in Note 3; add paragraph (c) and (d) to Note 3; add Note 21; amend paragraph (b); amend paragraph (c) (22 F. R. 2227, 2228, April 4, 1957) (21 F. R. 4565, June 26, 1956) (15 F. R. 8328, 8329, Dec. 2, 1950) to read as follows:

§ 73.314 *Compressed gases in tank cars.* (a) * * *

Kind of gas	Maximum permitted filling density, Note 1	Required type of tank car, Note 2
(*Change*)	*Percent*	
Anhydrous ammonia	50	ICC-106A500, 106A500X, Note 12.
	57	ICC-105A300-W.
	57	ICC-112A400-W, Note 21.
	58.8	ICC-112A400-W, Note 21.
Crude nitrogen fertilizer solution	Note 6	ICC-106A500, 106A500X.
		ICC-105A300-W, 109A300-W, Note 5.
Fertilizer ammoniating solution containing free ammonia.	Note 6	ICC-106A500, 106A500X.
		ICC-105A300-W, 109A300-W, Note 5.
Liquefied petroleum gas (pressure not exceeding 225 pounds per square inch at 105° F.).	Note 3	ICC-105A300-W, 112A400-W, Notes 5 and 9.
Nitrogen fertilizer solution	Note 6	ICC-106A500, 106A500X.
		ICC-105A300-W, 109A300-W, ICC-109A300AL-W, Note 5.

* * * * *

NOTE 2: Unless otherwise specifically provided, when class 105A-W, 105A-AL-W, 106A500, 106A500X, or 109A-AL-W tank cars are prescribed, the same class tank cars having higher marked test pressures than those prescribed may also be used.

NOTE 3: (a) Maximum permitted filling density in lagged (insulated) single-unit tank cars transporting liquefied petroleum gas or butadiene of specific gravity shown, taken at 60 degrees Fahrenheit.

(No change in table.)

* * * * *

NOTE 3: (b) For shipments made in lagged (insulated) single-unit tank cars during the months of November to March, inclusive, the following filling densities may be used in lieu of those specified in the table in Note 3 (a). When these filling densities are used, tank cars must be shipped directly to consumers for unloading. Storage in transit is not permitted.

(No change in table.)

* * * * *

NOTE 3: (c) Maximum permitted filling density in unlagged (uninsulated) single-unit tank cars transporting liquefied petroleum gas of specific gravity shown, taken at 60 degrees Fahrenheit.

Specific gravity	Filling density	Specific gravity	Filling density
0.500	44.88	0.550	50.88
0.501	45.00	0.551	51.00
0.502	45.13	0.552	51.13
0.503	45.25	0.553	51.25
0.504	45.38	0.554	51.38
0.505	45.50	0.555	51.50
0.506	45.60	0.556	51.60
0.507	45.70	0.557	51.70
0.508	45.80	0.558	51.80
0.509	45.90	0.559	51.90
0.510	46.00	0.560	52.00
0.511	46.13	0.561	52.13
0.512	46.25	0.562	52.25
0.513	46.38	0.563	52.38
0.514	46.50	0.564	52.50
0.515	46.63	0.565	52.63
0.516	46.75	0.566	52.75
0.517	46.88	0.567	52.88
0.518	47.00	0.568	53.00
0.519	47.13	0.569	53.10
0.520	47.25	0.570	53.20
0.521	47.38	0.571	53.30
0.522	47.50	0.572	53.40
0.523	47.63	0.573	53.50
0.524	47.75	0.574	53.63
0.525	47.88	0.575	53.75
0.526	48.00	0.576	53.88
0.527	48.13	0.577	54.00
0.528	48.25	0.578	54.10
0.529	48.38	0.579	54.20
0.530	48.50	0.580	54.30
0.531	48.63	0.581	54.40
0.532	48.75	0.582	54.50
0.533	48.88	0.583	54.63
0.534	49.00	0.584	54.75
0.535	49.13	0.585	54.88
0.536	49.25	0.586	55.00
0.537	49.38	0.587	55.13
0.538	49.50	0.588	55.25
0.539	49.60	0.589	55.38
0.540	49.70	0.590	55.50
0.541	49.80	0.591	55.60
0.542	49.90	0.592	55.70
0.543	50.00	0.593	55.80
0.544	50.13	0.594	55.90
0.545	50.25	0.595	56.00
0.546	50.38	0.596	56.13
0.547	50.50	0.597	56.25
0.548	50.63	0.598	56.38
0.549	50.75	0.599	56.50

NOTE 3: (d) For shipments made in unlagged (uninsulated) single-unit tank cars, during the months of November to March, inclusive, the following filling densities may be used in lieu of those specified in Note 3 (c). When these filling densities are used, tank cars must be shipped directly to consumers for unloading. Storage in transit is not permitted.

Specific gravity	Filling density	Specific gravity	Filling density
0.500	46.88	0.538	51.10
0.501	47.00	0.539	51.20
0.502	47.10	0.540	51.30
0.503	47.20	0.541	51.40
0.504	47.30	0.542	51.50
0.505	47.40	0.543	51.63
0.506	47.50	0.544	51.75
0.507	47.63	0.545	51.88
0.508	47.75	0.546	52.00
0.509	47.88	0.547	52.10
0.510	48.00	0.548	52.20
0.511	48.10	0.549	52.30
0.512	48.20	0.550	52.40
0.513	48.30	0.551	52.50
0.514	48.40	0.552	52.63
0.515	48.50	0.553	52.75
0.516	48.63	0.554	52.88
0.517	48.75	0.555	53.00
0.518	48.88	0.556	53.10
0.519	49.00	0.557	53.20
0.520	49.10	0.558	53.30
0.521	49.20	0.559	53.40
0.522	49.30	0.560	53.50
0.523	49.40	0.561	53.63
0.524	49.50	0.562	53.75
0.525	49.63	0.563	53.88
0.526	49.75	0.564	54.00
0.527	49.88	0.565	54.10
0.528	50.00	0.566	54.20
0.529	50.10	0.567	54.30
0.530	50.20	0.568	54.40
0.531	50.30	0.569	54.50
0.532	50.40	0.570	54.60
0.533	50.50	0.571	54.70
0.534	50.63	0.572	54.80
0.535	50.75	0.573	54.90
0.536	50.88	0.574	55.00
0.537	51.00	0.575	55.13

Specific gravity	Filling density	Specific gravity	Filling density
0.576	55.25	0.606	58.50
0.577	55.38	0.607	58.63
0.578	55.50	0.608	58.75
0.579	55.60	0.609	58.88
0.580	55.70	0.610	59.00
0.581	55.80	0.611	59.10
0.582	55.90	0.612	59.20
0.583	56.00	0.613	59.30
0.584	56.13	0.614	59.40
0.585	56.25	0.615	59.50
0.586	56.38	0.616	59.63
0.587	56.50	0.617	59.75
0.588	56.60	0.618	59.88
0.589	56.70	0.619	59.97
0.590	56.80	0.620	60.07
0.591	56.90	0.621	60.18
0.592	57.00	0.622	60.28
0.593	57.10	0.623	60.38
0.594	57.20	0.624	60.49
0.595	57.30	0.625	60.59
0.596	57.40	0.626	60.70
0.597	57.50	0.627	60.80
0.598	57.60	0.628	60.90
0.599	57.70	0.629	61.01
0.600	57.80	0.630	61.11
0.601	57.90	0.631	61.18
0.602	58.00	0.632	61.28
0.603	58.13	0.633	61.38
0.604	58.25	0.634	61.47
0.605	58.38	0.635	61.57

* * * * *

NOTE 21: A filling density of 58.8 percent may be used during the months of November to March, inclusive. When this filling density is used, tank cars must be shipped directly to consumers for unloading. Storage in transit is not permitted.

(b) The gas pressure at 105° F. in any lagged tank of tank cars of specs. 105A100, 105A100–W, 105A100AL–W, 105A200–W, 105A200AL–W, 105A300–W, 105A300AL–W, 105A400–W, 105A500–W, 105A600–W, 109A300–W, 109A100AL–W, 109A300AL–W, or 111A100–W–4 (§§ 78.270, 78.285, 78.294, 78.307, 78.308, 78.286, 78.300, 78.287, 78.288, 78.289, 78.301, 78.302, 78.314, or 78.306 of this chapter); at 115° F. in any unlagged tank of tank cars of spec. 112A400–W (§ 78.312 of this chapter); and at 130° F. in any unlagged tank of tank cars of spec. 106A500, 106A500X, 106A800, 106A800X, or 110A500–W (§§ 78.275, 78.276, or 78.293 of this chapter) must not exceed three-fourths times the prescribed retest pressure of the tank. The gas pressure at 130° F. in any unlagged tank of tank cars of the 107A (§ 78.277 of this chapter) series must not exceed seven-tenths of the marked test pressure of the tank.

(No change in Note 1.)

* * * * *

(c) The liquid portion of the gas at 105° F. must not completely fill a lagged tank nor at 130° F. completely fill an unlagged tank except that the liquid portion of the gas at 115° F. must not completely fill an unlagged tank of spec. 112A400–W (§ 78.312 of this chapter).

* * * * *

4. In § 73.315 amend paragraph (a) (1) table; amend paragraph (h) table; amend paragraph (i) (2) table (18 F. R. 6780, Oct. 27, 1953) (21 F. R. 3012, May 5, 1956) as follows:

§ 73.315 *Compressed gases in cargo tanks and portable tank containers.* (a) * * *

(1) * * *

Kind of gas	Maximum permitted filling density		Specification container required	
	Percent by weight (see Note 1)	Percent by volume (see par. (f) of this section)	Type (see Note 2)	Minimum design working pressure (p. s. i. g.)
(Add)				
Vinyl chloride, inhibited	84	See Note 7	MC–330	250

* * * * *

(h) * * *

Kind of gas	Permitted gauging device
(Add)	
Vinyl chloride, inhibited	None

* * * * *

(i) * * *

(2) * * *

Kind of gas	Minimum start-to-discharge pressure (p. s. i. g.)
(Add)	
Vinyl chloride, inhibited	250

* * * * *

SUBPART G—POISONOUS ARTICLES; DEFINITION AND PREPARATION

1. In § 73.346 amend paragraph (a) (16); add paragraph (a) (17) (22 F. R. 3926, June 5, 1957) (15 F. R. 8335, Dec. 2, 1950) to read as follows:

§ 73.346 *Poisonous liquids not specifically provided for.* (a) * * *

(16) Spec. 42B, 42C, or 42D (§§ 78.107, 78.108, or 78.109 of this chapter). Aluminum drums.

(17) Spec. 42E (§ 78.136 of this chapter). Aluminum drums (single-trip).

2. In § 73.354 amend paragraph (a) (5) and Note 1 (21 F. R. 673, Jan. 31, 1956) to read as follows:

§ 73.354 *Motor fuel antiknock compound or tetraethyl lead.* (a) * * *

(5) Spec. MC 330 (§ 78.336 of this chapter) (see Note 1). Tank motor vehicles. Authorized for motor fuel antiknock compound only.

NOTE 1: Spec. MC 300, MC 301, MC 302, or MC 303 (§§ 78.321, 78.322, 78.323, or 78.324 of this chapter) tank motor vehicles in motor fuel antiknock compound service prior to October 1, 1955 may be continued in service.

3. In § 73.369 amend paragraph (a) (14) (15 F. R. 8337, Dec. 2, 1950) to read as follows:

§ 73.369 *Carbolic acid (phenol), not liquid.* (a) * * *

(14) Spec. MC 300, MC 301, MC 302, MC 303, MC 310, or MC 311 (§§ 78.321, 78.322, 78.323, 78.324, 78.330, or 78.331). Tank motor vehicles.

SUBPART H—MARKING AND LABELING EXPLOSIVES AND OTHER DANGEROUS ARTICLES

In § 73.414 paragraph (a) amend the Note following the label (17 F. R. 7283, Aug. 9, 1952) to read as follows:

§ 73.414 *Radioactive materials labels.*

(a) * * *

NOTE: This label must be duly executed by the shipper and the number of radiation units must be shown. For purposes of these regulations 1 unit equals 1 milliroentgen per hour at 1 meter for hard gamma radiation or the amount of radiation which has the same effect on film as 1 mrhm of hard gamma rays of radium filtered by ½ inch of lead.

* * * * *

SUBPART I—SHIPPING INSTRUCTIONS

In § 73.432 amend Note 2 to paragraph (e) (15 F. R. 8344, Dec. 2, 1950) to read as follows:

§ 73.432 *Tank car shipments.* * * *

(e) * * *

NOTE 2: Carriers should give permission for the unloading of these containers on carrier tracks only where no private siding is available within reasonable trucking distance of final destination. The danger involved is the release of compressed gases due to accidental injury to container in handling. The exposure to this danger decreases directly with the isolation of the unloading point.

PART 74—CARRIERS BY RAIL FREIGHT

SUBPART A—LOADING, UNLOADING, PLACARDING AND HANDLING CARS; LOADING PACKAGES INTO CARS

In § 74.526 amend the introductory text of paragraph (n) and subparagraphs (1) and (2) (20 F. R. 953, Feb. 15, 1955) (20 F. R. 4418, June 23, 1955) to read as follows:

§ 74.526 *Loading explosives into cars.* * * *

(n) Container cars or portable containers on flat cars or gondola cars (drop-bottom cars not authorized), when properly loaded, blocked, and braced to prevent change of position under conditions incident to normal transportation, may be used for any class A explosive except black powder packed in metal containers. Portable containers must be of a type approved by the Bureau of Explosives and when constructed of wood must have been painted or treated with fire-retardant material.

(1) Portable containers must be of such design and so braced that there will be no evidence of failure of the container or the bracing when subjected to impact of at least 8 miles per hour. Efficiency shall be determined by actual test, using dummy loads equal in weight and general character to material to be shipped.

(2) Container cars or cars which are loaded with portable containers must be placarded with the "Explosives" placards as prescribed in § 74.550 and properly executed car certificates as required by § 74.525.

* * * * *

SUBPART B—LOADING AND STORAGE CHART OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES

In § 74.538 paragraph (a) chart, amend footnote e (22 F. R. 2229, April 4, 1957) to read as follows:

§ 74.538 *Loading and storage chart of explosives and other dangerous articles.* (a) * * *

• Does not include nitro carbo nitrate or ammonium nitrate, fertilizer grade, which may be loaded, transported or stored with high explosives or with blasting caps or electric blasting caps, and detonating primers.

* * * * *

SUBPART C—PLACARDS ON CARS

1. In § 74.549 amend paragraph (h) (21 F. R. 7604, Oct. 4, 1956) to read as follows:

§ 74.549 *Application of placard.* * * *

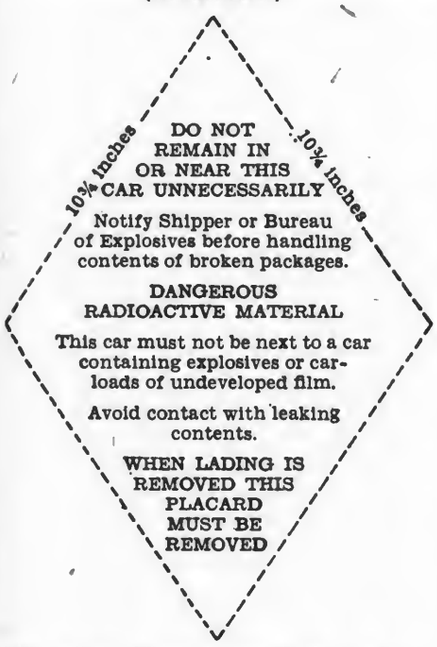
(h) Placards as required by §§ 74.540, 74.541, and 74.542 must be securely applied to both sides and both ends of car, or to both sides and both ends of truck body or trailer loaded on flat cars, containing explosives or other dangerous articles. Car certificates as required by § 74.525 must be securely applied to both sides of such cars. When more than one trailer is loaded on a flat car, placards must be applied so as to be plainly visible from both ends of the car.

2. Amend entire § 74.553 (22 F. R. 3926, June 5, 1957) to read as follows:

§ 74.553 *Dangerous-Radioactive material placard.* (a) The "Dangerous-Radioactive material" placard for class D poisons must be of diamond shape, measuring 10¾ inches on each side, and must bear the wording in red letters as shown in the following cut:

DANGEROUS PLACARD FOR RADIOACTIVE MATERIAL

(Reduced size)



SUBPART D—UNLOADING FROM CARS

In § 74.560 amend Note 2 to paragraph (b) (2) (15 F. R. 8352, Dec. 2, 1950) to read as follows:

§ 74.560 *Tank car delivery.* * * *

(b) * * *

(2) * * *

NOTE 2: Carriers should give permission for the unloading of these containers on carrier tracks only where no private siding is available within reasonable trucking distance of final destination. The danger involved is the release of compressed gases due to accidental injury to container in handling. The exposure to this danger decreases directly with the isolation of the unloading point.

PART 77—SHIPMENTS MADE BY WAY OF COMMON, CONTRACT OR PRIVATE CARRIERS BY PUBLIC HIGHWAY

In § 77.848 paragraph (a) chart, amend item (b) vertical and horizontal columns by inserting under item (d) vertical and horizontal columns the footnote "a" at the respective intersections, to read "aX"; amend footnote e to paragraph (a) chart (21 F. R. 9361, Nov. 30, 1956) (22 F. R. 2229, April 4, 1957) to read as follows:

§ 77.848 *Loading and storage chart of explosives and other dangerous articles.* (a) * * *

• Does not include nitro carbo nitrate or ammonium nitrate, fertilizer grade, which may be loaded, transported or stored with high explosives or with blasting caps or electric blasting caps, and detonating primers.

* * * * *

PART 78—SHIPPING CONTAINER SPECIFICATIONS

SUBPART A—SPECIFICATIONS FOR CARBOYS, JUGS IN TUBS, AND RUBBER DRUMS

1. Amend entire § 78.1–3 (15 F. R. 8373, Dec. 2, 1950) to read as follows:

§ 78.1 *Specification 1A; boxed carboys.*

§ 78.1–3 *Closing devices required.* (a) As follows except when otherwise authorized in the packing regulations:

(1) Acidproof stoppers or other devices, with gaskets, securely fastened; venting closures are required when necessary to prevent internal pressure in excess of 8 pounds per square inch gauge at 130° F.

(2) Glass stoppers ground to fit and securely fastened are authorized when internal pressures do not exceed 8 pounds per square inch gauge at 130° F.

2. Amend entire § 78.3–3 (15 F. R. 8375, Dec. 2, 1950) to read as follows:

§ 78.3 *Specification 1C; carboys in kegs.*

§ 78.3–3 *Closing devices required.* (a) As follows except when otherwise authorized in the packing requirements:

(1) Acidproof stoppers or other devices, with gaskets, securely fastened; venting closures are required when necessary to prevent internal pressure in excess of 8 pounds per square inch gauge at 130° F.

(2) Glass stoppers ground to fit and securely fastened are authorized when internal pressures do not exceed 8 pounds per square inch gauge at 130° F.

3. In § 78.4–6 amend paragraph (c) (15 F. R. 8376, Dec. 2, 1950) to read as follows:

§ 78.4 *Specification 1D; boxed glass carboys.*

§ 78.4–6 *Outside containers.* * * *

(c) Assemble sides and ends with grain of wood horizontal and nail as specified. Nail bottom to sides and ends; fasten top by any efficient means (friction closure not authorized). Cleats for shoes to be along edges of bottom parallel to carrying cleats and at right angle to the direction of bottom board or boards.

* * * * *

4. Amend entire § 78.5–2 (15 F. R. 8377, Dec. 2, 1950) to read as follows:

§ 78.5 *Specification 1X; boxed carboys, 5 to 6 gallon, for export only.*

§ 78.5–2 *Closing devices required.* (a) As follows except when otherwise authorized in the packing regulations:

(1) Acidproof stoppers or other devices, with gaskets, securely fastened; venting closures are required when necessary to prevent internal pressure in excess of 8 pounds per square inch gauge at 130° F.

(2) Glass stoppers ground to fit and securely fastened are authorized when internal pressures do not exceed 8 pounds per square inch gauge at 130° F.

(3) For box: Two flat metal nailless straps, at least ⅝ inch by 0.020 inch, encircling top, sides, and bottom and securely sealed, are required.

5. Amend entire § 78.6–3 (15 F. R. 8377, Dec. 2, 1950) to read as follows:

§ 78.6 *Specification 1EX; glass carboys in plywood drums.*

§ 78.6–3 *Closing devices required.* (a) As follows except when otherwise authorized in the packing regulations:

(1) Acidproof stoppers or other devices, with gaskets, securely fastened; venting closures are required when necessary to prevent internal pressure in excess of 8 pounds per square inch gauge at 130° F.

(2) Glass stoppers ground to fit and securely fastened are authorized when internal pressures do not exceed 8 pounds per square inch gauge at 130° F.

6. In § 78.7–4 amend entire paragraph (b) (16 F. R. 11781, 11782, Nov. 21, 1951) to read as follows:

§ 78.7 *Specification 1E; glass carboys in plywood drums.*

§ 78.7–4 *Glass carboys.* * * *

(b) *Closing devices required.* (For carboys without screw thread finish.) As follows except when otherwise authorized in the packing regulations:

(1) Acidproof stoppers or other devices, with gaskets, securely fastened; venting closures are required when necessary to prevent internal pressure in excess of 8 pounds per square inch gauge at 130° F.

(2) Glass stoppers ground to fit and securely fastened are authorized when internal pressures do not exceed 8 pounds per square inch gauge at 130° F.

7. In § 78.10–6 amend the introductory text of paragraph (a) (17 F. R. 7284, Aug. 9, 1952) to read as follows:

§ 78.10 *Specification 1F; polyethylene carboys in plywood drums.*

§ 78.10–6 *Tests.* (a) Samples, taken at random and with inner container filled to marked capacity with water and closed as for use, shall be capable of withstanding prescribed tests without leakage from inside container or breakage of outside container that would contribute to potential failure of inner container. Tests shall be made of each size by each company starting production. The type tests are as follows:

* * * * *

SUBPART C—SPECIFICATIONS FOR CYLINDERS

Add § 78.68 (15 F. R. 8432, Dec. 2, 1950) to read as follows:

§ 78.68 *Specification 4E; welded aluminum cylinders.*

§ 78.68–1 *Compliance.* (a) Required in all details.

§ 78.68–2 *Type, size and service pressure*—(a) *Type and size.* Must be welded seamless drawn shells, not more than two shells, with center circumferential weld; not over 1,000 pounds water capacity (nominal); longitudinal welded seam not authorized. Cylinders or shells closed in by spinning process not authorized.

(b) *Service pressure.*[1] At least 225 to not over 500 pounds per square inch.

§ 78.68–3 *Inspection by whom and where.* (a) By competent inspector; chemical analyses and tests as specified to be made within limits of the United States. Interested inspectors are authorized.

§ 78.68–4 *Duties of inspector.* (a) Inspect all material and reject any material not complying with requirements.

(b) Verify chemical analysis of each lot of material by analysis or by obtaining certified analysis: *Provided,* That a certificate from the manufacturer thereof, giving sufficient data to indicate compliance with requirements, is acceptable when verified by check analysis of samples taken from one aluminum cylinder out of each lot of 200 or less.

(c) Verify compliance of cylinders with all requirements including markings; inspect inside before closing in both ends; verify properties as proper; obtain samples for all tests and check chemical analysis; witness all tests; verify threads by gauge; report volumetric capacity, tare weight (see report form) and wall thickness as approved.

(d) Render complete report (§ 78.68–20) to purchaser; cylinder manufacturer; and the Bureau of Explosives.

§ 78.68–5 *Aluminum.* (a) Shall be of uniform quality. The following chemical analyses are authorized:

[1] The "service pressure" limits the use of the cylinder. It is shown by marks on cylinders; for example ICC–4E240 indicates the service pressure as 240 pounds per square inch.

TABLE I—AUTHORIZED MATERIALS

Designation	Chemical analysis—limits in percent 5154 [1]
Iron plus silicon	0.45 maximum.
Copper	0.10 maximum.
Manganese	0.10 maximum.
Magnesium	3.1/3.9.
Chromium	0.15/0.35.
Zinc	0.20 maximum.
Titanium	0.20 maximum.
Others, each	0.05 maximum.
Others, total	0.15 maximum.
Aluminum	Remainder.

[1] Analysis shall regularly be made only for the elements specifically mentioned above. If, however, the presence of other elements is indicated in the course of routine analysis, further analysis should be made to determine conformance with the limits specified for other elements.

§ 78.68–6 *Identification of material.* (a) Required; any suitable method that will identify the alloy and manufacturer's lot number.

§ 78.68–7 *Defects.* (a) Material with seams, cracks, laminations or other injurious defects not authorized.

§ 78.68–8 *Manufacture.* (a) By best processes and methods; dirt and foreign particles to be removed as necessary to afford proper inspection; no defect acceptable that is likely to weaken the finished cylinder appreciably; reasonably smooth and uniform surface finish required; all welding must be by the gas shielded arc process.

§ 78.68–9 *Welding.* (a) The attachment to the tops and bottoms only of cylinders by welding of neckrings or flanges, footrings, handles, bosses and pads and valve protection rings is authorized: *Provided,* That such attachments and the portion of the cylinder to which it is attached are made of weldable aluminum alloys.

§ 78.68–10 *Wall thickness.* (a) The minimum wall thickness of the cylinder shall be 0.140 inch. In any case, the minimum wall thickness shall be such that calculated wall stress at twice service pressure shall not exceed the lesser value of either of the following:

(1) 20,000 pounds per square inch.

(2) One-half of the minimum tensile strength of the material as required in § 78.68–15.

(b) Calculation must be made by the formula:

$$S=\frac{P(1.3D^2+0.4d^2)}{D^2-d^2}$$

where

S=wall stress in pounds per square inch;
P=minimum test pressure prescribed for water jacket test;
D=outside diameter in inches;
d=inside diameter in inches.

(c) Minimum thickness of heads and bottoms shall not be less than the minimum required thickness of the side wall.

§ 78.68–11 *Opening in cylinder.* (a) All openings must be in the heads or bases.

(b) Each opening in cylinders, except those for safety devices, must be provided with a fitting, boss, or pad, securely attached to cylinder by welding by inert gas shielded arc process or by threads. If threads are used, they must comply with the following:

(1) Threads must be clean-cut, even, without checks and cut to gauge.

(2) Taper threads to be of length not less than as specified for American Standard taper pipe threads.

(3) Straight threads, having at least 4 engaged threads, to have tight fit and calculated shear strength at least 10 times the test pressure of the cylinder; gaskets required, adequate to prevent leakage.

(c) Closure of fitting, boss, or pad must be adequate to prevent leakage.

§ 78.68–12 *Safety devices and protection for valves, safety devices, and other connections if applied.* (a) Must be as required by the Interstate Commerce Commission regulations that apply (see §§ 73.34 (f), 73.124 (a), and 73.301 (i) of this chapter).

§ 78.68–13 *Hydrostatic test.* (a) Each cylinder by water-jacket, or other suitable method, operated so as to obtain accurate data. Pressure gauge must permit reading to accuracy of 1 percent. Expansion gauge must permit reading of total expansion to accuracy either of 1 percent or 0.1 cubic centimeter.

(b) Pressure of 2 times service pressure must be maintained for 30 seconds and sufficiently longer to insure complete expansion. Any internal pressure applied previous to the official test must not exceed 90 percent of the test pressure. If, due to failure of the test apparatus, the test pressure cannot be maintained, the test may be repeated at a pressure increased to 10 percent.

(c) Permanent volumetric expansion must not exceed 12 percent of total volumetric expansion at test pressure.

(d) One finished cylinder selected at random out of each lot of 1,000 shall be hydrostatically tested to destruction. Failure shall occur in the side wall and shall not occur at a pressure less than 4 times the service pressure. Inability to meet these requirements shall result in rejection of the lot.

§ 78.68–14 *Flattening test.* (a) Flattening test required between knife edges, wedge shaped, 60° angle, rounded to ½ inch radius; on one section of a cylinder taken at random out of each lot of 200 or less, after hydrostatic test. Sample must show no evidence of cracking when flattened to 6 times wall thickness.

§ 78.68–15 *Physical test.* (a) To determine yield strength, tensile strength, elongation, and reduction of area of material. Required on 2 specimens cut from one cylinder or part thereof taken at random out of each lot of 200 or less.

(b) Specimens must be: Gauge length 8 inches with width not over 1½ inches; or gauge length 2 inches with width not over 1½ inches. The specimen, exclusive of grip ends, must not be flattened. Grip ends may be flattened to within 1 inch of each end of the reduced section. When size of cylinder does not permit securing straight specimens, the specimens may be taken in any location or direction and may be

straightened or flattened cold, by pressure only, not by blows; when specimens are so taken and prepared, the inspector's report must show in connection with record of physical test detailed information in regard to such specimens. Heating of specimen for any purpose is not authorized.

(c) The yield strength in tension shall be the stress corresponding to a permanent strain of 0.2 percent of the gauge length.

(1) The yield strength shall be determined by the "offset" method as prescribed in ASTM Standard E8–54T.

(2) Cross-head speed of the testing machine shall not exceed ⅛ inch per minute during yield strength determination.

§ 78.68–16 *Acceptable results for physical tests.* (a) Elongation at least 7 percent for 2 inch gauge length; yield strength not over 80 percent of tensile strength.

§ 78.68–17 *Weld tests.* (a) Reduced section tensile test. A specimen shall be cut from the cylinder used for the physical tests specified in § 78.68–15. Specimen shall be taken across the seam, edges shall be parallel for a distance of approximately 2 inches on either side of the weld. The specimen must be fractured in tension. The apparent breaking stress calculated on the minimum wall thickness must be at least equal to 2 times the stress calculated under § 78.68–10 (b), and in addition must have an actual breaking stress of at least 30,000 pounds per square inch. Should this specimen fail to meet the requirements, specimens may be taken from 2 additional cylinders from the same lot and tested. If either of the latter specimens fails to meet requirements, the entire lot represented shall be rejected.

(b) Guided bend test. A bend test specimen shall be cut from the cylinder used for the physical tests specified in § 78.68–15. Specimen shall be taken across the seam, shall be 1½ inches wide, edges shall be parallel and rounded with a file, and back-up strip, if used, shall be removed by machining. The specimen shall be bent to refusal in the guided bend test jig illustrated in § 78.51–22. The root of the weld (inside surface of the cylinder) shall be located away from the ram of the jig. No specimen shall show a crack or other open defect exceeding ⅛ inch in any direction upon completion of the test. Should this specimen fail to meet the requirements, specimens may be taken from each of 2 additional cylinders from the same lot and tested. If either of the latter specimens fails to meet requirements, the entire lot represented shall be rejected.

§ 78.68–18 *Rejected cylinders.* (a) Repair of welded seams is authorized. Acceptable cylinders must pass all prescribed tests.

§ 78.68–19 *Marking.* (a) Marking on each cylinder by stamping plainly and permanently on shoulder, top head, neck or valve protection collar which may be permanently attached to the cylinder and forming an integral part thereof, as follows:

(1) ICC–4E followed by the service pressure (for example, ICC–4E240).

(2) A serial number and an identifying symbol (letters); location of symbol to be just below the serial number. The symbol and numbers must be those of the purchaser, user, or maker. The symbol must be registered with the Bureau of Explosives.

(3) Inspector's official mark, near serial number; date of test (such as 5–50 for May 1950), so placed that date of subsequent test can be easily added.

(4) Size of marks. Shall be at least ¼ inch high.

§ 78.68–20 *Inspector's report.* (a) Required to be clear, legible, and in following form:

(Place) _____
(Date) _____

Gas cylinders

Manufactured for _____ Company
Location at _____
Manufactured by _____ Company
Location at _____
Consigned to _____ Company
Location at _____
Quantity _____
Size ____ inches outside diameter by ____ inches long.
Marks stamped into the shoulder of the cylinder are:
Specification ICC _____
Serial numbers _____ to _____ inclusive.
Inspector's mark _____
Identifying symbol (registered) _____
Test date _____
Tare weights (yes or no) _____
Other marks (if any) _____

These cylinders were made by process of _____

The _____ permitted in (Neckrings, footrings, etc.) § 78.68–9 were attached by process of _____

The material used was identified by the following _____ numbers _____

The material used was verified as to chemical analysis and record thereof is attached hereto.

All material, such as aluminum plate, was inspected before manufacture and the drawn cylinder shells were inspected before final fabrication and found free from seams, cracks, laminations and other defects which might prove injurious to the strength of the cylinder; the processes of manufacture were found to be efficient and satisfactory.

The cylinder walls were measured and the minimum thickness noted was _____ inch. The outside diameter was determined by a close approximation to be _____ inches. The wall stress was calculated to be _____ pounds per square inch under an internal pressure of _____ pounds per square inch.

Hydrostatic tests, flattening tests, tensile tests of material and other tests as prescribed in Specification ICC–4E were made in the presence of the inspector and all material and cylinders accepted were found to be in compliance with the requirements of that specification. Records thereof are attached hereto.

I hereby certify that all of these cylinders proved satisfactory in every way and comply with the requirements of Interstate Commerce Commission specification No. 4E except as follows:

Exceptions: _____

(Signed) _____
Inspector.
(Place) _____
(Date) _____

RECORD OF CHEMICAL ANALYSIS OF MATERIAL FOR CYLINDERS

Numbered _____ to _____ inclusive.
Size _____ inches outside diameter by _____ inches long.
Made by _____ Company
For _____ Company

NOTE: Any omission of analyses by heats, if authorized, must be accounted for by notation hereon reading "The prescribed certificate of the manufacturer of material has been secured, found satisfactory, and placed on file," or by attaching a copy of the certificate.

Test No.	Check analysis No.	Cylinders represented (Serial Nos.)	Chemical analysis							
			Mg	Cr	Cu	Mn	Zn	Ir	Al	Ti

The analyses were made by _____

(Signed) _____
(Place) _____
(Date) _____

RECORD OF PHYSICAL TESTS OF MATERIAL FOR CYLINDERS

Numbered _____ to _____ inclusive.
Size _____ inches outside diameter by _____ inches long
Made by _____ Company
For _____ Company

Test No.	Cylinders represented by test (Serial Nos.)	Yield strength (pounds per square inch)	Tensile strength (pounds per square inch)	Elongation (percent in 8 inches)	Reduction of area (percent)	Flattening test	Burst test (pounds per square inch)

(Signed) _____
(Place) _____
(Date) _____

RECORD OF HYDROSTATIC TESTS ON CYLINDERS

Numbered _____ to _____ inclusive.
Size _____ inches outside diameter by _____ inches long
Made by _____ Company
For _____ Company

Serial numbers of cylinders tested arranged numerically	Actual test pressure (pounds per square inch)	Total expansion (cubic centimeters) [1]	Permanent expansion (cubic centimeters) [1]	Percent ratio of permanent expansion to total expansion [1]	Tare weight (pounds) [2]	Volumetric capacity [3]

NOTE: When specifications require test for only 1 out of each lot of 200 or less cylinders, the check on the others must be indicated by a notation hereon reading, "Each cylinder was subjected to a pressure of _____ pounds per square inch and showed no defect."

[1] If the tests are made by a method involving the measurement of the amount of liquid forced into the cylinder by the test pressure, then the basic data, on which the calculations are made, such as the pump factors, temperature of liquid, coefficient of compressibility of liquid, etc., must also be given.
[2] Do not include removable cap but state whether with or without valve. These weights must be accurate to a tolerance of 1 percent.
[3] Report approximate maximum and minimum volumetric capacity for the lot.

(Signed) _____

SUBPART D—SPECIFICATIONS FOR METAL BARRELS, DRUMS, KEGS, CASES, TRUNKS AND BOXES

In § 78.131–6 paragraph (a) table amend the 4th column heading; amend footnote 1 to paragraph (a) (22 F. R. 2234, April 4, 1957) (20 F. R. 4419, June 23, 1955) to read as follows:

§ 78.131 *Specification 37A; steel drums.*

§ 78.131–6 *Capacities, weights, type, and gauges.* (a) * * *

Minimum thickness, uncoated sheets [1] (gauge)	
Body sheet [2]	Head sheet

* * * * * *

[1] All gauges specified are minimum except as provided by Part 73 of this chapter. Heavier (but not lighter) gauges may be specified if shipper so desires.

* * * * * *

SUBPART F—SPECIFICATIONS FOR FIBERBOARD BOXES, DRUMS, AND MAILING TUBES

1. Add § 78.205–33 (15 F. R. 8476, Dec. 2, 1950) to read as follows:

§ 78.205 *Specification 12B; fiberboard boxes.*

§ 78.205–33 *Special box; authorized only for electrolyte (acid) and alkaline corrosive battery fluid packed with storage batteries.* (a) Box shall comply with this specification except that corrugated fiberboard shall have strength of not less than 200 pounds per square inch, Mullen or Cady test. Top and bottom pads and fill-in pieces are not required when inner flaps do not meet. Electrolyte (acid) or alkaline corrosive battery fluid must be packed in polyethylene containers or other material resistant to the lading and not over 12 containers of not over 64-ounce capacity each may be packed in one outside container and must be separated from the storage battery by suitable cushioning. Polyethylene containers that are not rigid or semi-rigid in nature must be contained in other strong inside containers; minimum thickness of polyethylene or other plastic material shall be not less than 0.003 inch for any film sheet for multi-wall containers or not less than 0.006 inch for single-wall containers. (See § 73.258 of this chapter.) Authorized gross weight not over 65 pounds.

2. Add § 78.210 (15 F. R. 8479, Dec. 2, 1950) to read as follows:

§ 78.210 *Specification 12A; fiberboard boxes.*

§ 78.210–1 *Compliance.* (a) Required in all details.

§ 78.210–2 *Definitions.* (a) Terms such as "200-pound test" mean minimum strength. Mullen or Cady test.

(b) "Joints" are where edges of parts of box, except recessed flanged heads, are connected together in setting up the box. Generally done by box maker.

§ 78.210–3 *Classification of board.* (a) Fiberboard is hereby classified by strength [1] of completed board as in first column of the following table; weights specified in the table are the minimums authorized.

Classified strength of completed board	Facings for corrugated fiberboard	
	Double-faced-minimum combined weight of facings (pounds per 1,000 sq. ft.)	Double-wall-minimum combined weight of facings including center liner (pounds per 1,000 sq. ft.)
200	84	92
275	138	110

§ 78.210–4 *Corrugated fiberboard.* (a) Both outer facings water resistant; corrugated sheets must be at least 0.009 inch thick and weigh not less than 26 pounds per 1000 square feet; all parts must be securely glued together throughout all contact areas.

§ 78.210–5 *Tests.* (a) Acceptable board must have prescribed strength, Mullen or Cady test, after exposure for at least 3 hours to normal atmospheric conditions (50 to 70 percent relative humidity), under test as follows:

(1) Clamp board firmly in machine and turn wheel thereof at constant speed of approximately 2 revolutions per second.

(2) Six punctures required, 3 from each side; all results but one must show prescribed strength.

(3) Board failing may be retested by making 24 punctures, 12 from each side, when all results but 4 show prescribed strength the board is acceptable.

(4) Double-pop tests may be disregarded.

[1] Mullen or Cady test (minimum).

§ 78.210–6 *Boxes authorized.* (a) Corrugated fiberboard boxes having gross weight not over 75 pounds of the following strengths are authorized:

Gross weight not over (pounds)	Corrugated fiberboard strength (Mullen or Cady test) minimum	
	Double-faced	Double-wall
20	200	* * *
50	275	* * *
75	* * *	275

§ 78.210–7 *Forming.* (a) Parts must be cut true to size and so creased and slotted as to fit closely into position without cracking, surface breaks, separation of parts outside of crease, or undue binding.

§ 78.210–8 *Joints.* (a) For slotted containers; lapped 1½ inches except as in (§ 78.210 (b) (2)); stitched at 2½ inch intervals and within 1 inch of each end of joint; body joint must be double-stitched (2 parallel stitches) at each end of joint over 18 inches long.

(b) Joints as provided for by the following are authorized provided resulting joint is capable of withstanding the tests prescribed by § 78.210–10:

(1) For slotted containers only; one butt joint, taped, is authorized.

(2) For glued lap joint, the sides of box forming joint must lap not less than 1¼ inches and be firmly glued throughout entire area of contact with a glue or adhesive which cannot be dissolved in water after the film application has dried.

(3) For triple and double slide boxes; joints of all slides must be taped or stitched.

§ 78.210–9 *Inside cushioning.* (a) Sufficient inside cushioning shall be required for protection of inside containers so that completed packages as offered for shipment shall be capable of withstanding test prescribed by § 78.210–10.

§ 78.210–10 *Test for completed package.* (a) A minimum of 4 boxes with inside containers filled with water, and box closed as for shipment, shall be capable of withstanding the following drop tests from the prescribed heights onto solid concrete without leakage from or breakage of any inside container or rupture of the outside fiberboard box; each box shall be subjected to not more than one of the series of tests:

(1) Box No. 1. Flat drop on bottom from height of 4 feet.

(2) Box No. 2. Flat drop on side from height of 4 feet.

(3) Box No. 3. Flat drop on end from height of 4 feet.

(4) Box No. 4. Flat drop on top from height of 2 feet.

§ 78.210–11 *Closing for shipment.* (a) By any method capable of withstanding tests prescribed by § 78.210–10.

§ 78.210–12 *Marking.* (a) On each container. Symbol in rectangle as follows:

ICC–12A**

(1) Stars to be replaced by authorized gross weight (ICC–12A75). This mark shall be understood to certify that the outer container complies with all the construction requirements of the specification.

(2) Name and address of plant making the container; symbol (letters) authorized if recorded with the Bureau of Explosives. This mark to be located just above or below the mark specified in (a) of this section.

(3) Size of markings—At least ½" high.

3. Amend entire § 78.219–5 (18 F. R. 3144, June 2, 1953) (17 F. R. 1564, Feb. 20, 1952) to read as follows:

§ 78.219 *Specification 23H; fiberboard boxes.*

§ 78.219–5 *Tape.* (a) Tape used shall comply with the following:

(1) When pressure sensitive paper backed tape is used, the basic weight of the paper shall be not less than 70 pounds per ream after sizing and coating. Longitudinal tensile strength shall be not less than 50 pounds per inch of width and the latitudinal strength shall be not less than 11 pounds per inch of width.

(2) When pressure sensitive filament reinforced tape is used for vertical application as provided by § 78.219–12, tape backing shall have a minimum longitudinal tensile strength of 160 pounds per inch of width and a minimum elongation of 12 percent at break. The tape shall have sufficient transverse strength to prevent raveling or separation of the filaments. Tape shall have an adhesion of 18 ounces per inch of width minimum when tested according to acceptable methods. Tape shall adhere immediately and firmly to fiberboard surface when applied with hand pressure in the temperature range of 0° to 120° F. No solvent or heat shall be necessary to activate the adhesive.

(b) The tape authorized by paragraph (a) of this section must be manufactured of material which will not separate or delaminate when submerged in water for 72 hours and which will not show any delamination or bleeding up to 160° F. and which will not lose its strength, delaminate or become brittle at 0° F.

(c) Any tape of moisture resistance equal to that prescribed in paragraphs (a) and (b) of this section is additionally authorized provided the tape is capable of withstanding tests prescribed by § 78.219–16.

SUBPART I—SPECIFICATIONS FOR TANK CARS

1. In § 78.265–4 amend the introductory text of paragraph (b); in § 78.265–13 amend paragraph (d) (21 F. R. 4567, 4568, June 26, 1956) to read as follows:

§ 78.265 *Specification ICC–103; riveted steel tanks to be mounted on or forming part of a car.*

§ 78.265–4 *Thickness of plates.* * * *

(b) The minimum thickness of plates, including thickness of each plate at rivet seams, must be to the following design dimensions:

(No change in table.)

* * * * *

§ 78.265–13 *Bottom outlets.* * * *

(d) To provide for the attachment of unloading connections, the bottom of the main portion of the outlet nozzle, or some fixed attachment thereto, must be provided with threaded cap closure arrangement or bolted flange closure arrangement having minimum 1 inch threaded pipe plug.

* * * * *

2. In § 78.266–4 amend the introductory text of paragraph (b) (21 F. R. 4570, June 26, 1956) to read as follows:

§ 78.266 *Specification ICC–103A; riveted steel tanks to be mounted on or forming part of a car.*

§ 78.266–4 *Thickness of plates.* * * *

(b) The minimum thickness of plates, including thickness of each plate at rivet seams, must be to the following design dimensions:

(No change in table.)

* * * * *

3. In § 78.267–4 amend the introductory text of paragraph (b); in § 78.267–14 amend paragraph (b) (21 F. R. 4572, 4573, June 26, 1956) to read as follows:

§ 78.267 *Specification ICC–103B; rubber lined riveted steel tanks to be mounted on or forming part of a car.*

§ 78.267–4 *Thickness of plates.* * * *

(b) The minimum thickness of plates, including thickness of each plate at rivet seams, must be to the following design dimensions:

(No change in table.)

* * * * *

§ 78.267–14 *Safety vents.* * * *

(b) Each tank, or compartment thereof, must be equipped with one safety vent of approved material and if of metal, must be lined with rubber at least ⅛ inch in thickness, having an inside diameter of at least 1¾ inches after lining, closed with a frangible disc of lead or other suitable material of a thickness that will rupture at not more than 45 pounds per square inch. Means for holding disc in place must be such as to prevent distortion or damage to disc when applied. Safety vent closure must be chained or otherwise fastened to prevent misplacement.

4. In § 78.269–4 amend the introductory text of paragraph (b); in § 78.269–13 amend paragraph (d) (21 F. R. 4574, 4575, June 26, 1956) to read as follows:

§ 78.269 *Specification ICC–104; lagged riveted steel tanks to be mounted on or forming part of a car.*

§ 78.269–4 *Thickness of plates.* * * *

(b) The minimum thickness of plates, including thickness of each plate at rivet seams, must be to the following design dimensions:

(No change in table.)

* * * * *

§ 78.269–13 *Bottom outlets.* * * *

(d) To provide for the attachment of unloading connections, the bottom of the main portion of the outlet nozzle, or some fixed attachment thereto, must be provided with threaded cap closure arrangement or bolted flange closure arrangement having minimum 1 inch threaded pipe plug.

* * * * *

5. In § 78.270–4 amend the introductory text of paragraph (b) (21 F. R. 4577, June 26, 1956) to read as follows:

§ 78.270 *Specification ICC–105A100; lagged riveted steel tanks to be mounted on or forming part of a car.*

§ 78.270–4 *Thickness of plates.* * * *

(b) The minimum thickness of plates, including thickness of each plate at rivet seams, must be to the following design dimensions:

(No change in table.)

* * * * *

6. In § 78.280–4 amend the introductory text of paragraph (b); in § 78.280–15 amend paragraph (d) (21 F. R. 4586, 4587, June 26, 1956) to read as follows:

§ 78.280 *Specification ICC–103–W; fusion-welded steel tanks to be mounted on or forming part of a car.*

§ 78.280–4 *Thickness of plates.* * * *

(b) The minimum thickness of plates must be to the following design dimensions:

(No change in table.)

* * * * *

§ 78.280–15 *Bottom outlets.* * * *

(d) To provide for the attachment of unloading connections, the bottom of the main portion of the outlet nozzle, or some fixed attachment thereto, must be provided with threaded cap closure arrangement or bolted flange closure arrangement having minimum 1 inch threaded pipe plug.

* * * * *

7. In § 78.281–4 amend the introductory text of paragraph (b) (21 F. R, 4588, June 26, 1956) to read as follows:

§ 78.281 *Specification ICC–103A–W; fusion-welded steel tanks to be mounted on or forming part of a car.*

§ 78.281–4 *Thickness of plates.* * * *

(b) The minimum thickness of plates must be to the following design dimensions:

(No change in table.)

* * * * *

8. In § 78.282–4 amend the introductory text of paragraph (b); in § 78.282–15 amend paragraph (b) (21 F. R. 4591, 4592, June 26, 1956) to read as follows:

§ 78.282 *Specification ICC–103B–W; rubber lined fusion-welded steel tanks to be mounted on or forming part of a car.*

§ 78.292–4. *Thickness of plates.* • • •

(b) The minimum thickness of plates must be to the following design dimensions:

(No change in table.)

• • • • • •

§ 78.282–15 *Safety vents.* • • •

(b) Each tank, or compartment thereof, must be equipped with one safety vent of approved material and if of metal, must be lined with rubber at least ⅛ inch in thickness, having an inside diameter of at least 1¾ inches after lining, closed with a frangible disc of lead or other suitable material of a thickness that will rupture at not more than 45 pounds per square inch. Means for holding disc in place must be such as to prevent distortion or damage to disc when applied. Safety vent closure must be chained or otherwise fastened to prevent misplacement.

• • • • • •

9. In § 78.283–4 amend the introductory text of paragraph (b) (21 F. R. 4593, June 26, 1956) to read as follows:

§ 78.283 *Specification ICC–103C–W; fusion-welded alloy steel tanks to be mounted on or forming part of a car.*

§ 78.283–4 *Thickness of plates.* • • •

(b) The minimum thickness of plates must be to the following design dimensions:

(No change in table.)

• • • • • •

10. In § 78.284–4 amend the introductory text of paragraph (b); in § 78.284–15 amend paragraph (d) (21 F. R. 4595, 4596, June 26, 1956) to read as follows:

§ 78.284 *Specification ICC–104–W; lagged fusion-welded steel tanks to be mounted on or forming part of a car.*

§ 78.284–4 *Thickness of plates.* • • •

(b) The minimum thickness of plates must be to the following design dimensions:

(No change in table.)

• • • • • •

§ 78.284–15 *Bottom outlets.* • • •

(d) To provide for the attachment of unloading connections, the bottom of the main portion of the outlet nozzle, or some fixed attachment thereto, must be provided with threaded cap closure arrangement or bolted flange closure arrangement having minimum 1 inch threaded pipe plug.

• • • • • •

11. In § 78.285–4 amend the introductory text of paragraph (b) (21 F. R. 4597, June 26, 1956) to read as follows:

§ 78.285 *Specification ICC–105A100–W; lagged fusion-welded steel tanks to be mounted on or forming part of a car.*

§ 78.285–4 *Thickness of plates.* • • •

(b) The minimum thickness of plates must be to the following design dimensions:

(No change in table.)

• • • • • •

12. In § 78.291–4 add paragraph (e); in § 78.291–14 amend paragraph (d) (22 F. R. 3670, May 24, 1957) (21 F. R. 4606, 4607, June 26, 1956) to read as follows:

§ 78.291 *Specification ICC–103AL–W; fusion-welded aluminum tanks to be mounted on or forming part of a car.*

§ 78.291–4 *Thickness of plates.* • • •

(e) When a tank is divided into compartments, the interior heads must comply with the requirements for interior compartment heads prescribed herein. When capacity of tank is reduced by moving in the exterior head, a new exterior head of approved contour not less than ½ inch in thickness must be applied. When the capacity is reduced by the insertion of a new interior head, this head must comply with the requirements for interior compartment heads and the exterior head reapplied. Voids, created by the addition of heads for division into compartments or reduction in capacity, must be provided with at least one open drain hole at their lowest point, and a tapped hole at top of tank. The top hole must be closed with not less than ¾ inch or not more than 1½ inch solid pipe plugs having standard pipe threads.

§ 78.291–14 *Bottom outlets.* • • •

(d) To provide for the attachment of unloading connections, the bottom of the main portion of the outlet nozzle, or some fixed attachment thereto, must be provided with threaded cap closure arrangement or bolted flange closure arrangement having minimum 1 inch threaded pipe plug.

• • • • • •

13. In § 78.292–4 add paragraph (e) (22 F. R. 3671, May 24, 1957) to read as follows:

§ 78.292 *Specification ICC–103A–AL–W; fusion-welded aluminum tanks to be mounted on or forming part of a car.*

§ 78.292–4 *Thickness of plates.* • • •

(e) When a tank is divided into compartments, the interior heads must comply with the requirements for interior compartment heads prescribed herein. When capacity of tank is reduced by moving in the exterior head, a new exterior head of approved contour not less than ½ inch in thickness must be applied. When the capacity is reduced by the insertion of a new interior head, this head must comply with the requirements for interior compartment heads and the exterior head reapplied. Voids, created by the addition of heads for division into compartments or reduction in capacity, must be provided with at least one open drain hole at their lowest point, and a tapped hole at top of tank. The top hole must be closed with not less than ¾ inch or not more than 1½ inch solid pipe plugs having standard pipe threads.

14. Amend entire § 78.293 (21 F. R. 4610 to 4613, June 26, 1956) (21 F. R. 9364, Nov. 30, 1956) to read as follows:

§ 78.293 *Specification ICC–110A500–W; welded steel tanks to be mounted on a car.* (a) Wherever the word "approved" is used in this specification, it means approval by the Association of American Railroads Committee on Tank Cars as prescribed in § 78.259 Applications for approval, (a), (b), (c) and (d).

§ 78.293–1 *Type and general requirements.* (a) Tanks built under this specification must be of one piece cylindrical shell with heads of approved design. All operating fittings must be located in one of the heads, and no openings of any sort are permitted in the cylindrical shell. Tanks must be securely attached to the car structure in a manner such that they may be removed for filling by the consignor and emptying by the consignee. Each tank must have a capacity of at least 1600 pounds of water and not more than 2600 pounds of water.

(b) The tanks must be fabricated by approved methods.

(c) For tanks made in foreign countries, Canada excepted, a chemical analysis of material and all tests as specified must be carried out within the limits of the United States under supervision of a competent and disinterested inspector.

§ 78.293–2 *Thickness of plates.* (a) The wall thickness in the cylindrical portion on the tank must not be less than that calculated by the following formula; and in no case less than $^{11}/_{32}$ inch:

$$t=\frac{Pd}{2SE}$$

where

t = thickness in inches of thinnest plate;
P = calculated bursting pressure in pounds per square inch; 1,250 pounds per square inch gauge minimum;
d = inside diameter in inches;
S = minimum specified ultimate tensile strength of plate in pounds per square inch;
E = efficiency of butt-welded joint = 90 percent.

§ 78.293–3 *Material.* (a) All plates for the tank must be of steel to an approved specification. These plates may also be clad with other metals, such as nickel.

(b) All plates must have their heat number and the name or brand of the manufacturer legibly stamped on them at the rolling mill.

§ 78.293–4 *Tank heads.* (a) The tank heads must be hot pressed with a straight flange of at least 1½ inches. The heads must be of one piece, and either torispherical or ellipsoidal, the thickness of which must satisfy the requirements of the appropriate formulas below.

(b) Torispherical heads must be dished to a radius not greater than the inside diameter of tank. The inside knuckle radius must not be less than 6 percent of the diameter of the tank. The thickness of the head shall not be less than that determined by the following formula:

Heads with pressure on concave side;

$$t=\frac{5PL}{6SE}$$

Heads with pressure on convex side;

$$t=\frac{8.35PL}{6SE}$$

where

t = minimum thickness in inches of finished head;
P = minimum bursting pressure = 1,250 pounds per square inch gauge;
S = minimum specified ultimate tensile strength of plate material in pounds per square inch;
L = inside radius of dish;
E = 1.0 for heads made from one plate.

(c) Ellipsoidal heads shall have a ratio of major to minor axis of 2 to 1. The thickness of the heads shall not be

less than that determined by the following formula:

Heads with pressure on concave side;

$$t=\frac{Pd}{2SE}$$

Heads with pressure on convex side;

$$t=\frac{1.67Pd}{2SE}$$

where

t=minimum thickness in inches of finished head;
P=minimum bursting pressure=1,250 pounds per square inch gauge;
S=minimum specified ultimate tensile strength of plate material in pounds per square inch;
d=inside diameter of container in inches;
E=efficiency of butt-welded joint=1.0 for heads made of one plate.

(d) Threads for openings in tank heads must be American Standard Taper, tapped to gauge, clean cut, even and without checks, and of a length to insure tight joints.

§ 78.293–5 *Welding.* (a) All joints must be welded by a process which investigation and laboratory tests by the Mechanical Division of the Association of American Railroads have proven will produce satisfactory results. Fusion-welding to be performed by fabricators certified by Association of American Railroads as qualified to meet the requirements of this specification. Joints fabricated by means of fusion-welding must be in accordance with the requirements of A. A. R. Welding Code Appendix W, except circumferential welds in tanks less than 36 inches inside diameter need not be radiographed.

§ 78.293–6 *Stress-relieving.* (a) All welding of the tank and attachments welded directly thereto must be stress relieved as a unit in accordance with A. A. R. Welding Code Appendix W.

§ 78.293–7 *Tank mounting.* (a) The manner in which the tanks are supported on and securely attached to the car structure must be approved.

§ 78.293–8 *Protection of fittings.* (a) Tanks must be of such approved design as will afford maximum protection to any fitting or attachment to the head including the housing referred to in § 78.293–9 (a). Tank ends must slope or curve inward toward the axis such that the diameter at the outboard end is at least 2 inches less than the maximum diameter.

§ 78.293–9 *Protective housing and cover.* (a) All operating fittings shall be located in one head. Valves and other closures of openings in tank heads, except fusible plug vents and drain plugs, must be protected against accidental injury by a detachable housing of approved design which must not project beyond the end of the tank and must be securely fastened to the tank head. This housing must be provided with an opening having an area equal to the total safety valve or vent discharge area.

§ 78.293–10 *Venting, loading and unloading valves.* (a) These valves must be of approved type, made of metal not subject to rapid deterioration by lading, and must withstand a pressure of 500 pounds per square inch without leakage. The valves must be screwed directly into tank heads or attached to tank heads by other approved methods. Provision must be made for closing pipe connections of the valves.

§ 78.293–11 *Safety valves or vents.* (a) Unless prohibited for type of service in which tank is used, the tank must be equipped with one or more safety valves or vents of approved type, made of metal not subject to rapid deterioration by the lading and screwed directly into tank heads or attached to tank heads by other approved methods. The total valve or vent discharge capacity must be sufficient to prevent building up pressure in tank in excess of ¾ of the test pressure as calculated by A. A. R. Appendix A. When safety vents of the fusible plug type are used the required discharge capacity must be available in each head.

(b) Safety valves must be set to open and vents of the frangible disc type must function at a pressure of not exceeding 375 pounds per square inch. Vents of the fusible plug type must function at a temperature of not exceeding 175 degrees Fahrenheit. (For tolerance see § 78.293–14.)

§ 78.293–12 *Fixtures.* (a) Siphon pipes and their couplings on the inside of the tank head and lugs on the outside of the tank head for attaching the valve protection housing may be fusion-welded in place, provided they are properly heat treated at the time the entire tank is heat treated. All other fixtures and appurtenances, except as provided for in §§ 78.293–7, 78.293–8, 78.293–9, 78.293–10 and 78.293–11 are prohibited.

§ 78.293–13 *Tests of tank.* (a) After heat treatment, tanks must be subjected to hydrostatic test in a water jacket, or by other accurate method, operated so as to obtain reliable data. No tank shall have been subjected previously to internal pressure within 100 pounds of the test pressure. Each tank must be tested to 500 pounds per square inch. Pressure must be maintained for 30 seconds and sufficiently longer to insure complete expansion of tank. Pressure gauge must permit reading to accuracy of one percent. Expansion gauge must permit reading of total expansion to accuracy of one percent. Expansion must be recorded in cubic centimeters.

(b) Permanent volumetric expansion must not exceed 10 percent of total volumetric expansion at test pressure.

(c) Each finished tank must be subject to interior air pressure test of at least 100 pounds per square inch under conditions favorable to detection of any leakage. No leaks shall appear.

(d) Repairs of leaks detected in manufacture or test must be made by the same process as employed in manufacture of tank. Calking, soldering, or similar repairing is prohibited.

§ 78.293–14 *Tests of safety valves and vents.* (a) Each valve must be tested by air or gas before being put into service and also at intervals as prescribed by retest table No. 2 of § 73.31 (g) (9) of this chapter. The valve must open at a pressure not exceeding 375 pounds per square inch and be vapor tight at 300 pounds per square inch, which limiting pressures must not be affected by any auxiliary closure or other combination.

(b) For safety vents of the frangible disc type, a sample of the disc used must burst at a pressure of not exceeding 375 pounds per square inch and be vapor tight at 300 pounds per square inch.

(c) For safety vents of the fusible plug type, a sample of the fusible plugs used must function at a temperature of not exceeding 175 degrees Fahrenheit and vapor tight at a temperature of 130 degrees Fahrenheit.

§ 78.293–15 *Alterations and maintenance of tanks.* (a) All prescribed markings on tanks must be kept legible. Copy of the said markings, in letters and figures of the prescribed size stamped on a brass plate secured to the tank, is authorized. Markings must not be changed except as follows:

(1) By application of additional marks not affecting the test pressure or water capacity; these must not obliterate previously applied marks.

(2) By application of test pressure marks, or alteration of such marks, to indicate a reduced test pressure; authorized only for tanks that have not failed in the 5-year test.

(3) By change of serial numbers or ownership marks, or both, report in sufficient detail so that previous serial number and ownership mark can be determined for each tank arranged by lot numbers or by consecutive serial numbers, must be filed with the Bureau of Explosives.

§ 78.293–16 *Marking.* (a) Each tank must be plainly and permanently marked, thus certifying that the tank complies with all the requirements of this specification. These marks must be stamped into the metal of one head or chime in letters and figures at least ⅜ inch high as follows:

(1) ICC–110A500–W.

(2) Serial number (immediately below the stamped mark specified in subparagraph (1) of this paragraph).

(3) Inspector's official mark (immediately below the stamped mark specified in subparagraph (2) of this paragraph).

(4) Name, mark (other than trademark) or initials of company or persons for whose use the tanks are being made, which must be recorded with the Bureau of Explosives.

(5) Date of tank test (month and year), such as 1–54 for January 1954, so placed that dates of subsequent tests may easily be added thereto.

(6) Water capacity____0000 pounds.

(7) Tanks made of clad plates must be stenciled on the tank (naming material)_____clad tank.

§ 78.293–17 *Inspection and reports.* (a) Purchaser of tank must provide for inspection by competent inspector as follows:

(1) The inspector must carefully inspect all plates for which tanks are to be made and records pertaining thereto, and plates which do not comply with the requirements of this specification must be rejected.

(2) The inspector must secure complete certified records, including chemical analyses and physical tests of samples taken from each heat of steel used in the manufacture of the plate.

(3) The inspector must report capacity in pounds of water and tare weight of each tank, and the minimum thickness of tank wall noted.

(4) The inspector must make such inspection as may be necessary to see that all the requirements of this specification are fully complied with, must see that the finished tanks are properly heat treated, and must witness all air and hydrostatic tests.

(5) The inspector must stamp his official mark on each accepted tank immediately below the serial number and make certified report (see paragraph (b) of this section) to the builder, to the company or person for whose use the tanks are being made, to the builder of the car structure on which the tanks are to be mounted, if any, to the Bureau of Explosives and to the Secretary, Mechanical Division, Association of American Railroads.

(b) Inspector's report required herein must be in the following form:

(Place) _____
(Date) _____

STEEL TANKS

It is hereby certified that drawings were submitted for these tanks under A. A. R. Application for Approval No. _____ and approved by the A. A. R. Committee on Tank Cars under date of _____.
Built for _____ Company
Location at _____
Built by _____ Company
Location at _____
Consigned to _____ Company
Location at _____
Quantity _____
Size ____ inches outside diameter by ____ inches long
Marks stamped into the head or chime of the tank are:
Specification ICC _____.
Serial numbers _____ to _____ inclusive.
Inspector's mark _____
Test date _____
Water capacity. (See Record of Hydrostatic Tests.)
Tare weights (Yes or No.) (See Record of Hydrostatic Tests.)
These tanks were made by process of _____

The steel used was identified as indicated by the attached list showing the serial number of each tank, followed by the heat number of the plate, head, and bottom used in the tank.

The steel used was verified as to chemical analysis and record thereof is attached hereto. The heat numbers were stamped into the metal.

All material such as plates, billets, and seamless tubing, was inspected and each tank was inspected both before and after closing in the ends; all that was accepted was found free from seams, cracks, laminations, and other defects which might prove injurious to the strength of the tank. The process of manufacture and heat treatment of tanks were supervised and found to be efficient and satisfactory.

The tank walls were measured and the minimum thickness noted was ____ inch. The outside diameter by a close approximation to be ____ inches. The wall stress was calculated to be ____ pounds per square inch under an internal pressure of ____ pounds per square inch.

Hydrostatic tests, bend and tensile tests of material, and other tests as prescribed in this specification were made in the presence of the inspector and all material and tanks accepted were found to be in compliance with the requirements of this specification. Records thereof are attached hereto.

I hereby certify that all of these tanks proved satisfactory in every way and comply with the requirements of Interstate Commerce Commission Specification No _____.

(Signed) _____
Inspector.

(Place) _____
(Date) _____

RECORD OF CHEMICAL ANALYSIS OF STEEL FOR TANKS

Numbered _____ to _____ inclusive
Size ____ inches outside diameter by ____ inches long
Made by _____ Company
For _____ Company

Heat No.	Chemical analysis						
	C	P	S	Si	Mn	Ni	Cr
----------	--	--	--	--	----	----	----
----------	--	--	--	--	----	----	----
----------	--	--	--	--	----	----	----
----------	--	--	--	--	----	----	----

The analyses were made by:
(Signed) _____

Serial Nos. of tanks tested	Actual test pressure (pounds per square inch)	Total expansion (c. c.)[1]	Permanent expansion (c. c.)[1]	Percent ratio of permanent expansion to total expansion	Tare weight pounds [2]	Capacity in pounds of water at 60° F.
----------	----------	----------	----------	----------	----------	----------
----------	----------	----------	----------	----------	----------	----------
----------	----------	----------	----------	----------	----------	----------
----------	----------	----------	----------	----------	----------	----------

(Signed) _____

[1] If the tests are made by a method involving the measurement of the amount of liquid forced into the tank by the test pressure then the basic data, on which the calculations are made, such as the pump factors, temperature of liquid, coefficient of compressibility of liquid, etc., must also be given.
[2] Do not include protective housing and cover but state whether with or without valves.

(Place) _____
(Date) _____

RECORD OF TENSILE TESTS OF MATERIAL IN TANKS

Numbered _____ to _____ inclusive
Size _____ inches outside diameter by ____ inches long.
Made by _____ Company
For _____ Company

Heat No.	Yield point (pounds per square inch)	Tensile strength (pounds per square inch)	Elongation (per cent in 8 inches)	Reduction of area (per cent)	Bend test
----	--------	---------	--------	--------	----
----	--------	---------	--------	--------	----
----	--------	---------	--------	--------	----
----	--------	---------	--------	--------	----

(Signed) _____

(Place) _____
(Date) _____

RECORD OF HYDROSTATIC TESTS ON TANKS

Numbered _____ to _____ inclusive
Size _____ inches outside diameter by _____ inches long
Made by _____ Company
For _____ Company

(c) Before a tank car built under this specification is placed in service, the builder must furnish the owner, Bureau of Explosives, and the Secretary, Mechanical Division, Association of American Railroads, a report in proper form certifying that the tank and its appurtenances comply with all the requirements of this specification, including information as to the serial numbers, date of test, and ownership marks on the tanks. In the event the owner of the tank instead of the builder elects to furnish appurtenances such as valve protection caps, loading and unloading valves or vents of the frangible disc or fusible plug type, the owner must furnish to the Bureau of Explosives and the Secretary, Mechanical Division, Association of American Railroads, a report in proper form certifying that these appurtenances comply with all the requirements of this specification.

(d) In case of alterations of or additions to tank or equipment from original design and construction or of repairs, there must be furnished to the owner, Bureau of Explosives, and the Secretary, Mechanical Division, Association of American Railroads, a report in detail of the repairs, alterations or additions made to each tank covered by a particular application, showing the serial number of each tank involved and stating that heat treatment called for by the particular type of repair authorized has been performed and that after repairs, alterations, or additions, the tests prescribed in § 78.293–13 were made, results of hydrostatic tests reported, and tank marked as prescribed by retest Table No. 2 of § 73.31 (g) (9) of this chapter.

15. In § 78.296–4 amend the introductory text of paragraph (b) (21 F. R. 4617, June 26, 1956) to read as follows:

§ 78.296 *Specification ICC–103B100–W; rubber lined fusion-welded steel tanks to be mounted on or forming part of a car.*

§ 78.296–4 *Thickness of plates.* * * *

(b) The minimum thickness of plates must be to the following design dimensions:

(No change in table.)

* * * * *

16. In § 78.297–4 amend the introductory text of paragraph (b); in § 78.297–14 amend paragraph (d) (21 F. R. 4619, 4620, June 26, 1956) to read as follows:

§ 78.297 *Specification ICC–103D–W; fusion-welded alloy steel tanks to be mounted on or forming part of a car.*

§ 78.297–4 *Thickness of plates.* * * *
(b) The minimum thickness of plates must be to the following design dimensions:
(No change in table.)
* * * * *

§ 78.297–14 *Bottom outlets.* * * *
(d) To provide for the attachment of unloading connections, the bottom of the main portion of the outlet nozzle, or some fixed attachment thereto, must be provided with threaded cap closure arrangement or bolted flange closure arrangement having minimum 1 inch threaded pipe plug.
* * * * *

17. In § 78.298–4 amend the introductory text of paragraph (b) (21 F. R. 4621, June 26, 1956) to read as follows:

§ 78.298 *Specification ICC–103E–W; fusion-welded alloy steel tanks to be mounted on or forming part of a car.*

§ 78.298–4 *Thickness of plates.* * * *
(b) The minimum thickness of plates must be to the following design dimensions:
(No change in table.)
* * * * *

18. In § 78.299–4 amend the introductory text of paragraph (b) (21 F. R. 4623, June 26, 1956) to read as follows:

§ 78.299 *Specification ICC–103A–N–W; fusion-welded nickel or nickel alloy tanks to be mounted on or forming part of a car.*

§ 78.299–4 *Thickness of plates.* * * *
(b) The minimum thickness of plates must be to the following design dimensions:
(No change in table.)
* * * * *

19. In § 78.303–16 amend paragraph (d) (22 F. R. 3674, May 24, 1957) to read as follows:

§ 78.303 *Specification ICC–111A100–W–1; fusion-welded steel tanks to be mounted on or forming part of a car.*

§ 78.303–16 *Bottom outlets.* * * *
(d) To provide for the attachment of unloading connections, the bottom of the main portion of the outlet nozzle, or some fixed attachment thereto, must be provided with threaded cap closure arrangement or bolted flange closure arrangement having minimum 1 inch threaded pipe plug.
* * * * *

20. In § 78.305–16 amend paragraph (d) (22 F. R. 3678, May 24, 1957) to read as follows:

§ 78.305 *Specification ICC–111A100–W–3; fusion-welded steel tanks to be mounted on or forming part of a car.*

§ 78.305–16 *Bottom outlets.* * * *
(d) To provide for the attachment of unloading connections, the bottom of the main portion of the outlet nozzle, or some fixed attachment thereto, must be provided with threaded cap closure arrangement or bolted flange closure arrangement having minimum 1 inch threaded pipe plug.
* * * * *

21. In § 78.307–4 amend the introductory text of paragraph (b) (22 F. R. 3680, May 24, 1957) to read as follows:

§ 78.307 *Specification ICC–105A200–W; lagged fusion-welded steel tanks to be mounted on or forming part of a car.*

§ 78.307–4 *Thickness of plates.* * * *
(b) The minimum thickness of plates must be to the following design dimensions:
(No change in table.)
* * * * *

SUBPART J—SPECIFICATIONS FOR CONTAINERS FOR MOTOR VEHICLE TRANSPORTATION

1. In § 78.321–9 amend paragraph (a) (15 F. R. 8545, Dec. 2, 1950) to read as follows:

§ 78.321 *Specification MC300; cargo tanks constructed of mild (open hearth or blue annealed) steel, or combination of mild steel with high-tensile steel, or of stainless steel.*

§ 78.321–9 *Test for leaks.* (a) Every cargo tank shall be tested by a minimum air or hydrostatic pressure of 3 pounds per square inch gauge applied to the whole tank and dome if it be non-compartmented. If compartmented, each individual compartment shall be similarly tested with adjacent compartments empty and at atmospheric pressure. Air pressure, if used, shall be maintained for a period of at least five minutes during which the entire surface of all joints under pressure shall be coated with a solution of soap and water, heavy oil, or other material suitable for the purpose, foaming or bubbling of which indicates the presence of leaks. Hydrostatic pressure, if used, shall be done by using water or other liquid having a similar viscosity, the temperature of which shall not exceed 100° F. during the test, and applying pressure as prescribed above, gauged at the top of the tank, at which time all joints under pressure shall be inspected for the issuance of liquid to indicate leaks. All closures shall be in place while test by either method is made. During these tests, operative relief devices shall be clamped, plugged, or otherwise rendered inoperative; such clamps, plugs, and similar devices shall be removed immediately after the test is finished. Any leakage discovered by either of the methods above described, or by any other method, shall be deemed evidence of failure to meet the requirements of this specification. Tanks failing to pass this test shall be suitably repaired, and the above described tests shall be continued until no leaks are discovered, before any cargo tank is put into service.
* * * * *

2. In § 78.322–9 amend paragraph (a) (15 F. R. 8547, Dec. 2, 1950) to read as follows:

§ 78.322 *Specification MC 301; cargo tanks constructed of welded aluminum alloy (Grade 3S).*

§ 78.322–9 *Test for leaks.* (a) Every cargo tank shall be tested by a minimum air or hydrostatic pressure of 3 pounds per square inch gauge applied to the whole tank and dome if it be non-compartmented. If compartmented, each individual compartment shall be similarly tested with adjacent compartments empty and at atmospheric pressure. Air pressure, if used, shall be maintained for a period of at least five minutes during which the entire surface of all joints under pressure shall be coated with a solution of soap and water, heavy oil, or other material suitable for the purpose, foaming or bubbling of which indicates the presence of leaks. Hydrostatic pressure, if used, shall be done by using water or other liquid having a similar viscosity, the temperature of which shall not exceed 100° F. during the test, and applying pressure as prescribed above, gauged at the top of the tank, at which time all joints under pressure shall be inspected for the issuance of liquid to indicate leaks. All closures shall be in place while test by either method is made. During these tests, operative relief devices shall be clamped, plugged, or otherwise rendered inoperative; such clamps, plugs, and similar devices shall be removed immediately after the test is finished. Any leakage discovered by either of the methods above described, or by any other method, shall be deemed evidence of failure to meet the requirements of this specification. Tanks failing to pass this test shall be suitably repaired, and the above described tests shall be continued until no leaks are discovered, before any cargo tank is put into service.
* * * * *

3. In § 78.323–5 paragraph (a) amend the 20th line which now reads "IC MC * * *" to read "ICC MC * * *"; in § 78.323–9 amend paragraph (a) (15 F. R. 8549, 8550, Dec. 2, 1950) to read as follows:

§ 78.323 *Specification MC 302; cargo tanks constructed of welded aluminum alloy (ASTM B178–54).*

§ 78.323–9 *Test for leaks.* (a) Every cargo tank shall be tested by a minimum air or hydrostatic pressure of 3 pounds per square inch gauge applied to the whole tank and dome if it be non-compartmented. If compartmented, each individual compartment shall be similarly tested with adjacent compartments empty and at atmospheric pressure. Air pressure, if used, shall be maintained for a period of at least five minutes during which the entire surface of all joints under pressure shall be coated with a solution of soap and water, heavy oil, or other material suitable for the purpose, foaming or bubbling of which indicates the presence of leaks. Hydrostatic pressure, if used, shall be done by using water or other liquid having a similar viscosity, the temperature of which shall not exceed 100° F. during the test, and applying pressure as prescribed above, gauged at the top of the tank, at which time all joints under pressure shall be inspected for the issuance of liquid to indicate leaks. All closures shall be in place while test by either

method is made. During these tests, operative relief devices shall be clamped, plugged, or otherwise rendered inoperative; such clamps, plugs, and similar devices shall be removed immediately after the test is finished. Any leakage discovered by either of the methods above described, or by any other method, shall be deemed evidence of failure to meet the requirements of this specification. Tanks failing to pass this test shall be suitably repaired, and the above described tests shall be continued until no leaks are discovered, before any cargo tank is put into service.

* * * * *

4. In § 78.324–9 amend paragraph (a) (15 F. R. 8552, Dec. 2, 1950) to read as follows:

§ 78.324 *Specification MC 303; cargo tanks constructed of welded ferrous alloy (high-tensile steel) or stainless steel.*

§ 78.324–9 *Test for leaks.* (a) Every cargo tank shall be tested by a minimum air or hydrostatic pressure of 3 pounds per square inch gauge applied to the whole tank and dome if it be non-compartmented. If compartmented, each individual compartment shall be similarly tested with adjacent compartments empty and at atmospheric pressure. Air pressure, if used, shall be maintained for a period of at least five minutes during which the entire surface of all joints under pressure shall be coated with a solution of soap and water, heavy oil, or other material suitable for the purpose, foaming or bubbling of which indicates the presence of leaks. Hydrostatic pressure, if used, shall be done by using water or other liquid having a similar viscosity, the temperature of which shall not exceed 100° F. during the test, and applying pressure as prescribed above, gauged at the top of the tank, at which time all joints under pressure shall be inspected for the issuance of liquid to indicate leaks. All closures shall be in place while test by either method is made. During these tests, operative relief devices shall be clamped, plugged, or otherwise rendered inoperative; such clamps, plugs, and similar devices shall be removed immediately after the test is finished. Any leakage discovered by either of the methods above described, or by any other method, shall be deemed evidence of failure to meet the requirements of this specification. Tanks failing to pass this test shall be suitably repaired, and the above described tests shall be continued until no leaks are discovered, before any cargo tank is put into service.

* * * * *

5. In § 78.330–14 amend paragraph (a) (15 F. R. 8555, Dec. 2, 1950) to read as follows:

§ 78.330 *Specification MC 310; cargo tanks.*

§ 78.330–14 *Tank outlets*—(a) *No bottom outlets.* Except as provided hereinafter, no cargo tanks, except those used for the shipments of sludge acid or alkaline corrosive liquids, shall have bottom discharge outlets; outlets leaving the cargo tank at or near the top but having the end of the outlet below the top liquid level shall not be considered as bottom outlets but such outlets must be equipped with a shut-off valve at the point of outlet from the cargo tank and a shut-off valve or a blank flange or screw-on cap at the discharge end of the outlet and must not be moved with any of the contents in the line beyond the point where it leaves the cargo tank. The valve at the tank shall be protected against damage in the event of overturn. Cargo tanks used for the transportation of sludge acid and/or alkaline corrosive liquids may be equipped with bottom outlets when the products to be transported are too viscous to be unloaded through a dome connection or top outlet provided such bottom outlets are equipped with an effective and reliable shut-off valve located inside the shell of the tank, tank compartment outlet, or sump if the sump is integral with the tank.

* * * * *

6. In § 78.331–11 amend paragraph (a) (18 F. R. 6784, Oct. 27, 1953) to read as follows:

§ 78.331 *Specification MC 311; cargo tanks.*

§ 78.331–11 *Tank outlets*—(a) *No bottom outlets.* Except as provided hereinafter, no cargo tanks, except those used for the shipments of sludge acid or alkaline corrosive liquids, shall have bottom discharge outlets; outlets leaving the cargo tank at or near the top but having the end of the outlet below the top liquid level shall not be considered as bottom outlets but such outlets must be equipped with a shut-off valve at the point of outlet from the cargo tank and a shut-off valve or a blank flange or screw-on cap at the discharge end of the outlet and must not be moved with any of the contents in the line beyond the point where it leaves the cargo tank. The valve at the tank shall be protected against damage in the event of overturn. Cargo tanks used for the transportation of sludge acid and/or alkaline corrosive liquids may be equipped with bottom outlets when the products to be transported are too viscous to be unloaded through a dome connection or top outlet provided such bottom outlets are equipped with an effective and reliable shut-off valve located inside the shell of the tank, tank compartment outlet, or sump if the sump is integral with the tank.

* * * * *

[F. R. Doc. 57–8030; Filed, Oct. 2, 1957; 8:45 a. m.]

Subchapter B—Carriers by Motor Vehicles

[Ex Parte No. 205]

PART 206—FREIGHT COMMODITY STATISTICS

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D. C., on the 19th day of September A. D. 1957.

By order of December 9, 1955, in Motor Carrier Freight Commodity Statistics, the Commission required that all class I common and contract motor carriers of property compile and report annually certain traffic statistics as set forth therein; by order of May 21, 1956, the Commission exempted therefrom carriers of household goods and carriers of specific commodities not grouped in classes 1 to 16, inclusive, Schedule 20 of Motor Carrier Annual Report Form A; by report and order of January 8, 1957, in Ex Parte No. 205, Motor Carrier Freight Commodity Statistics, the Commission, after oral argument, affirmed its prior order as amended, limited the application of the order to Class I motor carriers of property having gross annual operating revenue of $1,000,000 or more, and provided that reports of individual carriers filed in conformity with the order would not be open for public inspection;

The order, as amended, limits the application thereof to carriers having $1,000,000 or more of gross operating revenue, whereas for 1957 and later years carriers must have average revenues of $1,000,000 to qualify as class I carriers; it also requires that freight revenues reported by each carrier be divided on the basis of whether freight was originated or terminated by the carrier, a division of revenues which is not necessary; and it requires that reports be filed on or before the 60th day succeeding the close of the year for which they are compiled, whereas under the terms of section 220 (b) of the Interstate Commerce Act, 49 U. S. C. 320, an annual report must be filed within three months of the close of the year for which the report is made; and, as the changes effected hereby impose no new requirements in connection with the outstanding order, as amended, and conformity with the rule-making procedure of section 4 (a) of the Administrative Procedure Act, 5 U. S. C. 1003, is unnecessary;

Upon further consideration of the matters and things involved in the above-described order, as amended, and sufficient cause appearing therefor:

It is ordered, That the Commission's order of December 9, 1955, in Motor Carrier Freight Commodity Statistics, as amended, be, and it is hereby, further modified and amended so as to read as set out below, which is hereby referred to and made a part of this order.

It is further ordered, That Part 206 of 49 CFR be revised by deleting the text in its entirety and substituting therefor §§ 206.1–206.8 as set out below.

It is further ordered, That this order shall become effective January 1, 1958.

And it is further ordered, That a copy of this order shall be served on each class I common or contract motor carrier of property subject to Part II of the act and on every trustee, receiver, executor, administrator, or assignee of any such motor carrier, and upon parties of record in Ex Parte No. 205; and that notice of this order shall be given to the general public by depositing a copy thereof in the office of the Secretary of the Commission at Washington, D. C. and by filing it with the Director of the Division of the Federal Register.

By the Commission, Division 2.

[SEAL] HAROLD D. McCOY, *Secretary.*

Sec.
206.1 Freight commodity statistics.
206.2 Exempt carriers.
206.3 Items to be reported.
206.4 Truckload traffic defined.
206.5 Freight revenue.
206.6 Report form and date of filing.
206.7 Public inspection.
206.8 List of commodity groups and classes.

AUTHORITY: §§ 206.1 to 206.8 issued under 49 Stat. 546, as amended; 49 U. S. C. 304. Interpret or apply 49 Stat. 563, as amended; 49 U. S. C. 320.

§ 206.1 *Freight commodity statistics.* Until further order of the Commission, all class I common and contract motor carriers of property, as defined in § 182.01–1 of this chapter, subject to Part II of the Interstate Commerce Act, and not hereinafter specifically exempted from the requirements of this Part, shall compile and report annually certain freight traffic statistics according to commodity groups and classes named in § 206.8 and in conformity with formal instructions included in the appropriate report forms hereinafter prescribed.

§ 206.2 *Exempt carriers.* Until further order of the Commission those class I common and contract motor carriers of property which are predominantly engaged in the types of carriage or service indicated below will be exempt from the requirements for compiling and reporting freight commodity statistics:

(a) Dump trucking,
(b) Armored truck service,
(c) Film and associated commodities,
(d) Retail store delivery,
(e) Household goods,
(f) Carriers of specific commodities not grouped in classes I to 16, inclusive, Schedule 20 of Motor Carrier Annual Report Form A.

§ 206.3 *Items to be reported.* Information respecting intercity truckload shipments shall be compiled and reported for each commodity class named in § 206.8, as follows:

(a) Revenue freight originated:

Terminating with carrier;
Number of shipments,
Number of tons (2,000 lbs.),
Delivered to another motor carrier;
Number of shipments,
Number of tons (2,000 lbs.).

(b) Revenue freight received from another motor carrier:

Terminating with carrier;
Number of shipments,
Number of tons (2,000 lbs.),
Delivered to another motor carrier;
Number of shipments,
Number of tons (2,000 lbs.).

(c) Total truckload revenue freight:

Number of shipments,
Number of tons (2,000 lbs.),
Freight revenue.

§ 206.4 *Truckload traffic defined.* For purposes of this part a truckload shipment shall mean any shipment of not less than 10,000 pounds of a single commodity represented by one of the classes of the Commission's freight commodity classification or any sub-division of such classes which moves on a single bill of lading. It is recognized that more than one shipment of 10,000 pounds will at times move in the same truck, but, in compiling the information, each such shipment will be treated as a truckload shipment. Truckload shipments received from or delivered to a carrier other than a motor carrier shall be classified as originating and terminating, respectively, with the reporting carrier.

§ 206.5 *Freight revenue.* Freight revenue as used in § 206.3 means the reporting carrier's proportion of the revenue shown on each freight bill without subsequent adjustment for errors in rates, extensions, interline divisions, etc.

§ 206.6 *Report form and date of filing.* Commencing with reports for the year 1957, reports required by these rules and regulations shall be filed in duplicate with the Bureau of Transport Economics and Statistics, Interstate Commerce Commission, Washington 25, D. C., within three months after the close of the year for which the reports are made, on Form TCS which will be furnished to the carriers. (The outline of the report Form follows the tenor of the order.)

§ 206.7 *Public inspection.* The individual reports filed pursuant to this part will not be open for public inspection.

§ 206.8 *List of commodity groups and classes.*

GROUP I—PRODUCTS OF AGRICULTURE

Class
1. Wheat.
3. Corn.
5. Sorghum grains.
7. Oats.
9. Barley and rye.
11. Rice.
13. Grain, N. O. S.
15. Flour, wheat.
17. Meal, corn.
19. Flour, edible, N. O. S.
21. Cereal food preparations, N. O. S.
23. Mill Products, N. O. S.
25. Hay.
27. Straw.
29. Tobacco, unmanufactured.
31. Tobacco siftings, sweepings, and waste.
33. Cotton in bales.
35. Cotton linters, nolls, and regins.
37. Cottonseed.
39. Cottonseed oil cake and meal.
41. Cottonseed hulls and bran.
43. Soybeans.
45. Soybean oil cake and meal.
47. Vegetable and nut oil cake and meal, N. O. S.
49. Apples, fresh, not frozen.
51. Bananas, fresh.
53. Berries, fresh, not frozen.
55. Cantaloupes and melons, N. O. S.
57. Grapes, fresh.
59. Lemons, limes, and citrus fruits, N. O. S.
61. Oranges and grapefruit.
63. Peaches, fresh, not frozen.
65. Pears, fresh, not frozen.
67. Watermelons.
69. Fruits, fresh, N. O. S., not frozen.
71. Fruits, dried, dehydrated, and evaporated, N. O. S.
73. Fruits and berries, fresh, frozen.
75. Coffee.
77. Cabbage.
79. Celery.
81. Lettuce.
83. Onions, dry.
85. Potatoes, other than sweet.
87. Tomatoes.
89. Vegetables, fresh, N. O. S., not frozen.
91. Beans and peas, dried.
93. Vegetables, dried, dehydrated, and evaporated, N. O. S.
95. Vegetables, fresh, frozen.
97. Peanuts.
101. Sugar beets.
103. Malt, N. O. S.
105. Flaxseed.
107. Seeds, N. O. S.
199. Products of agriculture, N. O. S.
(900) Total Products of Agriculture.

GROUP II—ANIMALS AND PRODUCTS

201. Horses, mules, ponies and asses.
203. Cattle and calves, single-deck.
205. Calves, double-deck.
207. Sheep and goats, single-deck.
209. Sheep and goats, double-deck.
211. Swine, single-deck.
213. Swine, double-deck.
215. Meats, fresh, N. O. S.
217. Meats, cooked, cured, dried, and smoked.
219. Packing house products, edible, N. O. S.
221. Margarine, N. O. S.
223. Poultry, live.
225. Poultry, dressed and frozen.
227. Eggs.
229. Butter.
231. Cheese.
233. Dairy products, N. O. S.
235. Wool and mohair in grease.
237. Wool and mohair, N. O. S.
239. Hides, skins, and pelts, N. O. S.
241. Leather, N. O. S.
243. Sea food, N. O. S.
245. Fish and sea animal oil.
299. Animals and products, N. O. S.
(910) Total Animals and Products.

GROUP III—PRODUCTS OF MINES

301. Anthracite coal, N. O. S.
303. Anthracite coal to breakers and washeries.
305. Bituminous coal.
307. Coke.
309. Iron ore.
311. Aluminum ore and concentrates.
313. Copper ore and concentrates.
315. Lead ore and concentrates.
317. Zinc ore and concentrates.
319. Ores and concentrates, N. O. S.
321. Barytes.
323. Clay and bentonite.
325. Sand, industrial.
327. Gravel and sand, N. O. S.
329. Stone and rock: Broken, ground, and crushed.
331. Fluxing stone and raw dolomite.
333. Stone, rough, N. O. S.
335. Stone, finished, N. O. S.
337. Petroleum, crude.
339. Asphalt.
341. Salt.
343. Phosphate rock.
345. Sulphur.
399. Products of mines, N. O. S.
(920) Total Products of Mines.

GROUP IV—PRODUCTS OF FORESTS

401. Logs, butts, and bolts.
403. Posts, poles, and piling, wooden.
405. Wood, fuel.
407. Ties, railroad.
409. Pulpwood.
411. Lumber, shingles, and lath.
413. Box, crate, and cooperage material.
415. Veneer, plywood, and built-up wood.
417. Rosin and turpentine.
499. Products of Forests, N. O. S.
(930) Total Products of Forests.

GROUP V—MANUFACTURES AND MISCELLANEOUS

501. Gasoline.
503. Fuel, road, and petroleum residual oils, N. O. S.
505. Lubricating oils and greases.
507. Petroleum products, refined, N. O. S.
509. Gases, other than petroleum, N. O. S.
511. Cottonseed oil.
513. Linseed oil.
515. Soybean oil.
517. Vegetable and nut oils, N. O. S.
519. Oils, N. O. S.
521. Oil foots, sediment, and tank bottoms.
523. Rubber, crude, natural, and synthetic.

Class
525. Rubber goods, N. O. S.
527. Chemicals, N. O. S.
529. Sulphuric acid.
531. Acids, N. O. S.
533. Sodium (soda) products.
535. Alcohol, N. O. S.
537. Blacks, N. O. S.
539. Fertilizers, N. O. S.
541. Insecticides and fungicides, N. O. S.
543. Tar, pitch, and creosote.
545. Tanning material, N. O. S.
547. Paint, paint material, putty, and varnish.
549. Plastics.
551. Cellulose articles, N. O. S.
553. Drugs, medicines, and toilet preparations.
555. Aluminum: Bar, ingot, pig, and slab.
557. Aluminum, N. O. S.
559. Copper: Ingot, matte, and pig.
561. Copper, brass, and bronze, N. O. S.
563. Lead and zinc: Bar, ingot, and pig.
565. Lead and zinc, N. O. S.
567. Magnesium metal and alloy.
569. Alloys for steel manufacture.
571. Metals and alloys, N. O. S.
573. Iron, pig.
575. Iron and steel: Billet, bloom and ingot.
577. Iron and steel: Bar, rod, and slab.
579. Iron and steel, N. O. S.
581. Iron and steel nails and wire (woven and not woven), N. O. S.
583. Manufactured iron and steel.
585. Cast iron pipe and fittings.
587. Iron and steel pipe and fittings, N. O. S.
589. Tanks, N. O. S.
591. Agricultural implements, N. O. S.
593. Agricultural implement parts, N. O. S.
595. Machinery and machines, N. O. S.
597. Machinery parts.
601. Business and office machines, N. O. S.
605. Railway equipment, S. U., not moved on own wheels.
607. Railway equipment parts.
609. Rails and railway track material, iron and steel.
611. Vehicles, other than motor.
613. Automobiles, passenger.
615. Automobiles, freight.
617. Vehicles, motor, N. O. S.
619. Military vehicles, N. O. S.
621. Automobiles and autotrucks, K. D.
623. Vehicle parts, N. O. S.
625. Airplanes, aircraft, and parts.
627. Tires and tubes, rubber.
629. Guns, small arms, and parts, N. O. S.
631. Ammunition and explosives.
633. Cement: Natural and Portland.
635. Cement, N. O. S.
637. Brick, common.
639. Brick, N. O. S., and building tile.
641. Refractories.
643. Artificial stone, N. O. S.
645. Lime, N. O. S.
647. Plaster: Stucco and wall.
649. Sewer pipe and drain tile (not metal).
651. Broken or ground brick, blocks, crockery, and glass.
653. Woodpulp.
655. Scrap paper and rags.
657. Newsprint paper.
659. Printing paper, N. O. S.
661. Wrapping paper.
663. Paper bags.
665. Paper and paper articles, N. O. S.
667. Printed matter, N. O. S.
669. Paperboard, fibreboard, and pulpboard.
671. Wallboard.
673. Building paper and prepared roofing material.
675. Insulating materials, N. O. S.
677. Building woodwork and millwork.
679. Building materials, N. O. S.
681. Buildings and houses, fabricated and portable, N. O. S.
683. Asbestos articles, N. O. S.
685. Electrical equipment and parts, N. O. S.
687. Furnaces, heaters, radiators, and parts.
689. Bathroom and lavatory fixtures and sinks.

Class
691. Hardware, N. O. S.
693. Glass.
695. Glassware, N. O. S.
697. Glass bottles, jars, and packing glasses, N. O. S.
701. Chinaware, crockery, and earthenware.
703. Woodenware.
705. Household utensils, N. O. S.
707. Refrigerators, freezing apparatus and parts.
709. Laundry equipment.
711. Stoves, ranges, and parts.
713. Floor covering.
715. Furniture, N. O. S.
717. Furniture parts.
719. Tools and parts, N. O. S.
721. Abrasives, other than crude.
723. Bagging: Burlap, cotton, gunny, and jute, N. O. S.
725. Bags: Burlap, cotton, gunny, and jute, N. O. S.
727. Cotton cloth and cotton fabrics, N. O. S.
729. Cotton factory products.
731. Synthetic fibre and yarns (rayon or nylon).
733. Cloth and fabrics, N. O. S.
735. Rope, cordage, and binder twine, N. O. S.
737. Boots, shoes, and findings, N. O. S.
739. Luggage and handbags, N. O. S.
741. Athletic, gymnasium, playground, and sporting equipment, N. O. S.
743. Games and toys.
745. Liquors, alcoholic, N. O. S.
747. Wine.
749. Liquors, malt.
751. Beverages, N. O. S.
753. Ice.
755. Sirup and molasses, refined.
757. Molasses, residual.
759. Sugar.
761. Candy and confectionery.
763. Food products, N. O. S. in cans and packages, not frozen.
765. Food products, N. O. S., frozen.
767. Starch.
769. Soap and cleaning and washing compounds.
771. Matches.
773. Feed, animal and poultry, N. O. S.
775. Manufactured tobacco, N. O. S.
777. Cigarettes.
779. Containers, metal.
781. Containers, wooden.
783. Containers, fibreboard and paperboard, K. D.
785. Containers, N. O. S.
787. Containers, returned empty.
789. Scrap iron and scrap steel.
791. Iron and steel borings, turnings, etc.
793. Furnace slag.
795. Waste materials for remelting, N. O. S.
797. Waste materials, N. O. S.
799. Manufactures and miscellaneous, N. O. S.
(940) Total Manufactures and Miscellaneous.

GROUP VI—FORWARDER TRAFFIC

950. Forwarder Traffic.
(960) Grand Total Truckload Traffic.

[F. R. Doc. 57-8155; Filed, Oct. 2, 1957; 8:55 a. m.]

TITLE 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

PART 940—PEACHES GROWN IN MESA COUNTY, COLO.

DETERMINATION RELATIVE TO EXPENSES AND FIXING OF RATE OF ASSESSMENT FOR 1957-58 FISCAL YEAR

Pursuant to the marketing agreement, as amended, and Order No. 40, as amended (7 CFR Part 940), regulating the handling of peaches grown in the County of Mesa in the State of Colorado, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the proposals submitted by the Administrative Committee (established pursuant to said amended marketing agreement and order), it is hereby found and determined that:

§ 940.209 *Expenses and rate of assessment for the 1957-58 fiscal year*—(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Administrative Committee, established pursuant to the provisions of the aforesaid amended marketing agreement and order, for the maintenance and functioning of such committee, in accordance with the provisions thereof, during the fiscal year beginning March 1, 1957, and ending February 28, 1958, will amount to $13,000.00.

(b) *Rate of assessment.* The rate of assessment, which each handler who first handles peaches shall pay as his pro rata share of the aforesaid expenses in accordance with the applicable provisions of said amended marketing agreement and order, is hereby fixed at one cent ($0.01) per bushel basket of peaches, or its equivalent of peaches in other containers or in bulk, shipped by such handler during said fiscal year.

It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective time hereof until 30 days after publication in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that (1) said Administrative Committee at a meeting held on July 25, 1957, proposed an itemized budget of expenses and a rate of assessment based upon information then available as to production of peaches during the 1957 season and anticipated expenses; (2) necessary supplemental information supporting the proposed expenses and rate of assessment was not available to the Department until September 26, 1957; (3) shipments of the current crop of peaches from Mesa County, Colorado, are now being made; (4) the rate of assessment is, in accordance with the amended marketing agreement and order, applicable to all fresh peaches shipped during the 1957-58 fiscal year; and (5) it is essential that the specification of the assessment be issued immediately so that the aforesaid assessments may be collected, and thereby enable said Administrative Committee to perform its duties and functions in accordance with said amended marketing agreement and order.

As used herein, the terms "handler," "ship," "peaches," and "fiscal year" shall have the same meaning as when used in said amended marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated September 27, 1957, to become effective upon publication in the FEDERAL REGISTER.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Marketing Services.

[F. R. Doc. 57-8135; Filed, Oct. 2, 1957; 8:52 a. m.]

PART 946—MILK IN LOUISVILLE, KY., MARKETING AREA

AUTHORITY: §§ 946.1 to 946.101 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c.

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

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

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective October 1, 1957. Any delay will seriously threaten the orderly marketing of milk in the Louisville, Kentucky, marketing area.

The provisions of the said order are known to handlers. The decision of the Assistant Secretary containing all amendment provisions of this order was issued September 27, 1957. The changes effected by this order will not change the financial obligation of handlers for milk and will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective October 1, 1957, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (See section 4 (c), Administrative Procedure Act, 5 U. S. C. 1001 et seq.).

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing or shipping milk covered by this order, amending the order) of more than 50 percent of the milk covered by this order amending the order, which is marketed within the Louisville, Kentucky, marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of the order amending the order is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order amending the order is approved or favored by at least two-thirds of the producers who, during the determined representative period (August 1957), were engaged in the production of milk for sale in the said marketing area.

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

DEFINITIONS

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

§ 946.2 *Secretary.* "Secretary" means the Secretary of Agriculture or any other officer or employee of the United States authorized to exercise the powers or to perform the duties pursuant to the act of the said Secretary of Agriculture.

§ 946.3 *Department.* "Department" means the United States Department of Agriculture or other Federal agency authorized to perform the price reporting functions specified in this part.

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

§ 946.5 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

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

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

§ 946.6 *Louisville, Kentucky, marketing area.* "Louisville, Kentucky, marketing area," called the "marketing area," in this part, means the territory within Jefferson County, Kentucky, including but not being limited to the City of Louisville, the Fort Knox Military Reservation; the territory within Floyd County, Indiana, including but not being limited to all municipal corporations in said county; and the territory within the townships of Jeffersonville, Utica, Silver Creek, Union, and Charlestown, in Clark County, Indiana.

§ 946.7 *City plant.* "City plant" means a plant or other facilities, where milk is processed or packaged and from which a fluid milk product(s) which is permitted to be labeled as "Grade A" by health authority having jurisdiction in the marketing area is disposed of through a route(s).

§ 946.8 *Country plant.* "Country plant" means a milk plant, other than a city plant, which is approved by the appropriate health authority in the marketing area to supply milk, skim milk or cream to a city plant(s) for disposition as "Grade A" milk in the marketing area and at which milk is received from persons described in § 946.12 (a) during the month.

§ 946.9 *Pool plant.* "Pool plant" means:

(a) A city plant, other than a plant operated by a producer-handler, from which not less than 30 percent of the milk received from persons described in § 946.12 (a) either directly from such persons or from country plants during the two immediately preceding months is disposed of as Class I milk to outlets other than pool plants and not less than 10 percent of such receipts during the current month are distributed through routes in the marketing area: *Provided,* That in case of a plant for which such utilization percentage for the two immediately preceding months cannot be ascertained by the market administrator, the 30 percent requirement shall apply to receipts and Class I sales during the current month;

(b) A country plant during any of the months of October through March in which not less than 10 percent of the receipts of milk at such plant from persons described in § 946.12 (a) are delivered to a city plant in the form of milk, skim milk or cream;

(c) A country plant during the months of April through September from which more than 50 percent of the combined receipts of milk from persons described in § 946.12 (a) during the preceding period of October through February were delivered to a city plant(s) in the form of milk, skim milk or cream, unless the operator of such plant notifies the market administrator in writing on or before March 15 of withdrawal of the plant from the pool for the months of April through September next following; and

(d) A country plant which is operated by a cooperative association and (1) 75 percent or more of the milk from persons described in § 946.12 (a) who are members of such association is delivered during the month directly to the pool plant(s) of other handlers or transferred by such association to the pool plant(s) of other handlers or (2) such plant qualified as a pool plant pursuant to subparagraph (1) of this paragraph during each of the immediately preceding consecutive months of October through February.

§ 946.10 *Nonpool plant.* "Nonpool plant" means any milk manufacturing, processing or bottling plant other than a pool plant.

§ 946.11 *Handler.* "Handler" means (a) any person who operates a city plant or a country plant, and (b) any cooperative association with respect to milk diverted by it in accordance with the conditions set forth in § 946.13.

§ 946.12 *Producer.* "Producer" means any person, except a producer-handler, who produces milk which is:

(a) Approved by a duly constituted health authority for the production of milk for fluid disposition and which milk is permitted by the appropriate health authority in the marketing area to be labeled and disposed of as Grade A milk in the marketing area (this definition shall include approval of milk by the authority to administer the regulations governing the quality of milk acceptable to agencies of the U. S. Government for fluid consumption in its institutions or bases located in the marketing area during any month in which such milk is disposed of to such institutions or bases): *Provided,* That this definition shall not include any person whose milk is permitted on a temporary or emergency basis by such health authority in the marketing area to be labeled and disposed of as Grade A milk; and

(b) Received at a pool plant or diverted in accordance with the conditions set forth in paragraph (b) or (c) of § 946.13.

§ 946.13 *Producer milk.* "Producer milk" means only that skim milk and butterfat contained in milk from producers which is:

(a) Received directly from producers at a pool plant: *Provided,* That when withdrawals of milk are made at more than one pool plant from the same load delivered by farm tank pick-up truck and in the absence of agreement between the operators of such pool plants as to the reporting of and payment for such milk, the entire load shall be deemed to have been received at the first pool plant at which any of such milk was withdrawn;

(b) Diverted from a pool plant to another pool plant or to a nonpool plant: *Provided,* That such milk so diverted shall be deemed to have been received at the pool plant from which it is diverted: *Provided further,* That this definition shall not include the milk of any person during any of the months of October, November, January, and February in which the milk of such person is diverted by a handler, except a cooperative association, to a nonpool plant for more than one-half of the days of delivery during the month; or

(c) Diverted by a cooperative association to a nonpool plant for the account of the cooperative association: *Provided,* That any milk so diverted shall be deemed to have been received by the cooperative association at a pool plant at the location of the pool plant from which it is diverted.

§ 946.14 *Other source milk.* "Other source milk" means all skim milk and butterfat contained in:

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

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

§ 946.15 *Producer-handler.* "Producer-handler" means any person who processes and packages milk from his own farm production, distributing any portion of such milk within the marketing area as Class I milk and who receives no milk from producers.

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

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

§ 946.18 *Route.* "Route" means the operation of a plant store or a vehicle (including that operated by a vendor) through the means of which fluid milk products are disposed of to retail or wholesale stops in the marketing area other than to a milk plant.

MARKET ADMINISTRATOR

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

§ 946.21 *Powers.* The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

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

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

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

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

(d) Pay out of the funds provided by § 946.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 946.87) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

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

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

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

(i) Publicly announce, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicious place in his office and by such other means as he deems appropriate, the name of any person who, within 5 days after the date upon which he is required to perform such acts has not made reports pursuant to §§ 946.30 through 946.32, or payments pursuant to §§ 946.80 through 946.86;

(j) On or before the 15th day after the end of each month, report to each cooperative association, which so requests, with respect to producer milk caused to be delivered by such association or by its members to each handler during the month: (1) The percentage of such receipts classified in each class; and (2) the percentage relationship of such receipts to the total pounds of Class I milk available to assign to such receipts exclusive of the Class I milk disposed of by such handler to the pool plant(s) of other handlers and to nonpool plants. For the purpose of these reports, the milk received from such association shall be treated on a pro rata basis of the total producer milk received by such handler during the month;

(k) Publicly announce, by posting in a conspicuous place in his office and by such other means as he deems appropriate, and notify each handler in writing the prices and butterfat differentials determined for each month as follows:

(1) On or before the 12th day after the end of each month, the minimum prices for each class of milk computed pursuant to § 946.51, and the butterfat differentials for each class computed pursuant to § 946.52; and

(2) On or before the 12th day after the end of each month, the uniform price computed pursuant to § 946.71, and the butterfat differential computed pursuant to § 946.81;

(l) On or before the 13th day after the end of each month, the market administrator shall mail to each handler, at his last known address, a statement showing:

(1) The net obligation computed for such handler pursuant to § 946.70; and

(2) The amounts to be paid by such handler pursuant to §§ 946.61, 946.84, 946.87, and 946.88.

REPORTS, RECORDS, AND FACILITIES

§ 946.30 *Reports of receipts and utilization.* On or before the 7th day after the end of each month, each handler, except a producer handler, shall report for such month to the market administrator for each of his pool plants in the detail and on forms prescribed by the market administrator:

(a) The quantities of skim milk and butterfat contained in receipts of producer milk (including such handler's own farm production);

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

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

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

(e) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement of the disposition of Class I milk other than on routes operated wholly or partially within the marketing area; and

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

§ 946.31 *Payroll reports.* On or before the 20th day after the end of each month, each handler shall submit to the market administrator his producer payroll for deliveries during the month which shall show (a) the total pounds of milk received from each producer and cooperative association and the average butterfat content of such milk, (b) the prices paid and the amount of payment to each producer and cooperative association, and (c) the nature and amount of any credits, deductions, or charges involved in such payments.

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

(b) Each handler shall report to the market administrator, as soon as possible after first receiving milk from any producer, the name and address of such producer, the date upon which such milk was first received, and the plant at which such milk was received: *Provided,* That milk diverted to a pool plant as described in § 946.13 (b) need not be reported pursuant to this paragraph.

(c) On or before the 10th day after the request of the market administrator, such handler shall submit a schedule of rates which are charged and paid for the transportation of milk from the farm of each producer to such handler's plant. Changes in such schedule of rates and the effective dates thereof shall be reported to the market administrator within 10 days.

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

(a) The receipts and utilization of producer milk and other source milk;

(b) The weights and tests for butterfat and other content of all milk, skim milk, cream and milk products handled;

(c) Payments to producers, including supporting records of all deductions and written authorization from each producer of the rate per hundredweight or other method for computing hauling charges on such producer milk; and

(d) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream and other milk products on hand at the beginning and end of each month.

§ 946.34 *Retention of records.* All books and records required under this part to be available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided,* That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified records and books until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records

are no longer necessary in connection therewith.

CLASSIFICATION

§ 946.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat which is required to be reported pursuant to §§ 946.30 and 946.61 shall be classified by the market administrator pursuant to the provisions of §§ 946.41 through 946.46.

§ 946.41 *Classes of utilization.* Subject to the conditions set forth in §§ 946.42 through 946.44, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including concentrated or reconstituted skim milk solids) and butterfat (1) disposed of in fluid form as milk, skim milk, cream (including sour cream), buttermilk, milk drinks (plain or flavored), except skim milk and butterfat disposed of in fluid form for livestock feed; (2) disposed of as any fluid milk product which is required by the appropriate health authority in the marketing area to be made from milk, skim milk, or cream from sources approved by such authority; and (3) not accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat the utilization of which is established as used to produce (1) cottage cheese, ice cream, ice cream mix, eggnog, frozen desserts, and milk (or skim milk) and cream mixtures containing 8.0 percent or more butterfat disposed of in containers or dispensers under pressure for the purpose of dispensing a whipped or aerated product, and (2) in inventories of fluid milk products.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat, the utilization of which is established: (1) As used to produce any product other than those specified in paragraphs (a) or (b) of this section, (2) as disposed of for livestock feed, (3) as disposed of in bulk to bakeries, candy or soup manufacturers, and other commercial food manufacturing establishments which do not dispose of fluid milk products, and (4) in plant shrinkage of skim milk and butterfat in receipts of producer milk and in other source milk computed pursuant to § 946.42.

§ 946.42 *Unaccounted for skim milk and butterfat and plant shrinkage.* Skim milk and butterfat received at a handler's pool plant(s) in excess of such handler's established utilization of skim milk and butterfat pursuant to § 946.41, except paragraphs (a) (3) and (c) (4) shall be known as unaccounted for skim milk and butterfat and classified as follows:

(a) Adjust such handler's receipts of producer milk by (1) deducting the pounds of skim milk and butterfat in producer milk diverted by such handler to a nonpool plant or to the pool plant of another handler without having been received for purposes of weighing and testing in the diverting handler's plant, (2) adding the skim milk and butterfat in producer milk received at the pool plant of such handler which was diverted from the pool plant of another handler;

(b) Prorate the quantities of unaccounted for skim milk and butterfat, respectively, between such handler's receipts of skim milk and butterfat, respectively, in producer milk as computed pursuant to paragraph (a) of this section and in other source milk received in the form of fluid milk products in bulk;

(c) That portion of the quantities of unaccounted skim milk not to exceed five percent during the months of April through July and two percent during other months, and the quantities of butterfat not to exceed two percent in each month, of the skim milk and butterfat, respectively, in receipts of producer milk and other source milk applied pursuant to paragraph (b) of this section shall be known as "shrinkage" and classified as Class III milk: *Provided,* That if the quantities of skim milk and butterfat utilized and disposed of in milk and all milk products are not established by such handler all unaccounted for skim milk and butterfat prorated to receipts of producer milk pursuant to paragraph (b) of this section shall be classified as Class I milk;

(d) That portion of the quantities of unaccounted for skim milk and butterfat which is in excess of the quantities of skim milk and butterfat, respectively, classified pursuant to paragraph (c) of this section shall be classified as Class I milk.

§ 946.43 *Responsibility for classification of milk.* (a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise.

(b) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 946.44 *Transfers.* Skim milk or butterfat disposed of by a handler from a pool plant either by transfer or diversion shall be classified as follows:

(a) As Class I milk if transferred or diverted in the form of a fluid milk product to a pool plant of another handler, unless utilization in another class is mutually indicated in the reports submitted to the market administrator by both handlers pursuant to § 946,30 on or before the 7th day after the end of the month: *Provided,* That if upon inspection of the records of the transferee-handler it is found that an equivalent amount of skim milk or butterfat, respectively, was not actually used in such indicated use, the remaining quantity shall be classified as Class I milk: *And provided further,* That if either or both handlers received other source milk the skim milk or butterfat so transferred or diverted shall be classified at both plants so as to allocate the highest-priced possible class utilization to the producer milk of both handlers;

(b) As Class I milk if transferred or diverted to a producer-handler in the form of a fluid milk product;

(c) As Class I milk if transferred or diverted in the form of milk, skim milk, or cream in bulk to a nonpool plant located less than 250 airline miles from the City Hall in Louisville, Kentucky, unless:

(1) The handler claims classification in another class in his report submitted to the market administrator pursuant to § 946.30;

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

(3) An amount of skim milk and butterfat, respectively, of not less than that so claimed by the handler was used in products included in Class II and Class III milk;

(4) The classification reported by the handler results in an amount of skim milk and butterfat in Class I and Class II milk claimed by all handlers transferring or diverting milk to such nonpool plant of not less than the amount of assignable Class I milk and Class II milk remaining after the following computation:

(i) From the total skim milk and butterfat, respectively, in fluid milk products disposed of from such nonpool plant and classified as Class I milk and used to produce products in Class II milk, pursuant to the classification provisions of this order applied to such nonpool plant, subtract, in series beginning with Class I milk, the skim milk and butterfat received at such plant directly from dairy farmers who hold permits to supply "Grade A" milk and who the market administrator determines constitute the regular source of supply for such nonpool plant;

(ii) From the remaining amount of Class I milk, subtract the skim milk and butterfat, respectively, in fluid milk products received from another market and which is classified and priced as Class I milk pursuant to another order issued pursuant to the act: *Provided,* That the amount subtracted pursuant to this subdivision shall be limited to such markets' pro rata share of such remainder based on the total receipts of skim milk and butterfat, respectively, at such nonpool plant which are subject to the pricing provisions of an order issued pursuant to the act;

(5) If the skim milk and butterfat, respectively, transferred by all handlers to such a nonpool plant and reported as Class I milk pursuant to this paragraph is less than the skim milk and butterfat assignable to Class I milk, pursuant to subparagraph (4) of this paragraph, an equivalent amount of skim milk and butterfat shall be reclassified as Class I milk pro rata in accordance with the total of the lower priced classifications reported by each of such handlers;

(6) If the skim milk and butterfat, transferred by all handlers to such nonpool plant and reported as Class II milk pursuant to this paragraph is less than the skim milk and butterfat assignable to Class II milk pursuant to subparagraph (4) of this paragraph, less the amount of skim milk and butterfat received directly from "ungraded" dairy farmers at such nonpool plant, respectively, an equivalent amount of skim milk and butterfat shall be reclassified as Class II milk pro rata in accordance

with the claimed Class III classification reported by each of such handlers;

(d) As Class I milk if transferred or diverted in the form of milk, skim milk, or cream in bulk to a nonpool plant located 250 airline miles or more from the City Hall in Louisville, Kentucky.

§ 946.45 *Computation of the skim milk and butterfat in each class.* For each month, the market administrator shall correct for mathematical and for other obvious errors the report of receipts and utilization submitted by each handler and shall compute the pounds of skim milk and butterfat in each class for such handler: *Provided,* That if any of the water contained in the milk from which a product is made is removed before such product is disposed of by a handler, the hundredweight of skim milk disposed of in such product shall be considered to be an amount equivalent to the nonfat solids contained in such product, plus all of the water originally associated with such solids.

§ 946.46 *Allocation of skim milk and butterfat classified.* After making the computations pursuant to § 946.45 the market administrator shall determine the classification of producer milk received at the pool plant(s) of each handler each month as follows:

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

(1) Subtract from the total pounds of skim milk in Class III milk the pounds of skim milk assigned to producer milk shrinkage pursuant to § 946.42 (c);

(2) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class III milk, the pounds of skim milk in other source milk which are not subject to the Class I pricing provisions of an order issued pursuant to the act;

(3) Subtract from the remaining pounds of skim milk in Class III milk an amount equal to such remainder, or the product obtained by multiplying the pounds of skim milk in producer milk by 0.05, whichever is less;

(4) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class III milk, the pounds of skim milk in other source milk which are subject to the Class I pricing provisions of another order issued pursuant to the act;

(5) Add to the pounds of skim milk remaining in Class III milk the pounds of skim milk subtracted pursuant to subparagraphs (1) and (3) of this paragraph;

(6) Subtract from the remaining pounds of skim milk in Class II and Class I milk, in series beginning with Class II milk, the pounds of skim milk contained in inventory of fluid milk products on hand at the beginning of the month;

(7) Subtract from the remaining pounds of skim milk in each class the skim milk in fluid milk products received from the pool plants of other handlers according to the classification of such products as determined pursuant to § 946.44 (a);

(8) If the remaining pounds of skim milk in all classes exceed the pounds of skim milk received in producer milk, subtract such excess from the remaining pounds of skim milk in series beginning with Class III. Any amount of excess so subtracted shall be called "overage".

(b) Butterfat shall be allocated in accordance with the same procedure prescribed for skim milk in paragraph (a) of this section.

(c) Determine the weighted average butterfat content of producer milk remaining in each class computed pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

§ 946.50 *Basic formula price.* The basic formula price to be used in determining the price per hundredweight of Class I milk shall be the highest of the prices computed pursuant to paragraphs (a), (b), and (c) of this section and subparagraph (1) of § 946.51 (c).

(a) The price per hundredweight computed by adding together the plus values pursuant to subparagraphs (1) and (2) of this paragraph:

(1) Add 20 percent to the Chicago butter price for the month and multiply by 3.8.

(2) From the simple average as computed by the market administrator of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department, deduct 5.5 cents, and multiply by 8.2.

(b) The price per hundredweight resulting from the following formula:

(1) Multiply by 8.53 the average of the daily prices per pound of cheese at Wisconsin Primary Markets ("cheddars," f. o. b. Wisconsin assembling points, cars or truckloads) as reported by the Department during the month;

(2) Add 0.902 times the Chicago butter price for the month;

(3) Subtract 34.3 cents; and

(4) Add an amount computed by multiplying the Chicago butter price for the month by 0.12 and then by 3.

(c) To the average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department:

Companies and Location

Borden Co., Mount Pleasant, Mich.
Borden Co., New London, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Sparta, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

Add an amount computed by multiplying the Chicago butter price for the month by 0.12 and then by 3.

§ 946.51 *Class prices.* Subject to the provisions of §§ 946.52 and 946.53, the minimum prices per hundredweight to be paid by each handler for milk of 3.8 percent butterfat content received at his pool plant(s) from producers during the month shall be as follows:

(a) *Class I milk.* The price of Class I milk per hundredweight shall be the basic formula price for the preceding month rounded to the nearest tenth of a cent plus $1.25.

(b) *Class II milk.* The price for Class II milk shall be the higher of the basic formula price pursuant to § 946.50 or that computed pursuant to subparagraphs (1) and (2) of this paragraph, rounded to the nearest tenth of a cent:

(1) Multiply the Chicago butter price by 4.56;

(2) Add an amount computed as follows: from the simple average, as computed by the market administrator, of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray process for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department, deduct 5.5 cents, and multiply by 8.2.

(c) *Class III milk.* The price of Class III milk for the months of September through December shall be the price per hundredweight computed pursuant to § 946.50 (a), or that pursuant to subparagraph (1) of this paragraph, whichever is higher; and for the months of January through August the higher of the prices computed pursuant to subparagraphs (1) and (2) of this paragraph, rounded to the nearest tenth of a cent.

(1) From the average of the basic or field prices per hundredweight reported to the market administrator to have been paid or to be paid for ungraded milk of 4.0 percent butterfat content received from farmers during the month at plants at the following locations:

Operator and Location

Armour Creameries, Elizabethtown, Ky.
Armour Creameries, Springfield, Ky.
Kraft Foods Co., Lawrenceburg, Ky.
Kraft Foods Co., Paoli, Ind.
Salem Cheese and Milk Co., Salem, Ind.
Red 73 Creameries, Madison, Ind.
Producers Dairy Marketing Association, Orleans, Ind.

Subtract the amount computed by multiplying the Chicago butter price for the month by 0.12 and then by 2.

(2) The price per hundredweight computed by adding together the plus values pursuant to subdivisions (i) and (ii) of this subparagraph:

(i) Add 15 percent to the Chicago butter price for the month and multiply by 3.8.

(ii) From the simple average as computed by the market administrator of the weighted averages of carlot prices per pound for nonfat dry milk solids, roller process, for human consumption, f. o. b. manufacturing plants in Chicago area as published for the period from the 26th day of the preceding month through the 25th day of the current month by the De-

partment deduct 6.5 cents and multiply by 8.2.

§ 946.52 *Price adjustments to handlers*—(a) *Butter differentials.* If the weighted average butterfat content of milk received from producers allocated to Class I, Class II, or Class III, respectively, pursuant to § 946.46, for a handler is more or less than 3.8 percent, there shall be added to or subtracted from, as the case may be, the price for such class, for each one-tenth of one percent that such weighted average butterfat test is above or below 3.8 percent, a butterfat differential (computed to the nearest tenth of a cent), calculated for each class as follows:

(1) *Class I milk.* Multiply by 0.125 the Chicago butter price for the preceding month.

(2) *Class II milk.* For the months of September through December, multiply the Chicago butter price by 0.120, and for the months of January through August, multiply by 0.118.

(3) *Class III milk.* For the months of September through December, multiply the Chicago butter price for the month by 0.12, and for the months of January through August, multiply the Chicago butter price for the month by 0.115.

§ 946.53 *Transportation differential.* With respect to milk received from producers at a country plant, which is moved as milk from such plant directly to a plant in the marketing area or which is disposed of as milk for Class I use outside the marketing area, the class prices per hundredweight shall be reduced at the rates set forth in the following schedule based on the shortest distance via hard surfaced highway, as determined by the market administrator, from the plant where the milk is first received from producers to City Hall in Louisville:

Mileage zone:	*Rate (cents per cwt.)*
Not more than 25 miles	0
More than 25 but not more than 35 miles	13
More than 35 but not more than 45 miles	15
More than 45 but not more than 55 miles	17
For each additional 10 miles or fraction thereof an additional	1

APPLICATION OF PROVISIONS

§ 946.60 *Producer-handlers.* Sections 946.40 through 946.46, 946.50 through 946.53, 946.61, 946.70, 946.71, and 946.80 through 946.89 shall not apply to a producer-handler.

§ 946.61 *Handlers operating nonpool plants.* Sections 946.30 through 946.32, 946.50 through 946.53, 946.70, 946.71, 946.80 through 946.85, 946.87, and 946.88 shall not apply to a handler in his capacity as the operator of a nonpool plant which is a city plant, except that such handler shall:

(a) On or before the 7th day after the end of the month, make reports to the market administrator in such manner as he may request with respect to such handler's total receipts and utilization of skim milk and butterfat;

(b) Subject to the proviso in paragraph (c) of this section, on or before the 15th day after the end of each month, pay to the market administrator for deposit in the producer-settlement fund an amount of money computed by multiplying the quantity of Class I milk disposed of on a route(s) in the marketing area by the price arrived at by subtracting from the Class I price adjusted by the Class I butterfat and transportation differentials:

(1) For the months of January through September, the Class III price adjusted by the Class III butterfat differential; or

(2) For the months of October through December, the uniform price computed pursuant to § 946.71 adjusted by the Class I transportation differential and by a butterfat differential calculated by multiplying the total volume of producer butterfat in each class during the month by the butterfat differential for each class, dividing the resulting figure by the total butterfat in producer milk and rounding the resultant figure to the nearest one-tenth cent: *Provided,* That no payments shall be required pursuant to this paragraph on a quantity of milk equivalent to that received from a pool plant and classified as Class I milk during the month.

(c) On or before the 15th day after the end of the month, pay to the market administrator, as such handler's pro rata share of the expense of administration of this part, 3.0 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all Class I milk and all milk, skim milk, and cream used to produce Class II and Class III products disposed of during the month on a route(s) in the marketing area: *Provided,* That no payments shall be required pursuant to this paragraph on a quantity of milk equivalent to that received from a pool plant during the month.

§ 946.62 *Plants subject to other orders.* In the case of any plant from which a greater volume of Class I milk is disposed of in another marketing area regulated by another order or a marketing agreement issued pursuant to the act, than in the Louisville marketing area, the provisions of this part shall not apply except the handler operating such plant shall, with respect to his total receipts of skim milk and butterfat at such plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

DETERMINATION OF UNIFORM PRICE

§ 946.70 *Net obligation of each handler.* The net obligation of each handler for milk received during each month from producers shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class computed pursuant to § 946.46 by the applicable class price;

(b) Add together the resulting amounts;

(c) Add the amounts computed by multiplying the pounds of overage deducted from each class pursuant to § 946.46 by the applicable class prices;

(d) Add the amount computed by multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of producer milk classified as Class II milk during the preceding month or the hundredweight of milk subtracted from Class I milk pursuant to § 946.46 (a) (6) and the corresponding step of § 946.46 (b), whichever is less; and

(e) Add the amount computed by multiplying the pounds of skim milk and butterfat subtracted from Class I milk pursuant to § 946.46 (a) (2) and the corresponding step of § 946.46 (b) and pursuant to § 946.46 (a) (6) and the corresponding step of § 946.46 (b) which is in excess of the skim milk and butterfat applied pursuant to paragraph (d) of this section by the price arrived at by subtracting from the Class I price adjusted by the Class I butterfat and transportation differentials;

(1) For the months of January through September, the Class III price adjusted by the Class III butterfat differential; and

(2) For the months of October through December the uniform price computed pursuant to § 946.71 adjusted by the Class I transportation differential and by a butterfat differential calculated by multiplying the total volume of producer butterfat in each class during the month by the butterfat differential for each class, dividing the resultant figure by the total butterfat in producer milk and rounding the resultant figure to the nearest one-tenth cent.

§ 946.71 *Computation of uniform price.* For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.8 percent butterfat content received from producers as follows:

(a) Combine into one total the net obligations computed for all handlers who made the reports prescribed in § 946.30 for the month and who are not in default of payments pursuant to § 946.84 for the preceding month;

(b) Subtract, if the average butterfat content of the producer milk included in these computations is greater than 3.8 percent, or add, if such average butterfat content is less than 3.8 percent an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.8 percent by the butterfat differential computed pursuant to § 946.81 and multiply the resulting figure by the total hundredweight of such milk;

(c) Add an amount computed by multiplying the hundredweight of milk received from producers at each country plant by the appropriate zone differential provided in § 946.53.

(d) Subtract for each of the months of April, May, June, and July an amount computed by multiplying the total hundredweight of producer milk included in these computations by 12 percent of the simple average of the basic formula prices, computed to the nearest cent, for the 12 months of the preceding calendar year;

(e) Add an amount representing one-half of the cash balance on hand in the producer-settlement fund after deducting the total amount of contingent obligations to handlers pursuant to § 946.85 (a) and the balance held pursuant to paragraph (d) of this section for payment pursuant to § 946.85 (b);

(f) Divide the resulting total by the total hundredweight of producer milk included in these computations; and

(g) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (f) of this section. The resulting figure shall be the uniform price for milk of 3.8 percent butterfat content received from producers at a handler's pool plant.

PAYMENTS

§ 946.80 *Time and method of payment for producer milk.* Except as provided in paragraph (c) of this section, each handler shall make payment to each producer for milk received from such producer as follows:

(a) On or before the last day of each month for milk received during the first 15 days of the month from such producer who has not discontinued delivery of milk to such handler, at not less than the Class III price for 3.8 percent milk for the preceding month without deduction for hauling;

(b) On or before the 17th day after the end of each month for milk received from such producer during such month, an amount computed at not less than the uniform price per hundredweight plus the per hundredweight payment provided by § 946.85 (b) for the month, subject to the butterfat differential computed pursuant to § 946.81, and, plus or minus, adjustments for errors made in previous payments to such producer; and less (1) the payment made pursuant to paragraph (a) of this section, (2) the location differential pursuant to § 946.82, (3) marketing service deductions pursuant to § 946.87 and (4) proper deductions authorized by such producer which, in the case of a deduction for hauling, shall be in writing and signed by such producer or, in the case of members of a cooperative association which is marketing the producer's milk, by such association;

(c) (1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association in lieu of payments pursuant to paragraphs (a) and (b) of this section, each handler shall pay to the cooperative association on or before the second day prior to the dates specified in paragraphs (a) and (b), respectively, of this section, an amount equal to the sum of the individual payments otherwise payable to such producers without the deductions provided by paragraphs (b) (3) and (4) of this section: *Provided,* That deductions for supplies authorized by such producer may be made. The foregoing payment shall be made with respect to milk of each producer whom the cooperative association certifies is a member effective on and after the first day of the month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association.

(2) A copy of each such request, promise to reimburse and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion, through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination.

(d) In making the payments to producers pursuant to paragraph (b) of this section, each handler shall furnish each producer a supporting statement which shall show for each month the following:

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

(2) The total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to this part;

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

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

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

(e) In making payments to a cooperative association pursuant to paragraph (c) of this section, each handler shall furnish to such cooperative association a statement which shall show: (1) The identity of the handler and of the producer, (2) the total pounds and the average butterfat content of milk received from such producer, and (3) the amount of deductions claimed by such handler.

§ 946.81 *Producer butterfat differential.* In making payment to producers pursuant to § 946.80 (b) each handler shall add to the uniform price not less than, or subtract from the uniform price not more than, as the case may be, for each one-tenth of one percent that the average butterfat content of the milk received from the producer is above or below 3.8 percent, the amount set forth in the following schedule for the price range in which falls the Chicago butter price for the month during which such milk was received.

Butter price range (cents):	*Butterfat differential (cents)*
17.499 or less	2
17.50 to 22.499	2½
22.50 to 27.499	3
27.50 to 32.499	3½
32.50 to 37.499	4
37.50 to 42.499	4½
42.50 to 47.499	5
47.50 to 52.499	5½
52.50 to 57.499	6
57.50 to 62.499	6½
62.50 to 67.499	7
67.50 to 72.499	7½
72.50 to 77.499	8
77.50 to 82.499	8½
82.50 to 87.499	9
87.50 to 92.499	9½
92.50 and over	10

§ 946.82 *Location differential.* In making payments to producers pursuant to § 946.80 (b) a handler shall deduct from the uniform price, with respect to all milk received from producers at a country plant, not more than the appropriate zone differential provided in § 946.53.

§ 946.83 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 946.61, 946.84, and 946.86 and out of which he shall make all payments pursuant to §§ 946.85 and 946.86: *Provided,* That payments due any handler shall be offset by payments due from such handler.

§ 946.84 *Payments to the producer-settlement fund.* On or before the 15th day after the end of each month, each handler shall pay to the market administrator any amount by which the net obligation of such handler for the month is greater than an amount computed by multiplying the hundredweight of milk received by him from producers during the month by the uniform price adjusted for the producer butterfat and location differentials.

§ 946.85 *Payments out of the producer-settlement fund.* (a) On or before the 16th day after the end of each month, the market administrator shall pay to each handler for payment to producers any amount by which the net obligation of such handler for the month is less than an amount computed by multiplying the hundredweight of milk received by him from producers during the month by the uniform price adjusted for the producer butterfat differential: *Provided,* That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

(b) On or before the 16th day after the end of each of the months of September, October, November and December, the market administrator shall pay out of the producer-settlement fund to (1) each handler on all milk for which payment is to be made to producers pursuant to § 946.80 (b) for such month, and (2) to each cooperative association on all producer milk for which such association is receiving payments pursuant to § 946.80 (c) for such month at the following rate per hundredweight: Divide one-fourth of the aggregate amount set aside in the producer-settlement fund pursuant to § 946.71 (d) during the immediately preceding period of April

through July by the hundredweight of producer milk received by all handlers during the month (computed to the nearest cent per hundredweight).

§ 946.86 *Adjustment of accounts.* (a) Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever such verification discloses that payment is due from the market administrator to any handler, pursuant to § 946.85, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer for milk received by such handler discloses payment of less than is required by § 946.80, the handler shall pay any amount so due not later than the time of making payment to producers next following such disclosure.

(b) Overdue accounts: Any unpaid obligation of a handler or of the market administrator pursuant to §§ 946.80, 946.84, 946.85, 946.86 (a), 946.87 or 946.88 shall be increased one-half of one percent each month or fraction thereof, compounded monthly, until such obligation is paid.

§ 946.87 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers pursuant to § 946.80 (b), shall deduct 5 cents per hundredweight, or such amount not in excess thereof as the Secretary may prescribe with respect to all milk received by such handler from producers (other than such handler's own farm production) during the month and shall pay such deductions to the market administrator on or before the 15th day after the end of such month. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received from such producers and to provide such producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) Each cooperative association which is actually performing the services described in paragraph (a) of this section, as determined by the market administrator, may file with a handler a claim for authorized deductions from the payments otherwise due to its producer members for milk delivered to such handler. Such claim shall contain a list of the producers for whom such deductions apply, an agreement to indemnify the handler in the making of the deductions, and a certification that the association has an unterminated membership contract with each producer. In making payments to producers for milk received during the month, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, deductions in accordance with the association's claim and shall pay the amount deducted to the association within 15 days after the end of the month.

§ 946.88 *Expense of administration.* As his pro rata share of the expense of administration of this part, each handler shall pay to the market administrator, on or before the 15th day after the end of the month, 3.0 cents per hundredweight, or such amount to be not in excess thereof as the Secretary may prescribe with respect to all receipts by such handler during the month of (a) milk from producers (including such handler's own farm production), and (b) other source milk classified as Class I milk pursuant to § 946.46. Each cooperative association which is a handler shall pay such pro rata share of expense on only that milk of producers caused to be diverted by such cooperative association to a nonpool plant and milk received from producers at a pool plant of such cooperative association.

§ 946.89 *Termination of obligations.* The provisions of this section shall apply to any obligation under this part for the payment of money irrespective of when such obligation arose.

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

(1) The amount of the obligation;

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

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

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

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

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

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

§ 946.90 *Effective time.* The provisions of this part, or any amendment to this part, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated, pursuant to § 946.91.

§ 946.91 *Suspension or termination.* Any or all provisions of this part, or any amendment to this part, shall be suspended or terminated as to any or all handlers after such reasonable notice as the Secretary may give and shall in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

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

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

§ 946.93 *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions of this part, except §§ 946.34, 946.89, 946.91 through 946.93, the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's

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

MISCELLANEOUS PROVISIONS

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

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

Issued at Washington, D. C., this 27th day of September 1957, to be effective October 1, 1957.

[SEAL] DON PAARLBERG,
Assistant Secretary.

[F. R. Doc. 57-8098; Filed, Oct. 2, 1957; 8:54 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 6704]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

CERTIFIED SERVICE CO. ET AL.

Subpart—*Acquiring confidential information unfairly:* § 13.1 *Acquiring confidential information unfairly.* Subpart—*Misrepresenting one's self and goods*—Business status, advantages or connections: § 13.1425 *Government connection;* § 13.1490 *Nature, in general.* Subpart—*Using misleading name*—Vendor: § 13.2380 *Government connection;* § 13.2425 *Nature, in general.*

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, Louis Taran et al. doing business as Certified Service Co., etc.; et al., New York City and Washington, D. C., Docket 6704, Sept. 11, 1957]

In the Matter of Louis Taran and Martin Baron, Copartners Trading and Doing Business as Certified Service Co. and Employment Review Office; and Betty Scheewe, and Individual Trading and Doing Business as National Advertising Service

This proceeding was heard by a hearing examiner on the complaint of the Commission charging individuals conducting a collection agency, with offices in New York City and Washington, D. C., with representing that their firm was an agency of the United States Government through use of a form entitled "Employment Review Office, Washington, D. C.", mailed in Washington by their Washington agent in order to get current information concerning delinquent debtors.

Following approval of an agreement between the parties containing a consent order, the hearing examiner made his initial decision and order to cease and desist which became on September 11 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That Respondents Louis Taran and Martin Baron, copartners, trading and doing business under the names of Certified Service Co. and Employment Review Office, or under any other name, and Betty Scheewe, individually and trading under the name of National Advertising Service, or under any other name, jointly or severally, their representatives, agents and employees, directly or through any corporate or other device, in connection with the business of obtaining information concerning delinquent debtors, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using or placing in the hands of others for use, any form questionnaire or other material, printed or written, which do not clearly and expressly state that the purpose for which the information is requested is that of obtaining information concerning delinquent debtors;

2. Using the name "Employment Review Office" or any other words or phrase of similar import in connection with their business; or otherwise representing, directly or by implication, that requests for information concerning delinquent debtors are from the United States Government or any agency or branch thereof, or that their business is in any way connected with the United States Government.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That respondents Louis Taran and Martin Baron, copartners trading and doing business as Certified Service Co. and Employment Review Office; and Betty Scheewe, an individual trading and doing business as National Advertising Service, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: September 11, 1957.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 57-8131; Filed, Oct. 2, 1957; 8:50 a. m.]

[Docket 6745]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

MAXWELL DISTRIBUTING CO., INC., ET AL.

Subpart—*Advertising falsely or misleadingly:* § 13.155 *Prices:* Exaggerated as regular and customary; fictitious marking; § 13.235 *Source or origin:* Place: *Foreign, in general.* Subpart—*Misbranding or mislabeling:* § 13.1280 *Price;* § 13.1325 *Source or origin:* Place: *Foreign, in general.*

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, Maxwell Distributing Co., Inc. (Newark, N. J.), et al., Docket 6745, Sept. 5, 1957]

In the Matter of Maxwell Distributing Company, Inc., a Corporation; and Morris Siegel, Abe Goldberg, Selma Siegel, Hyman Greenglass and Max Greenglass, Individually and as Officers and Directors of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging sellers in Newark, N. J., of perfumes, toilet waters, and colognes with disseminating in commerce advertisements representing falsely that fictitious and excessive "list prices" were the usual retail prices and that their products were compounded in France, and with making the same false representations on the labeling of their products.

None of the respondents having filed answer or appeared at scheduled hearings, their defaults were entered of record by the hearing examiner, and hearing proceeded upon the evidence presented by the Commission's attorney. On this basis, the hearing examiner made his initial decision and order to cease and desist which was placed on the Commission's own docket for review, and after modification, became on September 5, the decision of the Commission.

The Commission's modified order to cease and desist is as follows:

It is ordered, That the respondents, Maxwell Distributing Company, Inc., a corporation, Morris Siegel, Abe Goldberg, Selma Siegel, Hyman Greenglass and Max Greenglass, individually and as officers and directors, or as officers, or as directors, of said corporation, and said respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of perfumes, toilet waters, colognes, or any other cosmetic, as "cosmetic" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Disseminating or causing to be disseminated, by means of the United States mails, or by any means in commerce as "commerce" is defined in the Federal Trade Commission Act, any advertisement for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of said products, which advertisement:

(a) Contains or lists prices or amounts when such prices or amounts are in

excess of the prices at which the products are usually and customarily sold at retail;

(b) Uses the statements or words "The fragrance created in France," "blended in the French tradition," "Paris-New York," "Perfume essence compounded in France expressly for Saravel" in connection with any product not manufactured or compounded in France; or which otherwise represents, directly or by implication, that any such product was manufactured or compounded in France;

(c) Uses any French name or word as a trade or brand name, or as a part thereof, or any name, word, term, or depiction indicative of French origin in connection with any product manufactured or compounded in the United States, unless it is clearly and conspicuously revealed in immediate connection and conjunction therewith that such product was manufactured or compounded in the United States.

2. Disseminating or causing to be disseminated, by any means, for the purpose or inducing or which is likely to induce, directly or indirectly, the purchase of said products in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations prohibited in paragraph 1 hereof.

It is further ordered, That said respondents and their agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of perfumes, toilet waters, colognes or any other cosmetic in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Setting out prices or amounts on the labels or in the labeling of their products when such amounts are in excess of the prices at which such products are usually and customarily sold at retail.

2. Using any French name or word as a trade or brand name, or as a part thereof, or the word "Paris", or the Tricolor of France, or any other name, word, term, or depiction indicative of French origin on the label or in the labeling of any product manufactured or compounded in the United States, unless it is clearly and conspicuously revealed in immediate connection and conjunction therewith that such product was manufactured or compounded in the United States.

It is further ordered, That the initial decision of the hearing examiner, as modified herein, did on the 5th day of September become the decision of the Commission.

By "Order Modifying Initial Decision and Directing Report of Compliance", report of compliance was required as follows:

It is further ordered, That the respondents, Maxwell Distributing Company, Inc., Morris Siegel, Abe Goldberg, Selma Siegel, Hyman Greenglass and Max Greenglass, shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the terms of said order.

Issued: September 6, 1957.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F. R. Doc. 57-8132; Filed, Oct. 2, 1957; 8:51 a. m.]

[Docket 6622]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

VELOX SERVICE, INC., ET AL.

Subpart—*Advertising falsely or misleadingly:* § 13.15 *Business status, advantages, or connections:* Producer status of dealer or seller: *Manufacturer;* § 13.155 *Prices:* Usual as reduced, special, etc.; § 13.170 *Qualities or properties of product or service;* § 13.175 *Quality of product or service.*

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, Velox Service, Inc., et al., New York, N. Y., Docket 6622, Sept. 10, 1957]

In the Matter of Velox Service, Inc., a Corporation, Caesar Torelli and Nelson Torelli, as Officers of Said Corporation, and Caesar Torelli, Nelson Torelli, Charles Torelli, Hilda Torelli, Alice Jean Torelli, and Marie A. Thoresen, Individually and as Copartners

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a New York City family enterprise, operating under many trade names, with misrepresenting in advertising the quality, properties, regular prices, etc., of a wide variety of merchandise it sold by mail order, and representing falsely that it operated its own factories.

Following an agreement between the parties providing for entry of a consent order, the hearing examiner made his initial decision and order to cease and desist which became on September 10, 1957, the decision of the Commission. Certain charges of the complaint were dismissed for lack of proof.

The order to cease and desist is as follows:

It is ordered, That respondents Velox Service, Inc., a corporation, and its officers, and Caesar Torelli and Nelson Torelli, as individuals and as officers of said corporate respondent, and Charles Torelli, Hilda Torelli, Alice Jean Torelli, and Marie A. Thoresen, as individuals, or any of the aforesaid individuals as individuals, or as copartners trading and doing business as Thoresen's Direct Sales, Consumers Mart, The International Binocular Company, Thoresen's, The Honor Company, the Rocket Wholesale Company, Moto-Matic Company, Trans-Kleer Co., or under any other trade name and respondents' agents, representatives, and employees, directly or through any corporate or other device, in the advertising for sale, offering for sale, sale or distribution of binoculars, watches, dolls, plastic storm windows, automobile seat covers or other articles of general merchandise, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from directly or indirectly, representing either through words or pictorial depictions that:

1. (a) A higher proportion of the air-to-glass lens surfaces of binoculars or other optical instruments are coated or treated to increase the passage of light through the lens than are in fact so coated or treated.

(b) The power of binoculars or other optical instruments is greater than the actual power thereof.

(c) Leather carrying cases for binoculars or other optical instruments or similar kinds of products are of a finer or more valuable grade, quality, design or workmanship than they are in fact.

(d) Watches or watch cases are moisture resistant when such is not the fact.

(e) A watch movement containing less than 7 jewels, each of which serves a mechanical purpose as a frictional bearing is a jewelled movement.

(f) The finish of watch cases or jewelry is of a designated karat fineness of gold unless the gold contained therein is in fact of the stated karat fineness or that said finish is rolled gold plate unless applied in the manner and to the thickness characteristic of gold plate or otherwise representing that said finish is other than what it is in fact.

(g) Dolls or similar products are made of a material having a skin-like texture and softness unless such is the fact or otherwise misrepresenting the characteristics and composition of such material.

(h) Doll clothing or similar products is of a finer or more valuable grade, quality, design or workmanship than it is in fact.

(i) The fabric, thread or other materials used in the manufacture of automobile seat covers or similar kinds of products are of a grade, weight, composition or otherwise different from that actually used therein.

(j) Automobile seat covers or similar kinds of products will not tear or will wear for a longer period of time under normal usage than is the fact.

(k) The fabric of automobile seat covers or the fabric contained in other products has been preshrunk or preshrunk by a particular process or will not shrink more than a designated amount when such is not the fact.

(l) Plastic storm windows or other products will withstand blows or forces of greater violence than they will in fact so withstand.

(m) The material for plastic storm windows or other products was developed by a designated person, firm or corporation which did not in fact develop said product or that said product was developed for the use of governmental or private organization when such is not the fact.

(n) Binoculars or other optical instruments have a prismatic optical system or any other kind of optical system unless such optical system is actually used in the construction thereof.

2. (a) The price at which the aforesaid or other articles of merchandise are advertised for sale, offered for sale or sold by respondents is a reduced price unless

such price is in fact a reduction from the price at which respondents have advertised, offered or sold said articles of merchandise in the recent regular course of their business.

(b) The aforesaid or other articles of merchandise advertised, offered or sold by respondents have a retail selling price in excess of the retail selling price of similar articles of merchandise of like grade, quality, design and workmanship advertised for sale, offered for sale and regularly selling or having been sold, contemporaneously, in the same general trade area as that supplied by respondents, by other persons, firms, or corporations engaged in the same kind of business.

(c) The price at which the aforesaid or other articles of merchandise are advertised, offered, or sold by respondents affords a saving to the purchaser where said price constitutes respondents' regular retail selling price.

3. Respondents own, operate or control a factory, plant or manufacturing establishment wherein are manufactured the articles of merchandise advertised for sale, or sold by them unless and until respondents shall in fact own, operate or control such a manufacturing establishment, or that the nature of respondents business operations are other than what they are in fact.

It is further ordered, That the complaint be, and the same hereby is, dismissed as to those charges relating to the misuse of the terms "Completely shock resistant" and "anti magnetic" with respect to watches and the terms "importer" and "wholesaler" with respect to respondents' business status.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is further ordered, That the respondents, Velox Service, Inc., a corporation, and Caesar Torelli and Nelson Torelli, individually and as officers of said corporation, and Charles Torelli, Hilda Torelli, Alice Jean Torelli, and Marie A. Thoresen, shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist contained in said initial decision.

Issued: September 10, 1957.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F. R. Doc. 57-8133; Filed, Oct. 2, 1957; 8:51 a. m.]

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State

[Dept. Reg. 108.332]

PART 42—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT

MISCELLANEOUS AMENDMENTS

Part 42, Chapter I, Title 22 of the Code of Federal Regulations, is hereby amended in the following respects:

1. Subdivision (iii) of subparagraph (2) of paragraph (a) of § 42.28 *Suspension or termination of action in petition cases* is amended to read as follows:

(iii) The beneficiary is an alien who has been granted the status of a preference quota immigrant under the provisions of section 203 (a) (1) (A) of the act, and has not obtained an immigrant visa under the status approved on or prior to the expiration date shown on the approved petition. Any such petition which is terminated by the expiration of the period for which approval was given is subject to reaffirmation by the Attorney General for an additional period and is to be returned to the office of the Immigration and Naturalization Service which approved the petition with an appropriate explanation at such time as it appears that a quota number will be available within six months for the issuance of an immigrant visa to the beneficiary.

2. Subparagraph (4) of paragraph (a) of § 42.28 *Suspension or termination of action in petition cases* is amended to read as follows:

(4) Approval of a petition for nonquota or preference quota status has been specifically revoked by the Attorney General, and notice of revocation has been communicated to the appropriate consular officer.

3. Paragraph (b) of § 42.28 *Suspension or termination of action in petition cases* is amended to read as follows:

(b) In suspending or terminating action in a petition case for any reason specified in this section, consular officers need not report such suspension or termination to the Department except in a case in which the consular officer knows or has reason to believe that the petition was approved erroneously, or that approval was obtained by fraud, misrepresentation, or other unlawful means.

4. Paragraph (b) *Exceptions* of § 42.36 *Passport requirement for immigrants* is amended to read as follows:

(b) *Exceptions.* An immigrant within any of the following categories shall not be required to present a passport in applying for an immigrant visa:

(1) An immigrant who is a stateless person;

(2) An immigrant who is a national of, and is applying for an immigrant visa outside of, a Communist-controlled country, and who, because of his opposition to Communism, is unwilling to make application for a passport to, or unable to obtain a passport from, the government of such country;

(3) An immigrant lawfully admitted for permanent residence, who is returning to the United States from a temporary visit abroad;

(4) An immigrant who is a member of the Armed Forces of the United States;

(5) An immigrant who is the parent, spouse, or unmarried son or daughter under twenty-one years of age, of a United States citizen;

(6) An immigrant who is the spouse or unmarried son or daughter under twenty-one years of age of an alien lawfully admitted for permanent residence;

(7) An immigrant who is qualified for and eligible to receive a first preference quota visa, unless such immigrant is applying for a visa in the country of which he is a national and the possession of a passport is required for departure from such country;

(8) An immigrant who has been preexamined in the United States by the Immigration and Naturalization Service and who is applying for an immigrant visa in Canada;

(9) An immigrant who establishes that he is unable to obtain a passport, who is not within any of the categories specified in the paragraph, and in whose case the passport requirement imposed by this section or by the regulations of the Attorney General shall have been waived by the Attorney General and the Secretary of State, as evidenced by a specific instruction from the Department to the consular officer.

5. Paragraph (d) *Disposition fingerprints* of § 42.38 is revoked.

6. Paragraph (e) of § 42.49 *Transfer of cases* is amended to read as follows:

(c) The transfer of a case shall include any authorization to grant nonquota or preference quota status based upon an approved petition, the alien's registration priority, and all documents in the alien's file.

(Sec. 104, 66 Stat. 174; 8 U. S. C. 1104)

The regulations contained in this order shall become effective upon publication in the FEDERAL REGISTER. The provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) relative to notice of proposed rule making and delayed effective date are inapplicable to this order because the provisions thereof involve foreign affairs functions of the United States.

RODERIC L. O'CONNOR,
Administrator,
Bureau of Security
and Consular Affairs.

SEPTEMBER 23, 1957.

[F. R. Doc. 57-8120; Filed, Oct. 2, 1957; 8:48 a. m.]

TITLE 21—FOOD AND DRUGS

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

Subchapter C—Drugs

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

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

MISCELLANEOUS AMENDMENTS

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; sec. 701, 52 Stat. 1055, as amended; 21 U. S. C. 357, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (22 F. R. 1045), the regulations

for tests and methods of assay and certification of penicillin and penicillin-containing drugs (21 CFR Parts 141a, 146a; 22 F. R. 1036, 3108, 6094) are amended as indicated below:

1. Section 141a.39 is amended in the following respects:

a. The section headnote is changed to read as follows: "§ 141a.39 *Penicillin-streptomycin; penicillin-dihydrostreptomycin.*"

b. Paragraph (a) *Potency* is amended by renumbering subparagraphs (4) and (5) as (6) and (7), respectively, and inserting new subparagraphs (4) and (5), reading as follows, between subparagraph (3) and renumbered subparagraph (6):

(4) *1-Ephenamine penicillin G content.* Proceed as directed in § 141a.43 (a). The *1*-ephenamine penicillin G content is satisfactory if it contains not less than 85 percent of the number of units that it is represented to contain.

(5) *Diethylaminoethyl ester penicillin G hydriodide content.* Proceed as directed in § 141a.51 (a), except that in the iodometric assay one drop of 1.2 *N* HCl is added to the blank immediately before the addition of the 0.01 *N* I_2. The diethylaminoethyl ester penicillin G hydriodid content is satisfactory if it contains not less than 85 percent of the number of units that it is represented to contain.

2. Section 146a.58 is amended in the following respects:

a. The section headnote and paragraph (a) are changed to read as follows:

§ 146a.58 *Penicillin-streptomycin; penicillin - dihydrostreptomycin* — (a) *Standards of identity, strength, quality, and purity.* Penicillin-streptomycin and penicillin-dihydrostreptomycin are procaine penicillin, crystalline sodium penicillin, potassium penicillin, *1*-ephenamine penicillin G, or diethylaminoethyl ester penicillin G hydriodid (if intended solely for veterinary use and conspicuously so labeled) or a mixture of two or more such salts and streptomycin sulfate or dihydrostreptomycin sulfate, with or without suitable and harmless buffer substances and suspending or dispersing agents. Each drug is sterile, nontoxic, and nonpyrogenic. Its moisture content is not more than 3.5 percent, except if it contains procaine penicillin its moisture content is not more than 4.2 percent. When prepared for injection as directed in its labeling, its pH is not less than 5.0 and not more than 7.5. The penicillin used conforms to the requirements of § 146a.24 (a), § 146a.44 (a), § 146a.64 (a), or § 146a.74 (a). The streptomycin sulfate used conforms to the requirements prescribed for streptomycin sulfate by § 146b.101 (a) of this chapter. The dihydrostreptomycin sulfate used conforms to the requirements prescribed for dihydrostreptomycin sulfate by § 146b.103 of this chapter. Each other substance used, if its name is recognized in the U. S. P. or N. F., conforms to the standards prescribed therefor by such official compendium.

b. Paragraph (c) (1) (iv) and (v) are amended to read as follows:

(c) *Labeling.* * * *

(1) * * *

(iv) The statement "Expiration date ———," the blank being filled in with the date that is 48 months after the month in which the batch was certified, except that the blank may be filled in with the date that is 60 months after the month during which the batch was certified if the person who requests certification has submitted to the Commissioner results of tests and assays showing that after having been stored for such period of time such drug as prepared by him complies with the standards prescribed by paragraph (a) of this section, and except that in no case shall the blank be filled in with the date that is more than 24 months after the month in which the batch was certified if it contains diethylaminoethyl ester penicillin G hydriodide: *Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;

(v) The statement "For intramuscular use only"; if it contains diethylaminoethyl penicillin G hydriodide, the statement "For veterinary use only"; and

c. In paragraph (d) *Request for certification; samples,* subparagraph (2) is amended by renumbering subdivision (v) as (vi) and inserting a new subdivision (v), reading as follows, between subdivision (iv) and renumbered subdivision (vi):

(v) The diethylaminoethyl ester penicillin G hydriodide used in making the batch; potency, crystallinity, and penicillin G content.

d. Paragraph (d) (3) is amended by renumbering subdivisions (v) and (vi) as (vi) and (vii), respectively, and inserting a new subdivision (v), reading as follows, between subdivision (iv) and renumbered subdivision (vi):

(v) The diethylaminoethyl ester penicillin G hydriodide used in making the batch; 3 packages containing approximately equal portions of not less than 0.5 gram each, packaged in accordance with § 146a.74 (b).

e. Paragraph (d) (5) is changed to read as follows:

(5) No result referred to in subparagraph (2) (ii), (iii), (iv), (v), and (vi) of this paragraph and no samples referred to in subparagraph (3) (ii), (iii), (iv), (vi), and (vii) of this paragraph are required if such result or sample has been previously submitted.

f. Paragraph (e) (1) is amended to read as follows:

(e) *Fees.* * * *

(1) $4.00 for each immediate container in the samples submitted in accordance with paragraph (d) (3) (ii), (iii), (iv), (v), (vi), and (vii) of this section; $5.00 for each immediate container submitted in accordance with paragraph (d) (3) (i) (*a*) and (4) (i) of this section; $10.00 for all immediate containers submitted in accordance with paragraph (d) (3) (i) (*b*) and (d) (4) (ii) of this section.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industry and since it would be against public interest to delay providing for these amendments.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371. Interpret or apply sec. 507, 59 Stat. 463 as amended; 21 U. S. C. 357)

Dated: September 27, 1957.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F. R. Doc. 57-8112; Filed, Oct. 2, 1957; 8:46 a. m.]

PART 146—GENERAL REGULATIONS FOR THE CERTIFICATION OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

ANIMAL FEED CONTAINING ANTIBIOTIC DRUGS

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (Sec. 507, 59 Stat. 463, as amended; sec. 701, 52 Stat. 1055, as amended; 21 U. S. C. 357, 371) and delegated to the Commisioner of Food and Drugs by the Secretary (22 F. R. 1045), the general regulations for the certification of antibiotic and antibiotic-containing drugs (21 CFR, 1956 Supp., 146.26; 22 F. R. 6993) are amended as follows:

Section 146.26 (b) is amended by adding the following new subparagraph:

§ 146.26 *Animal feed containing penicillin.* * * *

(b) * * *

(33) It is intended for use as an aid in reducing the incidence and severity of bloat in cattle on legume pastures; it contains a quantity of procaine penicillin that, when used as directed in the labeling, is sufficient to furnish each treated bovine animal not less than 75,000 units as a single daily dose; and, if the drug supplement used to prepare the medicated feed contains more than 2 percent moisture, its manufacturer has submitted to the Commissioner information adequate to prove its stability for 6 months under customary conditions of purchase and use.

In § 146.26 (b) (32), as printed in the FEDERAL REGISTER of August 30, 1957 (22 F. R. 6993), the second clause is corrected to read as follows: "* * *; it contains, per pound of feed, 6,000 units (equivalent to 6 milligrams) of hygromycin B (produced by the growth of Streptomyces hygroscopicus); * * *".

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industry, since it relaxes certain requirements, and since it would be against public interest to delay publication of this amendment.

I further find that animal feeds containing penicillin and conforming with

the conditions prescribed in this order need not comply with the requirements of sections 502 (1) and 507 of the Federal Food, Drug, and Cosmetic Act in order to ensure their safety and efficacy.

Effective date. This order shall become effective upon publication in the FEDERAL REGISTER.

(Sec. 701, 52 Stat. 1055, as amended; 21 U. S. C. 371. Interpret or apply sec. 502, 52 Stat. 1050, as amended, sec. 507, 59 Stat. 463, as amended; 21 U. S. C. 352, 357)

Dated: September 26, 1957.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F. R. Doc. 57-8111; Filed, Oct. 2, 1957; 8:46 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix—Public Land Orders

[Public Land Order 1515]

RESERVING LANDS WITHIN NATIONAL FORESTS IN NEW MEXICO AND WYOMING FOR USE OF FOREST SERVICE AS ADMINISTRATIVE SITES AND RECREATION AREAS

By virtue of the authority vested in the President by the act of June 4, 1897 (30 Stat. 34, 36; 16 U. S. C. 473) and otherwise, and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Subject to valid existing rights, the following-described public lands within the national forests indicated are hereby withdrawn from all forms of appropriation under the public land laws, including the mining, but not the mineral leasing laws, or the act of July 31, 1947 (61 Stat. 681; 69 Stat. 367; 30 U. S. C. 601-604) as amended, and reserved for use of the Forest Service, Department of Agriculture, as administrative sites and recreation areas:

NEW MEXICO

[022486]

NEW MEXICO PRINCIPAL MERIDIAN—SANTA FE NATIONAL FOREST

Horseshoe Springs Recreation Area

T. 19 N., R. 3 E.,
Sec. 18, E½NE¼NE¼, E½W½NE¼NE¼, SE¼NE¼, SE¼NE¼SW¼NE¼, E½SE¼SW¼NE¼, SW¼SE¼SW¼NE¼, NE¼SE¼, NE¼SE¼NW¼SE¼, NW¼NE¼NW¼SE¼, and E½NE¼NW¼SE¼;
Sec. 17, NW¼NW¼NW¼, and SW¼NW¼NW¼.
The areas described aggregate 150 acres.

Paliza Recreation Area

T. 17 N., R. 3 E.,
Sec. 9, SE¼SE¼, less area in Exchange Survey 517;
Sec. 10, W½SW¼, less area in Exchange Survey 517;
Sec. 15, W½NW¼, less area in Exchange Survey 517;
Sec. 16, S½SW¼, NE¼SW¼, N½SE¼, SW¼NE¼, and E½NE¼, less area in Exchange Survey 517;
Sec. 21, lots 3 and 4.
The areas described aggregate approximately 543.28 acres.

Bland Administrative Site

T. 18 N., R. 4 E.,
Sec. 25, SE¼SW¼SE¼NW¼, SW¼SE¼SE¼NW¼, NE¼NW¼NE¼SW¼, and NW¼NE¼NE¼SW¼, less area in Mineral Survey 943.
The areas described aggregate approximately 7 acres.

La Cueva Administrative Site

T. 19 N., R. 3 E.,
Sec. 20, lots 7 and 8.
The areas described aggregate 65.49 acres.

Bear Springs Administrative Site

T. 17 N., R. 4 E.,
Sec. 29, S½ of lot 3, and lot 4, NE¼SW¼SW¼, N½SE¼SW¼, SE¼SE¼SW¼, W½SW¼SE¼.
The areas described aggregate 130 acres.

Borrego Ranger Station Administrative Site

T. 21 N., R. 11 E.,
Sec. 32, SE¼.
The area described contains 160 acres.

Cerro Pelado Lookout

T. 18 N., R. 4 E.,
Sec. 19, NE¼ (unsurveyed).
The area described contains 160 acres.

Las Conchas Administrative Site

T. 18 N., R. 4 E.,
Sec. 3, lots 16 and 27.
The areas described aggregate 59.89 acres.

San Geronimo Administrative Site

T. 16 N., R. 14 E.,
Sec. 27, lots 1, 2, 6, 7 and 8.
The areas described aggregate 112.03 acres.

Sulphur Flat Administrative Site

T. 19 N., R. 3 E.,
Sec. 16, lots 1, 2. and SW¼.
The areas described aggregate 223.85 acres.

WYOMING

[031321]

SIXTH PRINCIPAL MERIDIAN—BLACK HILLS NATIONAL FOREST

Cook Lake Campground

T. 53 N., R. 63 W.,
Sec. 10, S½NE¼SW¼, N½SE¼SW¼.
The areas described aggregate 40 acres.

Reuter Canyon Picnic Ground

T. 52 N., R. 63 W.,
Sec. 33, lot 4.
The area described contains 46.70 acres.

This order shall take precedence over but not otherwise affect the existing reservation of the lands for national forest purposes.

ROGER ERNST,
Assistant Secretary of the Interior.

SEPTEMBER 27, 1957.

[F. R. Doc. 57-8113; Filed, Oct. 2, 1957; 8:46 a. m.]

[Public Land Order 1516]

ALASKA

WITHDRAWING PUBLIC LANDS FOR USE OF BUREAU OF PUBLIC ROADS AS ADMINISTRATIVE SITES

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Subject to valid existing rights the following-described public lands in Alaska are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and reserved for use of the Bureau of Public Roads, Department of Commerce, as administrative sites:

Anchorage 031692

Beginning at a point from which the point on the center line at the west end of Susitna River Bridge latitude 63°07′ N., longitude 147°31′ W., bears S. 8°22′45″ E., 13,076 feet, thence
West, 990 feet.
North, 990 feet.
East, 1,514.13 feet, to the center line of the Denali Highway.
S. 20°12′ W., 1,054.9 feet, along the center line of said highway:
West, 159.83 feet to point of beginning.

The tract described contains 30.27 acres.

Anchorage 031803

Beginning at Corner No. 2, U. S. Survey No. 3194, thence
N. 75°55′ E., 462 feet along the Naknek-King Salmon Highway;
N. 0°03′ W., 990 feet to the east west center line of unsurveyed Sec. 2, T. 17 N., R. 47 W., S. M.;
West, 469 feet along said center line of Sec. 2;
Southerly, 1,122 feet to corner 2, USS 3194, the point of beginning.

The tract described contains 11.10 acres, and subsequently will be identified as lot 7, U. S. Survey No. 3513.

Anchorage 032961

A parcel of land located at latitude 62°42′ 30″ N., longitude 144°0′00″ W., in vicinity of Slana, Alaska, described as follows:
Beginning at corner No. 2, U. S. Survey No. 2059, thence
West, 150 feet;
North, 982.75 feet;
S. 50°37′30″ E., 776.19 feet;
South, 490.57 feet;
West, 450 feet to point of beginning.

The tract described contains 10.15 acres.

ROGER ERNST,
Assistant Secretary of the Interior.

SEPTEMBER 27, 1957.

[F. R. Doc. 57-8114; Filed, Oct. 2, 1957; 8:47 a. m.]

[Public Land Order 1517]

[1856325]

ARKANSAS

REVOKING EXECUTIVE ORDER NO. 8708 OF MARCH 10, 1941, WHICH RESERVED CERTAIN LANDS IN CONNECTION WITH INDEPENDENCE COUNTY WILDLIFE REFUGE

By virtue of the authority vested in the President by section 1 of the act of June 25, 1910 (36 Stat. 847; 43 U. S. C. 141) and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

1. Executive Order No. 8708 of March 10, 1941, reserving the following-described lands in Arkansas under the jurisdiction of the Department of the Interior for use of the Game and Fish Commission of the State of Arkansas in connection with the Independence

County Wildlife Refuge, is hereby revoked:

FIFTH PRINCIPAL MERIDIAN

T. 12 N., R. 7 W.,
Sec. 7, SW¼SE¼;
Sec. 8, W½NE¼ and SE¼SE¼;
Sec. 9, SE¼NE¼, S½SW¼, and NE¼SE¼;
Sec. 10, S½NW¼;
Sec. 14, SE¼NW¼ and NE¼SW¼;
Sec. 17, NW¼NW¼ and E½SE¼;
Sec. 21, S½NE¼, W½NW¼, and SE¼NW¼;
Sec. 27, NE¼SW¼;
Sec. 28, SW¼NW¼ and NW¼SW¼;
Sec. 29, SW¼NE¼;
Sec. 33, NE¼NW¼.

The areas described aggregate approximately 1,008.29 acres.

2. The following-described lands have been patented without a reservation of minerals to the United States:

FIFTH PRINCIPAL MERIDIAN

T. 12 N., R. 7 W.,
Sec. 8, W½NE¼.

The areas described aggregate 80 acres.

3. The remaining lands, aggregating approximately 928.29 acres, are located in a rugged, hilly portion of southwest Independence County, Arkansas. They are located on either side of, or across a steep rocky dry gorge. The lands support a scattered to medium stand of pine-hardwoods of low to fair quality. No portion of the restored lands is suitable for cultivation.

4. No application for the restored lands may be allowed under the homestead, small tract, or any other nonmineral public-land law unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon the consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

5. Subject to any valid existing rights and the requirements of applicable law, the lands are hereby opened to filing of applications, selections, and location in accordance with the following:

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

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

(2) All valid applications under the Homestead and Small Tract Laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279–284) as amended, presented prior to 10:00 a. m., on November 2, 1957, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a. m., on February 1, 1958, will be governed by the time of filing.

(3) All valid appplications and selections under the nonmineral public-land laws, other than those coming under paragraphs 5 (a) (1) and (2) above, presented prior to 10:00 a. m., on February 1, 1958, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

b. The lands have been open to applications and offers under the mineral-leasing laws and to location for metalliferous minerals. They will be open to location for non-metalliferous minerals under the United States mining laws beginning at 10:00 a. m., on February 1, 1958.

6. Persons claiming veterans preference rights under paragraph 5 (a) (2) above, must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries concerning the lands shall be addressed to the Eastern States Supervisor, Bureau of Land Management, Washington 25, D. C.

ROGER ERNST,
Assistant Secretary of the Interior.

SEPTEMBER 27, 1957.

[F. R. Doc. 57–8115; Filed, Oct. 2, 1957; 8:47 a. m.]

[Public Land Order 1518]

[BLM—044364]

WISCONSIN

WITHDRAWING LANDS FOR DEPARTMENT OF THE ARMY FOR MILITARY PURPOSES IN CONNECTION WITH CAMP MCCOY

By virtue of the authority vested in the President, and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Subject to valid existing rights the following-described public lands in Wisconsin are hereby withdrawn from all forms of appropriation under the public-land laws, including leasing under the mineral-leasing laws, and reserved for use of the Department of the Army for military purposes:

FOURTH PRINCIPAL MERIDIAN

T. 18 N., R. 3 W.,
Sec. 24, NE¼SE¼.

The area described aggregates 40 acres.

It is the intent of this order that the withdrawn minerals in the land shall remain under the jurisdiction of the Department of the Interior, and no disposition shall be made of such minerals except under the applicable mineral-leasing laws, and then only after such modification of the provisions of this order as may be necessary to permit such leasing.

ROGER ERNST,
Assistant Secretary of the Interior.

SEPTEMBER 27, 1957.

[F. R. Doc. 57–8116; Filed, Oct. 2, 1957; 8:48 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 11677]

PART 3—RADIO BROADCAST SERVICES

INDICATING INSTRUMENTS; SPECIFICATIONS

1. The report and order in the above entitled matter which was adopted September 11, 1957 (FCC 57–1015) requires clarification as to the place where the remote antenna ammeter should be connected in the antenna circuit.

2. Accordingly, the word "after" in § 3.39 (d) (1) (vii), and (2), is changed to "below (transmitter side)" and the expression "(antenna side)" is added after the word "above" in § 3.93 (d) (3).

3. As revised, § 3.39 (d) (1) (vii), (2) and (3) reads as follows:

(vii) Using indications of remote control equipment provided that the indicating instruments are capable of being connected directly into the antenna circuit at the same point as, but below (transmitter side), the antenna ammeter. The meter(s) in the remote control equipment may utilize an arbitrary scale division provided a calibration curve showing the relationship between the arbitrary scale and the scale of the antenna ammeter is maintained at the remote control point. The meter(s) in the remote control equipment must be calibrated once a week against the regular meter and the results thereof entered in the operating log.

(2) Remote ammeters shall be connected into the antenna circuit at the same point as, but below (transmitter side), the antenna ammeter(s), and shall be calibrated to indicate within 2 percent of the regular meter over the entire range above one-third or one-fifth full scale. See paragraphs (b) (1) (i), (iii) and (b) (2) (i), (iii) of this section.

(3) The regular antenna ammeter, common point ammeter, or base current ammeters shall be above (antenna side) the coupling to the remote meters in the antenna circuit so they do not read the current to ground through the remote meter(s).

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

Released: September 27, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57–8141; Filed, Oct. 2, 1957; 8:53 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Commodity Stabilization Service

[7 CFR Part 730]

RICE

NOTICE OF DETERMINATIONS TO BE MADE WITH RESPECT TO MARKETING QUOTAS, NATIONAL, STATE, AND COUNTY ACREAGE ALLOTMENTS AND COUNTY NORMAL YIELDS FOR THE 1958 CROP OF RICE

Pursuant to the authority contained in applicable provisions of the Agricultural Adjustment Act of 1938, as amended (7 U. S. C. 1301, 1352, 1353, 1354), the Secretary of Agriculture is preparing to determine whether marketing quotas are required to be proclaimed for the 1958 crop of rice, to determine and proclaim the national acreage allotment for the 1958 crop of rice, to apportion among States and counties the national acreage allotment for the 1958 crop of rice, and to establish county normal yields for the 1958 crop of rice.

Section 354 of the act provides that whenever in the calendar year 1957 the Secretary determines that the total supply of rice for the 1957–58 marketing year will exceed the normal supply for such marketing year by more than 10 per centum, the Secretary shall, not later than December 31, 1957, proclaim such fact and marketing quotas shall be in effect for the crop of rice produced in 1958.

Section 352 of the act, as amended, provides that the national acreage allotment of rice for any calendar year shall be that acreage which the Secretary determines will, on the basis of the national average yield of rice for the five calendar years immediately preceding the calendar year for which such national acreage allotment is determined, produce an amount of rice adequate, together with the estimated carry-over from the marketing year ending in such calendar year, to make available a supply for the marketing year commencing in such calendar year not less than the normal supply. Section 353 (c) (6) of the act, as amended, provides that the national acreage allotment of rice for 1958 shall not be less than the national acreage allotment for 1956, including the 13,512 acres apportioned to States pursuant to paragraph (5) of section 353 (c) of the act. Under this provision, the national acreage allotment of rice for 1958 will be not less than 1,652,596 acres. The Secretary is required under this section of the act to proclaim such national acreage allotment not later than December 31, 1957.

As defined in section 301 of the act, for purposes of these determinations, "total supply" for any marketing year is the carry-over of rice for such marketing year, plus the estimated production of rice in the United States during the calendar year in which such marketing year begins and the estimated imports of rice into the United States during such marketing year; "normal supply" for any marketing year is the estimated domestic consumption of rice for the marketing year ending immediately prior to the marketing year for which normal supply is being determined, plus the estimated exports of rice for the marketing year for which normal supply is being determined, plus 10 per centum of such consumption and exports, with adjustments for current trends in consumption and for unusual conditions as deemed necessary; and "marketing year" for rice is the period August 1–July 31.

Subsections (a) and (c) (6) of section 353 of the act require that the national acreage allotment of rice for the 1958 crop, less a reserve of not to exceed one per centum thereof for apportionment to farms receiving inadequate allotments because of insufficient State or county allotments or because rice was not planted on the farm during all the years of the base period, be apportioned among the several States in which rice is produced in the same proportion that they shared in the total acreage allotted to States in 1956 (State acreage allotments plus the additional acreage allocated to States under section 353 (c) (5) of the act, as amended). Section 353 (b) of the act requires that the State acreage allotment of rice for the 1958 crop, less a reserve not to exceed three per centum thereof for apportionment to farms operated by persons who will produce rice in 1958, but who did not produce rice in any one of the preceding five years, be apportioned to farms owned or operated by persons who have produced rice in any one of the five calendar years, 1953 through 1957, on the basis of past production of rice in the State by the producer on the farm taking into consideration the acreage allotments previously established in the State for such owners or operators; abnormal conditions affecting acreage; land, labor, and equipment available for the production of rice; crop-rotation practices; and the soil and other physical factors affecting the production of rice. Provision is made that if the State Committee recommends such action and the Secretary determines such action will facilitate the effective administration of the act, he may provide for the apportionment of the State acreage allotment to farms on which rice has been produced during any one of such period of years on the basis of the foregoing factors, using past production of rice on the farm and the acreage allotments previously established for the farm in lieu of past production of rice by the producer and the acreage allotments previously established for such owners or operators.

Section 353 (c) of the act provides that if farm acreage allotments are established by using past production of rice on the farm and the acreage allotments previously established for the farm in lieu of past production of rice by the producer and the acreage allotments previously established for owners or operators, the State acreage allotment shall be apportioned among counties in the State on the same basis as the national acreage allotment is apportioned among the States and the county allotments shall be apportioned to farms on the basis of applicable factors set forth in subsection (b) of section 353.

Section 301 (b) (13) (D) of the act provides that the "normal yield" of rice for 1958 for any county shall be the average yield per acre of rice for the county during the five calendar years 1953 through 1957 adjusted for abnormal weather conditions and trends in yields. Provision is made therein that if for any such year data are not available, or there is no actual yield, an appraised yield for such year, determined in accordance with regulations of the Secretary, taking into consideration the yields obtained in surrounding counties during such year and the yield in years for which data are available, shall be used as the actual yield for such year.

Section 301 (b) (13) (F) of the act provides that if on account of drought, flood, insect pests, plant disease, or other uncontrollable natural cause, the yield for any county for any year during the years 1953 through 1957 is less than 75 per centum of the average 75 per centum of such average shall be substituted therefor in calculating the normal yield per acre; and if on account of abnormally favorable weather conditions, the yield for any county for any year during the years 1953 through 1957 is in excess of 125 per centum of the average, 125 per centum of such average shall be substituted therefor in calculating the normal yield per acre.

Section 377 of the act provides that in any case in which the acreage planted to rice on any farm in 1958 is less than the 1958 rice acreage allotment for the farm, the entire acreage allotment for such farm shall be considered for purposes of future State, county, and farm acreage allotments to have been planted to rice in 1958. Provision is made therein that if the amount of rice required to be stored to postpone or avoid payment of penalty has been reduced because the 1958 rice acreage allotment for the farm was not fully planted, the owner or operator of the farm will not be permitted to preserve such allotment.

Sections 106 and 112 of the Soil Bank Act provide that the acreage on any farm which is determined to have been diverted from the production of rice under the 1957 acreage reserve or conservation reserve program shall be considered as rice acreage for the purpose of establishing 1958 farm, county, and State acreage allotments under the Agricultural Adjustment Act of 1938, as amended.

Prior to making any of the foregoing determinations with respect to marketing quotas and national, State, and county acreage allotments and county normal yields for the 1958 crop of rice, including the sizes of the national and State reserves, consideration will be given to data, views, and recommendations pertaining thereto which are sub-

mitted in writing to the Director, Grain Division, Commodity Stabilization Service, United States Department of Agriculture, Washington 25, D. C. All written submissions must be postmarked not later than fifteen days after the date of publication of this notice in the FEDERAL REGISTER.

Issued at Washington, D. C., this 27th day of September 1957.

[SEAL] WALTER C. BERGER,
Administrator.

[F. R. Doc. 57-8153; Filed, Oct. 2, 1957; 8:55 a. m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

PHOENIX LIVESTOCK AUCTION CO.

PROPOSED POSTING OF STOCKYARD

The Director of the Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, has information that the Phoenix Livestock Auction Co., Phoenix, Arizona, is a stockyard as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 202), and should be made subject to the provisions of the act. Notice is hereby given, therefore, that the said Director, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 181 et seq.), proposes to issue a rule designating the stockyard named above as a posted stockyard subject to the provisions of the act, as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule may do so by filing them with the Director, Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D. C., within 15 days after publication hereof in the FEDERAL REGISTER.

Done at Washington, D. C., this 27th day of September 1957.

[SEAL] JOHN C. PIERCE, Jr.,
Acting Director, Livestock Division, Agricultural Marketing Service.

[F. R. Doc. 57-8136; Filed, Oct. 2, 1957; 8:52 a. m.]

Office of the Secretary

MINNESOTA

DESIGNATION OF AREA FOR PRODUCTION EMERGENCY LOANS

For the purpose of making production emergency loans pursuant to section 2 (a) of Public Law 38, 81st Congress (12 U. S. C. 1148a-2 (a)), as amended, it has been determined that in the following counties in the State of Minnesota a production disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

MINNESOTA

Big Stone.
Traverse.

Pursuant to the authority set forth above, production emergency loans will not be made in the above-named counties after June 30, 1958, except to applicants who previously received such assistance and who can qualify under established policies and procedures.

Done at Washington, D. C., this 30th day of September 1957.

[SEAL] E. T. BENSON,
Secretary.

[F. R. Doc. 57-8137; Filed, Oct. 2, 1957; 8:52 a. m.]

ASSISTANT GENERAL COUNSEL FOR RESEARCH AND STAFF LEGAL SERVICES

DELEGATION OF AUTHORITY WITH RESPECT TO TORT CLAIMS

The functions of the Staff Legal Officer are now performed by the Assistant General Counsel for Research and Staff Legal Services following a change in the title of this position. Accordingly, authority delegated to the Staff Legal Officer by delegations dated May 3, 1955, 20 F. R. 3142, and August 27, 1957, 22 F. R. 7063, for allowance of tort claims will hereafter be exercised by the Assistant General Counsel for Research and Staff Legal Services.

Done at Washington, D. C., this 30th day of September 1957.

EDWARD M. SHULMAN,
Acting General Counsel.

[F. R. Doc. 57-8154; Filed, Oct. 2, 1957; 8:55 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 8734]

CALIFORNIA EASTERN AVIATION, INC., ET AL.; LEASE AGREEMENT AND EXEMPTION APPLICATION

NOTICE OF HEARING

In the matter of the application of California Eastern Aviation, Inc., et al., for an exemption order and for approval of acts, interlocking relationships, and agreements, under sections 401, 408, 409, and 412 of the Civil Aeronautics Act of 1938, as amended.

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, that a hearing in the above-entitled proceeding is assigned to be held on October 3, 1957, at 10 a. m. (eastern daylight saving time), in room 1417, Temporary Building 4, 16th Street and Constitution Avenue NW., Washington, D. C., before Examiner Ralph L. Wiser.

Without limiting the scope of the issues, particular attention will be directed to the following matters:

(1) Will the acts covered by the application which require approval under section 408 of the Civil Aeronautics Act of 1938, as amended, be inconsistent with the public interest or create a monopoly or monopolies and thereby restrain competition or jeopardize another air carrier not a party to the agreement.

(2) Will the public interest be adversely affected by the interlocking relationships covered by the application which require approval under section 409 of the act.

(3) Will the agreements of which approval is sought, to the extent covered by section 412 of the act, be adverse to the public interest or in violation of the act.

(4) Will enforcement of sections 401, 408, 409, and 412 of the act or the Board's Regulations thereunder be an undue burden on California Eastern Aviation, Inc., by reason of the limited extent of, or unusual circumstances affecting its operations, and will such enforcement be in the public interest.

For further details of the issues involved in this proceeding, interested persons are referred to the application, the amendment thereto, and other documents entered in the docket of this proceeding, all of which are on file with the Civil Aeronautics Board.

Notice is further given that any person, other than parties of record, desiring to be heard in this proceeding should file with the Civil Aeronautics Board, on or before October 3, 1957, a statement setting forth the issues of fact or law raised by said application which he desires to controvert.

Dated at Washington, D. C., September 30, 1957.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 57-8152; Filed, Oct. 2, 1957; 8:55 a. m.]

TARIFF COMMISSION

SAFETY PINS

SUBMISSION OF SUPPLEMENTARY REPORT TO THE PRESIDENT

SEPTEMBER 30, 1957.

The United States Tariff Commission today submitted to the President a supplement to its report of January 30, 1957, on the "escape clause" investigation of safety pins, made under section 7 of the Trade Agreements Extension Act of 1951, as amended. In that report, the Commission (Commissioners Schreiber and Sutton dissenting) recommended an increase in the rate of duty on imports of safety pins. The supplementary report was prepared in response to a letter of March 29, 1957, from the President requesting additional information.

The report to the President contains information revealing the operations of individual companies. Since the Commission is not authorized to disclose such information to the public, only that part of the report which does not contain such information is being released for general distribution. Copies of this part of the report are available upon request as long as the limited supply lasts. Address requests to the United States Tariff Com-

mission, Eighth and E Streets NW., Washington 25, D. C.

[SEAL] DONN N. BENT, *Secretary.*

[F. R. Doc. 57-8140; Filed, Oct. 2, 1957; 8:52 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Order No. 541, Amdt. 12]

ALASKA OPERATIONS SUPERVISORS

REDELEGATION OF AUTHORITY CONCERNED WITH LANDS AND RESOURCES

SEPTEMBER 27, 1957.

Part II-A is amended to read:

PART II-A—REDELEGATION OF AUTHORITY TO ALASKA OPERATIONS SUPERVISORS

The Alaska Operations Supervisors are authorized to perform all the functions listed in Part II hereof and also the functions involved in the exceptions listed in section 2.4, Cadastral Engineering.

EDWARD WOOZLEY, *Director.*

[F. R. Doc. 57-8117; Filed, Oct. 2, 1957; 8:48 a. m.]

IDAHO

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

SEPTEMBER 26, 1957.

The Fish and Wildlife Service has filed an application, Serial No. Idaho 06471, for the withdrawal of the lands described below, from all forms of appropriation under the Public Land Laws and General Mining Laws but not the Mineral Leasing Laws. The applicant desires the land for an addition to the Deer Flat National Wildlife Refuge.

For a period of thirty days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, P. O. Box 2237, Boise, Idaho.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

BOISE MERIDIAN, IDAHO

T. 3 N., R. 3 W.,
Sec. 26, N½SW¼, SW¼SW¼.
This area includes 120 acres.

NOLAN F. KEIL, *Acting State Supervisor.*

[F. R. Doc. 57-8118; Filed, Oct. 2, 1957; 8:48 a. m.]

[Serial No. Idaho 07013]

IDAHO

ORDER PROVIDING FOR OPENING OF PUBLIC LANDS

SEPTEMBER 27, 1957.

Pursuant to the following determinations of the Federal Power Commission and in accordance with Order No. 541, section 2.5, of the Director, Bureau of Land Management, approved April 21, 1954, 19 F. R. 2473-2476, it is ordered as follows:

The lands hereinafter described so far as they are withdrawn and reserved for power purposes, are hereby restored to disposition under the public land laws, subject to the provisions of section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075; 16 U. S. C. 818), as amended.

BOISE MERIDIAN, IDAHO

Idaho Serial No.	Determination No.	Description of total acreage	Location
06943	D. A. 465 Idaho	T. 31 N., R. 4 E., Sec. 21, Lots 1, 2, 5, 6.	Idaho County, 2 miles north of Harpster, Idaho, on the south fork of the Clearwater River.
06941	D. A. 462 Idaho	T. 7 S., R. 13 E., Sec. 15, Lots 2, 3.	Gooding County, 1 mile northwest of Hagerman, Idaho.
07221	D. A. 461 Idaho	T. 8 S., R. 13 E., Sec. 1, SW¼SW¼, Sec. 2, NW¼SW¼, SE¼SW¼, S½SE¼; Sec. 3, S½SW¼.	Twin Falls County, 4 miles south of Hagerman, Idaho, on the Snake River.
07013	D. A. 481 Idaho	T. 9 S., R. 14 E., Sec. 4, Lot 10.	Gooding County, 12 miles southwest of Wendell, Idaho, on the Snake River.
07244	D. A. 484, Idaho	T. 9 S., R. 16 E., Sec. 17, Lot 15.	Jerome County, 10 miles southwest of Jerome, Idaho, on the Snake River.
07975	D. A. 490, Idaho	T. 11 N., R. 17 E., Sec. 22, Lot 3; Sec. 27, Lot 5.	Custer County, 3 miles west of Clayton, Idaho, on the Salmon River.
07213	D. A. 300, D. A. 305, D. A. 360, D. A. 381, D. A. 386, Idaho.	T. 10 S., R. 18 E., Sec. 3, Lots 4, 5, 8, 9, SW¼SW¼; Sec. 4, Lot 4; Sec. 11, Lots 1, 2, 5, 6.	Jerome County, about 15 miles southeast of Jerome, Idaho, on the north side of the Snake River.
08107	D. A. 2, D. A. 5, Idaho	T. 17 N., R. 21 E., Sec. 20, Lots 2, 3.	Lemhi County, 30 miles south of Salmon, Idaho, on the Salmon River.
08118 08125 08459	D. A. 492, D. A. 493, D. A. 496.	T. 3 N., R. 41 E., Sec. 5, Lot 2; Sec. 8, Lots 6, 8, SW¼NW¼; Sec. 10, SE¼SW¼. T. 3 N., R. 42 E., Sec. 4, Lot 5; Sec. 5, Lot 10.	Bonneville County, 6 to 10 miles east of Ririe, Idaho, on the Snake River.

The areas described total 1,114.31 acres of public lands.

The lands are widely scattered throughout Idaho and generally lie in the Snake River plain and in mountainous regions. Adverse topography and rocky soils render most of the land unsuited to agricultural development other than grazing by range livestock. Soils vary from sand and gravel to silt loam. Cover includes grass and sagebrush and vegetation typical of dry grazing areas in Idaho. The lands included in the determinations D. A. 462, 484, 300, 305, 360, 381, and 386 are subject to the prior rights of the licenses for Projects No. 2061, 1449, and 18 and their successors as they affect the lands within the project boundaries as shown by the exhibits on file with the Federal Power Commission. All of the lands included in determinations D. A. 300, 305, 360, 381, and 386 except Lot 4, Sec. 4, T. 10 S., R. 18 E., have been classified for retention in Federal ownership for public recreation and other public purposes and are not available for other types of disposal.

No application for these lands will be allowed under the homestead, desert land, small tract, or any other nonmineral public land law, unless the lands have been classified as valuable, or suitable, for such type of application, or shall be so classified upon consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

Any disposition of the lands described herein shall be subject to the stipulation that if and when the land is required, in whole or in part, for power development purposes, any structures or improvements placed thereon which may be found to obstruct or interfere with such development, shall without cost, expense, or delay to the United States, its licensees or permittees, be removed or relocated insofar as may be necessary to eliminate interference with such power development.

The lands described shall be subject to application by the State of Idaho for a period of 90 days from the date of publication of this order in the FEDERAL REGISTER for right-of-way for public highways or as a source of material for construction and maintenance of such highways, in accordance with and subject to the provisions of section 24 of the Federal Power Act, as amended, and the special stipulations provided in the preceding paragraph.

Subject to any existing valid rights and the requirements of applicable law, the lands described above are hereby opened to filing of applications, selections, and locations in accordance with the following:

a. Applications and selections under the nonmineral public land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications and selections will be considered as filed on the hour and respective dates shown for the vari-

ous classes enumerated in the following paragraphs:

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

(2) All valid applications under the Homestead, Desert Land, and Small Tract laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the Act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279–284, as amended), presented prior to 10:00 a. m. on November 2, 1957, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a. m. on February 1, 1958, will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public land laws, other than those coming under paragraphs (1) and (2) above, presented prior to 10:00 a. m. on February 1, 1958, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

Persons claiming veterans preference rights under paragraph (2) above must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries concerning these lands shall be addressed to the Manager, Land Office, Bureau of Land Management, P. O. Box 2237, Boise, Idaho.

MICHAEL T. SOLAN,
Acting State Supervisor.

[F. R. Doc. 57–8119; Filed, Oct. 2, 1957; 8:48 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 11888, 11889; FCC 57M–910]

JEFFERSON COUNTY BROADCASTING CO. AND KERMIT F. TRACY

ORDER CONTINUING HEARING CONFERENCE

In re applications of Louis Alford, Phillip D. Brady and Albert Mack Smith, d/b as Jefferson County Broadcasting Company, Pine Bluff, Arkansas, Docket No. 11888, File No. BP–10528; Kermit F. Tracy, Fordyce, Arkansas, Docket No. 11889, File No. BP–10691; for construction permits.

At the request of counsel for Jefferson County Broadcasting Company and with the concurrence of all other participants:

It is ordered, This 26th day of September 1957, that the conference in the above-entitled proceedings now scheduled for September 27, 1957, is continued to October 3, 1957. Hour and place of the conference remain the same as previously designated.

Released: September 27, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57–8142; Filed, Oct. 2, 1957; 8:53 a. m.]

[Docket No. 11972; FCC 57M–912]

AMERICAN TELEPHONE AND TELEGRAPH COMPANY ET AL.

ORDER CONTINUING HEARING

The Hearing Examiner having under consideration a "Motion * * * to postpone commencement of hearing" filed September 25, 1957, by Motorola, "for itself and on behalf of such other parties as may join in this request," seeking postponement of the date for commencement of the hearing which is now scheduled for Tuesday, October 1, 1957; [1] and

It appearing from: The motion; the record in this proceeding; the official public files of the Commission; and the factual circumstances otherwise made known to the Hearing Examiner as hereinafter set out, that there are now approximately 23 parties to this proceeding (in addition to 25 telephone companies who are respondents) and six more persons have recently filed petitions to intervene, and that the parties and petitioners are located in many sections of the United States and are represented by attorneys in New York, Chicago, Madison, Norfolk, San Francisco, and Washington, and accordingly, that the public interest requires immediate consideration of, and notified action upon, the pending motion as permitted in § 1.745 of the Commission's rules; and

It further appearing that several attorneys for various parties and petitioners have communicated—informally by telephone, telegraph, and through Bureau counsel—the information that they either support or do not oppose the instant motion for continuance; and

It further appearing that the motion is supported by reference to various pleadings pending and to be filed before the Commission which may lead to Commission action substantially affecting the nature of the issues and procedures herein; [2] and

It further appearing that the Order After Prehearing Conference (FCC 57M–765, Mimeo No. 48716, released August 8, 1957) provides (in paragraph 8) for the commencement of the hearing of evidence to be offered by the respondents on October 1, 1957, and also provides (in paragraph 15) for considering then such questions of a prehearing nature as may arise, and that a modification of these and related provisions of the Order After Prehearing Conference, as requested in the pending motion, should be effected; and

It further appearing that the motion for continuance should be granted for the reasons above indicated, but that a definite date for the commencement of the hearing or further prehearing conference cannot now be determined upon, and accordingly, that so much of the order as fixed the hearing date should be set aside with a provision that a subsequent order will both specify a date for the resumption of the proceedings and declare whether the matters then to be considered will include either prehearing conference subjects or the hearing of evidence or both; and

It further appearing that Bureau counsel has informally consented to confer with counsel for the other parties after the Commission has acted on the pending pleadings in this case, and then to file a motion to resume proceedings deemed appropriate to the circumstances of the case, and that the steps thus to be taken will best conduce to the proper dispatch of business and to the ends of justice; now therefore;

It is ordered, This 27th day of September 1957, that the motion for postponement be and it is hereby granted, and the Order After Prehearing Conference hereinabove referred to is modified to provide that the hearing scheduled to be commenced on October 1, 1957, is continued to a date to be fixed by subsequent order to be entered upon motion which will be filed by Bureau counsel after in-

[1] The prayer of the motion in pertinent part is, "to postpone commencement of hearing from October 1, 1957, for a reasonable period for the purpose of scheduling a prehearing conference and to provide opportunity for completion of Commission action on the pending requests for amendment of issues." The action herein taken grants the essence of the request.

[2] The motion refers particularly to a letter, dated September 19, 1957, by direction of the Commission to Victor R. Hansen, Assistant Attorney General, Antitrust Division, United States Department of Justice, which concludes as follows:

"Accordingly, in view of the nature of the questions raised by the Department in its Statement with respect to the competitive and antitrust implications of AT&T's tariff and recognizing the Department's special competence and interest in these matters, we will treat the Department of Justice as a party intervenor in the proceedings and will regard your Statement as a petition to amend the issues in Docket No. 11972.

"Inasmuch as the other parties may not have been certain as to how the Commission would treat your Statement, they will be given 10 days from the date of this letter within which to file any response in accordance with our Rules and you will be afforded an additional 5 days to reply to any such response. A copy of this letter is being mailed to all parties of record in the proceeding."

formal conferences with counsel for the other parties.

Released: September 27, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-8143; Filed, Oct. 2, 1957; 8:53 a. m.]

[Docket Nos. 12058, 12059; FCC 57M-907]

KBR STATIONS, INC. AND WKNE CORP.

ORDER CONTINUING HEARING CONFERENCE

In re applications of The KBR Stations, Inc., Keene, New Hampshire, Docket No. 12058, File No. BP-10732; WKNE Corporation, Brattleboro, Vermont, Docket No. 12059, File No. BP-10919; for construction permits.

The Hearing Examiner having under consideration a motion filed September 23, 1957, by WKNE Corporation requesting that the date specified in the order controlling the conduct of hearing for the exchange of exhibits be continued from September 30, 1957, to October 14, 1957, and the date for the further prehearing conference be continued from October 21, 1957, to November 4, 1957, and for immediate consideration of said motion; and

It appearing that the reason for the requested continuance is the fact that because of other commitments of counsel for both of the applicants, it will be impossible to meet the schedule outlined in the order controlling the conduct of hearing; and

It further appearing that all parties have consented to the waiver of § 1.745 of the Commission's rules, that immediate consideration of the motion is desirable, that there are no objections to the granting thereof and good cause for the requested continuance having been shown;

It is ordered, This the 25th day of September 1957 that the motion for continuance is granted and the date for the exchange of the exhibits in this proceeding is continued from September 30, 1957, to October 14, 1957, and the date for further pre-hearing conference is continued from October 21, 1957, to November 4, 1957.

Released: September 27, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-8144; Filed, Oct. 2, 1957; 8:53 a. m.]

[Docket Nos. 12079, 12080; FCC 57M-909]

JACK A. BURNETT AND UNITED TELECASTING AND RADIO CO.

ORDER POSTPONING PRE-HEARING CONFERENCE

In re applications of Jack A. Burnett, Ogden, Utah, Docket No. 12079, File No. BPCT-2255; United Telecasting and Radio Company, Ogden, Utah, Docket No. 12080, File No. BPCT-2270; for construction permits for new television broadcast stations.

Having under consideration a Motion for Postponement of Pre-hearing Conference filed by Jack A. Burnett on September 25, 1957, which requests that the date for pre-hearing conference in the above-entitled proceeding be extended from September 26, 1957, to September 30, 1957; and

It appearing that no other participant in the proceeding has objection to either early consideration of the motion or to its grant;

It is ordered, This 25th day of September 1957, that the pre-hearing conference in the above-entitled proceeding now scheduled for September 26, 1957, is postponed to September 30, 1957.

Released: September 27, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-8145; Filed, Oct. 2, 1957; 8:53 a. m.]

[Docket No. 12174; FCC 57-1039]

ATLANTIC COAST BROADCASTING CORPORATION OF CHARLESTON (WTMA-TV)

MEMORANDUM OPINION AND ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Atlantic Coast Broadcasting Corporation of Charleston (WTMA-TV) Charleston, South Carolina, Docket No. 12174, File No. BPCT-2346; for construction permit for a new television broadcast station.

1. The Commission has before it for consideration a "Protest and Petition for Reconsideration" filed on August 30, 1957, by Southern Broadcasting Company (protestant), licensee of Television Broadcast Station WUSN-TV, Channel 2, Charleston, South Carolina, pursuant to sections 309 (c) and 405 of the Communications Act of 1934, as amended, directed against the Commission's action of August 1, 1957, granting without hearing the above-captioned application of Atlantic Coast Broadcasting Corporation of Charleston (Atlantic) for a permit to construct a new television broadcast station to operate on Channel 4, in Charleston, South Carolina; an "Opposition to Protest and Petition for Reconsideration" filed on September 10, 1957 by Atlantic Coast Broadcasting Corporation of Charleston; and a "Reply to Opposition to Protest and Petition for Reconsideration" filed on September 16, 1957.

2. The protestant claims standing as a "party in interest" and a "person aggrieved or whose interests are adversely affected" within the meaning of sections 309 (c) and 405 of the Communications Act of 1934, as amended, as the licensee of an existing television broadcast station. In substance, protestant alleges that its revenue is derived from local, regional and national advertisers; that protestant will be in direct competition with the grantee for advertising revenue, which will cause a loss of revenues; and that, therefore, protestant will suffer economic injury.

3. In support of its protest, protestant contends that Atlantic is not financially qualified to construct and operate the proposed station and that the property represented by Atlantic in Section III, Paragraph 1 of the application form as "to be leased" is not in fact available. In view of the foregoing, protestant requests that the Commission (1) designate the application for evidentiary hearing on issues specified by the protestant; (2) make the protestant a party to said proceeding; (3) place upon the applicant, with respect to each of the issues, both the burden of proceeding with the introduction of evidence and the burden of proof; and (4) stay the effective date of the grant in question until the Commission's decision after hearing. In support of its request for a stay, protestant contends that there are two television broadcast stations in Charleston and the applicant does not propose to serve areas which are not already being served.

4. On September 10, 1957, Atlantic filed an "Opposition to Protest and Petition for Reconsideration." Atlantic asserts therein that the protest does not meet the requirements of section 309 (c) because it fails to state with sufficient particularity facts which show that the grant was improper or would not otherwise be in the public interest; that the matters raised are "frivolous"; that the allegations constitute nothing more than a repetition of charges made by the President of the protestant in an affidavit filed prior to a grant of the application and that these matters were found to be completely without merit; that in questioning the willingness of the First National Bank of South Carolina to make a $25,000 loan to Charles E. Smith, protestant fails to mention that Mr. Hastie, the President of the protestant, contacted the bank and was clearly told of the bank's willingness to lend the money which is evidenced by a copy of an attached letter dated September 3, 1957, from the bank, and that such concealment raises a question as to the good faith of protestant; that the allegations as to the unavailability of premises to be leased are contrary to fact; and that, accordingly, protestant is not even entitled to oral argument on its charges.

5. With respect to protestant's request for stay, Atlantic argues that at present the opportunity for a full presentation of ABC programs is inadequate; that a stay would delay the establishment of a third competitive network in Charleston; that the development of a third competitive network in the United States is in the public interest and that this is dependent on the availability of a sufficient number of outlets; and that, therefore, a stay would not be in the public interest.

6. On September 16, 1957, protestant filed a "Reply to Opposition to Protest and Petition for Reconsideration." Protestant states therein that Atlantic's assertion that the protest is merely an attempt to delay the establishment of a competitive television service in Charles-

ton is without foundation; that protestant would have no objection to the advent of an adequately financed third television station; that despite the allegation in the opposition that protestant failed to disclose a telephone conversation with the Vice President of the First National Bank of South Carolina, concerning the purported commitment of said bank to president of Atlantic, there is no element of concealment since the conversation did not establish whether the bank was formerly committed; and that the original bank letter was not a firm commitment and the letter dated September 3, 1957 from the bank does not change the situation.

7. In view of the fact that the protestant is the licensee of Television Station WUSN-TV in Charleston, South Carolina, and has alleged that as a result of the grant of the above-captioned application it will be faced with new competition for advertising revenues and will thereby sustain economic injury, we find the protestant to be a "party in interest" within the meaning of section 309 (c) of the Communications Act of 1934, as amended, and a "person aggrieved or whose interests are adversely affected" within the meaning of section 405 of said act. Federal Communications Commission v. Sanders Brothers Radio Station, 309 U. S. 470; Eugene Television, Inc., 9 Pike and Fischer RR 601; Cherry & Webb Broadcasting Company, 9 Pike and Fischer RR 1093. We further find that the protestant has specified with sufficient particularity the facts relied upon to warrant designating the instant application for evidentiary hearing on the issues specified by the protestant.

8. We turn next to the question of whether we should stay the effective date of the grant in question. Section 309 (c) of the Communications Act provides, in pertinent part, that "* * * the effective date of the Commission's action to which protest is made shall be postponed * * * unless the Commission affirmatively finds for reasons set forth in the decision that the public interest requires that the grant remain in effect in which event the Commission shall authorize the applicant to utilize the facilities or authorization in question pending the Commission's decision after hearing." Atlantic argues that the service it is proposing will provide the people in the Charleston area with the first real choice of the programs among the three networks and that therefore this will promote more effective television competition which is of benefit to the public. Although, the Commission does not question the desirability of a third network service, we believe that since there are two television stations in Charleston, this fact alone does not constitute a sufficiently compelling reason to enable us to make an affirmative finding that the public interest requires that grant remain in effect. Accordingly, the effective date of the Commission's action herein question will be postponed to the effective date of the Commission's decision in the hearing hereinafter ordered.

9. In view of the foregoing: *It is ordered,* That the subject Protest and Petition for Reconsideration is granted to the extent provided for below and is denied in all other respects; That, effective immediately, the effective date of the grant of the above-captioned application is postponed pending a final decision by the Commission in the hearing described below; and That, pursuant to section 309 (c) of the Communications Act of 1934, as amended, the above-captioned application is designated for evidentiary hearing at the offices of the Commission in Washington, D. C., on the following issues:

1. To determine whether the premises represented by the applicant "to be leased" will be available for the proposed television operation;

2. To determine whether the applicant is financially qualified to construct the station as proposed;

3. To determine whether the applicant is financially qualified to commence operation of the proposed station and to continue operation for a reasonable period of time without advertising revenue;

4. To determine, in view of the foregoing, whether the grant of the application of Atlantic Coast Broadcasting Corporation of Charleston is consistent with the public interest, convenience, and necessity.

It is further ordered, That the burden of proceeding with the introduction of evidence and the burden of proof as to each of the foregoing issues shall be on the protestant.

It is further ordered, That the protestant and the Chief of the Broadcast Bureau are hereby made parties to the proceeding herein and that:

a. The hearing on the above issues shall commence at a date to be specified in a subsequent order before an Examiner to be specified at a later date;

b. The parties to the proceeding herein shall have fifteen (15) days after the issuance of the Examiner's decision to file exceptions thereto and seven (7) days thereafter to file replies to any such exceptions; and

c. The appearances by the parties intending to participate in the above hearing shall be filed not later than October 9, 1957.

Adopted: September 25, 1957.

Released: September 30, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-8146; Filed, Oct. 2, 1957; 8:53 a. m.]

[Docket No. 12175; FCC 57-1040]

AMERICAN COLONIAL BROADCASTING CORP. (WKBM-TV)

MEMORANDUM OPINION AND ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of American Colonial Broadcasting Corporation (WKBM-TV), Caguas, Puerto Rico; Docket No. 12175, File No. BMPCT-4515; for modification of construction permit.

1. The Commission has before it for consideration (1) a "Protest" filed on August 29, 1957, pursuant to section 309 (c) of the Communications Act of 1934, as amended, by Ponce de Leon Broadcasting Company, Inc. (protestant), licensee of Television Station WAPA-TV (Channel 4), San Juan, Puerto Rico, and directed against the Commission's action of August 1, 1957, granting without hearing the above-entitled application of American Colonial Broadcasting Corporation (American Colonial) for modification of its construction permit for Television Station WKBM-TV (Channel 11), Caguas, Puerto Rico, to increase effective radiated power (visual: 2.69 kw to 27 kw); (2) a "Motion to Dismiss Protest" filed by American Colonial on September 9, 1957; and (3) a "Reply to Motion to Dismiss Protest" filed by the protestant on September 11, 1957.

2. The protestant claims standing as a "party in interest" within the meaning of section 309 (c) of the Communications Act of 1934, as amended, as the licensee of an existing television broadcast station, WAPA-TV in San Juan, which serves substantially the same areas as those proposed to be served by television broadcast stations WKBM-TV, Caguas, and WSUR-TV, Ponce,[1] both owned by American Colonial. Protestant asserts in effect that Caguas and San Juan are separated by a distance of only 16 miles, and the transmitter site of WKBM-TV is thirteen miles from the farthermost point of San Juan; that all of WAPA-TV's Grade A service contour will be encompassed within the Grade A service contour of WKBM-TV operating with increased power, and the Grade B service contour of WSUR-TV will encompass 96.3 percent of the WAPA-TV Grade A service area; that the city of San Juan will receive better than a city grade signal from WKBM-TV, Caguas; that inasmuch as all of these stations will serve substantially the same areas, they will be in direct competition with each other for advertising revenues and for television audience; that as a result of the increase in power of WKBM-TV, protestant's station will lose advertising revenues which it would otherwise receive, and consequently the protestant will suffer "economic injury." Protestant adds that on the basis of its past earnings and the revenue available in the market, it will suffer a net loss of revenue; that San Juan cannot support three television stations; and, that "it is now clear that by the increase in power WKBM-TV is not a low-powered 'small station' primarily designed to serve the community of Caguas, as represented by American Colonial in its original application for construction permit."

3. In support of its protest, Ponce de Leon alleges that, as shown by its attached engineering statement, there is extensive overlap of Grade A and Grade B contours of WKBM-TV (operating with increased power) and WSUR-TV, encompassing most of the island of Puerto Rico; that the advantages with respect to networks, national spot ad-

[1] American Colonial has indicated that it plans to have WSUR-TV on the air by October 1, 1957, and WKBM-TV on the air by November 15, 1957.

vertising, and programming, which a multiple station owner enjoys in a single area such as Puerto Rico, constitute a primary basis of the Commission's Rule relating to multiple ownership;[2] and, that in the instant case, the substantial overlap of the Grade A contours of WKBM–TV and WSUR–TV, considered together with American Colonial's proposal that these two stations will operate as satellites to each other, "strikes at the foundation of the Commission's multiple ownership rule." Protestant states too that American Colonial has submitted no information in its above-captioned application relative to factors which the Commission has stated it will consider in determining whether overlap in a particular case would preclude a grant of an application; that such information as American Colonial submitted in its original application for the construction permits of WKBM–TV and WSUR–TV shows the applicant's intention to rebroadcast programs of these stations, to share their costs of programs, and to have a cooperative staff. Finally, protestant asserts that the aforementioned facts alleged by it relative to overlap and to the satellite nature of the operations of WKBM–TV and WSUR–TV establish that the grant of the subject application for increased power of WKBM–TV is not in the public interest.

4. In view of the foregoing, the protestant requests that the Commission designate the instant application for an evidentiary hearing upon eight specified issues; adopt such issues as its own; place the burden of proceeding with the introduction of evidence and the burden of proof upon American Colonial; and, pending final decision in this matter after hearing, stay the effective date of the grant in question. In support of this latter request, the protestant asserts that there are no grounds under the provisions of section 309 (c) of the Communications Act for permitting American Colonial to proceed with construction of the proposed station with increased power.

5. In its motion opposing the protest, American Colonial asserts that protestant is now claiming San Juan cannot support three commercial television stations although less than a year ago the protestant paid a handsome consideration for the acquisition of WAPA–TV which action obviously reflected the conviction that the station commanded a large volume of business justifying the purchase price; that this change in attitude on the part of the ownership of WAPA–TV may be attributable either to the limited experience of its president and manager in determining the needs and peculiarities of the local community and in properly appraising the advertising potentialities of the small merchants within Metropolitan San Juan, or to overemphasis on the importance of national advertising in contrast to local community revenue; that American Colonial disagrees with protestant's contention that San Juan cannot sustain three television stations; and, that protestant has made no showing to substantiate such conclusion while facts pointing to the contrary are available. In addition, American Colonial asserts that its station will mainly help the small merchants who cannot afford other than participating programs of the brokerage type over WAPA–TV, and will present public service programs which are not received by WAPA–TV viewers. Furthermore, American Colonial states in effect that economic injury of itself and apart from considerations of public interest, convenience and necessity, is not an element which the Commission must weigh in passing on an application, and protestant has failed to produce any evidence that direct competition between WAPA–TV and WKBM–TV will not be in the public interest; that the instant protest is not timely since WAPA–TV will suffer no more economic injury as a result of the increase in power than it would have received from the original grant to WKBM–TV;[3] and, that although the two American Colonial stations (WKBM–TV and WSUR–TV) will cooperate and also carry some programs simultaneously, nonetheless they will do independent broadcasting tailored to the needs of their respective communities, and they are not to be satellite operations of each other. In conclusion, American Colonial asserts that a grant of the modification application for WKBM–TV will improve its service to the public, with no injury to WAPA–TV other than stimulus to its programming from the fair competition of WKBM–TV, and therefore American Colonial requests the Commission to dismiss the protest and not to delay plans for commencement of WSUR–TV operation by October 1st and of WKBM–TV operation by November 15th.

6. In its "Reply" the protestant asserts in substance that the opposition of American Colonial deals at length with the question of the former's standing to protest, but fails to deal with the public interest questions presented to the Commission by the extensive overlap between the commonly owned stations WKBM–TV at Caguas and WSUR–TV at Ponce which protestant has pointed out. Moreover, protestant contends that American Colonial cannot justify its multiple ownership status under the modification grant by the showing made in its application for WSUR–TV at Ponce. In this connection protestant points out that WKBM–TV will no longer be a "low power outfit rendering service to a limited area within its own community." Protestant reiterates its requests for relief as set forth in its protest.

7. In view of the fact that the protestant is the licensee of Television Broadcast Station WAPA–TV in San Juan, Puerto Rico, and has alleged that as a result of the grant of the above-captioned application it will be injured competitively through the higher-powered operation by the loss of advertising revenues which it would otherwise receive and will thus suffer economic injury, we find the protestant to be a "party in interest" within the meaning of section 309 (c) of the Communications Act of 1934, as amended. Federal Communications Commission v. Sanders Brothers Radio Station, 309 U. S. 470; In re T. E. Allen & Sons, Inc., 9 Pike & Fischer RR 197; Versluis Radio and Television, Inc., 9 Pike & Fischer RR 102. We further find that the protestant has specified with sufficient particularly the facts relied upon to warrant designating the instant application for hearing. Moreover, we believe that the problems raised in the protest are of the type which do not lend themselves to demurrer. Accordingly, the Commission is designating said application for an evidentiary hearing on the issues framed by the protestant. However, the issues are not being adopted and the burden of proof with respect to each of these issues except issues (4), (5), (6), and (7) below, will, therefore, be upon the protestant. The burden of proof as to issues (4), (5), (6), and (7) will be upon the applicant because they relate to matters which are peculiarly within the applicant's knowledge.

8. We turn now to the question of whether we should stay the effective date of our grant of the above-captioned application until a decision in this matter after hearing. Section 309 (c) of the Communications Act provides, in pertinent part, that "* * * the effective date of the Commission's action to which protest is made shall be postponed * * * unless the Commission affirmatively finds for reasons set forth in the decision that the public interest requires that the grant remain in effect, in which event the Commission shall authorize the applicant to uitilize the facilities or authorization in question pending the Commission's decision after hearing."

9. We are of the view that there is a definite and compelling need for the service proposed by American Colonial under its modified construction permit. Operating as proposed, WLB–TV will serve as the first local television broadcast outlet for the City of Caguas. Accordingly, it appears that the proposed operation will fulfill a significant need of the Caguas area from this aspect of television. We have, as required by revised section 309 (c) of the Communications Act, balanced this significant need of the Caguas area for the television service proposed under its modification application against the likelihood that the grant in question will have to be set aside after the hearing herein ordered. While, of course, we cannot state what our conclusions will be in the light of the hearing record, we do not believe on the

[2] Protestant cites § 3.636 of the rules which provides in pertinent part that no license for a television broadcast station shall be granted to any party which directly or indirectly owns, operates, or controls another broadcast station which serves substantially the same area.

[3] A supporting engineering statement submitted by American Colonial asserts that the Grade A contour of WKBM–TV operating with 2.67 kw effective radiated power under the original construction permit would "also completely encompass the Grade A contour of WAPA–TV", and that an inspection of the coverage maps contained in the original application of WKBM–TV will show, the 77 dbu contour (principal city service contour) includes not only the city of Caguas but also San Juan.

basis of its pleading, that the protestant has made a prima facie case that the grant may not be in the public interest. In addition, we believe that where no television broadcast station is available to a community to which a television channel has been assigned, there exists a demonstrable need for the introduction of such service with the expedition afforded by utilizing the proposed facilities of WKBM–TV. We cannot conclude, therefore that the protestant has demonstrated a reasonable probability of success on the merits of its protest which would override the public need for the service of WKBM–TV, operating pursuant to its modified permit.

10. In light of the foregoing, we affirmatively find that the public interest requires that the grant remain in effect, and, accordingly, the effective date of the Commission's action here in question will not be postponed to the effective date of the Commission's decision in the hearing ordered hereinafter.

11. In view of the foregoing: *It is ordered,* That the subject protest is granted; That the request for postponement of the effective date of the grant is denied; and That, pursuant to section 309 (c) of the Communications Act of 1934, as amended, the above-entitled application is designated for evidentiary hearing at the offices of the Commission in Washington, D. C., on the following issues:

(1) To determine the degree of overlap between Stations WKBM–TV, Caguas, and WSUR–TV, Ponce;

(2) To determine the number of cities and their respective populations and the character and population of the area within the Grade A overlap contours of WKBM–TV and WSUR–TV;

(3) To determine the number of cities and their respective populations and the character and population of the area within the Grade B overlap contours of WKBM–TV and WSUR–TV;

(4) to determine the program proposals of WKBM–TV and WSUR–TV, and the extent to which programs will be duplicated by each other;

(5) To determine the sources of program material and talent for the proposed programs of WKBM–TV and WSUR–TV;

(6) To determine the organizational setup of American Colonial Broadcasting Corporation, and its commercial and sales policies with respect to the operation of WKBM–TV and WSUR–TV;

(7) To determine the staffing plans of American Colonial Broadcasting Corporation, and the extent to which cooperative or joint staffs will be maintained between WSUR–TV and WKBM–TV; and

(8) To determine, in light of the evidence adduced under the above issues, whether a grant of the above-entitled application would serve the public interest, convenience and necessity.

It is further ordered, That the burden of proceeding with the introduction of evidence and the burden of proof as to each of the foregoing issues except (4), (5), (6), and (7) shall be upon the protestant; and that the burden of proof as to issues (4), (5), (6), and (7) shall be upon the applicant (American Colonial).

It is further ordered, That the protestant, Ponce de Leon Broadcasting Company, and the Chief of the Broadcast Bureau are hereby made parties to the proceeding designated herein and that:

(a) The hearing on the above issues will commence at a time and before an Examiner to be specified in a subsequent order; and

(b) The parties to the proceeding herein designated shall have fifteen (15) days after the issuance of the Examiner's decision to file exceptions thereto and seven (7) days thereafter to file replies to any such exceptions; and

(c) The appearances by the parties intending to participate in the evidentiary hearing shall be filed not later than October 9, 1957.

Adopted: September 25, 1957.

Released: September 30, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57–8147; Filed, Oct. 2, 1957; 8:54 a. m.]

[Docket No. 12176 etc.; FCC 57–1041]

KTAG ASSOCIATES (KTAG–TV) ET AL.

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Charles W. Lamar, Jr., J. Warren Berwick, Harold Knox, R. B. McCall, Jr. d/b as KTAG Associates (KTAG–TV), Lake Charles, Louisiana; Docket No. 12176, File No. BMPCT–4682; for modification of construction permit. Evangeline Broadcasting Company, Inc., Lafayette, Louisiana; Docket No. 12177, File No. BPCT–2335; Acadian Television Corporation, Lafayette, Louisiana; Docket No. 12178, File No. BPCT–2351; for construction permits for new television broadcast stations.

At a session of the Federal Communications Commission held at its offices in Washington, D. C. on the 25th day of September 1957;

The Commission having under consideration the application of Charles W. Lamar et al d/b as KTAG Associates requesting a modification of construction of Station KTAG–TV to specify operation on Channel 3 in lieu of Channel 25 in Lake Charles, Louisiana, which Channel is allocated to Lafayette, Lake Charles, Louisiana, and the applications of Evangeline Broadcasting Company, Inc. and Acadian Television Corporation which request construction permits for new television broadcast stations to operate on Channel 3 in Lafayette, Louisiana; and

It appearing that the above-captioned applications are mutually exclusive in that operation by more than one of the applicants, as proposed, would result in mutually destructive interference; and

It further appearing that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-named applicants were advised by letters of the fact that their applications are mutually exclusive, of the necessity for a hearing and of all objections to their applications, and were given an opportunity to reply; and

It further appearing that upon due consideration of the above-captioned applications, the amendments thereto, and the replies to the above letters, the Commission finds that a hearing is necessary; that each of the applicants is legally, financially and otherwise qualified to construct, own and operate a television broadcast station and are technically so qualified except as to issue "1" below;

It is ordered, That pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-captioned 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 the antenna system and site proposed by each of the applicants would constitute a hazard to air navigation;

2. To determine in the light of section 307 (b) of the Communications Act of 1934, as amended, which of the three proposals would best provide a more fair, efficient and equitable distribution of television service.

3. If it be determined pursuant to section 307 (b) that Lafayette, Louisiana is to be preferred over Lake Charles, Louisiana, then to determine on a comparative basis which of the operations proposed by Evangeline Broadcasting Company, Inc., and Acadian Television Corporation would better serve the public interest, convenience and necessity in light of the record made with respect to the significant differences between the applicants as to:

(a) The background and experience of each having a bearing on its ability to own and operate the proposed television broadcast stations.

(b) The proposals of each with respect to the management and operation of the proposed television broadcast stations.

(c) The programming service proposed in each of the applications.

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

It is further ordered, That the issues in the above-entitled proceeding may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding and upon a sufficient allegation of facts in support thereof, by the addition of the following issue: To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

It is further ordered, That to avail themselves of the opportunity to be heard, the above-named applicants, pursuant to § 1.387 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.

Released: September 30, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-8148; Filed, Oct. 2, 1957; 8:54 a. m.]

[Docket No. 12179 etc.; FCC 57-1043]

RADIO ST. CROIX, INC., ET AL.

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Radio St. Croix, Incorporated, New Richmond, Wisconsin; Docket No. 12179, File No. BP-10925; Florida East Coast Broadcasting Company, Inc., South St. Paul, Minnesota; Docket No. 12180, File No. BP-11170; Hennepin County Broadcasting Company, Golden Valley, Minnesota; Docket No. 12181, File No. BP-11341; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 25th day of September 1957;

The Commission having under consideration the above-captioned applications of Radio St. Croix, Incorporated, the Florida East Coast Broadcasting Company, Inc., and the Hennepin County Broadcasting Company, each for a construction permit for a new standard broadcast station to operate on 1590 kilocycles with a power of 5 kilowatts, daytime only, at New Richmond, Wisconsin, South St. Paul and Golden Valley, Minnesota, respectively;

It appearing that all of the applicants are legally, technically, financially and otherwise qualified, except as may appear from the issues specified below, to operate their proposed stations, but that the simultaneous operation of all three proposals would result in mutually destructive interference and that the photograph of the proposed site submitted by the Hennepin County Broadcasting Company does not show sufficient detail within the proposed 1000 mv/m contour; and

It further appearing that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the subject applicants were advised by letter dated August 8, 1957, of the aforementioned deficiencies and that the Commission was unable to conclude that a grant of any of the applications would be in the public interest; and

It further appearing that a timely reply was filed by each of the subject applicants; and

It further appearing that the Hennepin County Broadcasting Company has not submitted additional site photographs as requested in the Commission's letter of August 8, 1957; and

It further appearing that Station WISK, St. Paul, Minnesota, is licensed to operate on 1590 kilocycles and was granted a construction permit on October 24, 1956, to change the frequency of Station WISK, and that therefore, in the event of a grant of any of the subject applications, in the hearing ordered below, the construction permit should include the condition that programs tests will not be authorized until Station WISK has begun programs tests on a frequency other than 1590 kilocycles and a license will not be issued until WISK has been licensed on a frequency other than 1590 kilocycles; and

It further appearing that the Commission, after consideration of the above, is of the opinion that a hearing is necessary;

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the said 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 each of the proposed operations and the availability of other primary service to such areas and populations.

2. To determine whether the transmitter site proposed by the Hennepin County Broadcasting Company would be satisfactory.

3. To determine in the light of section 307 (b) of the Communications Act of 1934, as amended, which of the operations proposed in the above-captioned applications would best provide a fair, efficient and equitable distribution of radio service.

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

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.387 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.

It is further ordered, That, in the event of a grant of any of the above-captioned applications, the construction permit shall include the condition that program tests will not be authorized until Station WISK has begun program tests on a frequency other than 1590 kilocycles, and a license will not be issued until WISK has been licensed on a frequency other than 1590 kilocycles.

Released: September 30, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-8149; Filed, Oct. 2, 1957; 8:54 a. m.]

FEDERAL POWER COMMISSION

[Docket No. E-6779]

CALIFORNIA ELECTRIC POWER CO.

NOTICE OF APPLICATION

SEPTEMBER 27, 1957.

Take notice that on September 25, 1957, an application was filed with the Federal Power Commission pursuant to section 204 of the Federal Power Act by the California Electric Power Company ("Applicant"), a corporation organized under the laws of the State of Delaware and doing business in the States of California and Nevada, with its principal business office at Riverside, California, seeking an order authorizing the issuance of promissory notes, maturing by their terms prior to twelve months from date of issue and of which not more than $15,000,000 in aggregate principal amount shall be outstanding on any given date. Applicant proposes to issue the notes to the Bank of America National Trust and Savings Association ("Bank") to evidence loans to be obtained under a revolving line of credit to Applicant in the principal amount of $15,000,000 commencing October 31, 1957 and ending October 31, 1958. Each of the proposed notes will be dated as of its date of issue and bear interest at a fluctuating rate which shall be equal at all times during the life thereof to Bank's prime rate for 90-day to 180-day prime commercial loans. Applicant proposes to use the proceeds from the sale of the aforesaid notes for the purpose of refunding certain outstanding short-term bank loans obtained from the Bank; and for interim financing of necessary extensions, additions and betterments of Applicant's electric plant; all as more fully appears in the application on file with the Commission.

Any person desiring to be heard or to make any protest with reference to said application should, on or before the 16th day of October 1957, file with the Federal Power Commission, Washington 25, D. C., petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57-8127; Filed, Oct. 2, 1957; 8:50 a. m.]

[Docket Nos. G-10215, G-10392]

MANUFACTURERS LIGHT AND HEAT CO. AND CUMBERLAND AND ALLEGHENY GAS CO.

NOTICE OF APPLICATIONS AND DATE OF HEARING

SEPTEMBER 27, 1957.

Take notice that The Manufacturers Light and Heat Company (Manufacturers) a Pennsylvania corporation and a subsidiary of The Columbia Gas System, Inc., having its principal place of business at 800 Union Trust Building, Pittsburgh, Pennsylvania, filed on April 9, 1956, an application, under section 7 (c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing it to construct and operate a 300 horsepower compressor station near Milford, Pike County, Pennsylvania, as hereinafter described, subject to the jurisdiction of the Commission.

Manufacturers proposes to install and operate one 300 horsepower gas engine compressor unit equipped with four compressor cylinders, together with other

appurtenant equipment at a new compressor station on its Coatesville-Port Jervis line at its intersection with the line of Tennessee Gas Transmission Company (Tennessee) near Milford, Pike County, Pennsylvania. This construction is proposed to permit the delivery of 10,200 Mcf of gas per day (at 14.73 psia) to Manufacturers into its Port Jervis line from the new Hebron-Greenwich 24-inch line of Tennessee.

The estimated cost of the proposed new station is $170,200, including the purchase of the compressor unit from Cumberland and Allegheny Gas Company (Cumberland), an affiliate, for the sum of $15,200.

Cumberland and Allegheny Gas Company, a West Virginia corporation, also a subsidiary of The Columbia Gas System, Inc. having its principal place of business at 800 Union Trust Building, Pittsburgh, Pennsylvania, filed on May 11, 1956 an application under section 7 (b) of the Natural Gas Act for permission and approval of the Commission to abandon its Loch Lynn Compressor Station, consisting of two 300 horsepower gas engine compressor units equipped with 4 compressor cylinders each and one 125 horsepower gas engine compressor unit equipped with two compressor cylinders located in Mountain Lake No. 16 District, Garrett County, Maryland.

Cumberland alleges that production in the Mountain Lake Park gas field declined and that the station is not now being used. Cumberland proposes to abandon the complete station and to salvage the building and equipment. It proposes to sell one of the 300 horsepower compressor units to Manufacturers for installation in its proposed compressor station near Milford, Pennsylvania, as above described. The proposed abandonment of the Loch Lynn Compressor Station will not result in the abandonment of service to any of Cumberland's customers.

Cumberland alleges the book value of the Loch Lynn Compressor Station to be $247,504; the estimated salvage to be $75,000 and the estimated cost of retiring said facilities, $10,600.

The application in each of the above-numbered dockets is on file with the Commission and open for public inspection.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on October 29, 1957, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 17, 1957. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57-8128; Filed, Oct. 2, 1957; 8:50 a. m.]

[Docket No. G-11661 etc.]

SUNRAY MID-CONTINENT OIL CO.

ORDER SEVERING PROCEEDINGS AND CONTINUING DATE OF HEARING

SEPTEMBER 27, 1957.

In the matter of Sunray Mid-Continent Oil Company, Docket Nos. G-11661, G-11662, G-11762, G-11878 and G-12113.

Sunray Mid-Continent Oil Company (Applicant) filed applications in Docket Nos. G-11661, G-11662, G-11762, G-11878 and G-12113 requesting certificates of public convenience and necessity of limited duration whereby the respective certificates issued would expire at the end of the term of the contract.

By order issued August 9, 1957, Applicant was granted a certificate of public convenience and necessity in Docket No. G-12113. The order stated that the certificate would be considered accepted unless the Commission was notified to the contrary within 30 days from the date of issuance. On August 29, 1957, Applicant requested an additional 30 days within which it could file a notice of rejection. This request was denied by the Acting Secretary on August 30, 1957.

On September 9, 1957, Applicant filed a Statement of Rejection of the certificate because the certificate issued was not of a limited nature pursuant to its application.

A hearing was held on August 26, 1957, In the Matters of E. W. Campbell and E. S. Villinies, et al., Docket No. G-3128, et al. At said hearing staff counsel in his proposed finding and order requested that Applicant in Docket Nos. G-11661, G-11662, G-11762 and G-11878 be issued certificates of public convenience and necessity for an unlimited duration in lieu of the request by Applicant to be issued certificates that would expire at the end of the term of the contract pursuant to Applicant's applications. Applicant did not appear at nor was it represented at the hearing.

The Commission further finds:

(1) Public convenience and necessity require that Docket Nos. G-11661, G-11662, G-11762 and G-11878 be severed from staff counsel's proposed finding and order In the Matters of E. W. Campbell and E. S. Villinies, et al., Docket No. G-3128, et al.

(2) Public convenience and necessity require reconsideration of that portion of the order issued on August 9, 1957, in Docket No. G-12113, granting an unlimited certificate to Applicant.

(3) Docket Nos. G-11661, G-11662, G-11762, G-11878 and G-12113 should be set for a consolidated hearing at a subsequent date to be set by further notice.

The Commission orders:

(A) Docket Nos. G-11661, G-11662, G-11762 and G-11878 be and are hereby severed from staff counsel's proposed findings and order In the Matters of E. W. Campbell and E. S. Villinies, et al., Docket No. G-3128, et al.

(B) The portion of the order issuing an unlimited certificate of public convenience and necessity in Docket No. G-12113 be reconsidered.

(C) Docket Nos. G-11661, G-11662, G-11762, G-11878 and G-12113 be and are hereby set for a consolidated hearing to be held at a subsequent date to be set by further notice.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57-8129; Filed, Oct. 2, 1957; 8:50 a. m.]

[Docket No. G-11970, etc.]

SEABOARD OIL CO. ET AL.

NOTICE OF HEARING

SEPTEMBER 27, 1957.

In the matters of Seaboard Oil Company, Operator, Docket No. G-11970; United Gas Pipe Line Company, Docket No. G-12019; Charles B. Wrightsman, Docket No. G-12055.

Applications for certificates of public convenience and necessity were filed by Seaboard Oil Company, Operator (Seaboard), United Gas Pipe Line Company (United) and Charles B. Wrightsman (Wrightsman) in the above-captioned consolidated proceeding pursuant to section 7 (c) of the Natural Gas Act.

Seaboard and Wrightsman propose to sell natural gas in interstate commerce from the Maurice Area, Vermilion and Lafayette Parishes, Louisiana, to United for resale. United proposes to construct and operate the natural gas facilities necessary to take such gas into its pipeline system.

Notice of the filing of these applications together with their consolidation for purposes of hearing was issued on July 31, 1957, and published in the FEDERAL REGISTER on August 6, 1957 (22 F. R. 6282). This notice fixed August 19, 1957 as the last day for filing protests or petitions to intervene in this proceeding.

These related matters should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a formal hearing will be held on October 29, 1957, at 10:00 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters

involved in and the issues presented by such applications.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-8121; Filed, Oct. 2, 1957; 8:49 a. m.]

[Docket No. G-12883]

NEW YORK STATE NATURAL GAS CORP.

NOTICE OF APPLICATION AND DATE OF HEARING

SEPTEMBER 27, 1957.

Take notice that on July 12, 1957, New York State Natural Gas Corporation (Applicant), a New York corporation having its principal place of business in Pittsburgh, Pennsylvania, filed in Docket No. G-12883 an application for a certificate of public convenience and necessity pursuant to section 7 (c) of the Natural Gas Act, authorizing the construction and operation of certain transmission facilities in New York for increased deliveries of natural gas to Niagara Mohawk Power Corporation (Niagara Mohawk), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The proposed facilities and their estimated cost are as follows:

(1) An additional 3,000 horsepower compressor station on Applicant's existing 16-inch transmission line near Utica, New York, in Herkimer County. Applicant proposes to install 2,000 horsepower in 1957, estimated to cost $550,000, and an additional 1,000 horsepower in 1959, estimated to cost $200,000.

(2) Approximately 9 miles of 12-inch branch line extending from Applicant's main 20-inch transmission line to the City of Oneida, New York, and a measuring and regulating station at Oneida to make increased deliveries to Niagara Mohawk for distribution in the Syracuse-Oneida-Rome-Utica, New York, distribution area, estimated to cost $431,000.

(3) A measuring and regulating station on Applicant's 12-inch transmission line between its Brookview Measuring Station and Troy, New York, to be located at East Greenbush, New York, estimated to cost $30,000, to enable Niagara Mohawk to initiate natural gas service in East Greenbush.

Applicant states that the additional compressor facilities in (1) above are necessary to avoid an estimated shortage in deliveries to Niagara Mohawk, east of the Ithaca compresser station, of 13,000 Mcf on the 1957-58 peak day, 13,500 Mcf on the 1958-59 peak day, and 25,500 Mcf on the 1959-60 peak day.

The estimated peak day requirements for (2) above, in MMcf, are:

Delivery point	1958	1959	1960
Therm City	214	212	223
Utica	45	49	46
Oneida	10	33	43
Total	269	294	312

The estimated requirements for (3) above, in Mcf, are:

	1958	1959	1960
Annual	51,000	64,000	77,000
Peak day	500	600	800

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on November 4, 1957, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 16, 1957. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-8122; Filed, Oct. 2, 1957; 8:49 a. m.]

[Docket No. G-12933]

OHIO FUEL GAS CO.

NOTICE OF APPLICATION AND DATE OF HEARING

SEPTEMBER 27, 1957.

Take notice that on July 22, 1957, The Ohio Fuel Gas Company (Applicant), an Ohio corporation having its principal place of business in Columbus, Ohio, filed in Docket No. G-12933 an application pursuant to section 7 (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of approximately 50 feet of 2⅜-inch O. D. natural gas transmission line, with appurtenances, in Ashland County, Ohio, extending from a proposed tap on Applicant's existing Line L-2440 to a proposed town border regulating station serving the unincorporated community of Nova, Ashland County, Ohio, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The proposed facilities are to enable Applicant to initiate natural gas retail service through a local distribution system it will build and own in Nova, a community now without natural gas service.

The estimated gas requirements for the first three years of service are:

	1st year	2d year	3d year
Annual (Mcf)	14,382	16,841	17,780
Peak day (Mcf)	148	174	183

Applicant estimates that the facilities covered by this application will cost $150, which will be defrayed from cash on hand.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on November 4, 1957, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 16, 1957. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-8123; Filed, Oct. 2, 1957; 8:49 a. m.]

[Docket No. G-12946]

MANUFACTURERS LIGHT AND HEAT CO.

NOTICE OF APPLICATION AND DATE OF HEARING

SEPTEMBER 27, 1957.

Take notice that on July 25, 1957, The Manufacturers Light and Heat Company (Applicant), a Pennsylvania corporation having its principal place of business in Pittsburgh, Pennsylvania, filed in Docket No. G-12946 an application pursuant to section 7 (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to construct and operate certain facilities to provide interruptible natural gas service

to three new direct industrial customers in Pennsylvania, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate the following facilities:

(1) Approximately 1.59 miles of 6-inch lateral pipeline from Applicant's existing 8-inch Line No. 8590 to a new plant of Pittsburgh Screw and Bolt Corporation near Mount Pleasant, Westmoreland County, Pennsylvania, and a regulating and measuring station to serve same.

(2) Approximately 1.01 miles of 4-inch lateral pipeline from Applicant's existing 4-inch Line No. 1045 to a new plant of Vanadium Corporation of America near New Alexandria, Jefferson County, Ohio, and a regulating and measuring station to serve same.

(3) Approximately 40 feet of 2-inch service line from Applicant's existing 8-inch Line No. 1011 to an existing plant of Allegheny Concrete Pipe Associates near Coraopolis, Allegheny County, Pennsylvania, and metering and regulating equipment to serve same.

Applicant estimates the total capital cost of its proposed facilities at $99,325, which will be financed from funds on hand.

The estimated natural gas requirements of the three industrial customers are:

	1958	1959	1960	1961
Pittsburgh Screw:				
Peak day (Mcf)	1,760	1,760	1,760	1,760
Annual (Mcf)	295,000	295,000	360,000	360,000
Vanadium Corp.:				
Peak day (Mcf)	250	250	250	320
Annual (Mcf)	64,000	64,000	64,000	84,000
Allegheny Concrete:				
Peak day (Mcf)	90	90	90	90
Annual (Mcf)	28,000	28,000	28,000	28,000

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on November 4, 1957, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 16, 1957. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57-8124; Filed, Oct. 2, 1957; 8:49 a. m.]

[Docket No. G-13029]

TRANSCONTINENTAL GAS PIPE LINE CORP.

NOTICE OF APPLICATION

SEPTEMBER 27, 1957.

Take notice that on August 7, 1957, Transcontinental Gas Pipe Line Corporation (Applicant), a Delaware corporation having its principal place of business in Houston, Texas, filed in Docket No. G-13029 an application pursuant to section 7 (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of 4,088 Mcf of natural gas per day under Applicant's proposed WPS (winter peaking service) Rate Schedule to its existing customers, Consolidated Edison Company of New York, Inc. (Con-Ed), The Brooklyn Union Gas Company (Brooklyn Union) and Long Island Lighting Company (Long Island), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The period for the proposed sale is from November 16, 1957, through April 15, 1958. The quantities of gas proposed to be served are:

Company	Mcf per day @ 14.73	Winter contract quantity
Consolidated Edison	2,044	154,388
Brooklyn Union	1,022	77,169
Long Island	1,022	77,169
Total	4,088	308,726

No new facilities will be required. Applicant intends to purchase the gas necessary for this proposed sale from Texas Eastern Transmission Corporation, whose pending application in Docket No. G-12226 et al. includes the volume involved herein.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations of the Commission.

Protests or petitions to intervene in this proceeding may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 15, 1957.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57-8125; Filed, Oct. 2, 1957; 8:49 a. m.]

[Docket No. G-13310 etc.]

TIDEWATER OIL CO.

ORDER SEVERING INVESTIGATION, CONSOLIDATING PROCEEDINGS, AND FIXING HEARING

SEPTEMBER 27, 1957.

In the matters of Tidewater Oil Company, Docket No. G-13310; Tidewater Oil Company, Docket Nos. G-9241, G-9551, G-9552, G-9608, G-9932, G-10998, G-11318, G-11319, G-11340, G-11357, G-11907, and G-12999.

By order issued January 27, 1956, in the proceedings in Docket Nos. G-9283 and G-9284, the Commission instituted investigations of The Atlantic Refining Company (Atlantic) and of Tidewater Oil Company[1] (Tidewater) under the provisions of the Natural Gas Act, for the purpose of enabling the Commission to determine whether, with respect to any transportation or sale of natural gas, subject to the jurisdiction of the Commission, made or proposed to be made by the said respondents, any of the rates, charges, or classifications demanded, observed, charged, or collected, or any rules, regulations, practices, or contracts affecting such rates, charges, or classifications are unjust, unreasonable, unduly discriminatory, or preferential.

Inasmuch as the investigation of Tidewater has been carried on separate and apart from the investigation of Atlantic, it is found appropriate in the premises that the investigation with respect to Tidewater should be separated from the proceeding concerned with the investigation of Atlantic, and that a separate docket number be assigned to the Tidewater proceeding in order that such proceeding may be consolidated for the purpose of hearing with those other Tidewater matters hereinafter designated.

In each of the twelve other proceedings hereinbelow designated,[2] the Commission has heretofore issued its order suspending proposed increases in rates and charges for sales of natural gas in interstate commerce by Tidewater for resale. The sales and deliveries of gas involved in the twelve designated suspension proceedings are made by Tidewater to the following purchasers: Texas Illinois Natural Gas Pipe Line Company (three sales); United Fuel Gas Company (six sales); United Gas Pipe Line Company; Texas Gas Transmission Corporation; and Shell Oil Company. The total amount of such rate increases approximates $2,830,000 annually, of which about $2,817,000 has been made effective under the provisions of section 4 (e) of the Natural Gas Act, subject to the refund of any portion of such increased rates found not justified.

Although the hearing was convened in Docket No. G-9932 on May 28, 1956, and various sessions have been held since that date during which Tidewater, the

[1] Formerly Tidewater Associated Oil Company.

[2] Docket Nos. G-9241, G-9551, G-9552, G-9608, G-9932, G-10998, G-11318, G-11319, G-11340, G-11357, G-11907, and G-12999.

Commission's staff, and interveners have introduced evidence, the hearings have not been concluded in that matter. Accordingly, it appears that the proceeding in Docket No. G–9932 should be consolidated with all other Tidewater matters hereinabove designated for hearing and disposition.

The said twelve suspension proceedings concerning the sales and deliveries of natural gas by Tidewater embrace questions of law and fact interrelated with those inherent in the matters involved and the issues presented in the investigative proceeding heretofore instituted against Tidewater in Docket No. G–9283.

The Commission finds: It is appropriate and in the public interest in carrying out the provisions of the Natural Gas Act and good cause exists to sever the investigation of Tidewater instituted by the Commission's order of January 27, 1956, in Docket No. G–9283 from the investigation of Atlantic instituted by the same order and to assign to the Tidewater investigative proceeding a separate docket number in order that such proceeding may be consolidated with the twelve above-designated suspension proceedings of Tidewater for the purpose of hearing.

The Commission orders:

(A) The investigation of Tidewater Oil Company instituted in Docket No. G–9283 by the Commission's order issued in that proceeding on January 27, 1956, be and the same is hereby severed from the proceeding in Docket No. G–9283 and the same is hereby designated In the Matter of Tidewater Oil Company, Docket No. G–13310.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Natural Gas Act, including particularly sections 4, 5, 14, 15, and 16 thereof, and the Commission's rules and regulations (18 CFR Ch. I), the proceedings in the above-designated Docket Nos. G–13310, G–9241, G–9551, G–9552, G–9608, G–9932, G–10998, G–11318, G–11319, G–11340, G–11357, G–11907, and G–12999 be and the same hereby are consolidated for the purpose of hearing.

(C) A public hearing be held commencing October 28, 1957, at 10:00 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved and the issues presented in the consolidated proceedings designated in paragraph (B) above.

(D) When the said hearing commences on October 28, 1957, the Commission staff shall go forward first and adduce and complete the presentation of evidence in its direct case in the proceeding in Docket No. G–13310. The presiding examiner shall thereafter grant such recesses as he deems necessary for the preparation of cross-examination and for the presentation of such additional evidence as may be found appropriate under the Commission's rules of practice and procedure.

(E) Interested state commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57–8126; Filed, Oct. 2, 1957; 8:49 a. m.]

[Docket No. G–13313]

J. C. TRAHAN, DRILLING CONTRACTOR, INC., ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

SEPTEMBER 27, 1957.

J. C. Trahan, Drilling Contractor, Inc., (Operator) et al., (Trahan), on August 30, 1957, tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filings:

Description: (1) Letter of Agreement,[1] dated July 24, 1957. (2) Notice of Change, dated August 27, 1957.

Purchaser: Texas Eastern Transmission Corporation.

Rate schedule designation: (1) Supplement No. 4 to Trahan's FPC Gas Rate Schedule No. 2. (2) Supplement No. 5 to Trahan's FPC Gas Rate Schedule No. 2.

Effective date:[2] September 30, 1957.

In support of the proposed rate increase, Trahan states that Texas Eastern is buying comparable gas in District No. 6 at the proposed price, and to deny applicant this price would promote unfair competition among operators. Trahan also states that, without the sliding scale of prices, applicant would not have entered into such a long-term contract and cities continuing increases in labor and maintenance.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge.

(B) Pending such hearing and decision thereon, said supplements be and they are each hereby suspended and the use thereof deferred until March 2, 1958, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of, or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested State Commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57–8130; Filed, Oct. 2, 1957; 8:50 a. m.]

[1] Bilateral agreement to favored-nations increase.

[2] The stated effective date is the first day after expiration of the required thirty days' notice, or the effective date proposed by Trahan, if later.

DEPARTMENT OF JUSTICE

Office of Alien Property

ELISABETH WILHELMINA LE COMTE

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Miss Elisabeth Wilhelmina le Comte, Avenue Concordia 117, Rotterdam, The Netherlands; Claim No. 60708; $146.64 in the Treasury of the United States.

Vesting Order No. 17836.

Executed at Washington, D. C., on September 24, 1957.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND, *Assistant Attorney General, Director, Office of Alien Property.*

[F. R. Doc. 57–8104; Filed, Oct. 2, 1957; 8:45 a. m.]

MARINUS CORNELIS VAN DEN BOUT

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Marinus Cornelis van den Bout, Hooge Zoom B 69, Renesse, Holland; Claim No.

60809; $147.30 in the Treasury of the United States.

Vesting Order No. 17915.

Executed at Washington, D. C., on September 24, 1957.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 57-8105; Filed, Oct. 2, 1957; 8:45 a. m.]

EMMA DITTING

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Emma Ditting, Ackerstrasse 9, Ludwigsburg-Eglosheim, Germany; Claim No. 61216; $1,383.61 in the Treasury of the United States.

Vesting Order No. 17610.

Executed at Washington, D. C., on September 24, 1957.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 57-8106; Filed, Oct. 2, 1957; 8:45 a. m.]

EMILIE FRENKEL-GOLDSCHMIDT ET AL.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Emilie Frenkel-Goldschmidt, 29 Jan van Eyckstraat, Amsterdam, The Netherlands; Eduard Pieter Goldschmidt, 3 Burgemeester Luyerinksingel, Vlaardingen, The Netherlands; Claim No. 60973; to each claimant $125 in the Treasury of the United States and 10 shares of Kansas City Southern Railway Company $50 par value preferred stock. The securities are presently in the custody of the Federal Reserve Bank of New York.

Vesting Order No. 17950.

Executed at Washington, D. C., on September 24, 1957.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 57-8107; Filed, Oct. 2, 1957; 8:45 a. m.]

ANNA KESSLER-ROTH

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Anna Kessler-Roth, Buehlstrasse 41, Schaffhouse, Switzerland; Claim No. 61053; $2,515.21 in the Treasury of the United States.

Five (5) shares Baltimore and Ohio Railroad Company $100.00 par value common stock, presently in the custody of the Safekeeping Department, Federal Reserve Bank of New York.

Vesting Orders Nos. 17829 and 17903.

Executed at Washington, D. C., on September 24, 1957.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 57-8108; Filed, Oct. 2, 1957; 8:45 a. m.]

HANS SELIGMAN

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Hans Seligman, Basel, Switzerland; Claim No. 63997; $3,201.10 in the Treasury of the United States.

Vesting Order No. 9972.

Executed at Washington, D. C., on September 24, 1957.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 57-8109; Filed, Oct. 2, 1957; 8:45 a. m.]

ROSINA TREML ET AL.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Rosina Treml, Steyr, Upper Austria; $246.26 cash in the Treasury of the United States.

Anna Riesenhuber, Garsten-Sarning 33, near Steyr, Upper Austria; $258.48 cash in the Treasury of the United States.

Thomas Holzmayer, Garsten, near Steyr, Upper Austria; $246.26 cash in the Treasury of the United States.

Claim No. 15656.

Executed at Washington, D. C., on September 24, 1957.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 57-8110; Filed, Oct. 2, 1957; 8:46 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

SEPTEMBER 30, 1957.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 34187: *TOFC service—N. Y., N. H. & H. and connections—Class rates between New England points and Galesburg, Ill.* Filed by the New York, New Haven and Hartford Railroad Company, (No. 37), for itself and interested rail carriers. Rates on freight loaded in or on trailers and transported on railroad flat cars between Galesburg, Ill., on the one hand, and points in Connecticut, Massachusetts, and Rhode Island, on the other.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 10 to the New York, New Haven and Hartford Railroad Company's tariff I. C. C. F 4431.

FSA No. 34188: *Fine coal—Southern Railway mines to Florida points.* Filed by Southern Railway Company (No. 127-A), for itself and interested rail carriers. Rates on fine coal, carloads, as described in the application from specified points in Alabama, Kentucky, Tennessee, and western Virginia on the Southern Railway and its short-line connections to Sutton and Tampa, Fla.

Grounds for relief: Market competition at destinations with like coal moving via barge from Uniontown, Ky., down the Ohio and Mississippi rivers to New Orleans, La., thence Gulf to Mexico.

Tariff: Supplement 44 to Agent Spaninger's I. C. C. 13322.

FSA No. 34189: *Scrap iron or steel—Troy, N. Y., to Boston, Mass.* Filed by The Boston and Maine Railroad, Agent (A-3), for itself. Rates on iron or steel scrap (not copper clad), iron or steel borings, moulds, ingots, burnt or worn out, old rails, and iron or steel turnings,

carloads from Troy, N. Y., to Boston, Mass., for export.

Grounds for relief: Port competition with New York as a port of export on like property via barge from Troy.

FSA No. 34190: *Liquid caustic soda—Louisiana and Texas points to Pensacola, Fla., and group.* Filed by F. C. Kratzmeir, Agent (SWFB No. B–7123), for interested rail carriers. Rates on liquid caustic soda, tank-car loads from Lake Charles and West Lake Charles, La., Corpus Christi, Houston, and Velasco, Tex., to Cantonment, Gonzales, North Pensacola, and Pensacola, Fla.

Grounds for relief: Market competition with McIntosh, Ala., at the Florida destinations.

Tariffs: Supplement 378 to Agent Kratzmeir's I. C. C. 4139. Supplement 31 to Agent Kratzmeir's I. C. C. 4227.

FSA No. 34191: *Fine coal—Southern mines to Tampa and Sutton, Fla.* Filed by O. W. South, Jr., Agent (SFA A3532), for interested rail carriers. Rates on fine coal, carloads from mines in Alabama, western Kentucky, western Tennessee, and southwestern Virginia, to Tampa and Sutton, Fla.

Grounds for relief: Market competition at destinations with like coal moving via barge down the Ohio and Mississippi Rivers and through the Gulf of Mexico.

Tariffs: Supplement 44 to Agent Spaninger's I. C. C. 1332. Supplement 48 to Agent Spaninger's I. C. C. 1414.

FSA No. 34192: *Xylene—Big Spring, Tex., to Gibbstown, N. J.* Filed by F. C. Kratzmeir, Agent (SWFB No. B–7125), for interested rail carriers. Rates on xylene (xylol), tank-car loads from Big Spring, Tex., to Gibbstown, N. J.

Grounds for relief: Market competition with Baytown, Tex., on barge-truck movement via Paulsboro, N. J.

Tariff: Supplement 379 to Agent Kratzmeir's I. C. C. 4139.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

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