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Agencies in this issue—

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Volume 78

UNITED STATES STATUTES AT LARGE

[88th Cong., 2d Sess.]

Contains laws and concurrent resolutions enacted by the Congress during 1964, the twenty-fourth amendment to the Constitution, and Presidential proclamations. Included is a numerical listing of bills enacted into public and private law, and a guide to the legislative history of bills enacted into public law.

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List of CFR Parts Affected

(Codification Guide)

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1965, and specifies how they are affected.

Presidential Documents

Title 3—THE PRESIDENT

Proclamation 3691

BILL OF RIGHTS DAY

HUMAN RIGHTS DAY

By the President of the United States of America

A Proclamation

WHEREAS December 10, 1965, is the 17th anniversary of the Universal Declaration of Human Rights, which voices the aspirations of all mankind, and December 15, 1965, is the 174th anniversary of the first ten Amendments to the Constitution of the United States, which we honor as our Bill of Rights; and

WHEREAS the Universal Declaration is a further recognition of the great principles of freedom of speech, press, and assembly, of freedom of religion and conscience, of assurance of fair trial, and of the right to participate in government—all rights which are guaranteed by the Constitution of the United States; and

WHEREAS people everywhere in the world find common cause in the demand for more effective recognition—in law and in practice—of the inalienable right of every person to equal dignity and equal opportunity; and

WHEREAS our American heritage has found further expression in our own country through the adoption of new legislation for the protection of civil rights, for the guarantee of voting rights, and for the extension of economic opportunity to those who have not shared equally in the prosperity and promise of our time:

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America, do hereby proclaim December 10, 1965, as Human Rights Day and December 15, 1965, as Bill of Rights Day, and call upon the people of the United States to observe the week of December 10–17 as Human Rights Week.

Let us never forget the words cast on the big bell at Independence Hall, "Proclaim Liberty throughout the land and unto all the inhabitants thereof."

The Congress of the United States, our Executive Departments, the Courts, and men and women of good will throughout the land are daily demonstrating their determination that no one shall be denied enjoyment of his rights or equal opportunity to rise as far as his abilities will take him.

During this Human Rights Week, let us pause to reaffirm the ideals and principles which have been at the foundation of our country's growth and greatness—ideals which have stirred the minds and hearts of men from time immemorial, and which take on new power and promise for all peoples in this splendid age of scientific and cultural achievement.

Let each of us, in daily life, do what he can to make this a truly just and compassionate nation, remembering that as we work for freedom here—freedom from discrimination, freedom from ignorance, from poverty, from all that makes for fear and prejudice—we work not only for ourselves but for all mankind.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this second day of December in the year of our Lord nineteen hundred and sixty-five, [SEAL] and of the Independence of the United States of America the one hundred and ninetieth.

LYNDON B. JOHNSON

By the President:

DEAN RUSK,
Secretary of State.

[F.R. Doc. 65-13169; Filed, Dec. 6, 1965; 2:12 p.m.]

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Agriculture

Section 213.3313 is amended to show that the title of one of the two Schedule C Staff Assistants to the Director, Agricultural Economics, is changed to Head, Staff Economists Group. Effective on publication in the FEDERAL REGISTER, subparagraph (4) of paragraph (n) of § 213.3313 is amended as set out below.

§ 213.3313 Department of Agriculture.

* * * * *

(n) *Agricultural Economics.* * * *

(4) One Head, Staff Economists Group, and one Staff Assistant to the Director.

* * * * *

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL,
Executive Assistant to the Commissioners.

[F.R. Doc. 65-13140; Filed, Dec. 7, 1965; 8:48 a.m.]

Title 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

PART 321—RESTRICTED ENTRY ORDERS

Subpart—Foreign Potatoes

SPECIAL PROVISION FOR IMPORTATION FROM BERMUDA AND CANADA

Under the authority of sections 1, 5, and 9 of the Plant Quarantine Act of August 20, 1912 (7 U.S.C. 154, 159, 162; 37 Stat. 315, 316, 318), § 321.8 of the restricted entry order (7 CFR 321.1 et seq.) relating to the importation of potatoes is hereby amended to read as follows:

§ 321.8 Special provision for the importation of potatoes from Bermuda and certain parts of the Dominion of Canada.

(a) Potatoes may be imported into the United States from Bermuda and the Dominion of Canada (other than British Columbia and Newfoundland) free of any restrictions whatsoever.

(b) Seed potatoes may be imported into the United States from the Province of British Columbia (other than Vancouver Island), Dominion of Canada, if the following conditions are met:

(1) The seed potatoes were grown on the mainland of the Province.

(2) A soil survey by the Canada Department of Agriculture of the field or fields where the seed potatoes were grown has shown the apparent freedom of such field or fields from golden nematode infestation.

(3) The seed potatoes are accompanied by a Canada Department of Agriculture export certificate certifying that the conditions in subparagraphs (1) and (2) of this paragraph have been complied with.

(c) The authorization in paragraph (b) of this section does not apply to the importation of table stock potatoes.

(Secs. 1, 5, 9, 37 Stat. 315, 316, 318, 7 U.S.C. 154, 159, 162; 29 F.R. 16210, as amended, 30 F.R. 5801; 7 CFR 321.1 et seq.)

The foregoing amendment shall be effective December 8, 1965, when it shall supersede the amendment effective July 21, 1965, 30 F.R. 9087.

The purpose of this amendment is to authorize the importation into the United States of seed potatoes from the Province of British Columbia (other than Vancouver Island) under certain conditions deemed sufficient to assure that such potatoes are not infested with the golden nematode. Under an amendment of § 321.8 effective July 21, 1965, importation of potatoes of all types from the Province of British Columbia was prohibited. Since that date extensive surveys of potato fields on the mainland of British Columbia and on-the-ground consultation on the problem by representatives of the U.S. Department of Agriculture have indicated that the mainland is apparently free of the pest. Section 321.8 is accordingly being amended to authorize the entry from British Columbia (other than Vancouver Island) of seed potatoes when they are accompanied by a certificate of the Canada Department of Agriculture certifying that the seed potatoes are from mainland fields that have been surveyed for golden nematode with negative results. Entry of table stock potatoes is still prohibited from the entire Province of British Columbia.

Inasmuch as this amendment relieves restrictions heretofore imposed, it should be made effective promptly in order to be of maximum benefit to importers of seed potatoes. Accordingly, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice and other public procedure with respect to this amendment are impracticable and contrary to the public interest, and good cause is found for making this revision effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 3d day of December 1965.

[SEAL] R. J. ANDERSON,
Acting Administrator, Agricultural Research Service.

[F.R. Doc. 65-13130; Filed, Dec. 7, 1965; 8:48 a.m.]

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 722—COTTON

Subpart—1966 Crop of Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas

COUNTY RESERVE

(a) Section 722.363 is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.). This section establishes the county reserve for the 1966 crop of extra long staple cotton. Such determination was made initially by the respective county committees and is hereby approved and made effective by the Administrator, ASCS, pursuant to delegated authority (19 F.R. 74, 21 F.R. 1665, 25 F.R. 3925, 28 F.R. 4368).

(b) Notice that the Secretary was preparing to establish State and county allotments was published in the FEDERAL REGISTER on September 22, 1965 (30 F.R. 12079), in accordance with section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003). No written submissions were received in response to such notice.

(c) Since the establishment of county reserves under this section requires immediate action by the State and county committees, it is essential that § 722.363 be made effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the 30-day effective date requirement of section 4 of the Administrative Procedure Act is impracticable and contrary to the public interest and § 722.363 shall be effective upon filing this document with the Director, Office of the Federal Register.

§ 722.363 County reserve for the 1966 crop of extra long staple cotton.

The county reserve for the 1966 crop of extra long staple cotton is established in accordance with § 722.309 of the Acreage Allotment Regulations for the 1964 and Succeeding Crops of Extra Long Staple Cotton (28 F.R. 11034, as amended). The following table sets forth the county reserve:

County	County reserve (acres)	County	County reserve (acres)
ARIZONA			
Cochise	2.0	Pima	5.2
Gila	0	Pinal	9.6
Graham	1.6	Santa Cruz	0
Maricopa	22.8	Yuma	2.4
CALIFORNIA			
Imperial	.7	Riverside	5.0
FLORIDA			
Alachua	0	Marion	0
Bradford	.4	Putnam	0
Hamilton	0	Sumter	4.9
Jefferson	0	Suwannee	0
Lake	0	Union	.1
Madison	0		
GEORGIA			
Berrien	13.9	Cook	0
NEW MEXICO			
Chaves	4.2	Luna	1.2
Dona Ana	34.6	Otero	0
Eddy	5.4	Sierra	19.7
Hidalgo	.6		
TEXAS			
Brewster	0	Pecos	1.9
Culberson	2.0	Presidio	.1
El Paso	15.6	Reeves	.7
Hudspeth	4.2	Ward	0
Loving	0		

Area	Area reserve (acres)
PUERTO RICO	
North	11.2

(Secs. 344, 347, 375, 63 Stat. 670, as amended, 63 Stat. 675, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1344, 1347, 1375)

Effective date. Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on December 3, 1965.

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

[F.R. Doc. 65-13131; Filed, Dec. 7, 1965; 8:48 a.m.]

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

[Navel Orange Reg. 88, Amdt. 1]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of Navel oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b) (1) (i), (iii), and (iv) of § 907.388 (Navel Orange Regulation 88, 30 F.R. 14730) are hereby amended to read as follows:

§ 907.388 Navel Orange Regulation 88.

* * * * *

(b) *Order.* * * *

(1) * * *

(i) District 1: Unlimited movement;

* * * * *

(iii) District 3: Unlimited movement;

(iv) District 4: Unlimited movement.

* * * * *

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

Dated: December 3, 1965.

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

[F.R. Doc. 65-13094; Filed, Dec. 7, 1965; 8:45 a.m.]

[Navel Orange Reg. 90]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.390 Navel Orange Regulation 90.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and this part (Order No. 907, as amended), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 2, 1965.

(b) *Order.* (1) During the period beginning at 12:01 a.m., P.s.t., December 12, 1965, and ending at 12:01 a.m., P.s.t., October 31, 1966, no handler shall handle any navel oranges, grown in District 2, which are of a size smaller than 2.32 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided,* That not to exceed 5 percent, by count, of the oranges contained in any type of container may measure smaller than 2.32 inches in diameter.

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

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

Dated: December 3, 1965.

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

[F.R. Doc. 65-13133; Filed, Dec. 7, 1965; 8:48 a.m.]

PART 971—LETTUCE GROWN IN LOWER RIO GRANDE VALLEY IN SOUTH TEXAS

Expenses and Rate of Assessment

Notice of rule making regarding proposed expenses and rate of assessment for the fiscal period ending July 31, 1966, to be effective under Marketing Agreement No. 144 and Marketing Order No. 971 (7 CFR Part 971), regulating the handling of lettuce grown in the Lower Rio Grande Valley in South Texas, was published in the FEDERAL REGISTER, October 16, 1965 (30 F.R. 13235). This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.). The notice afforded interested persons an opportunity to submit data, views, or arguments pertaining thereto not later than 15 days following publication in the FEDERAL REGISTER. None was filed.

After consideration of all relevant matters, including the proposals set forth in the aforesaid notice, which were recommended by the South Texas Lettuce Committee, established pursuant to the said marketing agreement and this part, it is hereby found and determined that:

§ 971.206 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period August 1, 1965, through July 31, 1966, by the South Texas Lettuce Committee for its maintenance and functioning and for such purposes as the Secretary determines to be appropriate, will amount to $18,235.00.

(b) The rate of assessment to be paid by each handler in accordance with the marketing agreement and this part shall be one cent ($0.01) per carton of lettuce handled by him as the first handler thereof during said fiscal period.

(c) Terms used in this section have the same meaning as when used in the said marketing agreement and this part.

It is hereby found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1003) in that: (1) The relevant provisions of the marketing agreement and this part require that rates of assessment fixed for a particular fiscal period shall be applicable to all assessable lettuce from the beginning of such period, and (2) the current fiscal period began on August 1, 1965, and the rate of assessment herein fixed will automatically apply to all assessable lettuce beginning with such date.

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

Dated: December 2, 1965.

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

[F.R. Doc. 65–13095; Filed, Dec. 7, 1965; 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Docket No. 1464; Amdt. No. 137–1]

PART 137—AGRICULTURAL AIRCRAFT OPERATIONS

Expansion of Grandfather Provisions

The purpose of this amendment is to make the knowledge and skill and continuance of existing authority ("grandfather") privileges provided in Part 137 for holders of certificates of waiver also available to operators and pilots who can substantiate that they have, within the 12 months immediately preceding the effective date of Part 137, conducted agricultural aircraft operations in compliance with the Federal Aviation Regulations, without a certificate of waiver.

The Helicopter Association of America pointed out in a letter to the Agency, that since most agricultural operations with helicopters can be conducted within the regulations, many operators and pilots engaged in these operations without certificates of waiver. Thus, as Part 137 is presently written, the lack of a waiver would make these operators and pilots ineligible for the "grandfather" privileges that this Part provides for waiver holders. As it was the intent of Part 137 to exempt persons who have engaged in agricultural aircraft operations in compliance with Federal Aviation Regulations, from the knowedge and skill requirements of § 137.19(e) and to grant them a continuance of their existing authority, the fact that some of these operators or pilots do not possess a waiver should not prevent them from qualifying for the "grandfather" privileges.

Since these amendments are minor in nature and impose no additional burden on any person, I find that notice and public procedure thereon are unnecessary and good cause exists for making them effective on less than 30 days' notice.

In consideration of the foregoing, effective January 1, 1966, Part 137 of the Federal Aviation Regulations is amended as follows:

1. Section 137.13 is amended to read as follows:

§ 137.13 Continuance of existing authority.

Any person conducting agricultural aircraft operations under a certificate of waiver issued by the Administrator that is in effect on December 31, 1965, or any person who can substantiate that he has conducted agricultural aircraft operations in compliance with Federal Aviation Regulations without a certificate of waiver within 12 months immediately preceding January 1, 1966, may continue to operate, if he applies for an agricultural aircraft operator certificate before January 1, 1966. Unless the operating authority is sooner suspended or revoked, this extension of authority terminates when he is given notice of final action on his application.

§ 137.19 [Amended]

2. The second sentence of § 137.19(e) is amended to read as follows: "However an applicant need not comply with this paragraph if, at the time he applies for an agricultural aircraft operator certificate, he holds a current certificate of waiver for conducting agricultural aircraft operations or the person who is to supervise agricultural aircraft operations for him holds such a certificate, or if he or that supervisor can substantiate that either of them has conducted agricultural aircraft operations in compliance with the Federal Aviation Regulations without a certificate of waiver within 12 months immediately preceding January 1, 1966; and if his record of operation either with or without the certificate of waiver has not disclosed any question regarding the safety of his flight operations or his competence in dispensing agricultural materials or chemicals."

(Secs. 313(a), 307(c), 601, 607, Federal Aviation Act of 1958 (49 U.S.C. 1354, 1348, 1421, 1427))

Issued in Washington, D.C., on December 6, 1965.

WILLIAM F. MCKEE,
Administrator.

[F.R. Doc. 65–13198; Filed, Dec. 7, 1965; 9:46 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 56542]

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Clearance of Serially Numbered Substantial Holders or Outer Containers

On September 15, 1965, there was published in the FEDERAL REGISTER a notice of proposed rulemaking setting forth proposed amendments to the Customs Regulations relating to the clearance of serially numbered substantial holders or outer containers. No adverse representations were received.

Accordingly, Part 10 of the Customs Regulations is amended in terms of the published proposal (with the addition of a delayed effective date as to the marking requirements) by inserting after § 10.41a a new § 10.41b reading as follows:

§ 10.41b Clearance of serially numbered substantial holders or outer containers.

(a) The holders and containers described in this section may be released without entry or the payment of duty, subject to the provisions of this section.

(b) In the case of serially numbered holders or containers of United States manufacture for which free clearance under item 800.00, Tariff Schedules of the United States, is claimed, the owner shall place thereon the following mark-

ings: (1) 800.00, unless the holder or container has permanently attached thereto the manufacturer's metal tag or plate showing, among other things, the name and address of the manufacturer who is located in the United States. (2) The name of the owner, either positioned as indicated in the example below, or elsewhere conspicuously shown on the holder or container. (3) The serial number assigned by the owner, which shall be one of consecutive numbers and not to be duplicated. For example: 800.00 * * * Zenda * * * 2468.

(c) In the case of serially numbered holders or containers of foreign manufacture for which free clearance under the second provision in item 808.00, Tariff Schedules of the United States, is claimed, the owner shall place thereon the following markings: (1) 808.00. (2) The district and port code numbers of the port of entry, the entry number, and the last two digits of the fiscal year of entry covering the importation of the holders and containers on which duty was paid. (3) The name of the owner, either positioned as indicated in the example below, or elsewhere conspicuously shown on the holder or container. (4) The serial number assigned by the owner, which shall be one of consecutive numbers and not to be duplicated. For example: 808.00 * * * 10–1–366–63 * * * Zenda * * * 2468.

(d) The prescribed markings shall be clear and conspicuous, that is, they shall appear on an exposed side of the holder or container in letters and figures of such size as to be readily discernible. The markings will be stricken out or removed when the holders or containers are taken out of service or when ownership is transferred, except that appropriate changes may be made if a new owner wishes to use the holders and containers under this procedure.

(e) The owner shall keep adequate records open to inspection by customs officers, which shall show the current status of the serially numbered holders and containers in service and the disposition made of such holders and containers taken out of service.

(f) Nothing in this procedure shall be deemed to affect:

(1) The requirements for outward or inward manifesting of such holders or containers. The manifests will show for each holder or container its markings as provided for herein.

(2) The requirements of the Department of Commerce on exportation with respect to the filing of "Shipper's Export Declaration," Form 7525–V.

(3) The treatment of articles covered herein under the coastwise laws of the United States, with particular reference to section 883, Title 46, United States Code.

(g) If the holder or container and its contents are to move in bond from the port of arrival intact, the holder or container should appear on the inward foreign manifest so as to be related to the cargo contained therein. The holder or container and its contents will be cleared under this procedure at a subsequent port. If the holder or container is to move from the port of arrival not intact with its contents, the holder or container may appear on the inward foreign manifest separate from and not related to the cargo contained therein. The container will be cleared under this procedure at the port of arrival before it moves forward and will not appear on the inbond documents.

(h) A bond in the form set forth below will be filed with the collector of customs in the amount of $10,000. The bond will remain in force for a continuous period. The bond will be conditioned that upon a violation of the requirements of item 800.00 or 808.00, Tariff Schedules of the United States, or of these regulations, the owner will be liable for the payment of liquidated damages equal to the domestic value of the holder or container established in accordance with section 606, Tariff Act of 1930.

BOND FOR THE CONTROL OF IDENTIFIED SHIPPING CONTAINERS

Know all men by these presents that [1]_____ of _____, as principal, and [1] _____, of _____, and _____, of _____, as sureties, are held and firmly bound unto the United States of America in the sum of _____ dollars ($_____), for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals this _____ day of _____, 19__.

Whereas, the above-bounden principal in the conduct of its domestic and international business expects to bring in and take out at a port or ports of entry, lift vans, cargo vans, shipping tanks, skids, pallets, and similar substantial holders or outer containers of United States or foreign manufacture, classifiable under item 800.00 or item 808.00, Tariff Schedules of the United States, and which have been serially numbered; and

Whereas, the above-bounden principal agrees that such holders or containers for which free release is claimed under item 800.00, Tariff Schedules of the United States, will not be advanced in value or improved in condition while they are abroad and that no drawback will be (or has been) claimed on their exportation, and that in the case of holders and containers for which free release under the second provision in item 808.00 is claimed the conditions required by that provision, including the initial duty payment, will be complied with; and

Whereas, the above-bounden principal agrees to mark such holders or containers in the manner prescribed by the Bureau of Customs and to keep adequate records, open to inspection by customs officers, showing current status of the holders and containers in service and the disposition made of holders and containers taken out of service.

Now, therefore, the condition of this obligation is such that—

(1) If the serially numbered lift vans, cargo vans, shipping tanks, skids, pallets, and other substantial holders or outer containers of United States manufacture for which free release is claimed under item 800.00, Tariff Schedules of the United States, are not advanced in value or improved in condition while they are abroad and no drawback is (or has been) claimed on their exportation, and if in the case of such holders or containers of foreign manufacture for which free release is claimed under the second provision of item 808.00, Tariff Schedules of the United States, the provisions of that item are complied with;

(2) If the above-bounden principal marks such holders or containers in the manner prescribed by the Bureau of Customs and keeps adequate records, open to inspection by customs officers, showing the current status of the holders and containers in service and the disposition made of holders and containers taken out of service;

(3) If the above-bounden principal strikes out or removes the markings from holders and containers when they are taken from service or when ownership is being transferred;

Then this obligation shall be void; otherwise it shall remain in full force and effect for the payment of liquidated damages in an amount equal to the domestic value of the article established in accordance with section 606, Tariff Act of 1930, not exceeding the sum named in this obligation, for any breach or breaches thereof.

Signed, sealed, and delivered in the presence of—

(Name)	(Address)	
(Name)	(Address)	
	_____ (Principal)	(SEAL)
(Name)	(Address)	
(Name)	(Address)	
	_____ (Surety)	(SEAL)
(Name)	(Address)	
(Name)	(Address)	
	_____ (Surety)	(SEAL)

(77A Stat. 409, sec. 623, 46 Stat. 759, as amended; 19 U.S.C. 1202 (Sch. 8, pt. 1C, hdnote. 3(a)), 1623)

(77A Stat. 14, sec. 624, 46 Stat. 759; 19 U.S.C. 1202 (Gen. Hdnote 11), 1624)

This amendment relieves restrictions and is within the exception of section 4(c) of the Administrative Procedure Act as to effective date requirements. This amendment shall be effective on the date of its publication in the FEDERAL REGISTER except that, with respect to the required marking of holders and containers which were covered by a bond filed with a collector of customs before the date of publication of this amendment and marked in accordance with instructions then in effect, the effective date shall be June 30, 1967.

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

Approved: November 30, 1965.

TRUE DAVIS,
Assistant Secretary of the Treasury.

[FR. Doc. 65–13108; Filed, Dec. 7, 1965; 8:46 a.m.]

[1] If the principal or surety is a corporation, the name of the State in which incorporated also should be shown.

Title 24—HOUSING AND HOUSING CREDIT

Subtitle A—Department of Housing and Urban Development

PART 3—URBAN RENEWAL

The regulations governing the making of relocation payments under Title I of the Housing Act of 1949, as amended (42 U.S.C. 1450 et seq.), published under Part 3 of Subtitle A of Title 24 of the Code of Federal Regulations (first issued as of October 8, 1956, 21 F.R. 9991, Dec. 15, 1956, and amended at 22 F.R. 1980, Mar. 26, 1957; 22 F.R. 9937, Dec. 12, 1957; 23 F.R. 750, Feb. 5, 1958; 23 F.R. 1723, Mar. 13, 1958; 23 F.R. 5723, July 30, 1958; 23 F.R. 6595, Aug. 26, 1958; 23 F.R. 10531, Dec. 31, 1958; 24 F.R. 8604, Oct. 23, 1959; 26 F.R. 5712, June 27, 1961; 26 F.R. 7826, Aug. 23, 1961; 27 F.R. 7677, Aug. 3, 1962, corrected at 27 F.R. 7876, Aug. 9, 1962; 28 F.R. 588, Jan. 23, 1963, corrected at 28 F.R. 692, Jan. 25, 1963; 30 F.R. 439, Jan. 13, 1965; 30 F.R. 4715, Apr. 13, 1965; 30 F.R. 10027, Aug. 12, 1965), are hereby amended to include the regulations governing the making of relocation payments under section 404 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3074) and otherwise revised to read as follows:

Subpart A—[Reserved]

Subpart B—Relocation Payments

Sec.

AUTHORITY: The provisions of this Part 3 issued under sec. 502, 62 Stat. 1283, as amended, sec. 114(d), 78 Stat. 789, sec. 404, 79 Stat. 486; 12 U.S.C. 1701c, 42 U.S.C. 1465 (d), 3074.

Subpart A [Reserved]

Subpart B—Relocation Payments

§ 3.100 Statement of applicable law.

Section 305 of the Housing Act of 1956 (70 Stat. 1100, 42 U.S.C. 1456) amended Title I of the Housing Act of 1949, as amended, by adding a new section 106(f), which provided that Title I urban renewal projects may include the making of relocation payments subject to rules and regulations prescribed by the Housing and Home Finance Administrator. Section 106(f) was amended by section 304 of the Housing Act of 1957 (71 Stat. 300), section 409 of the Housing Act of 1959 (73 Stat. 673), and section 304 of the Housing Act of 1961 (75 Stat. 167). Section 310 of the Housing Act of 1964 amended Title I by adding a new section 114 (78 Stat. 788, 42 U.S.C. 1465) and incorporated therein, with additional provisions, the former section 106(f) of Title I, which was repealed (42 U.S.C. 1456 (s)). Section 311(a) of the Housing and Urban Development Act of 1965 amended Title I by adding a new section 117 (79 Stat. 478, 42 U.S.C. 1468) providing for grants for programs of concentrated code enforcement and providing that the provisions of section 114 of Title I shall be applicable to such programs. Section 404(a) of the Housing and Urban Development Act of 1965 (79 Stat. 486, 42 U.S.C. 3074) provides that the provisions of section 114 of Title I shall be applicable to all programs under Title I; by virtue of such section 404(a), the provisions of section 114 of Title I are applicable to contracts for grants for the demolition of structures which are structurally unsound or unfit for human habitation. Authority to issue regulations is included in the delegation to the Urban Renewal Commissioner and Regional Administrators, as amended, republished at 25 F.R. 9874, October 14, 1960, as amended. Such delegation of authority is continued in full force and effect by section 9(c) of the Department of Housing and Urban Development Act (79 Stat. 671, 5 U.S.C. 624 note).

§ 3.101 Definitions.

For the purpose of the regulations in this subpart, the following terms shall mean:

(a) *Actual direct loss of property.* Actual loss in the value of the property (exclusive of goods or other inventory kept for sale) sustained by the site occupant by reason of the disposition or abandonment of the property resulting from the site occupant's displacement. A loss resulting from damage to the property while being moved is not included.

(b) *Agency.* (1) In an urban renewal area, the LPA, or (2) in a code enforcement area or demolition grant area, the code agency.

(c) *Business concern.* A corporation, partnership, individual, or other private entity, including a nonprofit organization, engaged in some type of business, professional, or institutional activity necessitating fixtures, equipment, stock in trade, or other tangible property for the carrying on of the business, profession, or institution.

(d) *Code agency.* A city, other municipality, or county authorized to engage in code enforcement activities in the locality.

(e) *Code enforcement.* Structural or other substantial repairs to, or alterations of, any building or other improvement on land, the demolition of any building or improvement, or a reduction in the number of occupants of, or any other change in the use of, any parcel of real property, pursuant to the requirements of, or to comply with a notice by a municipality of enforcement of, a zoning, building, or other municipal code or ordinance.

(f) *Code enforcement area.* An area which HUD has approved under section 117 of Title I for a program of concentrated code enforcement and public improvements.

(g) *Demolition grant area.* An area which HUD has approved under section 116 of Title I for a program of demolition of structures which are structurally unsound or unfit for human habitation.

(h) *Family.* Two or more persons related by blood, marriage, or adoption, who are living together in a single dwelling unit.

(i) *Federal financial assistance contract.* (1) A contract for a loan, a grant, or a loan and grant, between the Federal Government and the LPA for an urban renewal project, executed on or after August 7, 1956; or

(2) A contract for a grant for a program of concentrated code enforcement and public improvements between the Federal Government and the code agency; or

(3) A contract for a grant for the demolition of unsafe structures between the Federal Government and the code agency;

whichever is pertinent in the context.

(j) *HUD.* (1) Prior to November 9, 1965, the Housing and Home Finance Administrator; or (2) on and after November 9, 1965, the Housing and Home Finance Administrator in the Department of Housing and Urban Development pending appointment of the Secretary of Housing and Urban Development, and thereafter the Secretary of Housing and Urban Development; or (3) an employee duly authorized to perform the functions of such Administrator or Secretary.

(k) *Individual.* A person who is not a member of a family. An elderly individual is an individual 62 years of age or over at the time of displacement.

(l) *LPA.* A Local Public Agency authorized to undertake an urban renewal project being assisted under Title I.

(m) *Moving expenses*—(1) *Individuals and families.* Costs of packing, storing (for a period of 1 year or less), carting, and insuring of property and incidental costs of disconnecting and reconnecting household appliances.

(2) *Business concerns.* Costs of dismantling, crating, storing (for a period of 1 year or less), transporting, insuring, reassembling, reconnecting, and reinstalling of property (including goods or other inventory kept for sale), exclusive of the cost of any additions, improvements, alterations, or other physical changes in or to any structure in connection with effecting such reassembly, reconnection, or reinstallation.

(n) *Property.* Tangible personal property, excluding fixtures, equipment, and other property which under State or local law are considered real property,

but including such items of real property as the site occupant may lawfully remove.

(o) *Public body.* A State, county, municipality, or other political subdivision, or an authority or agency which is a public legal entity.

(p) *Relocation payment.* A payment by an Agency:

(1) To an individual or family, for reasonable and necessary moving expenses and any actual direct loss of property (for which reimbursement or compensation is not otherwise made);

(2) To a business concern, for its reasonable and necessary moving expenses and any actual direct loss of property except goodwill or profit (for which reimbursement or compensation is not otherwise made);

(3) To a small business concern, for its displacement (small business displacement payment);

(4) To or on behalf of a family or elderly individual, for relocation adjustment (relocation adjustment payment); or

(5) To an individual, family, or business concern for settlement costs (for which reimbursement or compensation is not otherwise made).

(q) *Settlement costs.* (1) Recording fees, transfer taxes, and similar expenses incidental to conveying real property to the Agency;

(2) Penalty costs for prepayment of any mortgage encumbering such real property; and

(3) The pro rata portion of real property taxes allocable to a period subsequent to the date of vesting of title, or the effective date of the acquisition of such real property by the Agency, whichever is earlier.

(r) *Site occupant.* A family, individual, or business concern, as defined above.

(s) *Small business concern.* A business concern (other than a nonprofit organization) which in the 2 tax years immediately preceding its displacement (or, if not in business that long, such lesser period as may be approved by HUD) had average annual gross receipts or sales in excess of $1,500, but average annual net earnings before income taxes of less than $10,000. Earnings for the purpose of this paragraph (s) include salaries, wages, or other compensation received by an owner of the concern or any member of his household related to him, or, in the case of a corporation, the principal stockholders as determined by HUD.

(t) *Title I.* Title I of the Housing Act of 1949, as amended (42 U.S.C. 1450 et seq.).

(u) *Urban renewal area.* An area which HUD has approved for an urban renewal project.

(v) *Urban renewal plan.* A duly approved plan, as it exists from time to time, for an urban renewal project.

(w) *Urban renewal project.* Undertakings and activities of an LPA in an urban renewal area for the elimination and prevention of the development or spread of slums or blight as defined in Title I.

(x) *Voluntary rehabilitation.* Structural or other substantial repairs to, or alterations of, any building or other improvement on land within an urban renewal area, undertaken by an owner of any interest in such real property, in order to conform to the property rehabilitation standards set forth in the urban renewal plan.

§ 3.102 Relocation payments by the Agency.

The Agency shall make relocation payments to or on behalf of eligible site occupants in accordance with and to the full extent permitted by the regulations in this subpart: *Provided,* That for each Federal financial assistance contract the LPA may elect whether to make payments for moving expenses in excess of $25,000 in accordance with § 3.109(a)(2).

§ 3.103 Basic eligibility conditions—displacement from an urban renewal area.

(a) *Displacement.* A site occupant is eligible for a relocation payment for moving expenses and actual direct loss of property incurred on or after August 7, 1956, and settlement costs incurred on or after August 10, 1965, if the displacement of the site occupant is:

(1) From real property within the urban renewal area, on or after the date of execution of the pertinent Federal financial assistance contract, or the date of HUD approval of a budget for project execution activities resulting in the displacement (provided that in the latter case a Federal financial assistance contract for such contemplated project is thereafter executed); and

(2) Made necessary by (i) the acquisition of such real property by the LPA, or any other public body, or (ii) code enforcement activities undertaken in connection with the urban renewal project, or (iii), a program of voluntary rehabilitation of buildings or other improvements in accordance with the urban renewal plan, as further defined in paragraphs (b) and (c) of this section.

(b) *Displacement made necessary by acquisition.* A site occupant of the property on the date of execution of a Federal financial assistance contract (or HUD concurrence, prior to its approval of an Application for Loan and Grant, in the commencement of a project execution activity) which contemplates acquisition of the property, regardless of when or if such acquisition takes place, and a site occupant of the property at the time of its acquisition may be deemed displaced by the acquisition upon vacating the property. For this purpose, acquisition means the obtaining by the LPA or other public body of title to, or the right to possession of, the real property. This paragraph (b) shall apply to a site occupant displaced on or after January 27, 1964, but shall not affect adversely, in the case of a site occupant displaced prior to January 13, 1965, eligibility established in accordance with regulations in effect at the time of the site occupant's displacement.

(c) *Displacement made necessary by code enforcement or voluntary rehabilitation.* The vacating by the site occupant of the real property after the happening of any of the following events shall be deemed to be a displacement from the urban renewal area made necessary by code enforcement or voluntary rehabilitation, as the case may be:

(1) In the case of voluntary rehabilitation, the commencement of, or notice by the owner of the real property of the commencement of, voluntary rehabilitation of the building or other improvement, or the part thereof, occupied by the site occupant which makes it necessary (as determined by the LPA) for the site occupant to vacate the real property.

(2) In the case of code enforcement, the commencement of, or notice by the code agency of, code enforcement, with respect to the real property, or the part thereof, occupied by the site occupant which makes it necessary (as determined by the LPA) for the site occupant to vacate the real property.

(3) In the case of either voluntary rehabilitation or code enforcement, an increase, or a notice of increase, in rent for the rent period involved amounting to not less than 25 percent in the case of a business concern and not less than 10 percent in the case of an individual or family: *Provided,* That in the case of an individual or family the increase shall also result in a rent exceeding the standards established by the LPA for displacees' ability to pay.

(d) *Small business displacement payment.* A small business concern which satisfies the eligibility conditions of paragraph (a) of this section is eligible for a small business displacement payment if the concern:

(1) Is displaced on or after January 27, 1964;

(2) Is not part of an enterprise having two or more establishments outside the urban renewal area;

(3) Has filed with the Internal Revenue Service an income tax return for the 2 tax years immediately preceding its displacement (or, if not in business that long, a tax return for such lesser period as may be approved by HUD); or has furnished such other evidence of earnings as may be approved by HUD; and

(4) Was doing business in the urban renewal area on the date of the approval by the governing body of the locality of an urban renewal plan: *Provided,* That if the displacement occurs pursuant to a Federal financial assistance contract in accordance with the third sentence of section 102(a) of Title I (Early Land Acquisition Loan), the applicable date shall be the date of the approval by the governing body of the locality of an application for such contract, and if the displacement occurs pursuant to HUD approval of a budget for project execution activities, the applicable date shall be the date of the resolution by the LPA requesting HUD approval of such project execution activities.

(e) *Outdoor advertising display.* A business concern which is not displaced from an urban renewal area shall be eligible for a relocation payment for moving expenses incurred on or after September 2, 1964, with respect to its out-

door advertising displays required in the determination of the LPA to be removed from the urban renewal area.

(f) *Temporary on-site moves.* No relocation payment shall be made to a site occupant for a temporary move within the urban renewal area.

§ 3.103a Basic eligibility conditions—displacement from a code enforcement area.

(a) *Displacement.* A site occupant is eligible for a relocation payment for moving expenses, actual direct loss of property, and settlement costs if the displacement is:

(1) From real property within the code enforcement area, on or after the date of execution of a Federal financial assistance contract or the date of HUD approval of a budget for a program of concentrated code enforcement (provided that in the latter case a Federal financial assistance contract is thereafter executed for the area); and

(2) Made necessary by (i) code enforcement activities, or (ii) the acquisition of real property by the code agency or any other public body in connection with a federally assisted program of concentrated code enforcement and public improvements, as further defined in paragraphs (b) and (c) of this section.

(b) *Displacement made necessary by code enforcement.* The displacement of a site occupant from a code enforcement area is deemed made necessary by code enforcement if the vacation of the real property occurs on or after the commencement of code enforcement, or notice by the code agency that code enforcement will be required, with respect to the real property occupied by the site occupant under either of the following circumstances:

(1) The code enforcement cannot reasonably be undertaken without the vacation of the real property by the site occupant and the code agency so determines in accordance with § 3.104(e)(2); or

(2) In the case of a tenant, the owner has increased the rent or has notified the tenant of an increase in rent amounting to not less than 25 percent in the case of a business concern and not less than 10 percent in the case of an individual or family: *Provided*, That in the case of an individual or family the increase shall also result in a rent exceeding the standards established by the code agency for displacees' ability to pay.

(c) *Displacement made necessary by acquisition.* The displacement of a site occupant from a code enforcement area is deemed made necessary by acquisition if the vacation of the real property occurs after the code agency or other public body acquiring legal or equitable title or the right to possession has ordered the site occupant to vacate the real property.

(d) *Small business displacement payment.* A small business concern which satisfies the eligibility conditions of paragraph (a) of this section is eligible for a small business displacement payment if the concern:

(1) Is not part of an enterprise having two or more establishments outside the code enforcement area;

(2) Satisfies the requirements of § 3.103(f)(3) governing evidence of earnings; and

(3) Was doing business in the code enforcement area on the date of the approval by the code agency of an application for a Federal financial assistance contract for the area.

(e) *Outdoor advertising display.* A business concern which is not displaced from a code enforcement area shall be eligible for a relocation payment for moving expenses with respect to its outdoor advertising displays required in the determination of the code agency to be removed from the code enforcement area by the acquisition of real property in connection with a Federally assisted program of concentrated code enforcement and public improvements.

§ 3.103b Basic eligibility conditions—displacement from a demolition grant area.

(a) *Displacement.* A site occupant is eligible for a relocation payment for moving expenses and actual direct loss of property if the vacation of the real property within a demolition grant area occurs on or after (1) the date of execution of a Federal financial assistance contract, or the date of HUD approval of an application for a demolition grant (provided that in the latter case a Federal financial assistance contract is thereafter executed for the area); and (2) order by the code agency to vacate and demolish the real property.

(b) *Small business displacement payment.* A small business concern which satisfies the eligibility conditions of paragraph (a) of this section is eligible for a small business displacement payment if the concern:

(1) Is not part of an enterprise having two or more establishments outside the demolition grant area;

(2) Satisfies the requirements of § 3.103(f)(3) governing evidence of earnings; and

(3) Was doing business in the demolition grant area on the date of the approval by the code agency of an application for a Federal financial assistance contract for the area.

§ 3.103c Eligibility—relocation adjustment payment.

A family or elderly individual who satisfies the eligibility conditions of § 3.103(a) (displacement from an urban renewal area), § 3.103a(a) (displacement from a code enforcement area), or § 3.103b(a) (displacement from a demolition grant area), is eligible for a relocation adjustment payment if the site occupant:

(a) Is unable to secure a suitable dwelling unit in (1) a low-rent housing project assisted under the United States Housing Act of 1937, as amended, 42 U.S.C. 1401 et seq. (or a State or local program found by HUD to have the same general purposes), or (2) a dwelling unit assisted under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s(a));

(b) Has moved to a decent, safe, and sanitary dwelling; and

(c) In the case of displacement from an urban renewal area, is displaced on or after January 27, 1964.

§ 3.103d Notice of intention to move.

Except as provided in this § 3.103d, no relocation payment for moving expenses or actual direct loss of property and no small business displacement payment shall be made to a business concern unless (a) the Agency has received, at least 30 days but not earlier than 90 days prior to the moving date, written notice from the business concern of its intention to move or dispose of the property, which shall be described generally in the notice, and the date of such intended move or disposition, and (b) the business concern has permitted, at all reasonable times, the inspection by or on behalf of the Agency of such property at the site from which the business concern is displaced. For the purpose of this § 3.103d, "moving date" shall mean the date on which the first item of such property is intended to be moved or disposed of. The Agency may make a relocation payment notwithstanding nonreceipt of such timely notice only if the Agency has determined that there was reasonable cause for the failure of the business concern to give such notice, and the Agency has adequately verified the facts pertaining to the move or disposition and the requested relocation payment.

§ 3.104 Administration of relocation payments program.

(a) *Conditions for relocation payment.* The Agency (or, if the Agency is the municipality, the board or commission responsible for carrying out the Federally assisted activities or, if there is no such board or commission, the principal executive officer of the municipality) shall approve a schedule (Form H-6148) of average annual gross rentals for standard housing in the locality for determining the amount of relocation adjustment payments in accordance with § 3.109(b)(2), any schedule (Form H-6142) of fixed payments to be paid in accordance with § 3.105, and any other conditions under which the Agency will make relocation payments. The schedules and conditions shall be consistent with the regulations in this subpart and shall be available in written form to site occupants in the relocation office of the Agency.

(b) *Notice to site occupants.* The Agency shall furnish all site occupants, who occupy property within an urban renewal area (or the area of the Federally assisted activities) and who are anticipated to be displaced, with a notice or informational statement advising the site occupant of (1) the availability of relocation payments to eligible site occupants, and (2) the office where the conditions under which relocation payments will be made are available for inspection.

(c) *Action on claim—finality.* The Agency is initially responsible for determining the eligibility of a claim for, and the amount of, a relocation payment and shall maintain in its files complete and proper documentation supporting the determination. The determination

on each claim shall be made or approved either by the governing body of the Agency or by the principal executive officer of the Agency or his duly authorized designee. The determination, or any redetermination by any duly designated officer or agency, shall be final and conclusive for any purposes and not subject to redetermination by any court or any other officer. Subject to the requirements of this paragraph (c), the Agency may permit a third-party contractor responsible for relocation activities to examine and recommend action on a claim and to disburse funds in payment of a claim which has been approved by the Agency.

(d) *Prompt payment.* A relocation payment shall be made by the Agency as promptly as possible after a site occupant's eligibility has been determined in accordance with the regulations in this subpart: *Provided,* That a relocation adjustment payment shall be made during the first 5 months after the Agency has determined the eligibility of the claimant.

(e) *Certain determinations.* (1) No claim based upon acquisition of real property by a public body other than the Agency shall be approved unless the Agency shall have determined that the claimant was displaced by the acquisition or in contemplation thereof. The determination shall be supported by a signed statement from the public body indicating (i) when it acquired or proposes to acquire the property occupied by the claimant, and (ii) whether it compensated or has agreed to compensate the claimant for moving expenses, actual direct loss of property, or settlement costs resulting from the displacement.

(2) No claim based upon code enforcement or voluntary rehabilitation shall be approved unless the Agency shall have determined that the claimant was displaced by such activities. The determination shall be supported by a statement by the Agency giving the factual basis on which the determination was made.

(f) *Agency setoff against claim.* The Agency may set off against the claim of an otherwise eligible site occupant any financial claim the Agency may have against the site occupant arising out of the use of the real property.

(g) *Approval by HUD—business concerns.* No relocation payment for moving expenses or settlement costs, or both, in excess of $10,000 shall be made without approval by HUD.

(h) *Reimbursement of relocation payments.* Relocation payments made in accordance with the regulations in this subpart and pursuant to a Federal financial assistance contract are reimbursable in full to the Agency as a Title I grant.

(i) *Accounts and records.* Accounts and records shall be maintained as prescribed by HUD and shall be subject to inspection or audit at all reasonable times by HUD. Records pertaining to eligibility of relocation payments, including all claims, receipted bills or other documentation in support of a claim, and records pertaining to action on a claim, shall be retained by the Agency for not less than 3 years after the completion of the urban renewal project or the other Federally assisted activities.

§ 3.105 Fixed relocation payments to individuals and families.

(a) *Schedule of fixed payments.* An Agency intending to pay fixed amounts in lieu of payments for reasonable and necessary moving expenses and actual direct loss of property of eligible individuals and families shall prepare a schedule of the fixed amounts which it proposes to pay. The schedule shall contain a statement indicating that the Agency intends to permit eligible individuals and families to claim reimbursement for their actual moving expenses and actual direct loss of property.

(b) *Schedule provision.* (1) A proposed schedule of fixed payments to eligible individuals and families owning furniture shall provide for a graduated scale of payments related to the number of all rooms occupied by the claimant except bathrooms, hallways, and closets, which payments shall not exceed the lowest normal charge for carting expenses for the average time required to move personal effects: *Provided,* That in any event the payments shall not exceed the maximum reimbursement to eligible individuals or families provided in the regulations in this subpart.

(2) Fixed payments to eligible individuals or families not owning furniture shall not exceed: (i) $5 for any individual, (ii) $10 for any family.

(c) *Administration of fixed payments.* Eligible individuals or families may be paid the amount provided in the schedule of fixed payments approved by HUD upon receipt of a properly completed claim. A fixed payment shall be in full settlement for the claimant's moving expense and any actual direct loss of property. If the joint occupants of a single dwelling unit at the project site move to two or more locations and consequently submit more than one claim, an eligible claimant for a fixed payment may be paid only his reasonable prorated share (as determined by the Agency) of the total fixed payment applicable to such dwelling unit, and the total of fixed payments made to all such claimants moving from such dwelling unit shall not exceed the total fixed payment applicable to such dwelling unit.

§ 3.106 Determining moving expenses of business concern.

(a) *Submission of bids prior to moving date.* No claim for a relocation payment for moving expenses in excess of $500 shall be allowed for costs incurred by a business concern on or after April 1, 1965, unless the concern has submitted to the Agency, at least 15 days prior to the commencement of the move, a bid from three reputable firms covering the moving costs involved. Whenever it is not feasible to obtain three bids for any category of work, a lesser number of bids shall be submitted, together with a written justification by the concern; and no relocation payment shall be allowed in such cases unless the Agency has approved the justification. The Agency, with HUD concurrence, may waive any requirement of this paragraph (a) for good cause.

(b) *Payment not to exceed low bid.* Payment to a business concern for moving expenses shall not exceed the amount of the low bid submitted in accordance with paragraph (a) of this section unless the bid requirement has been waived in accordance with paragraph (a) of this section.

§ 3.107 Determining actual direct loss of property.

(a) The amount of actual direct loss of any item of property claimed shall be determined as follows:

(1) The fair market value of the property for continued use at its location prior to the displacement shall be ascertained by the claimant by an appraisal satisfactory to the Agency, except as provided in subparagraph (2) of this paragraph.

(2) If the value of the property for which actual direct loss is claimed does not warrant the expenses of an appraisal, then its fair market value for such continued use shall be computed as follows: The original cost of the item to the claimant (exclusive of installation cost), multiplied by the figure obtained by dividing the period of the remaining useful life of the property at the date of removal, by the period of the normal useful life of the property at the date of its acquisition by the claimant.

(3) The property shall be disposed of by a bona fide sale (as determined by the Agency) at the highest price offered after reasonable efforts have been made over a reasonable period of time to interest prospective purchasers. A trade-in of the property may be considered a bona fide sale, and the trade-in allowance, exclusive of any amount of discount that would be allowed on the price of the property being acquired in the absence of the trade-in, shall be deemed the amount realized upon the sale of the property.

(4) If the amount realized from the sale, after deducting ordinary and reasonable expenses of the sale, is less than the fair market value for such continued use, the difference between the net amount realized and the fair market value is the amount of actual direct loss of the property. Expenses of sale include such items as sale commissions, auctioneer's fees, advertising costs, and similar charges.

(b) If a bona fide sale is not effected because no offer is received for the property, after reasonable efforts have been made over a reasonable period of time to sell it, then its fair market value for continued use, ascertained as provided in this section, is the amount of actual direct loss of the property.

(c) Cost of appraisals: The cost of appraisals to determine actual direct loss of property, if made by or in behalf of the claimant, is not allowable as part of a claim.

§ 3.108 Filing of claims.

(a) *Form of claim.* To obtain a relocation payment, a site occupant shall

file a written claim with the Agency on the appropriate HUD forms.

(b) *Documentation in support of claim.* A claim shall be supported by the following:

(1) If for moving expenses, except in the case of a fixed payment, a receipted bill or other evidence of such expenses. By prearrangement between the Agency, the site occupant, and the mover, confirmed in writing by the Agency, the claimant may present an unpaid moving bill to the Agency, and the Agency may pay the mover directly.

(2) If for actual direct loss of property, written evidence thereof, which may include appraisals, certified prices, copies of bills of sale, receipts, canceled checks, copies of advertisements, offers to sell, auction records, and such other records as may be appropriate to support the claim.

(3) In any other case, such documentation as may be required by the Agency, which may include income tax returns, withholding or informational statements, and proof of age.

(c) *Time for filing claims.* A claim for moving expenses, actual direct loss of property, or a small business displacement payment shall be submitted to the Agency within a period of 6 months after the displacement of the claimant. A claim for a relocation adjustment payment shall be submitted within a period of 60 days after the displacement of the claimant. A claim for settlement costs shall be submitted within 6 months after the costs have been incurred.

(1) *Displacement prior to January 13, 1965.* Notwithstanding the first two sentences of the introductory text of this paragraph (c), a claim for a relocation adjustment payment or for a small business displacement payment by a claimant displaced from an urban renewal area on or after January 27, 1964, and prior to January 13, 1965, shall be submitted within a period of 60 days of the last published or other notice by the LPA of the availability of such payments.

(2) *Waivers.* The time limitations in this paragraph (c) may be waived by the Agency for good cause, with HUD concurrence, in the case of a claimant displaced on or after January 27, 1964.

§ 3.109 Limitations on amount of relocation payments.

(a) *Moving expenses and loss of property—(1) Maximum amount—individuals or families.* The maximum relocation payment that may be made or recognized for moving expenses and actual direct loss of property, for which reimbursement or compensation is not otherwise made, to an individual or family shall not exceed $100 with respect to moving expenses incurred and actual direct loss of property suffered prior to September 23, 1959, and $200 with respect to such expenses incurred and loss suffered on or after September 23, 1959. The maximum relocation payment that many be made or recognized for moving expenses and actual direct loss of property, for which reimbursement or compensation is not otherwise made, to two or more unrelated individuals occupying the same dwelling unit shall not exceed $200.

(2) *Maximum amount—business concerns.* The maximum relocation payment that may be made or recognized in the case of a business concern for moving expenses and actual direct loss of property, for which reimbursement or compensation is not otherwise made, shall not exceed $2,000 with respect to moving expenses incurred or direct loss of property suffered prior to July 12, 1957, or $2,500 with respect to moving expenses incurred or direct loss of property suffered between July 12, 1957, and September 22, 1959, both dates inclusive, or $3,000 with respect to moving expenses incurred or direct loss of property suffered on or after September 23, 1959. If the total of the actual moving expenses incurred on or after June 30, 1961, and prior to October 2, 1962, is greater than $3,000, the maximum relocation payment that may be made or recognized in the case of a business concern, for which reimbursement or compensation is not otherwise made, shall be the total of such actual moving expenses. If the total of the actual moving expenses incurred on or after October 2, 1962, and prior to August 12, 1965, is greater than $3,000, the maximum relocation payment that may be made or recognized in the case of a business concern, for which reimbursement or compensation is not otherwise made, shall be the total of such actual moving expenses or $25,000, whichever is less. If the total of the actual moving expenses incurred on or after August 12, 1965, is greater than $3,000, the maximum relocation payment that may be made or recognized in the case of a business concern, for which reimbursement or compensation is not otherwise made, shall be the sum of:

(i) The total actual moving expenses or $25,000, whichever is less; and

(ii) In the case of projects on a two-thirds capital grant basis, two-thirds of the actual moving expenses in excess of $25,000: *Provided*, That the Agency makes a cash payment to the business concern out of local funds in an amount equal to one-third of the actual moving expenses in excess of $25,000, which payment shall not constitute a local grant-in-aid to the urban renewal project or any portion of the local share of the cost of the Federally assisted activities required by Title I; or

(iii) In the case of projects on a three-fourths capital grant basis, three-fourths of the actual moving expenses in excess of $25,000: *Provided*, That the Agency makes a cash payment to the business concern out of local funds in an amount equal to one-fourth of the actual moving expenses in excess of $25,000, which payment shall not constitute a local grant-in-aid to the urban renewal project or any portion of the local share of the cost of the Federally assisted activities required by Title I.

(3) *Maximum moving distance.* If a business concern moves beyond 100 miles from the boundary of the city, town, or village, as the case may be, in which the Federally assisted activities are carried out, a relocation payment for its moving expenses may not be made in excess of the reasonable and necessary expenses for moving such distance of 100 miles.

(b) *Small business displacement and relocation adjustment—(1) Fixed amount—small business displacement.* A small business displacement payment shall be $1,500 for business concerns displaced prior to August 10, 1965, and $2,500 for business concerns displaced on or after August 10, 1965.

(2) *Maximum amount—relocation adjustment.* The total relocation adjustment payment that may be made for a family or elderly individual shall be an amount not to exceed $500 which, when added to 20 percent of the annual income of the family or individual at the time of displacement, equals the average annual gross rental required for a decent, safe, and sanitary dwelling of modest standards adequate in size to accommodate the family or individual (in the area in which the Federally assisted activities are carried out or in other areas not generally less desirable in regard to public utilities and public and commercial facilities), as determined by the Agency.

§ 3.110 Determinations in condemnation proceedings.

Notwithstanding any other provision of the regulations in this subpart, when property is acquired by proceedings in condemnation, and the amount of the judgment includes an allowance for reasonable and necessary moving expenses, actual direct loss of property, or settlement costs, the portion of the judgment representing compensation for these items, if separately stated, shall be entitled to recognition as a relocation payment in an amount not to exceed the applicable dollar limitations of § 3.109: *Provided*, That the allowance for actual direct loss of property makes no compensation for loss of goodwill or profit.

Effective as of the 8th day of December 1965.

WILLIAM L. SLAYTON,
Urban Renewal Commissioner.

[F.R. Doc. 65-13138; Filed, Dec. 7, 1965; 8:48 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of the Treasury

SUBCHAPTER D—NAVIGATION REQUIREMENTS FOR CERTAIN INLAND WATERS

[CGFR 65-54]

PART 82—BOUNDARY LINES OF INLAND WATERS

PART 85—INTERPRETIVE RULINGS—INTERNATIONAL RULES

Miscellaneous Amendments

The description of the boundary line between inland waters and the high seas

at Christiansted Harbor, Island of St. Croix, Virgin Islands, in 33 CFR 82.240 is amended because the reference points used have been changed. The name of the "Scotch Bank Lighted Buoy 1" has been officially changed to "Christiansted Harbor Channel Lighted Buoy 1" and the "Long Reef Range Rear Daybeacon" has been removed. The amendments to 33 CFR 85.01–1 and 85.05–1 bring references to laws up to date. The amendment to 33 CFR 85.01–5 corrects the date of a Treasury Department Order. As these changes are editorial to bring the regulations up to date, as published in the FEDERAL REGISTER, it is hereby found that compliance with the Administrative Procedure Act (respecting notice of proposed rule making, public rule making procedure thereon and effective date requirements) are unnecessary under provisions in section 4 of this Act (5 U.S.C. 1003).

By virtue of the authority vested in me as Commandant, U.S. Coast Guard by section 633, Title 14, U.S. Code, and Treasury Department Orders 120, dated July 31, 1950 (15 F.R. 6521) and 167–17 dated June 29, 1955 (20 F.R. 4976), the following amendments are prescribed and shall become effective upon the date of publication in the FEDERAL REGISTER:

1. Section 82.240 is amended to read as follows:

§ 82.240 Christiansted Harbor, Island of St. Croix, Virgin Islands.

A line drawn from Shoy Point to Christiansted Harbor Channel Lighted Buoy 1; thence to stack at Little Princess northwestward of leper settlement.

(Sec. 2, 28 Stat. 672, as amended; 33 U.S.C. 151. Treasury Dept. Order 120, July 31, 1950, 15 F.R. 6521)

§ 85.01–1 [Amended]

2. Section 85.01–1 *Scope* is amended by changing at the end thereof the reference from "Act of October 11, 1951 (65 Stat. 406–420; 33 U.S.C. 143–147d)" to "Act of September 24, 1963 (77 Stat. 195–210; 33 U.S.C. 1061–1094)."

§ 85.01–5 [Amended]

3. Section 85.01–5 *Assignment of functions* is amended by changing the date of Treasury Department Order 167–17 from "June 25, 1955" to "June 29, 1955."

§ 85.05–1 [Amended]

4. Section 85.05–1 *Stern light for motorboats operating on the high seas carried on centerline* is amended by changing the reference for Rule 10 of the "International Rules" from "(33 U.S.C. 145h)" to "(33 U.S.C. 1070)."

(Sec. 3, 60 Stat. 239 and sec. 633, 63 Stat. 545; 5 U.S.C. 1002, 14 U.S.C. 633. Treasury Dept. Orders 120, July 31, 1950, 15 F.R. 6521 and 167–17, June 29, 1955, 20 F.R. 4976)

Dated: December 1, 1965.

[SEAL] E. J. ROLAND,
Admiral,
U.S. Coast Guard, Commandant.

[F.R. Doc. 65–13109; Filed, Dec. 7, 1965; 8:46 a.m.]

Chapter II—Corps of Engineers, Department of the Army

PART 202—ANCHORAGE REGULATIONS

PART 203—BRIDGE REGULATIONS

Galveston Harbor, Tex., and St. Andrew Bay, Fla.

1. Pursuant to the provisions of section 7 of the River and Harbor Act of March 4, 1915 (38 Stat. 1053; 33 U.S.C. 471), § 202.197 governing the use and navigation of anchorage areas in Galveston Harbor, Tex., is hereby revoked, effective upon publication in the FEDERAL REGISTER.

§ 202.197 Galveston Harbor, Tex.

[Revoked]

[Regs., Nov. 22, 1965, 1507–32 (Galveston Harbor, Tex.)–ENGCW–ON] (sec. 7, 38 Stat. 1053; 33 U.S.C. 471)

2. Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U.S.C. 499), § 203.245 is hereby amended by revoking paragraph (i)(9) governing the operation of the Dupont Bridge across St. Andrew Bay (East Bay), Fla., effective upon publication in the FEDERAL REGISTER, since the bridge has been replaced by a new bridge, as follows:

§ 203.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(i) *Waterways discharging into Gulf of Mexico east of Mississippi River.* * * *

(9) St. Andrew Bay (East Bay), Fla.; State Road Department of Florida bridge (DuPont Bridge) on U.S. Highway 98 between San Blas and Long Point. [Revoked]

* * * * *

[Regs., Nov. 22, 1965, 1507–32 (St. Andrew Bay, Fla.)–ENGCW–ON] (sec. 5, 28 Stat. 362; 33 U.S.C. 499)

J. C. LAMBERT,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 65–13087; Filed, Dec. 7, 1965; 8:45 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 15657; FCC 65–1087]

PART 15—RADIO FREQUENCY DEVICES

Further Order To Stay Effective Date of Certain Provision

In the matter of amendment of Part 15 of the Commission's rules, to provide for the operation of radio controls for door operators; Docket No. 15657, RM–524.

1. Paragraph (a)(6) of § 15.211, which prohibits radiation from radio controls for door openers on the aeronautical safety and radionavigation frequencies, was adopted by a First Report and Order in Docket 15657 on July 21, 1965, to become effective on September 7, 1965 (30 F.R. 9315, July 27, 1965). The effective date of this section with respect to equipment installed prior to September 7, 1965, was stayed to December 7, 1965, by an Order adopted August 31, 1965, (30 F.R. 11354, Sept. 4, 1965) in order to permit the holding of a Government-industry conference of the parties principally concerned.

2. A technical conference covering this matter was held on October 11, 1965. At this conference, a test program was laid out to make further measurements of radiation from the devices under consideration and of the effect of such radiation on aircraft receivers. Work on this test program has started but will not be completed by December 7, 1965.

3. Notwithstanding the Stay Order, the Commission's field engineers are continuing their efforts to reduce this hazard to air safety. Any control radiating an excessive amount of RF energy in the frequency bands involved is considered to be endangering aeronautical safety communications and radionavigation and as such, to be causing harmful interference. Such controls, wherever found, are required to stop operating until the harmful interference condition is eliminated.[1]

4. *It is, therefore, ordered,* That, paragraph (a)(6) of § 15.211 be stayed for a further period of 3 months ending March 7, 1966, insofar as it applies to equipment installed prior to September 7, 1965.

5. This Order is issued pursuant to authority contained in sections 4(i) and 405 of the Communications Act of 1934, as amended.

(Secs. 4, 405, 48 Stat. 1066, 1095, as amended; 47 U.S.C. 154, 405)

Adopted: December 3, 1965.

Released: December 3, 1965.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65–13134; Filed, Dec. 7, 1965; 8:48 a.m.]

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[1] Section 15.222 provides that a low power communication device (which includes a radio control for a door opener) which causes harmful interference shall promptly stop operating until the harmful interference has been eliminated.

Section 15.4(b) defines harmful interference as any emission, radiation * * * which endangers the functioning of a radionavigation service, or any other safety service * * *.

[2] Commissioner Lee absent; Commissioner Loevinger's concurring statement filed as part of original document.

Title 50—WILDLIFE AND FISHERIES

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

PART 32—HUNTING

Crab Orchard National Wildlife Refuge, Ill.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

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

ILLINOIS

CRAB ORCHARD NATIONAL WILDLIFE REFUGE

The public hunting of deer on the Crab Orchard National Wildlife Refuge is permitted on that portion of the refuge enclosed by a five-strand barbed wire fence and designated as Area II. This area, comprising 21,000 acres, is delineated on maps available at refuge headquarters, Rural Route No. 2, Carterville, Ill., 62918, and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn., 55408. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer and in accordance with State Administrative Order—1965, Article XXVI, and subject to the following special conditions:

(1) The open season for hunting deer on the refuge shall consist of 10 days as follows: January 1, 2, 3; and January 7, 8, 9; and January 14, 15, 16, 17, 1966.

(2) All hunters must report to the check-in station for assignment to stands or areas, and hunters will be restricted to those stands or areas assigned.

(3) Every deer killed must be checked out at established inspection stations before hunters leave the refuge.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 31 1966.

LOYAL A. MEHRHOFF, Jr.,
Project Manager, Crab Orchard National Wildlife Refuge, Carterville, Ill.

DECEMBER 1, 1965.

[F.R. Doc. 65-13088; Filed, Dec. 7, 1965; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 1125]

[Docket No. AO–226–A11]

MILK IN PUGET SOUND, WASH., MARKETING AREA

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

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Puget Sound, Wash., marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C., 20250, by the 15th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Preliminary statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Seattle, Wash., on April 19–28, 1965, pursuant to notice thereof which was issued March 15, 1965 (30 F.R. 3603).

The material issues on the record of the hearing relate to:

(1) Expansion of the marketing area;

(2) The regulation of producer-handlers;

(3) The price for Class II milk;

(4) Computation of butterfat differentials;

(5) Definitions relating to plants;

(6) Definitions of "Handler", "Producer", and "Route disposition";

(7) Division of the shrinkage allowance between handlers;

(8) Changes in the classification provisions;

(9) Accounting for nonfluid milk products used for reconstitution and fortification of fluid milk products;

(10) Suspension or modification of the base-excess plan; and

(11) Miscellaneous changes.

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

1. *Expansion of the marketing area.* The boundaries of the Puget Sound Marketing area should be extended to include most of the remaining unregulated areas in the counties now partly included in the marketing area. The Washington counties of San Juan and Island also should be added to the area. The Olympic Peninsula counties of Kitsap, Mason, Clallam, and Jefferson should remain unregulated.

A handler proposed that the presently defined marketing area be enlarged to include the counties of Island and San Juan and the remaining portions of most of the counties now only partly included in the marketing area. Proponent contended that if the proposal were adopted much of the record-keeping done by handlers to segregate their fluid milk sales outside the defined marketing area from their in-area sales could be eliminated.

The proposal should be adopted in most respects. The presently unregulated territory within the counties of Whatcom, Skagit, Snohomish, King, Grays Harbor, and Lewis (except the town of Vader) should be included in the marketing area. Also, the presently unregulated southeastern part of Pierce County and the unregulated territory in Pacific County north of township 11 N, excluding Long Island and the North Beach Peninsula, should be added to the area. The marketing area should include also the relatively small counties of San Juan and Island which are comprised of several islands located west of Whatcom, Skagit, and Snohomish Counties.

Handlers are required when reporting their total fluid milk sales to the market administrator to indicate the separate quantities of such sales which are made inside and outside the defined marketing area. The sales areas of several handlers in the market extend into unregulated territory. They, therefore, must keep such records as will enable them to report their sales on a segregated basis. The maintenance of adequate records is often difficult, particularly when only parts of retail routes are involved. Expanding the marketing area in the manner described would simplify their record-keeping and reporting of route disposition.

Enlargement of the marketing area to this limited extent would not extend the practical scope of regulation. Virtually all of the fluid milk sold within this proposed territory is distributed by handlers or producer-handlers now regulated under the Puget Sound order. In November 1964 such sales amounted to about 974,000 pounds, or 2 percent of the total Class I utilization by all such persons. It is not likely that handlers principally associated with other markets would extend their routes into the proposed area. Much of it is mountainous and sparsely populated. The periphery of the enlarged area would consist primarly of mountain ranges, the Canadian border and large expanses of water. Unregulated fluid milk sales are now made in the proposed area only by small producer-handler operations located at Lopez and Friday Harbor in San Juan County and at Eatonville in Pierce County.

The order now divides the marketing area into several districts for the purpose of pricing producer milk in accordance with its location value. These districts should be redefined to include all of the proposed enlarged marketing area. The districts are now described in terms of specific counties to the extent of their regulated portions. The additional territory in each county to be added to the marketing area should be included in the same district as the presently regulated portion of the respective county. Island County should be included within District 4 where plants are now subject to a location adjustment of 15 cents per hundredweight of Class I milk. San Juan County should be within a new District 5. The location adjustment of 40 cents which is presently applicable in San Juan County should be continued for that area.

Three regulated handlers proposed that Kitsap, Mason, Clallam, and Jefferson Counties be included in the marketing area. These counties are located on the Olympic Peninsula of Washington where such handlers have route distribution of fluid milk products. Proponents claimed that operators of unregulated distributing plants located on the peninsula are able to compete advantageously for fluid milk sales in that area because they are able to procure milk supplies at less than order prices. Proponents also contended that producers under the order carry the burden of reserve supplies associated with the Class I sales on the peninsula and, therefore, should share in the returns from such sales. Operators of three of the unregulated plants expressed opposition to the proposals affecting their respective sales areas.

In considering the expansion of the marketing area, witnesses generally attempted to distinguish between the marketing conditions applicable to Kitsap and Mason Counties and those applicable to Clallam and Jefferson Counties. The market characteristics of these two pairs of counties are very similar, however. Also, these same characteristics were shown to be basically the same for

the two peninsulas of Pierce County which are adjacent to Kitsap County. The following findings and conclusions are generally applicable to all four counties and those parts of Pierce County proposed herein to be excluded from the marketing area.

Unregulated handlers distribute approximately 70 percent of the fluid milk sold in each of the two pairs of counties. The major part of the unregulated sales in Kitsap and Mason Counties, as well as in the Pierce County peninsulas, is made by a cooperative association from its distributing plant at Bremerton in Kitsap County. Other such sales in those counties are by a handler at Port Orchard in Kitsap County and a producer-handler at Bremerton. Virtually all of the unregulated fluid milk sold in Clallam and Jefferson Counties is distributed by another cooperative association from its plant at Port Angeles in Clallam County. A producer-handler also is located in Clallam County. The two cooperative associations have fluid milk sales only in the counties just indicated.

There are no regulated distributing plants located in the four counties. The regulated milk which is distributed there is packaged primarily at pool plants in Seattle. Most of the packaged products are transported to the Olympic Peninsula by ferry and toll bridges across Puget Sound and are distributed either directly to wholesale and retail outlets or through distribution points to such outlets.

The competitive problems which proponents claimed they were experiencing on the peninsula were attributed to the marketing practices of the two cooperative associations which operate the unregulated plants at Bremerton and Port Angeles. Neither association, however, has the procurement cost advantage on their milk supplies relative to order prices which proponents alleged. One association's payments to its members per hundredweight of milk averaged 36 cents in 1963 and 33 cents in 1964 over the applicable Class I prices.

The other association's payments to its Grade A producers over the applicable Class I prices averaged about 37 cents per hundredweight in 1964. In each case such payments include the yearend distribution of the association's earnings. These payments were for all Grade A milk received from members regardless of whether the milk was used in Class I or Class II products. Class I utilization of Grade A milk at the associations' plants was described as averaging 79 percent in one case and 90 percent in the other. Both associations purchase their supplemental milk supplies from regulated sources in the market. They pay the same price (the order Class I price plus a premium) for this milk as do regulated proprietary handlers who purchase milk for Class I purposes. On the basis of these circumstances it is concluded that these two associations are not obtaining their Grade A milk supplies at less than order prices.

The four Olympic Peninsula counties are a significant market for milk regulated by the order. In addition to the packaged milk distributed there by regulated handlers, considerable bulk milk is purchased for supplemental purposes by the two major unregulated handlers on the peninsula. In 1964, 19 percent of the fluid milk sold from the Bremerton plant was obtained from regulated sources. Three percent of the fluid sales from the Port Angeles plant in that year represented milk priced under the order.

Producers whose milk is pooled under the order thus would be expected to have a definite interest in the marketing conditions on the Olympic Peninsula. There is no indication, however, that such producers in general consider that there is a need for regulating this area for the purpose of improving their marketing situation. In fact, a number of such producers located on the peninsula, who are members of one of the major cooperative associations in the market, expressed in their briefs specific opposition to the proposals. They indicated that any benefit to them resulting from the regulation of these counties would be negligible. Strong opposition to the extension of regulation to their area was expressed by the farmers whose milk is disposed of through the two unregulated plants at Bremerton and Port Angeles. From the standpoint of all milk producers involved, there thus appears to be no compelling reason to include these counties in the marketing area.

Competitive problems in obtaining or maintaining wholesale and retail outlets can be caused by various factors outside the scope of the regulatory program. The ability of an unregulated handler to offer to consumers lower prices, more attractive price discounts, and various services which a regulated handler believes he cannot meet is not necessarily attributable to the former's unregulated status. As previously indicated, most of the regulated milk distributed on the Olympic Peninsula is packaged at Seattle pool plants. Such milk must be moved to the peninsula either by ferry or toll bridges or by a circuitous land route through Olympia. Thus, regulated handlers selling packaged milk on the peninsula obviously incur distribution costs not experienced by their unregulated competitors.

Certainly a major factor in the Puget Sound market is the premiums over order prices which regulated proprietary handlers pay cooperative associations and nonmember producers for their milk supplies. In 1963 and 1964, for instance, such premiums averaged 35 and 42 cents, respectively, per hundredweight. This undoubtedly affects a handler's position in the market relative to handlers who may not be paying comparable prices. This is not a circumstance which the order regulation is designed to change.

There is no indication that the inclusion in the marketing area of Kitsap, Mason, Clallam, and Jefferson Counties and certain northwestern areas of Pierce County is necessary to establish or maintain orderly marketing conditions. Accordingly, the proposals are denied.

Expansion of the marketing area as proposed herein will reduce the amount of producer milk sold outside the marketing area. However, out-of-area sales will still exist. Presently, all producer milk disposed of not only within the marketing area but outside such area is fully regulated and priced under the order. It is necessary that this arrangement be continued under the Puget Sound order. Otherwise, the effect of the order would be nullified and the orderly marketing process would be jeopardized.

If only his in-area sales were subject to classification, pricing and pooling, a regulated handler with Class I sales both inside and outside the marketing area could assign any value he chose to his outside sales. He thereby could reduce his average cost of all of his Class I milk below that of other regulated handlers having all, or substantially all, of their Class I sales within the marketing area. In short, unless all milk of such a handler is fully regulated under the order, he in effect would not be subject to effective price regulation. The absence of effective classification, pricing and pooling of such milk would disrupt orderly marketing conditions within the regulated marketing area and would lead to a complete breakdown of the order. If a pool handler were free to value a portion of his milk at any price he chooses, it would be impossible to enforce uniform prices to all fully regulated handlers or a uniform basis of payments to the producers who supply the market. It is essential, therefore, that the order price all the producer milk received at a pool plant regardless of the point of disposition.

Limited quantities of Class I milk may be sold within the regulated marketing area from plants not under any Federal order. There is, of course, no way to treat such unregulated milk uniformly with regulated milk other than to regulate it fully. Nevertheless, it has been concluded that the application of "partial" regulation to plants having less association than required for market pooling would not jeopardize marketing conditions within the regulated marketing area. Official notice is taken of the June 19, 1964, decision (29 F.R. 9214) supporting amendments to several orders, including the Puget Sound order.

The operator of this partially regulated plant is afforded the option of: (1) Paying an amount equal to the difference between the Class I price and the weighted average price for all milk with respect to all Class I sales made in the marketing area, (2) purchasing at the Class I price under any Federal order sufficient Class I milk to cover his limited disposition within the marketing area, or (3) paying his dairy farmers an amount not less than the value of all their milk computed on the basis of the classification and pricing provisions of the order (the latter representing an amount equal to the order obligation for milk which is imposed on fully regulated handlers).

While all fluid milk sales of the partially regulated plant are not necessarily

priced on the same basis as fully regulated milk, the provisions described are, however, adequate under most circumstances to prevent sales of milk not fully regulated (pooled) from adversely affecting operation of the order and the fully regulated milk.

2. *The regulation of producer-handlers.* Producer-handlers should continue to be exempt from the pooling and pricing provisions of the order. Also, certain restrictions now applicable to a person's designation as a producer-handler should be removed.

The order provides essentially that a person who is a dairy farmer and who processes in his plant and distributes in the marketing area milk of his own production may be defined as a producer-handler and may be accorded exemption from all payment obligations normally applicable to handlers fully regulated under the order. A producer-handler must meet certain requirements to acquire and maintain such status, principal of which are limitation on the sources from which he may receive milk, necessary ownership and control of production, processing and distribution facilities, and limitation on the acquisition and disposition of production resources and facilities.

The three major cooperative associations in the market proposed that various degrees of regulation, depending upon their size, should be applied to producer-handlers. Under their proposal a producer-handler whose daily Class I sales averaged 4,000 pounds or more would be fully regulated. If his daily Class I sales ranged between 2,000 pounds and 3,999 pounds, only partial regulation would apply. In this case, the degree of exemption of his own production from pooling and pricing would diminish as Class I sales neared the upper limit. A producer-handler having Class I sales of less than 2,000 pounds daily would be exempt from regulation, providing that any purchases of supplemental milk were made from pool sources. He would be required to submit reports if he had at least 110 pounds of Class I sales daily in the marketing area.

A proprietary handler proposed that producer-handlers whose average daily Class I sales exceed 2,000 pounds be subject to full regulation. Two other proposals by proprietary handlers, as set forth in the hearing notice, would fully regulate all producer-handlers, in the one case, and, in the other, would regulate producer-handlers with a large volume of sales in any one day. At the hearing proponents abandoned the latter proposals and supported the proposal made by the cooperative associations.

The need for regulating producer-handlers in this market has been considered at a public hearing on previous occasions. At those times it was not found necessary to pool and price the milk of such persons to achieve the purposes of the statute authorizing Federal orders. It should be made clear at this point, however, that the Secretary is empowered by the Act to impose through an order regulation of producer-handlers in their capacity as handlers, if justified by prevailing marketing conditions. Producer-handlers claimed at the hearing that the statutory authority for such regulation does not exist and that on this basis all proposals pertaining to the regulation of producer-handlers should be dismissed at the outset. They contended that producer-handlers cannot be fully regulated as handlers inasmuch as they do not purchase milk from, and pay prices to, producers. Producer-handlers also claimed that in the Puget Sound market they cannot be subjected to full regulation inasmuch as they sell milk and milk products solely within the State of Washington and, thus, not in interstate commerce.

Neither claim is valid. The authority to regulate a handler with respect to milk of his own production under the terms of the Agricultural Marketing Agreement Act has been upheld in the courts in several cases arising under different milk orders.

The authority to regulate all handlers in a market in which it is found that the handling of milk or its products is in the current of interstate or foreign commerce, or directly burdens, obstructs or affects interstate or foreign commerce in milk or its products, has also been established in the courts. There is no reason to believe that these decisions would not be equally applicable to the regulation of producer-handlers in the Puget Sound market.

Forty-three producer-handlers now distribute milk of their own production in the Puget Sound marketing area. In 1964 they produced 46.1 million pounds of milk, of which 37.8 million pounds, or 82 percent, were disposed of as Class I milk in the marketing area. These sales represented 7.1 percent of the total in-area fluid milk sales. For March 1965, the most recent month for which data were available at the hearing, this percentage was 7.8.

Of the 43 producer-handlers, 23 had Class I disposition in December 1964 of less than 1,000 pounds daily. Their sales represented 9 percent of the total fluid sales of all producer-handlers that month. Of the remaining producer-handlers, four were in the 1,000- to 2,000-pound daily sales range and sold 5 percent of this total, eight were in the 2,000- to 4,000-pound category and sold 18 percent, and eight had daily volumes over 4,000 pounds and sold 68 percent of the producer-handler milk in the market.

The number of producer-handlers and the volume of their Class I sales have increased in recent years. In 1960, the first full year following the incorporation of the present producer-handler provisions in the order, there were 22 producer-handlers, of which 8 sold 2,000 pounds or more of Class I milk daily. The most rapid increase in numbers occurred in 1963 when there were 26 in January and 40 in December. Total producer-handler sales in the marketing area rose from 20.6 million pounds in 1960 (4.0 percent of total in-area sales) to 37.8 million pounds in 1964, an increase of 83 percent. By comparison fluid in-area sales of regulated handlers increased about 1.3 percent.

Proponents of regulating producer-handlers argued that the increase in producer-handler numbers and their sales has resulted because the exemption from pooling their own production provides producer-handlers with a competitive advantage as compared with milk of producers which is priced to handlers regulated under the order. Proponents maintained that the larger producer-handlers who have the preponderance of the total producer-handler sales therefore should be treated the same as other producers in their capacity as producers, and as fully regulated handlers in their capacity as handlers. This would be accomplished by requiring equalization with the pool on their own production, i.e., charging them class prices for their milk used and crediting them with producer prices.

The incentive which a producer has for becoming a producer-handler is the additional return which he may receive by marketing his production through his own processing and distribution facilities rather than through a regulated handler. The blend price (or base and excess prices) of the market represents the return that he as a producer may expect for his milk under the order. To the extent which he can sell a higher proportion of his production as Class I milk than the market average utilization of all producer milk in Class I, he as a producer-handler would have available the price differential between the utilization value of his own production and the order blend price which he could retain to enhance his returns as a producer or, as a handler, could use as a price incentive to maintain or increase fluid sales. This opportunity for a greater Class I utilization of his own production is evident by the fact that the average Class I utilization of producer milk by regulated handlers in 1964 was 45 percent, while producer-handlers' total Class I utilization of their own production (including both in-area and out-of-area sales) was 87 percent.

A realistic estimate under these circumstances of the competitive advantage on Class I sales which proponents claimed producer-handlers enjoy may be made by comparing the Class I and producer base prices under the order. The base price is the producer price in this market which closely reflects the Class I utilization of producer milk. In 1964 producers received this price for 89 percent of their milk, with the remainder of their milk being priced at the excess (Class II) price. Producer-handlers sold approximately the same percentage of their milk as Class I, and realized a Class II return on the remainder. Thus, by comparing the Class I price to the price for base milk, a meaningful estimate can be made of the competitive advantage it is alleged producer-handlers enjoy with respect to the proportion of their production sold as Class I milk. In 1964 the order Class I price averaged $4.82 and the order base price averaged $3.99, a difference of 83 cents per hundredweight.

These order prices, however, do not represent the real measure of the effec-

tive Class I-blend price differential prevailing in the market. Under purchase and sale arrangements between cooperative associations and handlers, premium Class I prices prevail in the market. The difference in 1964 between the premium Class I price and the base price paid to members of the largest cooperative association averaged about $1.02. Similar premium prices have been in effect for many years with the average annual Class I premium varying between 37 and 43 cents per hundredweight since 1960.

An important factor in determining this difference between the Class I and base prices is, of course, the percentage of producer milk used in Class I. This percentage has been dropping steadily in the Puget Sound market, from 74 percent in 1952 to 51 percent in 1960 to the present 45 percent. Producer receipts have more than doubled since 1952, while Class I sales have increased about 26 percent. The extent to which premium prices over order prices have contributed to this increase in producer receipts cannot be appraised with accuracy, but premium prices must be recognized as a contributing factor.

Marketing margins are an additional factor affecting the marketing situation under which producer-handlers compete for sales. While Class I prices both under the order and on a premium basis were about the same in 1960 and 1964, the reported retail price to consumers was higher in 1964 than in 1960 by several cents per quart.

Proponents argue that exempting producer-handlers from pooling creates the potential whereby producer-handlers may ultimately have all Class I sales and producers and fully regulated handlers have only Class II utilization. They point out that as producer-handler sales increase the difference between the Class I and blend prices to producers increases and that producer-handlers thereby increase their competitive advantage. Nevertheless, sales of producer-handlers have not increased generally throughout the Federal order system, but on the average have declined despite the fact that the exemption from pooling applies in all such orders. The cooperative associations' proposals would have reduced the Class I-base price difference under the order by only about 2 cents per hundredweight. The proposals would affect only 16 of the 43 producer-handlers operating in the market and thus would leave essentially the same incentive as at present for new producer-handlers and for expansion to the 2,000-pound daily limit proposed.

While during recent years the Class I sales of producer-handlers have increased and producer-handlers with substantial production have become a more significant competitive factor in the market, it cannot be concluded, as proponents claim, that these increases are a result of the regulatory program. Producer-handler sales have not increased generally under Federal milk order programs. During this period of increasing producer-handler sales in this market factors outside the order (negotiated prices above order price levels and increased marketing margins) have contributed to widening the difference between the returns available when milk is marketed to regulated handlers by producers and those available when the producer acts as a producer-handler and sells his milk to consumers. It cannot be concluded that increased producer-handler sales in the Puget Sound market are a problem which the order has created. Neither can it be concluded that at this time regulation of producer-handlers as proposed is required to protect the regulatory scheme of the order.

A number of requirements which a producer-handler must meet in order to be designated as such are now incorporated in the order. Such provisions have the purpose of making a producer-handler rely almost entirely on his own production for his supply of milk. They also assure that a producer-handler bears the full financial responsibilities and risks associated with his entire milk operation. Producer-handlers considered these requirements as very stringent but indicated that they could continue to operate under them if they were allowed to remain free of full regulation. Cooperative associations, in conjunction with their proposal to apply various degrees of regulation to producer-handlers, proposed the elimination of these requirements. In view of their perhaps undue complexity, evaluation of the continued need for all facets of these requirements in light of their practical effect upon the maintenance of orderly marketing should be made.

It is concluded that the requirement that a person who has lost his designation as a producer-handler wait a year to regain such status should be removed. A minor failure to meet all requirements for producer-handler status can result in a person losing such status. The regulatory effect may often be disproportionate to the relative significance of the requirement which was not met. Under present circumstances this provision probably contributes only to a minor degree in this market to the maintenance of orderly marketing. Since they must rely on their own production, producer-handlers must establish adequate production facilities to assure a sufficient milk supply for their own operation. Because of this there is likely to be little reason for producer-handlers to shift in and out of the pool for the purpose of obtaining additional milk supplies. Removal of this requirement would provide a more reasonable application of regulation to producer-handlers.

The order should continue to provide that a producer-handler lose his status as such beginning with the month following that in which he violates the requirements for producer-handler status. Redesignation as a producer-handler should be preceded by the performance of such requirements for 1 month.

In connection with this change, certain additional provisions should be removed from the order inasmuch as they no longer would have any practical effect. The order now limits the times when a producer-handler may dispose of or acquire, without losing his status as a producer-handler, a dairy herd, cattle barn or milking parlor which has been used, or is subsequently used, by another person for producing milk which is delivered as producer milk to another handler. A producer-handler loses his status if he so transfers such resources and facilities during any of the months of March through July. Similarly, if a producer-handler so acquires such resources and facilities during any of the months of August through February, he loses producer-handler status. A related provision stipulates that a producer-handler may not again use these same resources and facilities if they were previously used by him during any of the preceding 12 months and subsequently used during that time by another person for the production of producer milk. The attached order reflects the deletion of these provisions.

An additional provision which allows a producer-handler to purchase an unlimited quantity of milk from pool plants during a single span of 45 consecutive days in any 12-month period should be deleted. Its purpose is to allow producer-handlers to obtain milk from sources other than their own production during emergency conditions. The provision was placed in the order in conjunction with other changes in the producer-handler provisions which would require that a producer-handler could not regain designation as such for 12 months once his designation was cancelled. The provision was considered at that time as a reasonable adjunct to the 12-month waiting period provision.

The removal of this latter 12-month provision would reduce considerably any adverse regulatory impact on a producer-handler who might find it necessary to purchase milk from pool sources during some emergency situation and thus lose his producer-handler status. As indicated, redesignation as a producer-handler would need to be preceded by meeting the producer-handler performance requirements for only 1 month. Thus, the importance of the provision allowing unlimited purchases of pool milk for 45 days becomes considerably less in view of the other changes in the producer-handler provisions adopted herein.

The extent to which this provision has been used in emergencies was not indicated. A producer-handler witness testified, though, that producer-handlers as a group have purchased only very minor quantities of milk from regulated handlers. The continuance of this provision in conjunction with the removal of the 12-month waiting period for redesignation as a producer-handler would provide such person an opportunity to obtain unlimited quantities of milk from pool sources during much of the time he maintains producer-handler status. Removal of this provision would not affect the provision which allows producer-handlers to purchase from pool plants

up to 100 pounds on a daily average of packaged fluid milk products, other than whole milk.

3. *The price for Class II Milk.* The Class II price should be the average price per hundredweight for manufacturing grade milk f.o.b. plants in Minnesota and Wisconsin, as reported by the U.S. Department of Agriculture, adjusted to a 3.5-percent butterfat test. Such class price should not exceed a price based on the market values of butter and nonfat dry milk.

The price under the order for Class II milk presently is based on a butter-powder formula which uses an average of prices at Chicago for butter (plus 3 cents per pound) and nonfat dry milk and a "make allowance" of 80 cents per hundredweight.

A producer organization proposed that the Class II price should at least equal the Minnesota-Wisconsin manufacturing price as reported by the Department. This was suggested as a means of increasing returns to producers. Use of this price in 1964 would have increased the actual Class II price level by 19 cents per hundredweight. An average price increase of 24.5 cents would have prevailed during the first 8 months of 1965. (For purposes of price comparisons made herein for the months of April through August 1965, official notice is taken of the Puget Sound market administrator's official price announcements which set forth class prices and related pricing factors for these months.)

The three major cooperative associations in the market opposed the use of the Minnesota-Wisconsin price series and contended that the Class II price should continue to be based on a butter-powder formula. They proposed a modification of the present formula which would increase the current Class II price level by 9 cents per hundredweight. The present price computation would be changed under their proposal by deleting the addition of 3 cents to the Chicago butter price and reducing the "make allowance" to 57 cents per hundredweight. The associations stated that the Class II price should continue to be based on the market values of butter and powder as these are the products into which a large part of the market's reserve milk supplies are converted. They argued that their proposal, in conjunction with the 10-cent bulk tank premium on producer milk which is being paid by all handlers, would result in the same level of returns to producers for Class II milk as would exist if the Minnesota-Wisconsin price series were adopted and the bulk tank premium were not paid.

Milk disposed of in manufactured (Class II) uses must be priced under the order at a level which will result in the orderly marketing of such milk. Within this concept, the price level should be that which will provide the highest possible returns to all producers in the market. At the same time the Class II price should reflect appropriately the competitive price structure for those milk products which are manufactured by Puget Sound handlers. In recent years less than one-half of the producer milk in this market has been needed for fluid purposes. Because of the substantial quantities of surplus milk, an appropriate Class II price level is of particular significance to both producers and handlers.

A Class II price based on the Minnesota-Wisconsin manufacturing milk price series, not to exceed a limit related to butter and nonfat dry milk values, should adequately meet these pricing objectives. The desirability of using a competitive pay price is based on the premise that in the highly competitive dairy industry average prices which are paid in areas where there is substantial competition for manufacturing milk provide as good a measure of its value as can be obtained. The Minnesota-Wisconsin price series is representative of prices paid to farmers for about one-half of the manufacturing grade milk sold in the United States. In Minnesota about 84 percent of the milk sold off farms is of manufacturing grade and in Wisconsin, about 58 percent. (Official notice is taken of the "Supplement for 1963–64 to Dairy Statistics through 1960", Statistical Bulletin No. 303, Economic Research Service, U.S.D.A., June 1965.) There are many plants in these States which are competing for such milk supplies. This price series reflects a price level determined by competitive conditions which are affected by demand in all of the major uses of manufactured dairy products. Further, it reflects the supply and demand of manufactured dairy products within a highly coordinated marketing system which is national in scale. Milk products which are manufactured by Puget Sound handlers compete within this system.

The Minnesota-Wisconsin price series is presently used under the order as the basic formula for establishing the price for Class I milk. Official notice is taken of the decision issued by the Assistant Secretary on November 14, 1962 (27 F.R. 11349), concerning the adoption of this price series as the basic formula price for the Puget Sound order. This decision describes the manner in which the price series is obtained.

Cooperative associations in the Puget Sound market assume the responsibility of disposing of milk not needed by other handlers for fluid and Class II uses. The associations handle a large proportion of the Class II milk in the market, most of which is manufactured at their plants into butter and powder. In 1964, about 42 percent of the market's surplus milk went into these uses.

Because of the nature of their manufacturing operations, these associations expressed much concern about the relationship of the Minnesota-Wisconsin prices and the purchase prices for butter and powder. The associations contended that the Minnesota-Wisconsin price series is not sufficiently sensitive to changes in the market value of individual manufactured products, particularly butter. The divergence between the Minnesota-Wisconsin prices and the combined butter and powder product prices which has prevailed in December 1964 and the first several months of 1965 was cited as an example.

In 1962 nearly one-half of the total production of butter and nonfat dry milk in the United States occurred in the States of Minnesota and Wisconsin. More specifically, the two States accounted for 44 percent of the total butter and 49 percent of the total nonfat dry milk that was manufactured that year. (Official notice is taken of "Agricultural Statistics 1964," published by the U.S. Department of Agriculture.) In view of the volumes of these products involved, it is reasonable to expect that the available returns from these products would be closely reflected at most times in the pay prices of the manufacturing plants in these States.

Recognition should be given, nevertheless, to the possibility that a particular segment of the manufactured milk industry may be unduly influenced occasionally by certain supply-demand conditions not affecting the remainder of the industry. Such conditions may not be reflected sufficiently in the Minnesota-Wisconsin price series. Because of the importance of butter and powder manufacturing in this market, it is desirable that the Puget Sound Class II price not exceed a price level based on a butter-powder formula. Using a butter-powder price as a ceiling will insure that the Class II price will continue to reflect the product values of butter and powder in the event of an undue divergence in the relationship between such values and the Minnesota-Wisconsin prices. If the Class II price is too high relative to the value of the residual uses for surplus milk, the associations cannot handle such milk except at a financial loss. In this circumstance, members of the associations would be penalized relative to nonmember producers on the market.

A "ceiling" limit based on butter and powder values is used in a number of Federal order markets in connection with the use of the Minnesota-Wisconsin price for pricing milk in manufacturing uses comparable to the Puget Sound Class II uses. This price limit in such markets is equivalent to a butter-powder formula price using the product yields and prices suggested by the associations, with a "make allowance" of 48 cents. This formula would provide an upper limit to the Class II price which would be appropriate for conditions prevailing in the Puget Sound market, and should be adopted for that purpose.

Under the pricing scheme proposed herein, the Puget Sound Class II price would have averaged $3.144 per hundredweight, or 17.6 cents over the actual average price of $2.968, for the recent 5-year period of 1960 through 1964. Annually, the spread between proposed and actual average prices would not have varied from this difference by more than 3 cents. A similar average difference of 18 cents would have prevailed also for the first 8 months in 1965.

Over the 1960–64 period, the limiting effect of the proposed butter-powder formula on the Class II price would have been minimal. The Minnesota-Wiscon-

sin price series averaged $3.158 in contrast to the proposed effective Class II price of $3.144 during this period, or a difference of 1.4 cents. The relationship of the Minnesota-Wisconsin prices and the combined market values of butter and powder thus has been relatively stable over an extended period of time. In light of this it is concluded that the Minnesota-Wisconsin price series would be a satisfactory basis on which to establish the Class II price for this market. The use of the proposed butter-powder formula as a price ceiling will, however, provide a proper pricing basis during those infrequent periods when significant differences between the Minnesota-Wisconsin prices and butter-powder product values prevail.

4. *Computation of butterfat differentials.* (a) The manner of computing the Class I and Class II butterfat differentials to handlers should be simplified. Such differentials are provided in the order for adjusting the class prices for each one-tenth of 1 percent that the butterfat content of the milk being priced differs from 3.5 percent. Presently, the differentials are computed by adding 3 cents to the average daily wholesale price per pound for butter at Chicago, multiplying by 0.120 for Class I milk and by 0.115 for Class II milk, and rounding the result to the nearest tenth of a cent.

Such differentials should be computed by multiplying the Chicago butter price by 0.125 for Class I milk and by 0.120 for Class II milk, as proposed by producers. Elimination of the addition of 3 cents and adjustment of the factors of 0.120 and 0.115 to 0.125 and 0.120, respectively, would simplify the computation of the butterfat differentials without significantly affecting their present levels.

(b) A single producer butterfat differential should be applicable to all milk received from producers. The differential should be the average of the Class I and Class II butterfat differentials to handlers weighted by the amounts of butterfat in producer milk in each class of use. When making payments to producers, prices for both base milk and excess milk would be adjusted for the butterfat content of the producer's total deliveries by this differential.

The order now provides that the uniform price for base milk be adjusted for butterfat content by a differential which reflects the weighted average of butterfat in base milk which is assigned to each class. This differential applies on an annual basis to about 89 percent of the producer milk pooled under the order. The uniform price for excess milk is adjusted by the Class II butterfat differential to handlers.

The use of a single producer butterfat differential, which was proposed by producers, would simplify the computation of producer payrolls. There would be no appreciable change in returns to producers and no change in costs to handlers.

5. *Definitions relating to plants*—(a) *"Plant."* The "plant" definition should be revised to provide that a "reload point" not be considered as a plant if all the milk handled at such point during the month is moved to a single plant in the same pricing district.

A reload point is used primarily as a location at which milk is transferred from one farm pickup tank truck to another or to an over-the-road tank truck for further movement from farms to plants where it is processed. Under the present provisions a reload point is considered as a plant if it has appropriate health approval and is pooled as a "country plant" when shipments of milk from it to distributing plants qualifies it as such.

A proprietary handler operating two reload points in the same district as its distributing plant requested such a change in the order. The handler moves milk handled at each reload point to this distributing plant. When all of the milk received at a reload point is so moved, the handler desires that the reload point not be considered as a plant.

Revision of the plant definition in this manner would eliminate certain records which must be kept when the reload point is treated as a pool plant and would simplify the monthly reporting of receipts and utilization. Prices to producers would not be affected inasmuch as the point of receipt of their milk would still be in the same price zone.

The buildings, premises and storage facilities of a distribution point at which packaged fluid milk products are stored en route in the course of disposition should not be considered as a part of a plant. A handler desired that such distribution points be considered as part of the distributing plant at which the milk is processed and packaged. It was contemplated under this arrangement that for reporting purposes fluid milk products moved through a distribution point would be considered to have been disposed of when the products left the distribution point. Proponent claimed that the records of disposition it keeps for internal accounting would then more nearly conform with the records which it would have to keep for reporting and auditing purposes under the order.

As the order is now administered, disposition takes place at the time the products leave the plant where packaged. Under the proposed change, milk which had left the processing plant, but which had not been disposed of from the distribution point, would be in inventory. Inasmuch as fluid milk inventories are classified as Class I milk under the Puget Sound order, classification of packaged products would be the same under either accounting system. It is desirable, nevertheless, that only one accounting procedure be used for establishing the time when disposition takes place. It is concluded that the present accounting practice should be continued and that the order provisions should be clarified to specifically indicate when disposition of packaged fluid milk products occurs.

It is questionable that the financial records of a handler's fluid milk sales made through distribution points would totally agree with the information which must be used for reports to the market administrator and for verification through audits. Factors such as promotional practices, handling of returns, and accounting for inventories could affect this. It is not likely that adoption of this proposal would benefit handlers to the extent proponent claims.

Other than proponent, handlers apparently find the current accounting procedures satisfactory. Specific opposition to the proposal was expressed by a handler which has several distribution points.

(b) *"Pool plant."* A new "pool plant" definition with modified pooling requirements should be substituted for the present definitions of "fluid milk plant" and "country plant." As set forth in the attached order, plants now described as fluid milk plants would be defined as "pool distributing plants" and plants described as country plants would be defined as "pool supply plants." Such terms are commonly used in Federal orders and aptly describe the plants being defined.

Under the present Puget Sound order plants located in the marketing area need only be approved by appropriate health authorities for receiving milk qualified for consumption as fluid milk in the marketing area (Grade A milk) in order for their receipts to be included in the marketwide pool. Those plants which dispose of any fluid milk products on routes are "fluid milk plants" and other such plants are "country plants." Also included as country plants are plants located outside the marketing area which either ship milk to fluid milk plants or dispose of on routes in the marketing area specified percentages of their receipts of Grade A milk from dairy farmers. One plant at Sequim in Clallam County is specifically designated as a country plant exempt from such performance standards. The performance standards required of out-of-area distributing plants are the same as for supply plants.

Sharing in the proceeds of the Class I utilization of a market-wide pool should be determined by the extent to which plants serve the fluid needs of the market. The marketing performance standards used for this determination at any time should be equal for all plants performing the same functions, Any plant, wherever located, should be eligible to become a pool plant if it meets such standards.

The present Puget Sound order provisions do not conform to these standards. They have worked reasonably well, though, for two reasons. The principal area of production for the market is within the marketing area, and there have been few outside milk supplies seeking entry to the Puget Sound market.

The specific amendments proposed in the notice of hearing were of a minor nature. They would incorporate into the "fluid milk plant" definition an exemption from regulation for plants with minor route disposition in the marketing area and would designate an additional "country plant" at Ellensburg, Wash., to be exempt from performance standards.

The record shows the desirability of more uniform standards but does not provide the data upon which appropriate provisions may be based in all instances.

A pool distributing plant should be a plant from which distribution of fluid milk products in the marketing area averages more than 110 pounds daily and is 10 percent or more of the receipts of Grade A milk at the plant. A plant which distributes at least 10 percent of its receipts in the marketing area may reasonably be considered to be associated with the market to a degree that justifies its being fully regulated. Practically all distributing plants now operating in the market dispose of a much higher proportion of their receipts in the marketing area. Performance standards for distributing plants customarily require in addition that a substantial portion of receipts be disposed of on routes, either in or out of the area, in order that the plants that may qualify as distributing plants may be distinguished from those that qualify as supply plants. The record, however, does not provide sufficient basis for establishing either this qualification or uniform performance standards for all supply plants.

The order presently provides exemption from regulation for producer-handlers and nonpool plants selling not more than 3,400 pounds of fluid milk products per month in the marketing area. A uniform level of exemption from all regulation should apply to pool plants as well as to nonpool plants and producer-handlers. One hundred and ten pounds, approximately 50 quarts, daily is an appropriate standard for this purpose and is incorporated in the provisions for all three types of operations.

The record does not provide sufficient information upon which uniform performance standards for all supply plants may be established at this time. For this reason the present provisions are generally continued. The exemption from performance standards for designated plants located outside the marketing area should be discontinued, however. The Sequim plant is merely a receiving facility and substantially all of its receipts are shipped to fluid milk plants. It has met the specified performance standards at all times. While the Ellensburg plant has manufacturing facilities, it has continuously met the shipping requirements for pooling since becoming associated with the market in 1954.

6. *Definitions of "Handler," "Producer," and "Route disposition"*—(a) "Handler." The handler definition should be changed to include a cooperative association with respect to bulk tank milk of its member producers which is received from the farm for delivery to a pool plant of another handler in a tank truck owned and operated by, or under contract to, the association.

Changes in the methods of handling milk make desirable responsive changes in the order provisions to allow a cooperative association to act in this capacity. For many years milk was picked up at farms in cans or, more recently, in relatively small tank trucks. In those production areas somewhat distant from distributing plants, the milk was collected at supply plants and then hauled in large transport trucks to distributing plants. Today, virtually all member milk is picked up at the farm in large tank trucks and much of it is delivered to distributing plant in these same trucks. Receipt of the milk at a supply plant is often no longer a necessary step in the movement of milk from the farm to a distributing plant.

Under the present order provisions, milk moved directly from the farm to a distributing plant is considered as producer milk of the plant operator. The operator is then the accountable handler for the milk. Cooperative associations, in marketing their members' milk, arrange for the milk to be moved from members' farms to the plants where needed. The order does not allow an association to be the accountable handler for milk of its members which is moved from farms directly to a distributing plant, however. Because of this it has become common practice for a cooperative association to have its pickup trucks stop, when en route from farms to distributing plants, at its supply plant where a token withdrawal of milk from the trucks is made. By establishing the supply plant as the original point of receipt, the milk is then considered as producer milk of the association. Settlement for the milk is made on the basis of an interplant transfer. The major cooperative associations in the market requested a change in the handler definition which would make such a practice unnecessary.

The change in the handler definition proposed herein would allow cooperative associations to move member milk directly from the farm to the plants where needed and still retain handler status with respect to the milk. Unnecessary hauling costs now incurred by the associations to establish receipt at their plant could be eliminated. Associations would have more flexibility in setting up routing arrangements which may need to vary from day to day as milk is moved to handlers' plants in the quantities and at the times requested by such handlers.

The association should be required to notify the market administrator and the operator of the pool plant to which the milk is delivered, in writing prior to the first day of the month in which any such deliveries occur, that it elects to be the handler for such milk. In this capacity the cooperative association should report such milk as a receipt of producer milk at the location of the pool plant to which the milk is delivered and should be the responsible handler for making payments to the producers involved. The milk should be classified according to the use or disposition by the operator of the pool plant and should be assigned to the plant operator's utilization as though the milk were producer milk of the operator. The value of the milk at class prices should be included in the plant operator's net pool obligation. The plant operator should be required to pay the association for the milk at not less than the "weighted average price for all milk," as adjusted by the butterfat and location differentials to producers. The plant operator also should be responsible for paying the administrative assessment applicable to such milk. In the event some of the milk for which the cooperative association is the handler is not delivered to a pool plant, the milk not delivered should be producer milk of the association in all respects.

This proposed method of accounting and paying for such milk by the handlers involved differs somewhat from the method contemplated by the proponent cooperative associations. Under their proposal, the bulk tank milk of member producers moved directly from the farm to another handler's plant would be considered as a diversion of milk to such plant from the association's plant where the milk is normally received when not needed for bottling purposes. Accountability and payment for the milk under the order than would be in accordance with the rules applicable to interplant transfers of milk. Also, under their proposal the milk would be considered for pricing purposes to have been received by the association at the location of the plant which it operates if the plant to which the milk is physically delivered is subject to the same or lesser location adjustment as the association's plant. If a greater location adjustment is applicable, receipt would be at the plant to which the milk was delivered.

Permitting a cooperative association to be the handler for direct-delivered bulk tank milk should not be restricted to an association that operates a plant. This requirement would not offer any advantages to an association which could not be realized under the order provisions proposed herein. Being such a handler would be optional with the association and it could choose, of course, that method of operation which best accommodates its needs. As indicated, the handler operating the plant to which the milk is delivered would be required to settle for such milk with the producer-settlement fund at the class prices and with the association involved at the weighted average price. This has the merit that any adjustments in the handler's pool obligation which are found necessary on the basis of audit may be made directly with the handler.

(b) *"Producer."* The producer definition should be modified to exclude any dairy farmer whose milk is diverted from a plant regulated under another order to a pool plant if the milk retains status as producer milk under such other order. Also, any dairy farmer who disposes of on a route or to consumers at the farm a daily average of more than 110 pounds of fluid milk product should not be allowed producer status under the order.

This proposal, which was made by cooperative associations in the Puget Sound market, would allow surplus milk from other federally regulated markets to be delivered directly from the farm to Puget Sound pool plants for disposal without such milk being pooled under the Puget

Sound order. Producer associations in the Inland Empire market were described as occasionally having milk in excess of that which could be handled at facilities in that market. Pool plants in the Puget Sound market which have manufacturing facilities are available as an outlet for such milk. Under the present provisions, however, such milk, if moved directly from the farm to a Puget Sound pool plant, becomes pool milk under the Puget Sound order. The proponent associations which operate manufacturing plants will not accept such milk at their plants unless the milk has been received first at a plant pooled under the Inland Empire order. This has necessitated extra hauling, particularly in the case of producers in that market located in the Columbia Basin whose milk must be hauled east to a pool plant at Spokane and then west beyond the Columbia Basin area to the Puget Sound market. The movement of milk is then considered as an interorder transfer and the milk is not pooled under the Puget Sound order. Adoption of the proposal would facilitate the economical movement and orderly disposition of the surplus milk without diluting returns to the Puget Sound producers from Class I sales in the market.

The proposed change should be limited only to milk which is classified and priced under other Federal orders. As proposed by the proponent associations, dairy farmers whose milk is diverted from unregulated distributing plants to Puget Sound pool plants for manufacturing also would be excluded from being producers. Such persons and their milk are often difficult to identify, however, in contrast to producers and producer milk as defined by an order. The movement of surplus milk from the Yakima, Washington, area, which was singled out by proponents in conjunction with this proposal, to Puget Sound pool plants on an interplant basis was described as not involving any extra hauling. No modification of the order to accommodate such milk thus appears necessary.

The exclusion from producer status of a dairy farmer selling more than 110 pounds daily of fluid milk products would affect primarily those dairy farmers who process and distribute their milk outside the marketing area through their own plant but who do not qualify as producer-handlers under the order. Presently, such persons may ship milk which is surplus to their operations to a pool plant and gain producer status. Such milk does not represent a dependable supply of milk for the fluid requirements of the Puget Sound market nor is it intended as such by the shipper. The regulated market is used merely as an outlet for milk which he produces in excess of his own Class I requirements. In this circumstance it is not appropriate that such a person share in the returns from the Class I sales of the regulated market. Similar treatment is now applicable to persons who qualify as producer-handlers under the order.

(c) *"Route disposition."* A new definition of "route disposition" should be added. As set forth in the attached order, route disposition would mean any delivery, including delivery at a plant, plant store or eating place and delivery by a vendor or through a distribution point, of fluid milk products. A delivery of such products to a milk plant or in bulk to a commercial food processing establishment, however, would be excluded. Also, delivery to a military or other ocean transport vessel leaving the marketing area of fluid milk products which originated at a plant located outside the marketing area and were not received or processed at any pool plant would not be considered route disposition. This definition would not change in any way the present concept of what constitutes disposition on routes. It would merely simplify and clarify the remaining provisions of the order.

7. *Division of the shrinkage allowance between handlers.* The maximum allowance for shrinkage classified as Class II should be divided between receiving and processing handlers.

Producer groups proposed that the handler who first receives milk from producers should be allowed Class II shrinkage on the milk of up to 0.5 percent of the receipts. The handler who processes the milk should be allowed up to 1.5 percent Class II shrinkage on such milk. The total Class II shrinkage allowed under the proposal would be equal to that which is now allowed under the order. Presently, only the handler who first receives the milk may claim any Class II shrinkage.

Division of the shrinkage allowance in this manner would be in accord with the normal expectation that greater shrinkage occurs in processing milk than in receiving milk. This arrangement would be especially appropriate in this market since milk is often received at supply plants and then moved to distributing plants for processing. The shrinkage proposal was made in conjunction with the producer proposal, which is adopted herein, that a cooperative association be permitted to be the handler on direct-delivered bulk tank milk of its member producers. Division of the shrinkage allowance is a necessary adjunct to the practical use of this option by a cooperative association.

Under this provision as set forth in the attached order, the present two percent Class II shrinkage allowance would be retained for a plant operator who receives his milk supply directly from producers and processes it and disposes of no milk to other plants. In those circumstances where producer milk is received at a plant, or is received by a cooperative association in its capacity as a handler for bulk tank milk of its members, and is then transferred to another pool handler for processing, the total allowable shrinkage would be split. The handler receiving the milk from producers would be allowed Class II shrinkage of up to 0.5 percent whil the processing handler would be allowed Class II shrinkage of up to 1.5 percent. Any handler diverting milk to a nonpool plant also would be allowed up to 0.5 percent shrinkage on such milk. These shrinkage limits are in line with normal experience in many federally regulated markets.

The order should provide that when a handler receives milk from a cooperative association which is the handler for bulk tank milk of its members, the entire two percent allowance accrues to the handler if he elects to purchase the milk from the association on the basis of farm weights and individual producer tests. In this case the association would have no need for a shrinkage allowance on such milk. A handler making such election should notify the market administrator to that effect. Similarly, if the operator of the nonpool plant to which milk is diverted purchases the milk on the basis of farm weights and individual producer tests, no shrinkage allowance should apply for the diverting handler.

8. *Changes in the classification provisions.* On the basis of proposals by certain proprietary handlers and cooperative associations, certain changes in the classification of milk should be made.

Cream which is transferred under certain conditions to a nonpool plant located outside the marketing area and the counties of Kitsap, Mason, Clallam, Jefferson, and Pierce should be classified as Class II milk rather than as Class I milk. Such classification should be allowed only if the nonpool plant neither distributes fluid milk products on routes nor disposes of them to other nonpool plants. Also, the market administrator must be permitted to audit the records of the nonpool plant.

A proprietary handler requested such classification for cream which it wants to ship from its pool manufacturing plant to either of its manufacturing plants at Gustine, Calif., and Johnstown, Colo. The cream becomes available through the standardization of milk for its evaporated milk operation at the pool plant. The distant plants named have only manufacturing operations.

Cream disposed of outside the market in this manner should be classified as Class II milk. Returns to producers would not be affected in any manner. Proponent, on the other hand, would have greater latitude in utilizing its available facilities. A substantial decrease in the number of available butter churning facilities in the market further supports this action.

Any milk or milk products sterilized and packaged in hermetically sealed glass containers should be classified as Class II milk. This classification is now applicable to milk so packaged in metal containers. A proprietary handler which regularly ships milk and milk products to Alaska requested this modification. The handler contemplates moving through its pool plant a sterilized, hermetically sealed cream product packaged in glass containers. The product is packaged in California and would be consolidated at the handler's plant with other milk products for shipment to Alaska. There is no need to differentiate between sterile products packaged in metal containers and such products in glass containers.

The classification provisions should be changed accordingly.

A further change regarding the classification of milk sterilized and packaged in hermetically sealed containers which was proposed by producer groups should not be adopted. Under their suggested classification provisions, as set forth in the hearing notice, such milk, except evaporated milk, would be classified as Class I rather than Class II unless disposed of outside the marketing area. No justification for this change was given at the hearing and the change should not be made.

The producer proposal that fluid milk products which are dumped be classified as Class II milk should be adopted. Under normal circumstances handlers experience some spoilage of fluid milk products for which there is no commercial value. This occurs particularly with route returns of packaged products. Occasionally, milk which is being processed into cottage cheese will not "set" and must be dumped. Accordingly, such milk should not be valued under the order at the Class I price. The order should provide that the handler give such prior notice and opportunity for verification as may be required by the market administrator before such dumping occurs.

The classification provisions should be modified to provide that fluid milk products be classified as Class II milk if disposed of in bulk to any type of commercial food processing establishment for use in food products which are processed for general distribution to the public for consumption off the premises. Such an establishment would exclude any facility, such as various types of catering kitchens and kitchens of restaurant chains, at which the principal function is the preparation of food or meals for use within a limited period of time. The order now limits such establishments to bakeries, soup companies and candy manufacturing establishments.

This change would allow a Class II classification on sour cream disposed of in bulk to manufacturers of salad dressings. A witness for the principal producer group indicated that this classification change is desirable since such manufacturers represent an important outlet for producer milk. He indicated that sour cream cannot compete for these outlets when priced at the higher class value. Such disposition of sour cream is similar to disposition of fluid milk products for bakery, soup and candy uses and should be treated similarly.

9. *Accounting for nonfluid milk products used for reconstitution and fortification of fluid milk products.* The order should be clarified as to the manner in which handlers should account for nonfat milk solids used for fortifying fluid milk products. The order presently does not set forth clearly the accounting procedure to be used. Producers proposed that the market administrator's instructions to handlers concerning this matter be incorporated in the order.

Any fluid milk products fortified with added nonfat milk solids should be Class I milk in an amount equal only to the weight of an equal volume of a like unmodified product of the same butterfat content. The reportable quantity of nonfluid milk products used for fortification should be a weight equal to the increase in volume of the fluid milk products caused by the addition of the fortifying product. This quantity of nonfluid milk products should be reported as a receipt of other source milk.

This manner of accounting for nonfat milk solids is now being used to implement the classification and pricing of producer milk under the order. Setting forth in the order the specific accounting procedures for fortified products would facilitate the administration of the order.

The order also should be modified with respect to accounting for nonfluid milk products used in reconstituting fluid milk products. The order now provides that when skim milk or milk drinks are reconstituted the volume of the nonfluid milk products used shall be equivalent to the skim milk used to produce the nonfluid milk products. This accounting procedure should be used in the case of all reconstituted fluid milk products. The fluid milk equivalent of the nonfat milk solids used for reconstitution would be considered as other source mlik.

Nonfluid milk products are ordinarily derived from unpriced milk or milk which has been priced as surplus milk under a Federal order. An economic incentive exists for handlers to substitute reconstituted fluid milk products for fluid milk products processed from current receipts of producer milk. Since such substitution would displace an equivalent amount of producer milk in Class I, the application of fluid equivalent pricing to all types of reconstituted fluid milk products is appropriate.

10. *Suspension or modification of the base-excess plan.*

(a) The base-excess plan used for distributing returns to producers should be continued.

A relatively small number of producers affiliated with a national farm organization proposed that the base-excess plan now provided for in the order be suspended for a trial period of 2 years beginning January 1, 1966. During this period a substitute base plan would be used which, in essence, would relate producers' bases to Class I utilization in the market. The producers contended that the present base-excess plan no longer is serving a useful purpose. They claimed that the plan induces the production of additional unneeded milk as producers attempt to establish larger bases.

Aside from the issue of whether the present base-excess plan is appropriate, consideration of the substitute base plan suggested by producers is not warranted. The order provisions which would be needed to implement such a plan were not developed sufficiently at the hearing to allow adequate appraisal of it. Furthermore, most of the Puget Sound producers were not aware that a base plan of this nature was to be considered at this proceeding inasmuch as the plan was not set forth in the notice of hearing. All producers in the market should have full opportunity to develop the necessary provisions of any base plan which might be adopted.

The purpose of the base-excess plan in the Puget Sound order has been to encourage a more even seasonal pattern of milk production. The normal pattern usually results in a greater supply of milk in the spring and early summer months. The base-excess plan has been in effect since the beginning of the order in 1951. Data for the market indicate a leveling of the seasonal variation in production since that time. In 1952 the average daily delivery per producer in the month of greatest production was 53 percent more than in the month of least production. For 1958 and 1964 comparable figures are 36 percent and 23 percent, respectively. It must be assumed that the base-excess plan has been a major factor in the changing production pattern for this market.

It cannot be determined that there is any direct relationship between this base-excess plan and the substantial amount of surplus milk in this market. Changes in technology and feeding and breeding practices cannot be overlooked as contributing significantly to the more than twofold increase since 1952 in the average daily delivery per producer. Withdrawing the base-excess plan on the basis that it contributes to excess production cannot be justified sufficiently to warrant such action.

The base-excess plan is a means of distributing to producers the total returns for their milk pooled under the order. Handlers' costs are not affected by the plan. Considerable weight, therefore, should be given to the desire of producers in the market as to whether they want such a plan. A large segment of such producers expressed opposition to the proposal to suspend the plan. They contended that the plan has been effective in leveling the seasonal variation of production.

In view of these considerations, the proposal is denied.

(b) No change should be made in certain parts of the provisions relating to the base-excess plan as suggested by cooperative associations. Producers proposed that any milk produced by a producer but which is not delivered to a plant because of circumstances generally beyond his control should be included in his total volume of milk used in computing his base. Also, they proposed that the order specify that a base may be computed for a producer-handler who discontinues operations as such or fails to meet the requirement for handler status.

Since the hearing was held, the Agricultural Marketing Agreement Act has been amended. Certain of the changes to the statute relate to the specific provisions which authorize base-excess plans such as is in the Puget Sound order. At the time producers were proposing certain changes in the base-excess plan, they were not aware, of course, of the forthcoming changes in the Act. Since the evidence offered in support of these proposals for relatively minor changes in the base-excess plan was given without knowledge of the statutory change

in procedures, it is concluded that a decision on these proposals should not be made on the basis of this record.

11. *Miscellaneous changes.*

(a) Reports of receipts and utilization which handlers must submit to the market administrator each month should be required to be submitted in the detail and on forms prescribed by the market administrator. This requirement, which has been set forth in the order since its inception, was omitted when the order was amended effective August 1, 1964. Reinstatement of the requirement will assure uniformity in reporting procedures and facilitate the classification and pricing of milk.

(b) A proposal was made by cooperative associations which would restate in conformance with other proposals the order language relating to location adjustments on Class II milk. During consideration of this proposal at the hearing, a proprietary handler proposed that the amount of adjustment be changed. Presently, a plus 25-cent location adjustment is applicable at pool plants located in District 1 or in the counties of Kitsap, Mason, or Pierce on milk which is utilized in certain Class II products, principal of which are ice cream and cottage cheese. It was proposed that this location adjustment be reduced to 15 cents per hundredweight.

The evidence is inconclusive as to whether a location adjustment other than that presently used would be appropriate under existing marketing conditions. Questions raised in the record concernig this issue, such as (1) the availability of milk for Class II use at District 1 plants at a lesser location adjustment, (2) the quantities of milk which must be shipped from supply plants to District 1 distributing plants for "premium" Class II uses, and (3) current transportation costs, suggest that a more thorough review be given the matter than occurred at the hearing. Accordingly, this change is not adopted.

(c) The market administrator should be required to report to a cooperative association, at the latter's request, the pro rata share of a handler's Class II utilization subject to a location adjustment which is assignable to milk of member producers caused to be delivered by the association directly from farms to the handler's plant. Such milk should include any bulk tank milk for which a cooperative association is the handler. Under present provisions a cooperative association may obtain similar information with respect to a handler's utilization of such milk in each class but without a detailed breakdown of the Class II uses.

As indicated above, milk used in certain Class II products at certain pool plants is subject to a plus 25-cent per hundredweight location adjustment. Knowing how much of its milk is used in these particular Class II products may assist the association in allocating available supplies of milk to handlers to the best advantage of the association. Confidentiality of the handler's operations would not be jeopardized under this arrangement.

(d) The order should provide that in the absence of specific tests the butterfat content of skim milk which a handler receives, uses or disposes of shall be 0.06 percent. Currently, if no butterfat test has been made the test of the skim milk is assumed to be zero. No practical method of separation removes all of the butterfat from milk, however. Thus, if the butterfat test of the skim milk which remains is considered as zero, a problem of accounting for all butterfat received may result. When large quantities of skim milk are involved, a handler may experience excessive shrinkage or some overage of butterfat. The application of an assumed butterfat test would tend to mitigate the problem. A test of 0.06 percent appears appropriate for this purpose.

(e) The order now provides that reporting of receipts and utilization and classification and assignment of milk shall be done on the basis of each plant which a handler operates. However, if a handler operates more than one pool plant and receives bulk fluid milk products from an unregulated supply plant or an other order plant which are to be assigned pro rata to his utilization, such assignment is based on the overall utilization of milk of all the pool plants of the handler. This arrangement may necessitate "borrowing" utilization from one plant for assignment purposes in another of the handler's plants.

This procedure is simplified in the attached order. It is provided that after classification of milk at each of the handler's pool plants is made, the utilization in each class at all of the plants shall be combined before assigning receipts of milk to the handler's utilization. If the handler has not received any other source milk which is subject to a pro rata assignment, assignment of receipts would be done on an individual plant basis.

(f) The entire order should be rewritten. The adoption of various proposals necessitates, of course, certain changes in the specific provisions involved. In addition, changes in other provisions are required to make the entire order conform with the amendments proposed herein. In view of the extensive changes, this occasion is an appropriate time for redrafting the entire order for the purpose of providing greater clarity in all provisions.

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

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

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

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

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

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

DEFINITIONS

§ 1125.1 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 (48 Stat. 31, as amended; 7 U.S.C. 601 et seq.).

§ 1125.2 Secretary.

"Secretary" means the Secretary of Agriculture, or other officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

§ 1125.3 Department.

"Department" means the U.S. Department of Agriculture or such other Federal agency authorized to perform the price reporting functions specified in this part.

§ 1125.4 Person.

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

§ 1125.5 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers, duly organized as such under the laws of any State, which includes members who are producers as defined in § 1125.11 and which the Secretary determines, after application by the association:

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

(b) To have its entire organization and all of its activities under the control of its members; and

(c) To be currently engaged in making collective sale of or marketing milk or its products for its members.

§ 1125.6 Puget Sound, Wash., marketing area.

"Puget Sound, Wash., marketing area" (hereinafter called the "marketing area") means all territory geographically within the places listed below, including all territory wholly or partly therein occupied by government (municipal, State or Federal) reservations, facilities, installations or institutions:

WASHINGTON COUNTIES

Grays Harbor.
Island.
King.
Lewis (except the town of Vader).
Pacific (all territory north of township 11 N except Long Island and the North Beach Peninsula).
Pierce (except Fox, McNeil, and Anderson Islands and the peninsulas adjacent to Kitsap County).
San Juan.
Skagit.
Snohomish.
Thurston.
Whatcom.

"District 1" shall include that portion of the marketing area in Grays Harbor, King, Pierce, Snohomish, and Thurston Counties. "District 2" shall include Whatcom County. "District 3" shall include that portion of the marketing area in Lewis and Pacific Counties. "District 4" shall include Skagit and Island Counties. "District 5" shall include San Juan County.

§ 1125.7 Plant.

"Plant" means the land, buildings, surroundings, facilities and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment, which is maintained and operated primarily for the receiving, handling and/or processing of milk and milk products.

(a) The buildings, premises and facilities, including facilities for washing tanks, of a reload point used primarily as a location at which milk is transferred from one farm pickup tank truck to another or to an over-the-road tank truck, and approved for such use by an appropriate health authority, shall constitute a plant, unless all milk handled through such reload point during the month is moved to a single plant in the same district. Any reload point on the premises of a plant engaging in other operations shall constitute a part of the operations of such plant.

(b) The buildings, premises and storage facilities of a distribution point at which are stored en route in the course of disposition fluid milk products that have been processed and packaged in consumer-type packages at a distributing plant shall not constitute a plant. Operations of such a distribution point located on the premises of a nonpool plant or a supply plant shall not constitute a part of the operations of such plant. Fluid milk products moved through a distribution point shall be classified on the basis of disposition from the distributing plant at which processed and packaged.

§ 1125.8 Pool plant.

"Pool plant" means any plant, other than an other order plant or the plant of a producer-handler, approved by a health authority having jurisdiction in the marketing area for receiving, processing or packaging of milk qualified for distribution as Grade A milk, which meets the conditions of paragraph (a) or (b) of this section:

(a) Any such plant, hereinafter referred to as a "pool distributing plant", from which during the month route disposition of fluid milk products in the marketing area averages more than 110 pounds daily and is also 10 percent or more of receipts of Grade A milk at such plant; or

(b) Any other such plant (including any reload point constituting a plant), hereinafter referred to as a "pool supply plant", at which milk so qualified is received from dairy farmers or a cooperative association pursuant to § 1125.10(f), and which is:

(1) Located in the marketing area; or

(2) Located outside the marketing area, and from which is moved in fluid form as milk to a pool distributing plant at least the following applicable percentage of both the skim milk and butterfat in Grade A milk received from dairy farmers:

(i) During the months of October through December, 50 percent of such receipts during the month; or

(ii) During the months of January through September, 20 percent of such receipts during the month, except that any plant which shipped more than 50 percent of such receipts during the entire period of October through December immediately preceding shall be a pool plant for each of the months of January through September.

(3) Any plant which otherwise meets the requirements of this paragraph may withdraw from pool supply plant status for any month in the January–September period if the operator of the plant files with the market administrator, prior to the first day of such month, a written request for such withdrawal.

§ 1125.9 Nonpool plant.

"Nonpool plant" means any plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which during the month an average of more than 110 pounds daily of fluid milk products is disposed of on routes in the marketing area.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products qualified for distribution as Grade A milk are moved to a pool plant during the month.

§ 1125.10 Handler.

"Handler" means any person in his capacity as:

(a) The operator of one or more pool plants;

(b) The operator of a partially regulated distributing plant;

(c) The operator of an other order plant from which fluid milk products are disposed of on a route in the marketing area;

(d) A producer-handler;

(e) Any cooperative association with respect to milk of its member producers caused to be diverted for the account of such cooperative association from a pool plant of another handler to a nonpool plant; or

(f) Any cooperative association with respect to milk of its member producers which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association, if the cooperative association notified the market administrator and the operator of the pool plant to whom the milk is delivered, in writing prior to the first day of the month in which the milk is delivered, that it elects to be the handler for such milk. For purposes of location adjustments to producers such milk is considered to have been received from producers by the cooperative association at the location of the pool plant to which it is delivered.

§ 1125.11 Producer.

"Producer" means any person engaged in the production of milk of dairy cows:

(a) Who produces such milk in compliance with the Grade A inspection requirements of a duly constituted health authority;

(b) Whose milk during the month is received at a pool plant or is diverted from a pool plant to a nonpool plant pursuant to § 1125.12, unless such milk is received at a pool plant by diversion from an other order plant and retains status as producer milk under the order by which such plant is regulated;

(c) Who is not a producer-handler as defined in any order (including this part) issued pursuant to the Act; and

(d) Who during the month has not disposed of on a route or to consumers at the farm an average of more than 110 pounds daily of fluid milk products.

§ 1125.12 Producer milk.

"Producer milk" or "milk received from producers" means skim milk and butterfat in milk produced by producers which is received for the account of a handler as follows:

(a) With respect to receipts at a pool plant, producer milk shall include:

(1) Milk received at such plant directly from producers;

(2) Milk diverted from such pool plant to a nonpool plant for the account of the operator of the pool plant, subject to the condition set forth in paragraph (c) of this section; and

(3) Milk received at such pool plant from a cooperative association in its capacity as a handler pursuant to § 1125.10(f), for all purposes other than those specified in paragraph (b)(2)(i) of this section;

(b) With respect to milk for which a cooperative association is a handler in a capacity other than as the operator of a pool plant, producer milk shall include:

(1) Milk diverted from the pool plant of another handler to a nonpool plant for the account of the cooperative association, subject to the condition set forth in paragraph (c) of this section; and

(2) Milk for which the cooperative association is a handler pursuant to § 1125.10(f) to the following extent:

(i) For purposes of reporting pursuant to §§ 1125.30(c) and 1125.31(a) and making payments to producers pursuant to § 1125.80(a); and

(ii) For all purposes, with respect to any such milk which is not delivered to the pool plant of another handler; and

(c) For purposes of location adjustments pursuant to §§ 1125.53, 1125.54 and 1125.81, milk diverted to a nonpool plant shall be priced at the location of the plant to which diverted.

§ 1125.13 Other source milk.

"Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month of fluid milk products from any source (including all receipts in fluid form from a producer-handler or the plant of a producer-handler as defined under this or any other Federal order) except:

(1) Producer milk; and

(2) Receipts from other pool plants; and

(b) Nonfluid and residual products (including those processed at the plant) which are reprocessed in connection with, or converted to, a fluid milk product during the month. The skim milk component of such products shall be as follows:

(1) A weight equal to the weight of the volume increase caused by nonfat milk solids in dry milk solids or condensed milk or skim milk products used for the fortification of, or as an additive to, fluid milk products; and

(2) The weight of a volume equivalent to the skim milk used to produce such product, with respect to other such products or uses.

§ 1125.14 Producer-handler.

"Producer-handler" means a person who is engaged in the production of milk and also operates a plant from which during the month an average of more than 110 pounds daily of fluid milk products is disposed of on a route(s) within the marketing area and who has been so designated by the market administrator upon his determination that all of the requirements of this section have been met, and that none of the conditions therein for cancellation of such designation exists. All designations shall remain in effect until cancelled pursuant to paragraph (c) of this section. The Department of Institutions, State of Washington, shall be a producer-handler exempt from the provisions of this section and §§ 1125.30 and 1125.32 with respect to milk of its own production and receipts from pool plants processed or received for consumption in State institutions and with respect to movements of milk to or from a pool plant.

(a) *Requirements for designation.* (1) The producer-handler has and exercises (in his capacity as a handler) complete and exclusive control over the operation and management of a plant at which he handles and processes milk received from his milk production resources and facilities (designated as such pursuant to paragraph (b)(1) of this section), the operation and management of which are under the complete and exclusive control of the producer-handler (in his capacity as a dairy farmer).

(2) The producer-handler neither receives at his designated milk production resources and facilities nor receives, handles, processes or distributes at or through any of his milk handling, processing or distributing resources and facilities (designated as such pursuant to paragraph (b)(2) of this section) fluid milk products derived from any source other than (i) his designated milk production resources and facilities, (ii) pool plants within the limitation specified in paragraph (c)(2) of this section, or (iii) nonfat milk solids which are used to fortify fluid milk products.

(3) The producer-handler is neither directly or indirectly associated with the business control or management of, nor has a financial interest in, another handler's operation; nor is any other handler so associated with the producer-handler's operation.

(4) Designation of any person as a producer-handler following a cancellation of his prior designation shall be preceded by performance in accordance with subparagraphs (1), (2), and (3) of this paragraph for a period of 1 month.

(b) *Resoures and facilities.* Designation of a person as a producer-handler shall include the determination and designation of the milk production, handling, processing and distributing resources and facilities, all of which shall be deemed to constitute an integrated operation, as follows:

(1) As milk production resources and facilities: All resources and facilities (milking herd(s), buildings housing such herd(s), and the land on which such buildings are located) used for the production of milk:

(i) Which are directly, indirectly or partially owned, operated or controlled by the producer-handler;

(ii) In which the producer-handler in any way has an interest including any contractual arrangement; and

(iii) Which are directly, indirectly or partially owned, operated or controlled by any partner or stockholder of the producer-handler: *Provided*, That for purposes of this subparagraph any such milk production resources and facilities which the producer-handler proves to the satisfaction of the market administrator do not constitute an actual or potential source of milk supply for the producer-handler's operation as such shall not be considered a part of his milk production resources and facilities; and

(2) As milk handling, processing and distributing resources and facilities: All resources and facilities (including store outlets) used for handling, processing and distributing within the marketing area any fluid milk product:

(i) Which are directly, indirectly or partially owned, operated or controlled by the producer-handler; or

(ii) In which the producer-handler in any way has an interest, including any contractual arrangement, or with respect to which the producer-handler directly or indirectly exercises any degree of management or control.

(c) *Cancellation.* The designation as a producer-handler shall be cancelled under any of the conditions set forth in subparagraphs (1) and (2) of this paragraph, or upon determination by the market administrator that any of the requirements of subparagraphs (1), (2), and (3) of paragraph (a) of this section are not continuing to be met, such cancellation to be effective on the first day of the month following the month in which the requirements were not met, or the conditions for cancellation occurred.

(1) Milk from the designated milk production resources and facilities of the producer-handler is delivered in the name of another person as producer milk to another handler.

(2) The producer-handler handles fluid milk products derived from sources other than the designated milk production facilities and resources, with the exception of purchases from pool plants in the form of packaged fluid milk products, other than whole milk, which do not exceed a daily average during the month of 100 pounds.

(d) *Public announcement.* The market administrator shall publicly announce the name, plant location and farm location(s) of persons designated as producer-handlers, of those whose designations have been cancelled, and the effective dates of producer-handler status or loss of producer-handler status for each. Such announcements shall be controlling with respect to the accounting at plants of other handlers for milk received from any producer-handler.

(e) *Burden of establishing and maintaining producer-handler status.* The

burden rests upon the handler who is designated as a producer-handler to establish through records required pursuant to § 1125.33 that the requirements set forth in paragraph (a) of this section have been and are continuing to be met, and that the conditions set forth in paragraph (c) of this section for cancellation of designation do not exist.

§ 1125.15 Fluid milk product.

"Fluid milk product" means:

(a) Milk, skim milk, skim milk drinks, buttermilk, flavored milk, and flavored milk drinks, in fluid or frozen form (including such products reconstituted or fortified with additional nonfat milk solids);

(b) Cream (sweet or sour) in fluid or frozen form;

(c) Concentrated milk, skim milk, flavored milk, and flavored milk drinks; and

(d) Any mixtures in fluid form of cream and milk or skim milk (exclusive of ice cream and frozen dessert mixes, cocoa mixes, aerated cream products, or eggnog).

Fluid milk products shall not include those products commonly known as evaporated milk, condensed milk, and skim milk (plain or sweetened), yogurt, starter, or any milk or milk products sterilized and packaged in hermetically sealed metal or glass containers.

§ 1125.16 Route disposition.

"Route disposition" means any delivery of fluid milk products (including delivery at a plant, plant store, or eating place and delivery by a vendor or through a distribution point) except:

(a) A delivery to a plant;

(b) A delivery in bulk to a commercial food processing establishment; or

(c) A delivery to a military or other ocean transport vessel leaving the marketing area of fluid milk products which originated at a plant located outside the marketing area and were not received or processed at any pool plant.

§ 1125.17 Base.

"Base" means a quantity of milk, expressed in pounds per day or per month, computed pursuant to § 1125.60 (a) and (b), respectively.

§ 1125.18 Base milk and excess milk.

(a) "Base milk" means milk delivered by a producer during the month which is not in excess of:

(1) His daily base computed pursuant to § 1125.60(a) multiplied by the number of days of delivery in such month; or

(2) His monthly base computed pursuant to § 1125.60(b): *Provided*, That with respect to any producer with "every-other-day" delivery of milk the days of nondelivery shall be considered as days of delivery for the purposes of this section and of § 1125.60(a).

(b) "Excess milk" means milk delivered by a producer in excess of base milk.

§ 1125.19 Chicago butter price.

"Chicago butter price" means the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade AA (93-score) bulk creamery butter per pound at Chicago as reported for the month by the Department. If no price is reported for Grade AA (93-score) butter, the highest of the prices reported for Grade A (92-score) butter for that day shall be used in lieu of the price for Grade AA (93-score) butter.

MARKET ADMINISTRATOR

§ 1125.20 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 designated by, and shall be subject to removal at the discretion of, the Secretary.

§ 1125.21 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.

§ 1125.22 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 30 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 § 1125.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 1125.87) 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 by the Secretary and furnish such information and reports as may be requested by the Secretary;

(g) Audit all reports and payments by each handler by inspection 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;

(h) Publicly announce, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 10 days after the day upon which he is required to perform such acts, has not:

(1) Made reports pursuant to §§ 1125.30 through 1125.32; or

(2) Made one or more of the payments pursuant to §§ 1125.80 through 1125.88;

(i) On or before the 13th day after the end of each month, report to each cooperative association (or its duly designated agent) which so requests the class utilization (and within Class II, the utilization specified in § 1125.54(a)) of milk of its member producers which is received by each handler directly from farms or from the cooperative association pusuant to § 1125.10(f). For the purposes of this report, such milk shall be prorated to each class (and within Class II, to the utilization specified in § 1125.54(a)) in the proportion that the total receipts of milk from producers and from cooperative associations pursuant to § 1125.10(f) of such handler were used in each class;

(j) Notify handlers as follows:

(1) On or before the 13th day after the end of each month, each handler whose net pool obligation is computed pursuant to § 1125.70 of:

(i) The amounts and values of his producer milk in each class and the totals of such amounts and values;

(ii) The amount of any charge made pursuant to § 1125.70 (b), (c), (d), or (e);

(iii) The uniform prices for base milk and excess milk;

(iv) The amounts specified in § 1125.84 (b) (1), (2), and (3);

(v) The amount due such handler from the producer-settlement fund or the amount to be paid by such handler to the producer-settlement fund, as the case may be; and

(vi) The totals of the amounts required to be paid by such handler pursuant to §§ 1125.87 and 1125.88; and

(2) On or before the 22d day after the end of each month, each handler whose obligation is computed pursuant to § 1125.67, of any amount computed pursuant to § 1125.67(a) on the basis of information reported by such handler, the amount computed pursuant to § 1125.67 (b), and the amount due pursuant to § 1125.88 from such handler;

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

(1) On or before the 5th day of each month the minimum price for Class I milk pursuant to § 1125.51(a) and the Class I butterfat differential pursuant to § 1125.52(a), both for the current month, and the minimum price for Class II milk pursuant to § 1125.51(b) and the Class II butterfat differential pursuant

to § 1125.52(b), both for the preceding month; and

(2) On or before the 13th day of each month, the weighted average and uniform prices computed pursuant to §§ 1125.71 and 1125.72 and the butterfat differential computed pursuant to § 1125.82, each applicable to milk received during the preceding month;

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

(m) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1125.46(a)(7) and the corresponding step of § 1125.46(b), estimate and publicly announce the utilization (to the nearest whole percentage), in each class, during the month, of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(n) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1125.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(o) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

REPORTS, RECORDS AND FACILITIES

§ 1125.30 Monthly reports of receipts and utilization.

On or before the 8th day of each month each handler shall report to the market administrator, in the detail and on forms prescribed by the market administrator, the following information for the preceding month:

(a) Each handler operating a pool plant(s) shall report separately for each pool plant:

(1) The quantities of skim milk and butterfat contained in:

(i) Milk received directly from producers, showing separately any milk of own-farm production;

(ii) Milk received from a cooperative association pursuant to § 1125.10(f);

(iii) Fluid milk products received from other pool plants; and

(iv) Other source milk;

(2) The utilization of all skim milk and butterfat required to be reported, including the quantities contained in fluid milk products on hand at the beginning and end of the month;

(3) The aggregate quantities of base milk and excess milk received; and

(4) Such other information with respect to such receipts and utilization as the market administrator may prescribe.

(b) Each producer-handler shall report:

(1) The quantities of skim milk and butterfat contained in:

(i) Milk of own-farm production;

(ii) Receipts of fluid milk products from pool plants, showing separately receipts in packaged form and in bulk; and

(iii) Other source milk, showing separately any receipts from another dairy farmer; and

(2) As specified in paragraph (a) (2) and (4) of this section.

(c) Each cooperative association shall report with respect to milk for which it is the handler pursuant to either § 1125.10(e) or (f):

(1) The quantities of skim milk and butterfat received from producers;

(2) The utilization of skim milk and butterfat for which it is the handler pursuant to § 1125.10(e);

(3) The quantities of skim milk and butterfat delivered to each pool plant pursuant to § 1125.10(f); and

(4) As specified in paragraph (a) (3) and (4) of this section.

(d) Each handler who operates a partially regulated distributing plant shall report as specified in paragraph (a) (1), (2), and (4) of this section except that receipts from dairy farmers in Grade A milk shall be reported in lieu of those in producer milk. Such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk.

(e) Each handler who operates another order plant with disposition of fluid milk products on routes in the marketing area shall report the quantities of skim milk and butterfat in such disposition.

§ 1125.31 Payroll reports.

On or before the 20th day of each month, handlers shall report to the market administrator as follows:

(a) Each handler with respect to each of his pool plants and each cooperative association which is a handler pursuant to § 1125.10 (e) or (f) shall submit his producer payroll for deliveries (other than his own-farm production) in the preceding month which shall show:

(1) The total pounds of base milk and the total pounds of excess milk received from each producer, the pounds of butterfat contained in such milk, and the number of days on which milk was delivered by such producer in such month;

(2) The amount of payment to each producer and cooperative association; and

(3) The nature and amount of any deductions or charges involved in such payments; and

(b) Each handler operating a partially regulated distributing plant who wishes computations pursuant to § 1125.67(a) to be considered in the computation of his obligation pursuant to § 1125.67 shall submit his payroll for deliveries of Grade A milk by dairy farmers which shall show:

(1) The total pounds of milk and the butterfat content thereof received from each dairy farmer;

(2) The amount of payment to each dairy farmer (or to a cooperative association on behalf of such dairy farmer); and

(3) The nature and amount of any deductions or charges involved in such payments.

§ 1125.32 Other reports.

At such time and in such manner as the market administrator may prescribe, each handler shall report to the market administrator such information in addition to that required under § 1125.30 as may be requested by the market administrator with respect to milk and milk products handled by him.

§ 1125.33 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 and records of his operations and such facilities as are necessary for the market administrator to verify or to establish the correct data with respect to the information required to be reported pursuant to §§ 1125.14, 1125.30, 1125.31, and 1125.32 and payments required to be made pursuant to §§ 1125.80 through 1125.88.

§ 1125.34 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which such books and records pertain: *Provided*, That if, within such 3-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, that handler shall retain such books and records, or specified books and records, 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.

§ 1125.35 Handler report to producers.

(a) In making payments to producers pursuant to § 1125.80, each handler, on or before the 19th day of each month, shall furnish each producer with a supporting statement in such form that it may be retained by the producer, which shall show for the preceding month:

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

(2) The total pounds of milk delivered by the producer and the average butterfat test thereof, the pounds of base and excess milk, and the pounds per shipment if such information is not furnished to the producer each day of delivery;

(3) The minimum rate(s) at which payment to the producer is required under the provisions of § 1125.80;

(4) The rate per hundredweight and amount of any premiums or payments above the minimum prices provided by the order;

(5) The amount or rate per hundredweight of each deduction claimed by the handler, together with a description of the respective deductions; and

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

(b) In making payment to a cooperative association in aggregate pursuant to § 1125.80(b) each handler upon request shall furnish to the cooperative association, with respect to each producer for whom such payment is made, any or all of the above information specified in paragraph (a) of this section.

CLASSIFICATION

§ 1125.40 Skim milk and butterfat to be classified.

All skim milk and butterfat received within the month by a handler which is required to be reported pursuant to § 1125.30 shall be classified by the market administrator pursuant to the provisions of §§ 1125.41 through 1125.46.

§ 1125.41 Classes of utilization.

Subject to the conditions set forth in §§ 1125.42, 1125.43, and 1125.44, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, subject to the following limitations and exceptions:

(i) Any products fortified with added nonfat milk solids shall be Class I in an amount equal only to the weight of an equal volume of a like unmodified product of the same butterfat content;

(ii) Fluid milk products in concentrated form shall be Class I in an amount equal to the skim milk and butterfat used to produce the quantity of such products disposed of; and

(iii) Products classified as Class II pursuant to paragraph (b) (3), (4), or (5) of this section are excepted;

(2) Contained in monthly inventory variation of fluid milk products; and

(3) Not specifically accounted for as Class II utilization.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce evaporated milk in hermetically sealed containers, butter, nonfat dry milk solids, powdered whole milk, casein and cheese (other than cottage, "baker's," "pot," cream or neufchatel), including that contained in residual products resulting from the manufacture of butter and cheese;

(2) Used to produce products other than fluid milk products or those specified in subparagraph (1) of this paragraph;

(3) In fluid milk products disposed of in bulk to a commercial food processing establishment for use in food products processed for consumption off the premises;

(4) In fluid milk products disposed of for livestock feed;

(5) In fluid milk products dumped after such prior notice and opportunity for verification as may be required by the market administrator;

(6) In shrinkage at each pool plant as computed pursuant to § 1125.42(b)(1) but not to exceed the following amount:

(i) Two percent of receipts in producer milk pursuant to § 1125.12(a) (1) and (2); plus

(ii) One and one-half percent of receipts of fluid milk products in bulk from other pool plants; plus

(iii) One and one-half percent of receipts from a cooperative association in its capacity as a handler pursuant to § 1125.10(f), except that if the handler operating the pool plant files notice with the market administrator that he is purchasing such milk on the basis of farm weights and individual producer tests, the applicable percentage shall be 2 percent; plus

(iv) One and one-half percent of receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler; plus

(v) One and one-half percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; less

(vi) One and one-half percent of fluid milk products disposed of in bulk to other plants, except, in the case of milk diverted to a nonpool plant, if the operator of the plant to which the milk is diverted purchases such milk on the basis of farm weights and individual producer tests, the applicable percentage shall be 2 percent;

(7) In shrinkage at each pool plant as computed pursuant to § 1125.42(b)(2); and

(8) In shrinkage resulting from milk for which a cooperative association is the handler pursuant to § 1125.10 (e) or (f) not being delivered to pool plants and nonpool plants, but not in excess of one-half percent of such receipts, exclusive of those for which farm weights and individual producer tests are used as the basis of receipt at the plant to which delivered.

§ 1125.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts at each pool plant as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively (after reducing the quantity transferred to any nonpool plant located on the same premises by a pro rata share of shrinkage in such nonpool plant based on the proportion that such transfers are of its total receipts); and

(b) Prorate the resulting amounts between:

(1) A quantity equal to 50 times the maximum that may be computed pursuant to § 1125.41(b)(6); and

(2) Skim milk and butterfat in other source milk in the form of bulk fluid milk products, exclusive of that specified in § 1125.41(b)(6) (iv) and (v).

§ 1125.43 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be Class I milk unless the handler who first received such skim milk or butterfat proves that such skim milk and butterfat should be classified as Class II milk.

(b) The burden shall rest upon each handler to establish the sources of milk and milk products required to be reported by him pursuant to § 1125.30.

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

§ 1125.44 Interplant movements.

Skim milk and butterfat moved by transfer, and by diversion under paragraph (c) of this section, as fluid milk products from a pool plant shall be assigned (separately) to each class in the following manner:

(a) To a pool distributing plant: As Class I milk to the extent Class I milk is available at the transferee plant after computations pursuant to § 1125.46 (a)(7) and the corresponding step of § 1125.46(b), subject to the following provisions:

(1) In the event the quantity transferred exceeds the total of receipts from producers and other pool plants at the transferor plant, such excess shall be assigned last to the Class I milk available at the transferee plant;

(2) If more than one transferor plant is involved, the available Class I milk shall first be assigned to pool plants located in District 1 and the counties of Pierce, Kitsap, and Mason, and then in sequence to the plants at which the least location adjustment applies;

(3) If Class I milk is not available in amounts equal to the sum of the quantities to be assigned pursuant to subparagraph (2) of this paragraph to plants having the same location adjustments, the transferee handler may designate to which of such plants the available Class I milk shall be assigned;

(4) If receipts of skim milk or butterfat from a pool plant located in District 1 or in the counties of Kitsap, Mason, or Pierce are assigned to Class II milk at the transferee plant, they shall be allocated, as designated by the transferee handler, to the uses stated in § 1125.54(a) only to the extent that the quantity so assigned exceeds other Class II uses remaining at the transferee plant after computations pursuant to § 1125.46 (a)(7) and the corresponding step of § 1125.46(b);

(5) Notwithstanding the prior provisions of this paragraph, any such skim milk and butterfat transferred in bulk from a pool plant to a pool distributing plant in which facilities are maintained and used to receive milk or milk products required by applicable health authority regulations to be kept physically separate from Grade A milk shall be classified in accordance with the provisions of paragraph (b) of this section; and

(6) If the transferor plant received during the month other source milk to

be allocated pursuant to § 1125.46(a) (6) and (7) and the corresponding steps of § 1125.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

(b) To a pool supply plant as Class II milk, subject to the following conditions:

(1) The skim milk or butterfat so assigned to Class II milk shall be limited to the amount thereof remaining in Class II milk in the transferee plant after computations pursuant to § 1125.46 (a)(7) and the corresponding step of § 1125.46(b) for such plant, and any additional amounts of such skim milk or butterfat shall be assigned to Class I milk and credited to transfers from transferor plants in the sequence at which the least location adjustment applies;

(2) If more than one transferor plant is involved, the available Class II milk shall first be assigned to transferor plants located outside District 1 and Kitsap, Mason, and Pierce Counties;

(3) If Class II milk is not available in amounts equal to the sum of the quantities to be assigned pursuant to subparagraph (2) of this paragraph, the transferee handler may designate the plant(s) to which the available Class II milk shall be assigned; and

(4) If receipts of skim milk or butterfat from a pool plant located in District 1 or in the counties of Kitsap, Mason, or Pierce are assigned to Class II milk at the transferee plant, they shall be allocated, as designated by the transferee handler, to the uses stated in § 1125.54(a) only to the extent that the quantity so assigned exceeds other Class II uses remaining at the transferee plant after computations pursuant to § 1125.46(a)(7) and the corresponding step of § 1125.46(b).

(c) To a nonpool plant:

(1) Except as provided for in subparagraphs (3) and (4) of this paragraph, as Class I milk, if transferred or diverted to a nonpool plant located outside the marketing area, except that cream transferred to a nonpool plant so located shall be classified as Class II if such nonpool plant neither distributes fluid milk products on routes nor disposes of them to other non-pool plants, and the market administrator is permitted to audit the records of such nonpool plant for purposes of verification;

(2) As Class I milk, if transferred or diverted to a producer-handler as defined in any order (including this part) issued pursuant to the Act, or to the plant of such a producer-handler;

(3) As Class II milk, if transferred or diverted to a nonpool plant located in the marketing area or within any of the counties of Kitsap, Mason, Clallam, Jefferson, and Pierce in the State of Washington, from which fluid milk products are not distributed on routes, subject to the following conditions:

(i) The transfer shall be classified as Class I milk unless the market administrator is permitted to audit the records of the nonpool plant for purposes of verification;

(ii) If such nonpool plant disposes of fluid milk products to any other nonpool plant distributing fluid milk products on routes, the transfer or diversion shall be classified as Class I milk up to the quantity of such disposition to the second nonpool plant; and

(iii) Milk classified as Class II shall be assigned to uses specified in § 1125.54(a) to the extent that such uses are available at such nonpool plant; and

(4) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subdivision (i), (ii), or (iii) of this subparagraph:

(i) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(ii) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subdivision (iii) of this subparagraph);

(iii) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(iv) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this subparagraph, classification shall be as Class I, subject to adjustment when such information is available;

(v) For purposes of this subparagraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(vi) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1125.41.

§ 1125.45 Computation of skim milk and butterfat in each class.

For each month the market administrator shall correct for mathematical and other obvious errors the reports of receipts and utilization submitted pursuant to § 1125.30 (a) and (c) and compute the total pounds of skim milk and butterfat in each class. For the purposes of such computation, 0.06 percent shall be used as the butterfat content of skim milk where no specific tests are available. Such computations shall be as follows:

(a) If any fluid milk products to be allocated pursuant to § 1125.46(a) (6) or (7) were received at any pool plant of a handler, there will be computed for such handler the total pounds of skim milk and butterfat, respectively, in each class at all of his pool plants combined, exclusive of any classification based upon movements between such plants, and allocation pursuant to § 1125.46 and computation of obligation pursuant to § 1125.70 shall be based upon the combined utilization so computed. For purposes of assigning location adjustments pursuant to §§ 1125.53 and 1125.54 with respect to milk moved between such plants, the skim milk and butterfat subtracted from each class pursuant to § 1125.46(a) (2), (3), (4), (6), and (7) and the corresponding steps of § 1125.46 (b) will be assigned so far as possible to utilization (exclusive of such interplant movements) reported at the plant at which it was received, and thereafter in sequence to plants at which location adjustment for such class is the same or most nearly similar, and the applicable location adjustments will be determined on the basis of the classification resulting from the application of § 1125.44 (a) and (b) to the remaining utilization reported;

(b) If no fluid milk products to be allocated pursuant to § 1125.46(a) (6) or (7) were received at any pool plant of a handler, the total pounds of skim milk and butterfat, respectively, in each class will be computed for each pool plant of such handler, and allocation pursuant to § 1125.46 and computation of obligation pursuant to § 1125.70 shall be made separately for each pool plant of the handler; and

(c) There will be computed for each cooperative association reporting pursuant to § 1125.30(c) the total pounds of skim milk and butterfat, respectively, in producer milk pursuant to § 1125.12(b). The amounts so determined shall be those used for computation pursuant to § 1125.46(c).

§ 1125.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1125.45, the market administrator shall determine the classification of producer milk for each handler at all his pool plants (or at each pool plant, when § 1125.45(b) applies) as follows:

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

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1125.41(b)(6);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below, from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products not qualified for disposition to consumers in fluid form, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(iv) Subtract, if the total pounds of skim milk in all classes pursuant to § 1125.45 exceed the total pounds of skim milk reported pursuant to § 1125.30 (a)(1), from the remaining pounds of skim milk in each class, in series beginning with Class II, the amount determined by prorating such excess between the pounds of skim milk subtracted pursuant to subdivisions (i) through (iii) of this subparagraph and the remaining receipts;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II, but not in excess of such quantity:

(i) Receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization;

(ii) Remaining receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in receipts of producer milk, receipts from pool plants of other handlers (and of the same handler, when § 1125.45(b) applies), and receipts in bulk from other order plants; and

(iii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(6) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (4)(ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1125.22(m) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers (and of the same handler, when § 1125.45(b) applies) according to the classification assigned pursuant to § 1125.44;

(9) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section and § 1125.45(c) into one total for each class and determine the weighted average butterfat content of producer milk in each class.

MINIMUM PRICES

§ 1125.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the Department for the month. The basic formula price shall be rounded to the nearest full cent.

§ 1125.51 Class prices.

Subject to the provisions of §§ 1125.52 through 1125.54, the minimum class prices per hundredweight of milk for the month shall be as follows:

(a) *Class I milk.* The price for Class I milk shall be the basic formula price for the preceding month plus $1.65. For each of the months of April through June, however, the price for Class I milk shall not be higher than the price for Class I milk computed pursuant to this paragraph for the immediately preceding month of March and for each of the months of October through January the price for Class I milk shall not be lower than the price for Class I milk computed pursuant to this paragraph for the immediately preceding month of September.

(b) *Class II milk.* The price for Class II milk shall be the basic formula price for the month, but not to exceed the price computed as follows:

(1) Multiply the Chicago butter price by 4.2;

(2) Multiply by 8.2 the weighted average 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 immediately preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 48 cents, and round to the nearest cent.

§ 1125.52 Butterfat differentials to handlers.

If the average butterfat content of Class I milk or Class II milk, computed pursuant to § 1125.46, differs from 3.5 percent, there shall be added to, or subtracted from, the applicable class price (§ 1125.51) for each one-tenth of 1 percent that the average butterfat content of such class is respectively above, or below, 3.5 percent, a butterfat differential computed as follows, rounded to the nearest one-tenth cent:

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

(b) *Class II milk.* Multiply the Chicago butter price for the current month by 0.120.

§ 1125.53 Location adjustments on Class I milk.

The price of Class I milk at each plant shall be, regardless of point of disposition within or outside the marketing area, the Class I price pursuant to § 1125.51 less a location differential for such plant shown in the table below:

Plant location:	*Class I price differential (cents per hundredweight)*
District 1 or Kitsap, Mason or Pierce Counties	0
District 4	15
Districts 2, 3 and Kittitas County	20
District 5 and other locations outside the marketing area	40

§ 1125.54 Location adjustments on Class II milk.

In computing each handler's value of milk there shall be added with respect to each pool plant located in District 1 or in the counties of Kitsap, Mason or Pierce an amount of money computed as follows:

(a) Compute the sum (in pounds) of:

(1) The total utilization at such plant (including any disposition of skim milk and butterfat from such plant for similar uses at nonpool plants) of skim milk and butterfat, respectively, in the products or uses listed in §1125.41(b)(2) and (3); and

(2) The total quantity of skim milk and butterfat transferred to other pool plants and allocated to the uses specified in subparagraph (1) of this paragraph (as provided in § 1125.44 (a)(4) and (b)(4));

(b) Subtract from the amounts of skim milk and butterfat, respectively, resulting from paragraph (a) of this section, to the extent of such amounts, the amounts of skim milk and butterfat received at such plant from pool plants not located in District 1 or in the counties of Kitsap, Mason or Pierce, and assigned to Class II milk pursuant to § 1125.44; and

(c) Multiply by 25 cents per hundredweight the lesser of the following quantities:

(1) The sum of the net amounts of skim milk and butterfat resulting from paragraph (b) of this section; or

(2) The total amount of Class II milk pursuant to § 1125.46(c).

§ 1125.55 Use of equivalent prices.

If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

DETERMINATION OF BASE

§ 1125.60 Computation of producer bases.

Subject to the rules set forth in § 1125.61, the market administrator shall determine bases for producers in the manner provided in paragraphs (a) and (b) of this section:

(a) The daily base of each producer whose milk was received by a handler(s) on not less than one hundred twenty (120) days during the months of August through December, inclusive, shall be an amount computed by dividing such producer's total pounds of milk delivered in such 5-month period by the number of days from the date of his first delivery to the end of such 5-month period. The base so computed, which shall be recomputed each year, shall become effective on the first day of February next following and shall remain in effect through the month of January of the next succeeding year: *Provided,* That for any dairy farmer for whom information concerning deliveries during the base-earning period is available to the market administrator and who becomes a producer as a result of (1) the plant to which his milk was delivered during the base-earning period subsequently being qualified as a pool plant, or (2) cancellation of a producer-handler's designation as such, a daily base shall be computed pursuant to this paragraph.

(b) Any producer who is not eligible to receive a base computed pursuant to paragraph (a) of this section, shall have a monthly base computed by multiplying his deliveries to a handler(s) during the month by the appropriate monthly percentage in the following table:

January	70	July	55
February	70	August	60
March	65	September	60
April	55	October	65
May	45	November	70
June	50	December	70

§ 1125.61 Base rules.

The following rules shall be observed in the determination of bases:

(a) A base may be transferred upon written notice to the market administrator on or before the last day of the month of transfer, but under the following circumstances only: If a producer who earned a base pursuant to § 1125.60 (a) sells, leases or otherwise conveys his herd to another producer, the latter may receive the transferor's base, pursuant to the conveyance, and utilize such base for the remainder of the period for which such base is effective pursuant to § 1125.60(a), subject to the following conditions:

(1) Such base shall apply to deliveries of milk by the transferee producer from the same farm only;

(2) If such conveyance takes place subsequent to August 1 of any year, all milk delivered to a handler(s) between August 1 and the last day of the base-earning period as specified in § 1125.60 (a), inclusive, from the same farm (whether by the transferor or transferee producer) shall be utilized in computing the base of the transferee producer pursuant to § 1125.60(a);

(3) It is established to the satisfaction of the market administrator that the conveyance of the herd was bona fide and not for the purpose of evading any provision of this order; and

(4) Notwithstanding subparagraphs (1) and (2) of this paragraph, but in compliance with subparagraph (3) of this paragraph:

(i) A base, whether earned pursuant to § 1125.60(a) or received by transfer, may be transferred to a member of a baseholder's immediate family; and

(ii) In the case of a baseholder's death, a base earned pursuant to § 1125.60(a) by the baseholder or by a member of his immediate family may be further transferred to an outside party: *Provided,* That for purposes of this subparagraph a transfer to an estate shall not be considered as a transfer to an outside party.

(b) A new producer who ceases deliveries to a pool plant for more than 45 days shall lose his base if computed pursuant to § 1125.60(a) and if he resumes deliveries to such a plant he shall be paid on a base determined pursuant to § 1125.60(b) until he can establish a new base in the manner provided in § 1125.60 (a).

(c) By notifying the market administrator in writing on or before the 15th day of any month, a producer holding a base established pursuant to § 1125.60(a) may relinquish such base by cancellation. Such producer's base shall be computed in the manner provided by § 1125.60(b) and shall be effective from the first day of the month in which notice is received by the market administrator until the close of the period, pursuant to § 1125.60(a) for which such base was computed.

(d) As soon as bases computed by the market administrator are allotted, notice of the amount of each producer's base shall be given by the market administrator to the producer, the handler receiving such producer's milk and the cooperative association of which the producer is a member. Each handler, following receipt of such notice, shall promptly post in a conspicuous place at each of his plants a list or lists showing the base of each producer whose milk is received at such plant.

(e) If a producer operates more than one farm he shall establish a separate base with respect to producer milk delivered from each such farm.

(f) Only producers as defined in § 1125.11 may establish or earn a base pursuant to the provisions of § 1125.60, and only one base shall be allotted with respect to milk produced by one or more persons where the land, buildings and equipment used are jointly owned or operated.

APPLICABILITY OF PROVISIONS

§ 1125.65 Producer-handlers.

Sections 1125.40 through 1125.46, 1125.50 through 1125.55, 1125.60, 1125.61, 1125.70 through 1125.72, and 1125.80 through 1125.89 shall not apply to a producer-handler.

§ 1125.66 Plants subject to other Federal orders.

Except for §§ 1125.30(e) and 1125.32 through 1125.34, the provisions of this part shall not apply to a handler with respect to the operation of plants described as follows:

(a) A distributing plant from which a lesser volume of fluid milk products is disposed of in the Puget Sound marketing area than in the marketing area of another marketing agreement or order issued pursuant to the Act and which is fully subject to the classification and pricing provisions of such other agreement or order; and

(b) Any supply plant for any portion of the period of January through September, inclusive, that producer milk at such plant is subject to the classification and pricing provisions of another order issued pursuant to the Act.

§ 1125.67 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1125.30(d) and 1125.31(b) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1125.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1125.70(e) and a credit in the amount specified in § 1125.84(b)(3) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified in subdivision (ii) of this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant

to §§ 1125.30(d) and 1125.31(b) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1125.8(b)(2), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes within the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class II price).

DETERMINATION OF UNIFORM PRICES

§ 1125.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler (for each pool plant, when § 1125.45(b) applies) during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1125.46(c), by the applicable class prices (adjusted pursuant to §§ 1125.52, 1125.53 and 1125.54) and add together the resulting amounts;

(b) (1) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1125.46(a)(9) and the corresponding step of § 1125.46(b), by the applicable class prices.

(2) In case overage occurs in a nonpool plant located on the same premises as a pool plant, such overage shall be prorated between the quantity transferred from the pool plant and other source milk in such nonpool plant, and an amount equal to the value of overage allocated to the transferred quantity at the applicable class price shall also be added;

(c) Add or subtract, as the case may be, the amount necessary to correct errors as disclosed by the verification of reports of such handler of his receipts and utilization of skim milk and butterfat in previous months for which payment has not been made;

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1125.46(a)(3) and the corresponding step of § 1125.46(b); and

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1125.46(a)(6) and the corresponding step of § 1125.46(b).

§ 1125.71 Computation of weighted average price for all milk.

For each month the market administrator shall compute the weighted average price for all milk of 3.5 percent butterfat content as follows:

(a) Combine into one total the values computed pursuant to § 1125.70 for all handlers who made the reports prescribed in § 1125.30 and who made the payments pursuant to § 1125.84 for the preceding month;

(b) Add the aggregate of the values of the location adjustments on base milk allowable pursuant to § 1125.81(a)(1) and on nonpool milk pursuant to § 1125.81(c);

(c) Deduct the aggregate of the values of the location adjustments on excess milk computed pursuant to § 1125.81(a)(2);

(d) Add an amount representing not less than one-half the unobligated cash balance in the producer-settlement fund;

(e) Subtract, if the average butterfat content of the milk specified in paragraph (f) of this section is greater than 3.5 percent, or add, if such average butterfat content is less than 3.5 percent, an amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1125.82 and multiplying the resulting figure by the total hundredweight of such milk;

(f) Divide the resulting amount by the sum of the following for all handlers included in such computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1125.70(e); and

(g) Subtract not less than 4 cents but less than 5 cents from the price computed pursuant to paragraph (f) of this section. The result shall be known as the "weighted average price for all milk".

§ 1125.72 Computation of uniform prices for base milk and excess milk.

For each month the market administrator shall compute the uniform prices per hundredweight for base milk and excess milk of 3.5 percent butterfat content received from producers as follows:

(a) From the net amount computed pursuant to § 1125.71(a) through (e) subtract the following:

(1) The amount computed by multiplying the hundredweight of milk specified in § 1125.71(f)(2) by the weighted average price for all milk; and

(2) The amount computed by multiplying the hundredweight of excess milk by the Class II price for 3.5 percent milk, rounded to the nearest one-tenth cent: *Provided*, That if such result is greater than an amount computed by multiplying the hundredweight of base milk by the Class I price (for 3.5 percent milk) plus four cents, such amount in excess thereof shall be subtracted from the result obtained prior to this proviso;

(b) Divide the net amount obtained in paragraph (a) of this section by the total hundredweight of base milk and subtract not less than 4 cents but less than 5 cents. This result shall be known as the uniform price per hundredweight of base milk of 3.5 percent butterfat content; and

(c) Divide the amount obtained in paragraph (a)(2) of this section plus any amount subtracted pursuant to the proviso of paragraph (a)(2) of this section by the hundredweight of excess milk, and subtract any fractional part of 1 cent. This result shall be known as the uniform price per hundredweight of excess milk of 3.5 percent butterfat content.

PAYMENTS

§ 1125.80 Time and method of payment to producers and to cooperative associations.

(a) On or before the 19th day after the end of each month, each handler shall make payment to each producer for milk received from such producer during such month:

(1) At not less than the uniform price for base milk for the quantity of base milk received, adjusted by the butterfat differential computed pursuant to § 1125.82 and by any location adjustment applicable under § 1125.81; and

(2) At not less than the uniform price for excess milk for the quantity of excess milk received, adjusted by the butterfat differential computed pursuant to § 1125.82 and by any location adjustment applicable under § 1125.81: *Provided*, If by such date such handler has not received full payment for such month pursuant to § 1125.85, he shall not be deemed to be in violation of this paragraph if he reduces uniformly for all producers his payments per hundredweight pursuant to this paragraph by a total amount not in excess of the reduction in payment from the market administrator; however, the handler shall make such balance of payment uniformly to those producers to whom it is due on or before the

date for making payments pursuant to this paragraph next following that on which such balance of payments is received from the market administrator.

(b) The payments required in paragraph (a) of this section shall be made, upon request, to a cooperative association qualified under § 1125.5, or to its duly authorized agent, with respect to milk received from each producer who has given such association authorization by contract or by other written instrument to collect the proceeds from the sale of his milk, and any payment made pursuant to this paragraph shall be made on or before the 17th day after the end of such month.

(c) On or before the 17th day after the end of each month, each handler shall pay to each cooperative association which operates a pool plant for skim milk and butterfat received from such cooperative association during such month an amount of money computed by multiplying the total pounds of such skim milk and butterfat in each class (pursuant to § 1125.44(a) or (b)) by the class price, taking into account any location adjustment, as provided by §§ 1125.53 and 1125.54, applicable at the pool plant of the cooperative association.

(d) On or before the 17th day after the end of each month, each handler who receives milk for which a cooperative association is the handler pursuant to § 1125.10(f) shall pay such cooperative association for such milk at not less than the weighted average price for all milk, adjusted by the differentials specified in §§ 1125.81(b) and 1125.82.

(e) None of the provisions of this section shall be construed to restrict any cooperative association qualified under section 8c(5)(F) of the Act from making payment for milk to its producers in accordance with such provision of the Act.

§ 1125.81 Location adjustments to producers and on nonpool milk.

(a) In making payments to producers pursuant to § 1125.80(a), subject to the application of § 1125.12(c), the following adjustments for location are applicable:

(1) Deduction may be made per hundredweight of base milk received from producers at respective plant locations at the same per hundredweight rates as specified for Class I milk in the table set forth in § 1125.53; and

(2) Twenty-five cents per hundredweight shall be added to the uniform price for excess milk received from producers at plants located in District 1 or in the counties of Kitsap, Mason, or Pierce.

(b) In making payments to a cooperative association pursuant to § 1125.80(d) deductions may be made at the rates specified in § 1125.53 for the location of the plant at which the milk was received from the cooperative association.

(c) For purposes of computations pursuant to §§ 1125.84 and 1125.85 the weighted average price for all milk shall be adjusted at the rates set forth in § 1125.53 applicable at the location of the nonpool plant from which the milk was received.

§ 1125.82 Producer butterfat differential.

In making payments pursuant to § 1125.80(a) for base milk and for excess milk and pursuant to § 1125.80(d) there shall be added to, or subtracted from, the respective uniform prices thereof or weighted average price, for each one-tenth of 1 percent that the average butterfat content of such milk is above or below 3.5 percent, a butterfat differential computed by the market administrator by multiplying the butterfat differential for Class I milk by the percentage of the butterfat contained in producer milk that is allocated to Class I, and by multiplying the remaining percentage of butterfat in producer milk by the butterfat differential for Class II milk, adding together the resulting amounts, and rounding to the nearest tenth of a cent.

§ 1125.83 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 §§ 1125.67 and 1125.84 and out of which he shall make all payments to handlers pursuant to § 1125.85.

§ 1125.84 Payments to the producer-settlement fund.

On or before the 15th day after the end of the month during which the milk was received, each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a) of this section exceeds the total amount specified in paragraph (b) of this section:

(a) The sum of:

(1) The net pool obligations computed pursuant to § 1125.70 for such handler; and

(2) For a cooperative association handler, the amount due from other handlers pursuant to § 1125.80(d);

(b) The sum of:

(1) The value of milk received by such handler from producers at the applicable uniform prices specified in § 1125.80(a);

(2) The amount to be paid to cooperative associations pursuant to § 1125.80(d); and

(3) The value at the weighted average price for all milk applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price) adjusted for butterfat content by the producer butterfat differential, with respect to other source milk for which a value is computed pursuant to § 1125.70(e).

§ 1125.85 Payments out of the producer-settlement fund.

On or before the 17th day after the end of each month during which the milk was received, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1125.84(b) exceeds the amount computed pursuant to § 1125.84(a), and less any unpaid obligations of such handler to the market administrator pursuant to §§ 1125.84, 1125.86, 1125.87, and 1125.88: *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.

§ 1125.86 Adjustments of accounts.

Whenever verification by the market administrator of reports or payments of any handler discloses errors resulting in money due:

(a) The market administrator from such handler,

(b) Such handler from the market administrator, or

(c) Any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred following the 5th day after such notice.

§ 1125.87 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than with respect to milk of such handler's own production) pursuant to § 1125.80(a), shall make a deduction of 5 cents per hundredweight of milk, or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe, with respect to the following:

(1) All milk received from producers at a plant not operated by a cooperative association;

(2) All milk received at a plant operated by a cooperative association from producers who are not members of such association; and

(3) All milk received at a plant operated by a cooperative association(s) from producers who are members thereof but for whom any of the services set forth below in this paragraph is not being performed by such association(s), as determined by the market administrator.

Such deduction shall be paid by the handler to the market administrator on or before the 15th day after the end of the month. Such moneys shall be expended by the market administrator for the verification of weights, sampling and testing of milk received from producers and in providing for market information to producers; such services to be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of each producer:

(1) Who is a member of, or who has given written authorization for the rendering of marketing service and the taking of deduction therefor to, a cooperative association,

(2) Whose milk is received at a plant not operated by such association, and

(3) For whom the market administrator determines that such association is performing the services described in paragraph (a) of this section, each handler shall deduct, in lieu of the deduction

specified under paragraph (a) of this section, from the payments made pursuant to § 1125.80(a) the amount per hundredweight on milk authorized by such producer and shall pay over, on or before the 15th day after the end of the month, such deduction to the association entitled to receive it under this paragraph.

§ 1125.88 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1125.46(a) (3) and (6) and the corresponding steps of § 1125.46(b) and (c) packaged Class I milk disposed of on routes within the marketing area from a partially regulated distributing plant which exceeds Class I milk received during the month at such plant from pool plants and other order plants.

§ 1125.89 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money.

(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 2 years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such 2-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 an association of producers, the name of such producer(s) or association of producers, 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 order to be made available, the market administrator may, within the 2-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 2-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 order shall terminate 2 years after the end of the month during which the milk involved in the claims was received if an underpayment is claimed, or 2 years after the end of the month during which the payment (including deduction or setoff 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

§ 1125.90 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 § 1125.91.

§ 1125.91 Suspension or termination.

The Secretary may suspend or terminate this part or any provision of this part whenever he finds this part or any provision of this part obstructs or does not tend to effectuate the declared policy of the Act. This part shall terminate in any event whenever the provisions of the Act authorizing it cease to be in effect.

§ 1125.92 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 1125.93 Liquidation.

Upon the suspension or termination of the provisions of this part, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall if so directed by the Secretary liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expense of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1125.100 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.

§ 1125.101 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.

Signed at Washington, D.C., on December 2, 1965.

CLARENCE H. GIRARD,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 65-13098; Filed, Dec. 7, 1965; 8:46 a.m.]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 251]

IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

Notice of Proposed Rule Making

OCTOBER 28, 1965.

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue and the Commissioner of Customs, with the approval of the Secretary of the Treasury or his delegate. Prior to final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D.C., 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Director, Alcohol and Tobacco Tax Division, within the 30-day period. In such a case, a public hearing will be held and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

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

In order to (1) provide for the voiding of red strip stamps attached to bottles of imported spirits diverted for exporta-

tion, (2) eliminate the requirement that the customs officer make entries on Form 1444, (3) prescribe the number of copies to be prepared for certain notices and applications, and (4) make minor editorial changes, the regulations in 26 CFR Part 251, Importation of Distilled Spirits, Wines, and Beer, are amended as follows:

PARAGRAPH 1. Section 251.65a is amended to require the notice requesting an extension of time for making a final accounting of strip stamps to be filed in duplicate. As amended, § 251.65a reads as follows:

§ 251.65a Extension of time for final accounting of strip stamps.

Where an importer is not able, within the 18-month period prescribed in §§ 251.64 and 251.65, or within any extension period which might be granted in this section, to give a complete accounting for all strip stamps issued with respect to any requisition on Form 428 in the manner prescribed in this part, he shall notify the collector of customs, in writing, in duplicate, prior to the expiration of the 18-month period or any extension period granted under this section, setting forth all pertinent facts and requesting an extension of time wherein to make his final accounting. If satisfied that the circumstances warrant an extension of time, the collector of customs may grant an extension, or extensions, not to exceed a total of 12 months. If any application is made for a further extension of time, the collector of customs shall submit it, with his recommendation, to the Commissioner of Customs, who may, when the circumstances warrant, grant an additional extension of time. Where the collector of customs is not satisfied with the reasons given for requesting an extension of time, he shall proceed as prescribed in § 251.92.

(72 Stat. 1358; 26 U.S.C. 5205)

PAR. 2. Section 251.72 is amended to provide for the voiding, when so authorized by the collector of customs, of red strip stamps attached to bottles of imported spirits diverted for exportation. As amended, § 251.72 reads as follows:

§ 251.72 Exportation of imported distilled spirits; red strip stamps.

When imported distilled spirits to which red strip stamps were affixed prior to arrival in the United States are diverted for exportation purposes by the importer, the strip stamps shall be effectively destroyed by the importer under customs supervision, prior to exportation: *Provided,* That the collector of customs may authorize the importer to void, rather than destroy, such strip stamps under customs supervision. When voiding of red strip stamps has been authorized, they shall be voided by legibly stamping thereon, with indelible ink and in boldface capital letters no smaller than 10-point type, the word "VOIDED" or the word "CANCELED." Red strip stamps affixed to distilled spirits originating in the United States, evidencing the tax or indicating compliance with the provisions of chapter 51, I.R.C., shall not be removed at or prior to the time of exportation.

(72 Stat. 1358; 26 U.S.C. 5205)

PAR. 3. Section 251.73 is amended to provide for the destruction of red strip stamps, rather than to refer to § 251.72 for such provision. As amended, § 251.73 reads as follows:

§ 251.73 Withdrawal without payment of tax: red strip stamps.

Red strip stamps affixed to imported distilled spirits to be withdrawn from customs custody free of tax for entry into the United States shall be effectively destroyed by the importer, his agent, or the subsequent purchaser, under customs supervision, prior to such tax-free withdrawal.

(72 Stat. 1358; 26 U.S.C. 5205)

PAR. 4. Section 251.91 is amended to reflect the change in § 251.72 as to voiding red strip stamps. As amended, § 251.91 reads as follows:

§ 251.91 Credit for red strip stamps affixed to containers diverted by the importer for exportation.

When red strip stamps are destroyed or voided under the provisions of § 251.72, the importer may be given credit for such stamps if he obtains from the supervising customs officer a certificate regarding the destruction or voiding and submits the certificate to the collector of customs. The collector of customs shall, on receipt of the certificate, credit the original application for the stamps and the importer shall make appropriate entries on his strip stamp record.

(72 Stat. 1358; 26 U.S.C. 5205)

PAR. 5. Section 251.135 is amended to require that application, in triplicate, be filed for modification of Form 52A, 52B, or 338. As amended, § 251.135 reads as follows:

§ 251.135 Forms to be provided by users at own expense.

Forms 52A, 52B, and 338 shall be provided by importers at their own expense, but must be in the form prescribed: *Provided,* That with the approval of the Director, of an application, in triplicate, the forms may be modified to adapt their use to tabulating or other mechanical equipment.

(72 Stat. 1342, 1395; 26 U.S.C. 5114, 5555)

PAR. 6. Section 251.136 is amended to require that the application to keep files at a location other than the importer's place of business be filed in duplicate. As amended, § 251.136 reads as follows:

§ 251.136 Filing.

If the importer maintains looseleaf records of receipt or disposition, one legible copy of each such record shall be marked or stamped "Government File Copy," and shall be filed not later than the close of the business day next succeeding that on which the transaction occurred. All records required by this part, and legible copies of all reports required by this part to be submitted to the assistant regional commissioner or to the collector of customs, shall be filed separately, chronologically, and in numerical sequence within each date, at the importer's place of business to which they relate: *Provided,* That on application, in duplicate, the assistant regional commissioner may authorize the files, or any individual files, to be maintained at other premises under control of the importer, if he finds that such maintenance will not delay the timely filing of any document, or cause undue inconvenience to internal revenue or customs officers desiring to examine such files. Supporting documents, such as consignors' invoices, delivery receipts, or bills of lading, or exact copies thereof, may be filed in accordance with the importer's customary practice. Documents supporting records of disposition shall have noted thereon the serial numbers of the records of disposition to which they refer.

(72 Stat. 1342, 1345, 1361, 1395; 26 U.S.C. 5114, 5124, 5207, 5555)

PAR. 7. Section 251.184 is amended to eliminate the requirement for entries on Form 1444 by the customs officer. As amended, § 251.184 reads as follows:

§ 251.184 Customs gauge and release.

Where the appropriate permit, Form 1444, is on file, and on receipt of entry for release of distilled spirits, the spirits shall be gauged by a customs officer, who shall prepare a report of gauge on Form 2629, in triplicate. The distilled spirits may then be released free of tax for shipment to the United States or governmental agency thereof named in the permit, Form 1444. The customs officer shall state on each copy of Form 2629 the permit number of the Form 1444 under which the distilled spirits were withdrawn. The original of Form 2629 shall be retained by the collector of customs, one copy shall be forwarded to the governmental agency to whom the distilled spirits are consigned, and one copy shall be forwarded to the Director.

(72 Stat. 1375; 26 U.S.C. 5313)

[F.R. Doc. 65-13111; Filed, Dec. 7, 1965; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 399]

[Docket No. 16466]

PROCESSING OF APPLICATIONS OF FOREIGN AIR CARRIERS FOR STATEMENTS OF AUTHORIZATION TO CONDUCT OFF-ROUTE CHARTER TRIPS

Statements of General Policy; Termination of Rule Making Proceeding

DECEMBER 3, 1965.

On September 2, 1965 the Civil Aeronautics Board issued a notice of proposed rule making (PSDR-13, 30 F.R. 11391) wherein it proposed to amend Part 399, its Statements of General Policy (14 CFR Part 399), to provide that in processing

applications by foreign air carriers for off-route charter authority the Board will be guided by the volume and frequency and regularity restrictions imposed on off-route charters by U.S. air carriers. Interested persons were invited to file written data, views, or arguments pertaining to the proposed rule. Pursuant thereto, 15 comments were filed, including one comment from a U.S. flag carrier,[1] one from a U.S. supplemental air carrier,[2] nine from foreign air carriers,[3] and three from foreign governments.[4] In addition, the U.S. Department of State filed a comment. Opposition to the proposed policy statement was expressed by all but one of the persons filing comments, including the Department of State; the only support for the proposed rule came from one U.S. flag carrier.

Based on the comments filed, the Board has concluded that at this time it is not appropriate to impose these restrictions on the off-route charter authority of the foreign air carriers.

Accordingly, the Board hereby terminates the rule making proceeding in Docket 16466.

(Secs. 204(a), 402, 72 Stat. 743, 757; 49 U.S.C. 1324, 1372)

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 65-13123; Filed, Dec. 7, 1965; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 1, 17, 73]

[Docket No. 16030]

ESTABLISHMENT AND USE OF ANTENNA FARM AREAS

Order Extending Time for Filing Reply Comments

1. The dates for filing comments and reply comments in this proceeding were extended to November 15, 1965, and November 30, 1965, respectively. Coral Television Corp. (permittee of WCIX-TV, Miami, Fla.), Midwest Radio-Television (WCCO-TV, Minneapolis, Minn.), and Twin City Area Educational Corp. (KTCA-TV and KTCI-TV, St. Paul, Minn.) have requested further extensions to file reply comments. In support of the requests, they refer to the additional length of time given to file comments in this proceeding and the complexity of the comments filed.

2. The Commission is of the view that an extension of time should be granted and, accordingly: *It is ordered,* This 1st day of December 1965, that the time for filing reply comments is extended from November 30, 1965, to December 14, 1965.

3. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules.

Released: December 3, 1965.

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

[F.R. Doc. 65-13135; Filed, Dec. 7, 1965; 8:48 a.m.]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 545]

[No. 19,541]

FEDERAL SAVINGS AND LOAN SYSTEM

Determination Date

DECEMBER 3, 1965.

Resolved, that, pursuant to Part 508 of the general regulations of the Federal Home Loan Bank Board (12 CFR Part 508) and § 542.1 of the rules and regulations for the Federal Savings and Loan System (12 CFR 542.1), it is hereby proposed that § 545.1 of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.1-1) be amended as follows:

Amend paragraph (d) of § 545.1-1, aforesaid, to read as follows:

§ 545.1-1 Distribution of earnings on bases, terms, and conditions other than those provided by charter.

* * * * * *

(d) *Determination date.* For the purpose of computing earnings for distribution on savings accounts, the board of directors of a Federal association which has a charter in the form of Charter N or Charter K (rev.) may, after adoption of a resolution so providing and while such resolution remains in effect, fix a date, not later than the 20th of the month, for determining the date of investment of payments on savings accounts or designated classes thereof: *Provided,* That, prior to July 1, 1966, no such Federal association may fix as such date a date later than the 10th of the month if it is a date which building and loan or savings and loan associations, homestead associations, cooperative banks, and mutual savings banks in the State, district, or territory (including Puerto Rico, Guam, and the Virgin Islands) in which the home office of such Federal association is located are prohibited by the laws of such State, district, or territory from fixing as such date, except that such a Federal association may fix as such date a date not later than the 15th of the month if its home office is located in a State, district, or territory the laws of which expressly provide that building and loan or savings and loan associations, homestead associations, cooperative banks, or mutual savings banks may fix as such date a date not later than the 10th business day of the month. Payments received subsequent to such determination date shall receive earnings as if invested on the first of the next succeeding month, except that, after adoption by the association's board of directors of a resolution so providing and while such resolution remains in effect, payments received subsequent to a determination date which is not later than the 10th of the month shall receive earnings from the date of receipt.

* * * * *

(Sec. 5. 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1947 Supp.)

Resolved further that all interested persons are hereby given the opportunity to submit written data, views, or arguments on the following subjects and issues: (1) Whether said proposed amendment should be adopted as proposed; (2) whether said proposed amendment should be modified and adopted as modified; (3) whether said proposed amendment should be rejected. All such written data, views, or arguments must be received through the mail or otherwise at the Office of the Secretary, Federal Home Loan Bank Board, Federal Home Loan Bank Board Building, 101 Indiana Avenue NW., Washington, D.C., 20552, not later than December 23, 1965, to be entitled to be considered, but any received later may be considered in the discretion of the Federal Home Loan Bank Board.

By the Federal Home Loan Bank Board.

[SEAL] HARRY W. CAULSEN,
Secretary.

[F.R. Doc. 65-13141; Filed, Dec. 7, 1965; 8:48 a.m.]

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[1] Trans World Airlines, Inc. (TWA).

[2] World Airways, Inc. (World).

[3] Aerovias Interamericanas de Panama, S.A. (Panama); Air France; Irish International Airlines (Irish); Japan Air Lines Co., Ltd. (Japan); KLM Royal Dutch Airlines (KLM); Lufthansa German Airlines (Lufthansa); Sabena Belgian World Airlines (Sabena); Scandinavian Airlines System (Scandinavian); Swissair.

[4] The Netherlands Government; Government of Switzerland; Federal Republic of Germany.

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Bureau Memorandum No. 21, Revised, Supp. No. 3]

LENDING AND LIQUIDATION

Delegation of Functions

By virtue of authority vested in me as Commissioner of Accounts by Treasury Department Order No. 185–2 dated June 24, 1964 (29 F.R. 8177), it is ordered as follows:

1. There are delegated to the Comptroller, Bureau of Accounts, all of the functions of the Secretary of the Treasury under Reorganization Plan No. 1 of 1957, under section 409 of the Federal Civil Defense Act of 1950 and under section 302 of the Defense Production Act of 1950, as amended, which have been transferred to me by Treasury Department Order No. 185–2.

2. The authority delegated to the Director, Defense Lending by Bureau Memorandum No. 21, Revised, Supp. No. 2, dated June 24, 1964 (29 F.R. 8234), is rescinded.

3. The provisions hereof shall be effective December 8, 1965.

Dated: December 6, 1965.

[SEAL] S. S. SOKOL,
Commissioner of Accounts.

[F.R. Doc. 65–13212; Filed, Dec. 7, 1965; 11:25 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

BARNARD LIVESTOCK AUCTION MARKET, WAYNE CITY, ILL., ET AL.

Proposed Posting of Stockyards

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

Barnard Livestock Auction Market, Wayne City, Ill.
Central Illinois Livestock Market, Inc., Hopedale, Ill.
Breckinridge Co. Livestock Center, Inc., Irvington, Ky.
Pulaski County Livestock Market, Inc., Somerset, Ky.
Co-Op Sales Ring, Aztec, N. Mex.

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

Any person who wishes to submit written data, views, or arguments concerning the proposed rule may do so by filing them with the Acting Chief, Rates and Registraticns Branch, Packers and Stockyards Division, Consumer and Marketing Service, U.S. Department of Agriculture, Washington 25, D.C., within 15 days after publication hereof in the FEDERAL REGISTER.

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

Done at Washington, D.C., this 2d day of December 1965.

K. A. POTTER,
Acting Chief, Rates and Registrations Branch, Packers and Stockyards Division, Consumer and Marketing Service.

[F.R. Doc. 65–13096; Filed, Dec. 7, 1965; 8:45 a.m.]

OK LIVESTOCK MARKETS, CALDWELL, IDAHO, ET AL.

Notice of Changes in Names of Posted Stockyards

It has been ascertained, and notice is hereby given, that the names of the livestock markets referred to herein, which were posted on the respective dates specified below as being subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), have been changed as indicated below.

Original name of stockyard, location, and date of posting	*Current name of stockyard and date of change in name*
IDAHO	
OK Livestock Markets, Caldwell, Dec. 30, 1937.	Boise Valley Livestock Commission Co., Inc., Sept. 1, 1965.
INDIANA	
Fort Wayne Livestock Auction, Fort Wayne, May 22, 1959.	Delta Livestock Auction & Commission Co., Aug. 19, 1965.
IOWA	
Lamoni Sale Corporation, Lamoni, May 22, 1959.	Lamoni Livestock Sales Co., Inc., June 26, 1965.
Oxford Livestock Market, Inc., Oxford, Aug. 5, 1958.	Oxford Auction Company, Inc., Aug. 20, 1965.
KANSAS	
Paola Market Sale, Paola, May 25, 1959------	Paola Market Sale, Inc., Sept. 27, 1965.
MISSOURI	
Ava Sales Co., Ava, May 8, 1959----------	Ava Sales Company, June 25, 1965.
NEW MEXICO	
Owen Livestock Auction Company, Albuquerque, Dec. 20, 1939.	Valley Livestock Auction Co., May 17, 1965.
OKLAHOMA	
Cordell Auction, Cordell, Apr. 9, 1959--------	Cordell Livestock Auction, Feb. 11, 1965.
OREGON	
Corvallis Auction Market, Corvallis, Sept. 22, 1959.	Corvallis Livestock Auction Market, Inc., Sept. 30, 1965.
PENNSYLVANIA	
Penns Valley Sales Barn, Centre Hall, Feb. 23, 1960.	Penns Valley Live Stock Auction, Inc., July 15, 1965.
TENNESSEE	
Macon County Livestock Market, Lafayette, May 6, 1959.	Macon County Livestock Market, Inc., July 30, 1965.

Done at Washington, D.C., this 2d day of December 1965.

K. A. POTTER,
Acting Chief, Rates and Registrations Branch, Packers and Stockyards Division, Consumer and Marketing Service.

[F.R. Doc. 65–13097; Filed, Dec. 7, 1965; 8:45 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[No. 84]

YUMA IRRIGATION PROJECT, ARIZONA-CALIFORNIA, RESERVATION DIVISION, CALIFORNIA

Public Notice of Annual Operation, Maintenance and Water Rental Charges

NOVEMBER 15, 1965.

1. *Annual Operation and Maintenance Charges for Lands Under Public Notice, Reservation Division.* The minimum annual operation and maintenance charge for calendar year 1966 and thereafter until further notice against all lands of the Reservation Division under public notice shall be $13.50 per irrigable acre, whether water is used or not, payment of which will entitle the water user to 8 acre-feet of water per acre on certain sandy areas shown on the list attached to Public Notice No. 72 dated December 1, 1955, as amended February 16, 1956, and to 5 acre-feet of water per irrigable acre on all other lands of the Division under public notice. Additional water, if available, will be furnished at the rate of $2.75 per acre-foot payable in advance. Credit equivalent to the amount paid for additional water unused prior to the end of any calendar year will be applied against the minimum charges for water for the following calendar year. No credit will be given for water purchased during any calendar year at the minimum charge but undelivered at the end of said calendar year.

The minimum annual operation and maintenance charge per calendar year for each parcel of land under public notice containing less than one acre shall be $13.50.

Where in the opinion of the Project Manager, Yuma Projects Office, it may be done without interference with other project requirements, upon written request filed in advance by a water user who is not delinquent in the payment of any operation and maintenance charges, water will be furnished free of charge for reclaiming lands by the usual methods: *Provided, however,* That lands for which free water was served during the preceding calendar year will not again be served free water in the absence of evidence satisfactory to the Project Manager that although the water so served free of charge during such preceding year was applied to the land in sufficient quantities over a period of not less than 3 months, the results accomplished during such preceding year were not satisfactory.

All minimum annual operation and maintenance charges shall be due and payable on January 1, 1966, and on January 1 of each year thereafter.

2. *Annual Water Rental Charges for Other Lands, Reservation Division.* Irrigation water will be furnished during the calendar year 1966 and thereafter until further notice for lands in the Reservation Division not under public notice which can be irrigated from the present distribution system without further construction expense by the Bureau, upon a rental basis under approved applications for temporary water service, at the following rates: The minimum annual charge shall be $13.50 per irrigable acre, payment of which will entitle the applicant to 5 acre-feet of water per acre. Additional water, if available, will be furnished at the rate of $2.75 per acre-foot. All charges shall be payable in advance of the delivery of water. Credit will be given for additional water paid for but not used.

3. *Penalties.* On all payments not made on or before the due dates, there shall be added on the following day a penalty of one-half of one percent of the amount unpaid and a like penalty of one-half of one percent of the amount unpaid on the first day of each calendar month thereafter so long as such default shall continue.

4. *Place of payment.* All payments should be made to the Bureau of Reclamation, Marine Corps Auxiliary Air Station, or mailed to Bureau of Reclamation, Bin 151, Yuma, Ariz.

A. B. WEST,
Regional Director.

[F.R. Doc. 65-13089; Filed, Dec. 7, 1965; 8:45 a.m.]

Fish and Wildlife Service

[Docket No. A-356]

CHAD B. WYATT

Notice of Loan Application

Chad B. Wyatt, Wrangell, Alaska, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 61.4-foot registered length wood vessel to engage in the fishery for salmon in Southeast Alaska.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised August 11, 1965), that the above entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C., 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic injury or hardship.

DONALD L. MCKERNAN,
Director,
Bureau of Commercial Fisheries.

DECEMBER 3, 1965.

[F.R. Doc. 65-13105; Filed, Dec. 7, 1965; 8:46 a.m.]

[Docket No. C-227]

WALTER E. WALLIN

Notice of Loan Application

Walter E. Wallin, 2145 Notre Dame Drive, Eureka, Calif., has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 43-foot registered length wood vessel to engage in the fishery for salmon, crab, shrimp and tuna.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised August 11, 1965), that the above entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C., 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic injury or hardship.

DONALD L. MCKERNAN,
Director,
Bureau of Commercial Fisheries.

DECEMBER 3, 1965.

[F.R. Doc. 65-13106; Filed, Dec. 7, 1965; 8:46 a.m.]

[Docket No. A-359]

JAMES EDWARD JOHNSON

Notice of Loan Application

James Edward Johnson, 914 Fifth, Spenard, Alaska, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new 31-foot gillnet boat to engage in the fishery for salmon in the Cook Inlet area of Alaska.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised August 11, 1965), that the above entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C., 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or

will not cause such economic injury or hardship.

DONALD L. MCKERNAN,
Director,
Bureau of Commercial Fisheries.

DECEMBER 3, 1965.

[F.R. Doc. 65-13107; Filed, Dec. 7, 1965; 8:46 a.m.]

Office of the Secretary

LOUISIANA

Determination of a Fishery Failure Due to a Resource Disaster

DECEMBER 3, 1965.

Whereas, many firms and individuals are engaged in raising, harvesting, processing, and marketing oysters in the State of Louisiana; and

Whereas on September 9, 1965, Hurricane Betsy passed directly over the heart of Louisiana's oyster grounds, subjecting the area to a tidal wave and extreme winds which caused extensive damage to the oyster resource and industry through silting, covering with marsh grass, and littering with debris of State and private oyster grounds; and

Whereas, insurmountable uninsured losses of oyster production in the 1965-66 season will amount to a several million dollar decrease in State income; and

Whereas, the serious disruption of the Louisiana oyster fishery caused by alteration of habitat was due to natural causes;

Now, therefore, as Secretary of the Interior, I hereby determine that the foregoing circumstances constitute a commercial fishery failure due to a resource disaster within the meaning of section 4(b) of Public Law 88-309. Pursuant to this determination, I hereby authorize the use of funds appropriated under the above legislation to rehabilitate, restore, and put back into production the oyster grounds of the State of Louisiana, and for such other measures as may be necessary to mitigate the damage to the resource.

STEWART L. UDALL,
Secretary of the Interior.

[F.R. Doc. 65-13175; Filed, Dec. 7, 1965; 8:48 a.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

[Report No. 65]

LIST OF FREE WORLD AND POLISH FLAG VESSELS ARRIVING IN CUBA SINCE JANUARY 1, 1963

SECTION 1. The Maritime Administration is making available to the appropriate Departments the following list of vessels which have arrived in Cuba since January 1, 1963, based on information received through November 22, 1965, exclusive of those vessels that called at Cuba on United States Government-approved noncommercial voyages and those listed in section 2. Pursuant to established United States Government policy, the listed vessels are ineligible to carry United States Government-financed cargoes from the United States.

FLAG OF REGISTRY, NAME OF SHIP	*Gross tonnage*
Total all flags (242 ships)	1,695,364
British (74 ships)	553,212
**Agate (trips to Cuba under ex-name Dairen—British flag).	
**Amalia (now Maltese flag).	
**Amazon River (now River—sold to Dutch breakers)	7,234
Antarctica	8,785
Arctic Ocean	8,791
Ardenode	7,036
Ardgem	6,981
Ardmore	4,664
Ardpatrick	7,054
Ardrowan	7,300
Ardsirod	7,025
Ardtara	5,795
**Arlington Court (now Southgate—British flag).	
Athelcrown (Tanker)	11,149
Atheiduke (Tanker)	9,089
Atheimere (Tanker)	7,524
Athelmonarch (Tanker)	11,182
**Atheisultan (Tanker—broken up)	9,149
Avisfaith	7,868
Baxtergate	8,813
Cheung Chau	8,566
**Chipbee (sold for scrap)	7,271
**Cosmo Trader (trips to Cuba under ex-name, Ivy Fair—British flag).	
**Dairen (now Agate—British flag)	4,939
**East Breeze (now Phoenician Dawn—British flag)	8,708
Eastfortune	8,789
Formentor	8,424
**Free Enterprise (now Haitian flag)	6,807
**Free Merchant (now Cypriot flag)	5,237
**Garthdale (now Jeb Lee—British flag)	7,542
Grosvenor Mariner	7,026
Hazelmoor	7,907
Helka	2,111
Hemisphere	8,718
Ho Fung	7,121
Inchstaffa	5,255
**Ivy Fair (now Cosmo Trader—British flag—broken up)	7,201
**Jeb Lee (trip to Cuba under ex-name, Garthdale—British flag).	
Jollity	8,660
Kinross	5,388
La Hortensia	9,486
Linkmoor	8,236
Magister	2,339
Nancy Dee	6,597
Nebula	8,924
**Newdene (now Free Navigator—Cypriot flag).	
**Newforest (now Haitian flag)	7,185
Newgate	6,743
Newglade	7,368
**Newgrove (now Cypriot flag).	
Newheath	7,643
Newhill	7,855
Newlane	7,043
**Newmeadow (now Cypriot flag).	
Newmoat	7,151
Newmoor	7,168
Niis Ameion	6,281
Oceantramp	6,185
Oceantravel	10,477
Peony	9,037

**Ships appearing on the list that have been scrapped or have had changes in name, and/or flag of registry.

FLAG OF REGISTRY, NAME OF SHIP—Continued	*Gross tonnage*
British—Continued	
**Phoenician Dawn (trips to Cuba under ex-name, East Breeze—British flag).	
**Redbrook (now E. Evangelia—Greek flag)	7,388
Ruthy Ann	7,361
**St. Antonio (now Maltese flag).	
Sandsend	7,236
Santa Granda	7,229
Sea Amber	10,421
Sea Coral	10,421
Sea Empress	9,841
Seasage	4,330
Shienfoon	7,127
**Shun Fung (wrecked)	7,148
**Soclyve (now Maltese flag).	
**Southgate (previous trips to Cuba under ex-name, Arlington Court—British flag)	9,662
Stanwear	8,108
**Suva Breeze (now Djatingaleh—Panamanian flag)	4,970
**Swift River (now Kailithea—Cypriot flag)	7,251
Thames Breeze	7,878
**Timios Stavros (now Maltese flag—previous trips to Cuba under Greek flag).	
Venice	8,611
Vercharmian	7,265
Vergmont	7,381
West Breeze	8,718
Yungfutary	5,388
Yunglutaton	5,414
Zeia M	7,237
Lebanese (58 ships)	389,592
Agia Sophia	3,106
Aiolos II	7,256
Ais Giannis	6,997
Akamas	7,285
Al Amin	7,186
Alaska	6,989
Anthas	7,044
Antonis	6,259
**Ares (constructive total loss)	4,557
Areti	7,176
Aristefs	6,995
Astir	5,324
Athamas	4,729
**Carnation (sold Spanish breakers)	4,884
Claire	5,411
Cris	6,032
Dimos	7,187
**E. Myrtidiotissa (trips to Cuba under ex-name, Kalliopi D. Lemos—Lebanese flag).	
**Free Trader (now Cypriot flag).	
Giannis	5,270
Giorgos Tsakirogiou	7,240
Granikos	7,282
Ilena	5,925
Ioannis Aspiotis	7,297
**Kalliopi D. Lemos (now E. Myrtidiotissa—Lebanese flag)	5,103
Katerina	9,357
Leftric	7,176
Maiou	7,145
Mantric	7,255
Maria Despina	7,254
Maria Renee	7,203
Marichristina	7,124
**Marymark (sold German shipbreakers)	4,383
Mersinidi	6,782
Mimosa	7,314
Mousse	6,984
Nictric	7,296
Noelie	7,251
Noemi	7,070
Olga	7,199
Panagos	7,133
Parmarina	6,721
**Razani (broken up)	7,253

FLAG OF REGISTRY, NAME OF SHIP—Continued

Lebanese—Continued	Gross tonnage
Reneka	7,250
Rio	7,194
St. Anthony	5,349
St. Nicolas	7,165
San George	7,267
**San John (now Ledra—Cypriot flag).	
San Spyridon	7,260
**Sheik Boutros (trips to Cuba under ex-name, Cavtat—Yugoslav flag).	
Stevo	7,066
Taxiarhis	7,349
Tertric	7,045
Theodoros Lemos	7,198
Tony	7,176
Toula	4,561
Troyan	7,243
Vassiliki	7,192
Vastric	6,453
Vergolivada	6,339
Yanxilas	10,051
Greek (34 ships)	250,409
Agios Therapon	5,617
Akastos	7,331
Alice	7,189
**Ambassade (sold Hong Kong ship breakers)	8,600
Americana	7,104
Anacreon	7,359
**Anatoli (now Sunrise—Cypriot flag).	
**Andromachi (previous trips to Cuba under ex-name, Penelope—Greek flag)	6,712
**Antonia (now Amfithea—Cypriot flag).	
Apollon	9,744
Athanassios K	7,216
Barbarino	7,084
Caitlopi Michalos	7,249
**Embassy (broken up)	8,418
**E. Evangelia (trips to Cuba under ex-name, Redbrook—British flag).	
Flora M	7,244
**Gloria (now Helen—Greek flag).	
**Helen (previous trips to Cuba under ex-name, Gloria—Greek flag)	7,128
Irena	7,232
Istros II	7,275
Kapetan Kostis	5,032
Kyra Hariklia	6,888
Maria Theresa	7,245
Marigo	7,147
**Maroudio (now Thalie—Panamanian flag)	7,369
**Mastro-Stelios II (now Wendy H.—South African flag)	7,282
**Nicolaos F. (previous trip to Cuba under ex-name, Nicolaos Frangistas—Greek flag)	7,199
**Nicolaos Frangistas (now Nicolaos F.—Greek flag).	
Pamit	3,929
Pantanassa	7,131
Paxoi	7,144
**Penelope (now Andromachi—Greek flag).	
**Presvia (broken up)	10,820
Redestos	5,911
Roula Maria (Tanker)	10,608
**Seirios (broken up)	7,239
Sophia	7,030
**Stylianos N. Viassopulos (now Antonia II—Cypriot flag)	7,303
**Timios Stavros (formerly British flag—now Maltese flag).	

**Ships appearing on the list that have been scrapped or have had changes in name, and/or flag of registry.

FLAG OF REGISTRY, NAME OF SHIP—Continued

Greek—Continued	Gross tonnage
Tina	7,362
Western Trader	9,268
Polish (17 ships)	123,676
Baltyk	6,963
Bialystok	7,173
Bytom	5,967
Chopin	6,987
Chorzow	7,237
Huta Florian	7,258
Huta Labedy	7,221
Huta Ostrowiec	7,175
Huta Zgoda	6,840
*Hutnik	10,897
Kopalnia Bobrek	7,221
Kopalnia Czeladz	7,252
Kopalnia Miechowice	7,223
Kopalnia Siemianowice	7,165
Kopalnia Wujek	7,033
Piast	3,184
Transportowiec	10,880
Italian (14 ships)	111,681
Achille	6,950
Agostino Bertani	8,380
**Andrea Costa (Tanker—broken up)	10,440
Aspromonte	7,154
Caprera	7,189
Giuseppe Giulietti (Tanker)	17,519
Mariasusanna	2,479
Montiron	1,595
Nazareno	7,173
Nino Bixio	8,427
San Francesco	9,284
San Nicola (Tanker)	12,461
Santa Lucia	9,278
**Somalia (now Chenchang—Nationalist Chincse flag)	3,352
Cypriot (10 ships)	66,180
Acme	7,159
Adelphos Petrakis	7,170
**Amfithea (previous trip to Cuba under ex-name, Antonia—Greek flag)	5,171
**Antonia II (trip to Cuba under ex-name, Stylianos N. Viassopulos—Greek flag).	
Artemida	7,247
**Free Merchant (trips to Cuba under British flag).	
**Free Navigator (previous trips to Cuba under ex-name, Newdene—British flag)	7,181
**Free Trader (previous trips to Cuba under Lebanese flag)	7,067
**Kalilithea (trips to Cuba under ex-name, Swift River—British flag).	
**Ledra (previous trips to Cuba under ex-name, San John—Lebanese flag)	5,172
**Newgrove (previous trips to Cuba under British and Haitian flags)	7,172
**Newmeadow (previous trips to Cuba under British flag)	5,654
**Sunrise (previous trip to Cuba under ex-name, Anatoli—Greek flag)	7,187
Yugoslav (9 ships)	60,800
Bar	7,233
**Cavtat (now Sheik Boutros—Lebanese flag)	7,266
Cetinje	7,200
Dugi Otok	6,997
Kolasin	7,217
Mojkovac	7,125

*Added to Report No. 64, appearing in the FEDERAL REGISTER issue of Nov. 23, 1965.

FLAG OF REGISTRY, NAME OF SHIP—Continued

Yugoslav—Continued	Gross tonnage
Piod	3,657
Promina	6,960
**Trebisnjica (wrecked)	7,145
French (7 ships)	26,817
Arsinoe (Tanker—sunk)	10,426
Circe	2,874
Enee	1,232
Foulaya	3,739
Mungo	4,820
Nelee	2,874
Neve	852
Moroccan (5 ships)	35,828
Atlas	10,392
Banora	3,082
Marrakech	3,214
Mauritanie	10,392
Toubkal	8,748
Maltese (5 ships)	33,788
**Amalia (previous trips to Cuba under British flag)	7,304
Ispahan	7,156
**St. Antonio (previous trip to Cuba under British flag)	6,704
**Sociyve (previous trips to Cuba under British flag)	7,291
**Timios Stavros (previous trips to Cuba under British flag and Greek flag)	5,333
Finnish (3 ships)	21,170
Augusta Paulin	7,096
**Hermia (trip to Cuba under ex-name, Amfred—Swedish flag).	
Margrethe Paulin	7,251
Ragni Paulin	6,823
Netherlands (2 ships)	999
Meike	500
Tempo	499
Norwegian (2 ships)	11,894
Ole Bratt	7,144
**Tine (now Jezreel—Panamanian flag—wrecked)	4,750
Swedish (2 ships)	9,318
**Amfred (now Hermia—Finnish flag)	2,828
**Dagmar (now Ricardo—Panamanian flag)	6,490
Haitian:	
**Frec Enterprise (trips to Cuba under British flag).	
**Newforest (trips to Cuba under British flag).	
**Newgrove (now Cypriot flag).	
Nationalist Chinese:	
**Chen Chang (trip to Cuba under ex-name, Somalia—Italian flag).	
Panamanian:	
**Djatingaleh (trips to Cuba under ex-name (Suva Breeze—British flag).	
**Jezreel (trip to Cuba under ex-name, Tine—Norwegian flag—wrecked).	
**Ricardo (trips to Cuba under ex-name, Dagmar—Swedish flag).	
**Thalie (trip to Cuba under ex-name, Maroudio—Greek flag).	
South African:	
**Wendy H. (trip to Cuba under ex-name, Mastro-Stelios II—Greek flag).	

SEC. 2. In accordance with approved procedures, the vessels listed below which called at Cuba after January 1, 1963, have reacquired eligibility to carry United States Government-financed cargoes from the United States by virtue of the persons who control the vessels having given satisfactory certification and assurance:

(a) That such vessels will not, thenceforth, be employed in the Cuba trade so long as it remains the policy of the United States Government to discourage such trade; and

(b) That no other vessels under their control will thenceforth be employed in the Cuba trade, except as provided in paragraph (c) and

(c) That vessels under their control which are covered by contractual obligations, including charters, entered into prior to December 16, 1963, requiring their employment in the Cuba trade shall be withdrawn from such trade at the earliest opportunity consistent with such contractual obligations.

FLAG OF REGISTRY, NAME OF SHIP

a. Since last report: None.
b. Previous reports:

	Number of ships
Flag of registry (total)	88
British	37
Danish	1
Finnish	2
French	1
German (West)	1
Greek	25
Israeli	1
Italian	5
Japanese	1
Kuwaiti	1
Lebanese	2
Norwegian	4
Spanish	6
Swedish	1

SEC. 3. The ships listed in sections 1 and 2 have made the following number of trips to Cuba since January 1, 1963, based on information received through November 22, 1965:

Flag of Registry	Number of trips											
	1963	1964	1965									Total
			Jan.–Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	
British	133	180	30	10	13	11	11	11	7	8	6	420
Lebanese	64	91	14	6	2	9	8	2	3	1		200
Greek	99	27	3	2	4	2	3	2				142
Italian	16	20	8	2	1	3	2	2	2	1		57
Yugoslav	12	11	4		1		2	2	2			34
Spanish	8	17										25
Norwegian	14	10										24
Moroccan	9	13							1			23
French	8	9			1	2		2		1	1	24
Cypriot		1		1	1	1	1	1	2	4		12
Finnish	1	4		1	1					1		8
Maltese		2	1	1		1		1				6
Netherlands		4			1		1					6
Swedish	3	3										6
Kuwaiti		2			1							3
Israeli			2									2
Danish	1											1
German (West)	1											1
Haitian					1							1
Japanese	1											1
Subtotal	370	394	62	23	27	29	28	23	17	16	7	996
Polish	18	16	4	1	1		1	1	1		1	44
Grand total	388	410	66	24	28	29	29	24	18	16	8	1,040

NOTE: Trip totals in this section exceed ship totals in sees. 1 and 2 because some of the ships made more than 1 trip to Cuba. Monthly totals subject to revision as additional data become available.

By order of the Deputy Maritime Administrator.

Dated: November 26, 1965.

JOHN M. O'CONNELL,
Assistant Secretary.

[F.R. Doc. 65–13149; Filed, Dec. 7, 1965; 8:48 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 15356]

NORTHEAST-BAHAMAS SERVICE

Notice of Prehearing Conference

At the direction of the Board,[1] notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on January 13, 1966, at 10 a.m., e.s.t., in Room 726, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Robert L. Park.

In order to facilitate the conduct of the conference, interested parties are instructed to submit on or before December 23, 1965, (1) motions requesting consolidation of applications or otherwise pertaining to the scope of the issues in this proceeding; (2) proposed statements of issues; (3) proposed stipulations; (4) requests for information; (5) statements of positions of parties; and (6) proposed procedural dates. Answers shall be submitted on or before January 5, 1966.

The motions referred to in (1) above, and any answers thereto, shall be filed with the Docket Section in accordance with the Board's rules of practice in Economic proceedings and copies thereof shall be served on the parties and the Examiner. The balance of the written submissions called for by this notice shall be made to the Examiner, with copies served on interested parties, but shall not be filed with the Docket Section.

Dated at Washington, D.C., December 1, 1965.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 65–13121; Filed, Dec. 7, 1965; 8:47 a.m.]

[Docket No. 16236; Order E–22954]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Cargo Rate Matters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of December 1965.

Agreement adopted by the Traffic Conferences of the International Air Transport Association relating to cargo rate matters; Docket 16236, Agreement CAB 18375, R–20, R–21, and R–23.

By Order E–22557, the Board announced its action on most cargo rate resolutions adopted by the Traffic Conferences of the International Air Transport Association (IATA) at meetings held in Venice in May 1965. The Board approved the bulk of the resolutions, but deferred action on Resolution 509 (Charge for Disbursements) and Resolution 513 (Mixed Consignment Rule). In its action, the Board took note of a statement received from the Air Freight Forwarders Association (AFFA) in opposition to Resolutions 509 and 513 as well as Resolution 512b (Air Cargo Rates—Airport-to-Airport).

The Board granted a period of 15 days in which to receive comments from the air carrier parties to the agreement, or other interested persons with respect to Resolutions 509 and 513, and similarly granted time for the receipt of comments upon action taken by the Board with respect to other resolutions.

A statement urging the Board to approve Resolutions 509 and 513 has been submitted by the Secretary of Traffic Conference 1 on behalf of Pan American World Airways, Inc., and Trans World Airlines, Inc. This statement has been concurred in by certain U.S. flag carrier and foreign air carrier members of IATA.[1] AFFA has submitted a statement in which it requests the Board to reconsider its approval of Resolution 512b and elaborates on or reaffirms its views in opposition to other resolutions. Comments in opposition to Resolution 509 were also submitted by Jet Air Freight, International Airfreight Division.

The Board has considered the comments received and its conclusions are set forth below:

[1] See listing set forth below.

[1] Members Gillilland and Adams, dissenting.

Resolution 509—Charge for disbursements. This resolution (as corrected) provides that a charge of 1 percent, but not less than $2.00, should be made for the collection by a member from the consignee of any amount indicated in the air waybill to be collected on behalf of any person other than a member. (Presumably for services either prior or subsequent to departure.[2]) Such charge would also be imposed upon a member but only where such amounts relate to services performed prior to departure. An exception provides that in any case the charges need not be made where the amount collected is less than $50 or for such part of the amount which relates to surface transportation prior to air carriage,[3] which surface charges are fully authenticated by appropriate documents.

AFFA claims (1) that the imposition of this fee is discriminatory against the forwarders in their role as indirect air carriers and their category of traffic, since it imposes a charge for services rendered which is not assessed by the IATA carriers where the services are rendered for each other; (2) that the resolution will have the effect of curtailing forwarders' ability to carry out their function as consolidators, since they will be subjected to charges not exacted from direct airline shippers where collect airline freight is involved; and (3) that since two shippers will be charged different amounts between the same two points (that is, a shipper who dispatches on a collect basis will be required to pay 1 percent more than the shipper who sends the same cargo prepaid), there may be a violation of § 221.60 of the Board's Economic Regulations prohibiting conflicting rates or fares.[4] Finally, AFFA expresses the conclusion that the IATA carriers appear to desire to divorce themselves from a substantial portion of their collect business. In this case, AFFA would have the IATA carriers divorce themselves entirely by deleting collect services from their tariffs. Such a course would, it is argued, place carriers, forwarders and direct shippers on an equal basis and remove the international transfer of funds into the realm of international banking. AFFA also believes that the $50 allowance for other services performed by forwarders, such as preparation of export declarations, consular documentation and bank drafts, will normally aggregate more than $50 and considers that an allowance of $100 and all prior transportation charges would be more equitable than the 1-percent surcharge.

Jet Air Freight supports AFFA's contention that the fee would place forwarders in a noncompetitive position vis-a-vis the airlines.

The responding IATA carriers contend that the provisions of the resolutions apply alike to carriers, forwarders and agents. The carriers agree that a charge need not be assessed on the domestic portion of the air transportation on a through air waybill and argue that the fact the forwarder may elect to route a shipment in a different manner is not a valid reason for claiming discrimination. The carriers also clarify that if the disbursement relates to air transportation on a domestic air waybill, then the charge applies equally to the IATA carrier, when via the same routing, since the service was prior to departure.

The IATA carriers note that the amounts for collection often exceed the amount of the air transportation charges and that c.o.d. charges are avoided by shippers, in many instances, by the insertion on the air waybill of amounts as "chargeable to consignee" without further description. These carriers state that the cost in collecting monies, in terms of accounting time, delay in collection and possible currency exchange losses is not inconsiderable and state that the charge or fee proposed is intended to defray these costs.

It is appropriate to review the details of the practices followed by the air freight forwarders and the direct air carriers with respect to the services to which the charge or fee would apply. As we understand it, the amounts indicated on the direct carriers' air waybills by forwarders for collection by carriers from consignees are not limited to the transportation charges incurred by forwarders over the domestic sectors. Rather, they include the total of all of the collect amounts that appear on the forwarders' individual house air waybills. For example, these amounts may include a forwarder's total tariff charges for each shipment included in the consolidation from the interior point of origin to the foreign point of destination, and total charges for other services such as the preparation of export declarations and consular documentation. Under present practices, the forwarder enters the collect amounts on the direct carrier's waybill at point of origin and deducts them from the remittances due the direct carrier in settling his accounts for a given period. The carrier invoices the amount to the forwarder or forwarder's agent who makes remittance to the carrier at the destination point.

Thus, the direct air carriers are providing a banking-type service. They are, in effect, financing to some degree the forwarders' normal business activities. It is not essential that the forwarders rely upon the underlying direct air carriers for such service. They have the option of collecting moneys due from the ultimate importers and remitting them directly to the home offices. To the extent the forwarders avail themselves of this service, which clearly is an extraordinary one, it is appropriate that the direct air carriers charge for it. It is an accepted and fundamental premise that only basic air transportation and directly related services be included in the transportation charges, and that additional services be subject to additional payments. Only in this manner can a shipper buying air transportation avoid an unfair burden of expense for additional services desired by other shippers.

While we have no objection to the carriers providing this service at a reasonable price, we would have serious difficulty with an agreement among the carriers which would preclude the offering of any collect service such as suggested by AFFA. The fee proposed is identical to that imposed on c.o.d. shipments, which has been approved by the Board, and we consider it to be a reasonable one.

Although we do not consider the resolution to be discriminatory against forwarders, certain aspects of the provisions raise possible questions of unjust discrimination. The resolution excludes from amounts to which the fee applies those which relate to charges for surface transportation services prior to air carriage, but does not exclude amounts relating to air transportation services prior to departure which are apparently rendered under substantially similar circumstances and conditions. Further, the resolution limits application of the fee to be collected on behalf of members to amounts relating to services performed prior to departure, while no such limitation is provided with respect to persons other than a member. Conversely, the latter provision would appear to impose a charge upon non-IATA members for the collection of amounts for services rendered after departure but would not impose the charge upon members for such services. The differences in the application of the fee in these situations appear, per se, unjustly discriminatory since, by the terms of the resolution, different charges could apply under substantially similar circumstances and conditions.

From the matters before the Board, the intended operations and the intentions of the carriers in interpreting the resolutions are not clear. The exception for charges for surface transportation may be intended to facilitate operations by IATA cargo agents, and it may be intended to apply only with respect to pickup or delivery trucking services within a limited pickup and delivery zone, as distinguished from line haul trucking services. The Board would distinguish a pickup or delivery service from line haul carriage[5] as not being a service which is like and rendered under substantially similar circumstances and conditions as line haul truck service. Exclusion of the fee for pickup or delivery service would therefore not be considered unjustly discriminatory. On the other hand, the absence of a fee for transportation charges for a line haul movement by truck would unjustly discriminate against air carriers (and their customers) who provide carriage to the point of origin. Our approval herein of this resolution will therefore be subject to the provision that it shall not be construed to approve differences in the application of the fee to transportation

[2] We understand "prior to departure" and "prior to air carriage" to mean prior to the point of origin as shown on the through international air waybill.

[3] Supra, footnote 2.

[4] This argument is without merit. The fee is a matter separate and apart from the rates. The fee is assessed for the performing of a service over and above the carriage of traffic.

[5] See, for example, pt. 222 of the Board's Economic Regulations and Orders E-21744 and E-21960, dated Feb. 1, 1965, and Mar. 29, 1965, respectively.

charges for line haul services by surface and by air rendered under substantially similar conditions and circumstances.[6]

Similarly, as to the provisions of the resolution apparently imposing the fee for collecting amounts for services rendered by nonmembers (non-IATA carriers) after departure, but not for members, it is not clear that services would be rendered on behalf of nonmembers after departure since nonmembers would participate in the transportation after departure only where they have interline arrangements with an IATA carrier. To make it clear, however, that different standards cannot be approved with respect to the application of the fee for services rendered on behalf of a nonmember than on behalf of a member, our approval herein will be subject to the provision that it shall not be construed to approve differences in application of the fee to members and nonmembers where the services after departure are rendered under substantially similar circumstances and conditions.

Resolution 512b (Air cargo rates—airport-to-airport). This resolution, as indicated in Order E–22557, combines, expands, and clarifies provisions in previously existing resolutions with respect to application of cargo rates, transit charges, and terminal charges and makes them applicable on a worldwide basis. In general terms, this resolution defines the services which may be included under the airport-to-airport cargo rate and conversely requires that services not so defined shall be charged to shippers or consignees as applicable. AFFA has requested that the Board reconsider its approval of this resolution, particularly the provisions contained in paragraphs 2(j) and 2(m).

Paragraph 2(j) permits storage under the airport-to-airport rate of a consignment after arrival at destination airport, and prior to customs clearance for a period not exceeding 48 hours. The 48-hour period begins 8 a.m. of the day following the day of arrival and excludes 2-day weekends and holidays.

AFFA had contended that the 48-hour limitation was unduly burdensome and requested that a reservation be placed on approval of applicable provisions so as to require, in effect, that warehousing accorded a consignment under the airport-to-airport rate conform with local customs practices. AFFA, in an elaboration on its earlier comments, contends that by the very nature of forwarders' operations, this limitation places a greater burden upon them than upon the public at large, and hence, has a discriminatory effect upon them. AFFA argues it is common practice in every country for the receiving forwarder or forwarder's agent to deliver to the various importers' brokers all accompanying documents needed to complete customs formalities, that in many countries charges due the forwarder from the importer are made in full before delivery of the documents, and that, from that time on, the disposition is entirely in the broker's hands. It is further alleged that in most jurisdictions forwarders are not permitted to have customs-bonded facilities, hence removal of the goods to forwarder facilities is not possible before customs clearance. It is AFFA's conclusion that the forwarders will be held accountable for charges incurred through no fault of their own. Moreover, AFFA alleges that present U.S. Customs regulations require uncleared goods to remain in the carrier's facilities for not more than 5 days and that, thereafter, goods are required to be moved to a public warehouse where they are stored under bond at the importer's expense.

We do not find that these arguments support a reversal of or a condition on the Board's approval of the provisions of paragraph 2(j). The resolution permits flexibility where circumstances at airports warrant a relaxation, and permits the carriers, by local agreement, to exceed the 48-hour limitation. These provisions are not new. These provisions which are now proposed for worldwide application are the same as were previously approved for application within the United States and Europe.[7] In the circumstances described by AFFA, whereby disposition of the freight moves to the control of the importer's broker, the premise of the argument appears to be that no charge should be imposed for holding forwarder traffic when it is not under the forwarder's control. The direct carrier's arrangement is with the forwarder, not the ultimate importer or importer's broker. The fact that the traffic may not be moved without delay through no fault of the forwarder does not make unreasonable a charge for additional warehousing. Neither do charges under these circumstances constitute discrimination against forwarders or forwarders' traffic.[8]

Paragraph 2(m) requires that a consignment be released in its entirety under the airport-to-airport rate. Conversely, it requires the imposition of a charge, determined locally, for the release of a consignment in parts. AFFA had contended that the provision would serve as a restraint on the free flow of international trade and urged that a condition be imposed excluding forwarders, brokers, or forwarders' agents from the application of these provisions. The Board found the provisions, which would require additional charges for the partial release of consignments, consistent with its policy with respect to assembly and distribution service.

AFFA, in elaborating on its earlier comments, contends that the effect of this restriction will result in the destruction of the value of consolidation service, and that the forwarder will be precluded from carrying out consolidation service for which he is especially certified by the Board. It is asserted that the function here involved is not the same as distribution, but rather one of "breakbulk" carried out by forwarders and brokers, not carriers. AFFA cites several examples to show that it would be most difficult to release the consignment in its entirety at once, at least without discrimination against some shippers. AFFA cites instances where the carrier lacks capability to ship the total consignment at once with the result that the last part will not be received until sometime later, explains that the documentation of all importers receiving goods in a given consignment may not be in order, and argues that with different brokers serving different importers, it is inconceivable that a total consignment could be released at once.

For the most part, the examples cited by AFFA reflect requirements for physical handling and distribution by carriers at destination of parts of consignments which are not required where a single shipment is delivered to one consignee at one time. We take cognizance of AFFA's contention that in many countries it is the practice for forwarders to deliver to the various importers' brokers all accompanying documents needed to clear customs and that, from that time on, the disposition of the freight is in the hands of the brokers, not the forwarders. Presumably, the brokers individually take delivery from the carriers of portions of the consignment for their respective importers. In this situation, it is the direct carriers which are performing some of the "breakbulk" service for forwarders.[9] By consolidating traffic received from various customers, the forwarders are enabled to utilize the lower unit rates applicable to large size shipments. To the extent, however, that such consolidation requires additional services upon the part of the direct carrier over and above what would be involved in the delivery of a single shipment to one consignee at one time and place, additional charges should be imposed. The performance of "breakbulk" services, as AFFA has characterized them in examples cited, requires separate delivery of parts of consignments by the carriers. The Board has

[6] The finding that line haul services by truck are substantially similar to services by air over the same points as to require no difference in the application of the fee for collection of transportation charges therefor does not require the conclusion that in all situations, carriage by air and by surface cannot be distinguished for the purpose of justifying different treatment. Our findings herein are grounded upon the basis that for the purpose of application of the collection fee for transportation charges for prior carriage, there is no difference between the modes of transportation which would justify a different treatment.

[7] An IATA agreement recently filed with the Board permits warehousing within the United States for a period of 5 days under the airport-to-airport rate.

[8] An "International Air Freight Forwarder," in the ordinary and usual course of its undertaking, assembles and consolidates or provides for assembling and consolidating of property or performs or provides for the performance of breakbulk and distributing operations with respect to consolidated shipments, or both, is responsible for the transportation of such property from the point of receipt to point of destination, and utilizes for the whole or any part of such transportation the services of a direct air carrier (§ 297.2, Economic Regulations).

[9] Supra, footnote 8.

previously found added charges for such services to be appropriate.[10]

AFFA makes reference to a situation where a carrier is unable to ship all of a consignment at one time. It objects to being required to await the delivery of the balance of the shipment or pay a charge for the release of a portion of a shipment, where only a part thereof is available for delivery. There is no indication of the extent to which this situation might arise, or that it was the purpose of the resolution to impose charges under these circumstances. No sound basis appears, however, for imposing a charge in this situation. The order will therefore contain a provision that approval of the resolution shall not be construed to extend to the imposition of charges for partial delivery, when a portion of a shipment is delayed or lost, with or without fault, while in the hands of the carrier.

Accordingly, we reaffirm our approval of this resolution, subject to the additional condition noted.

Resolution 513 (Charges for mixed consignments). This resolution, proposed for worldwide application, requires that a consignment consisting of different commodities, which do not qualify for the same rate and conditions, shall be charged for on the basis of the general cargo rate, provided that: (1) When the weight and contents of each package are declared separately, the appropriate rate for the weight of each may be charged, and the weight of the packaging of the consignment, or part thereof, shall be charged for on the basis of the highest rated article therein; and (2) when two or more packages come under the same rate and conditions, except for the individual weights, the charges for such packages shall be based on their total weight.

AFFA has asserted that the resolution is ambiguous and confusing, contending that if packaging does not include containers, it would be impractical to determine net and tare weights of individual parcels, and that different charges would be imposed for the same weight of packaging materials. AFFA, therefore, urges that the Board condition its approval of the resolution to the effect that "packaging," as used in the resolution, shall not be construed as including containers registered and approved under Resolution 521, and that shipments wholly or partially tendered to the members in registered containers shall not be considered as "mixed consignments."

We will herein approve this resolution without condition. While the resolution to some degree modifies the condition for rating mixed shipments in some areas, it does not appear that the rule will cause any significant changes in the overall level of rates for mixed shipments. Specific commodity rates are special rates generally below the general cargo rate level. The carriers have in their discretion prescribed the terms and conditions for combining the rates for shipments of differently rated specific commodities. There are no factors here before the Board requiring disapproval of the carriers' terms.

IATA provisions governing use of containers state the conditions under which the weight of containers will or will not be included in the assessment of charges. Although the carriers have clarified that packaging is definitely intended to include IATA registered containers, the language of the resolution as it relates to packaging is not as clear as would be desired. Packaging is not explicitly defined to mean outside containers and to exclude the wrapping of individual parcels. This, however, is not a basis for imposing the condition requested by AFFA. Such condition could be construed to remove the tare weight of IATA registered containers from any charge. Moreover, the rule as published in the tariffs must be specific and conform with Part 221 of the Board's Economic Regulations.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Federal Aviation Act of 1958, makes the following findings:

1. The Board does not find Resolutions 509 and 513, as contained in Agreement CAB 18375, R–20 and R–23, respectively, to be adverse to the public interest or in violation of the Act, provided that approval of Resolution 509 shall be subject to the conditions hereinafter ordered.

2. The Board finds it to be in the public interest to modify its outstanding approval in Order E–22557, of Resolution 512b, contained in Agreement 18375, R–21, so as to include the additional condition as hereinafter ordered.

Accordingly, it is ordered:

1. That Agreement CAB 18375, R–20 (Resolution 509) is approved provided that (a) such approval shall not be construed to approve differences in the application of the fee to amounts collected for transportation charges for line haul services by surface and by air rendered under substantially similar conditions and circumstances, and (b) such approval shall not be construed to approve differences in application of the fee to amounts collected for members and nonmembers (non-IATA carriers) where the services after departure are rendered under substantially similar circumstances and conditions.

2. That the Board's outstanding approval of Agreement CAB 18375, R–21 (Resolution 512b) as set forth in Order E–22557 is reaffirmed, but modified to include the following additional proviso: That approval of provisions of paragraph 2(m) shall not extend to the imposition of charges for partial delivery, where partial delivery of a shipment is requested at a time when full delivery cannot be made because a portion of the shipment is delayed or lost, with or without fault, while in the hands of the carrier.

3. That Agreement CAB 18375, R–23 (Resolution 513) is approved.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

List of carriers concurring in statement on behalf of Pan American and TWA:
Air Canada.
Air France.
Alitalia—Linee Aeree Italiane, S.p.A.
Braniff Airways, Inc.
Canadian Pacific Air Lines, Ltd.
Delta Air Lines, Inc.
Eastern Air Lines, Inc.
El Al Israel Airlines, Ltd.
S.A. Empresa de Viacao Aerea Rio Grandense (VARIG).
Japan Air Lines Co., Ltd.
KLM Royal Dutch Airlines.
Northwest Airlines, Inc.
Pan American Grace Airways, Inc.
Scandinavian Airlines System.
Societe Anonyme Belge d'Exploitation de la Navigation Aerienne (SABENA).
SWISSAIR, Swiss Air Transport Co. Ltd.

[F.R. Doc. 65–13122; Filed, Dec. 7, 1965; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 16306–16309; FCC 65M–1567]

K-SIX TELEVISION, INC. (KVER), AND SOUTHWESTERN OPERATING CO. (KGNS–TV)

Order Scheduling Hearing

In re applications of K-Six Television, Inc. (KVER), Laredo, Tex., for construction permit for new television broadcast station, Docket No. 16306, File No. BPCT-3304, and for modification of construction permit, Docket No. 16307, File No. BMPCT–6153; and Southwestern Operating Co. (KGNS–TV), Laredo, Tex., for renewal of license, Docket No. 16308, File No. BRCT–503, and for construction permit to make changes, Docket No. 16309, File No. BPCT–3472:

It is ordered, This 3d day of December 1965, that Elizabeth C. Smith shall serve as Presiding Officer in the above-entitled proceeding; that the hearings therein shall be convened on January 17, 1966, 10 am.; and that a prehearing conference shall be held on December 29, 1965, commencing at 10 a.m.: *And, it is further ordered,* That all proceedings shall be held in the offices of the Commission, Washington, D.C.

Released: December 3, 1965.

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

[F.R. Doc. 65–13136; Filed, Dec. 7, 1965; 8:48 a.m.]

[10] The model rules adopted by the Board, in Investigation-Accumulation, Assembly, and Distr. Rules, 12 CAB 337, 345–6 (1950) in defining distribution service included the provision that the carrier will segregate the parts of the shipment at its destination, where the carrier will deliver all of the parts to the consignee or consignees. The Board stated in its decision therein: "To the extent that shipments moving under the rules require services additional to those received by shipments not moving under these rules, the accessorial charges for the service must be reasonably compensatory" (p. 342).

BROADCAST LICENSE RENEWAL APPLICATIONS

Notice of Forfeitures To Be Levied on Late Filers

DECEMBER 2, 1965.

The Commission announces that, starting with the broadcast station license renewal applications due to be filed by March 1, 1966, it has instructed the Broadcast Bureau to bring to its attention all instances in which broadcast licensees fail to make timely filing of their license renewal applications in accordance with the Commission's rules.

Except in cases where delay is found to be justified, the Commission intends to levy forfeitures for late filing.

This step is being taken in order to facilitate and expedite the processing of broadcast renewal applications, 300 to 400 of which expire every 2 months on a staggered plan based on geographical areas. The late filing of renewal applications has added needless burdens on the prompt and orderly processing of these applications.

The Commission urges all broadcasters to take all possible steps to insure that they file their renewal applications on time, so as to allow the full 90-day interval for the completion of processing prior to expiration of the current license terms.

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

[F.R. Doc. 65-13137; Filed, Dec. 7, 1965; 8:48 a.m.]

FEDERAL MARITIME COMMISSION

TORM TRAMPING CO. A/S AND ODNAMRA SHIPPING CORP.

Notice of Agreement Filed for Approval

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

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

Notice of agreement filed for approval by:

Mr. Armando de Peralta, President, Peralta Shipping Corp., 85 Broad Street, New York, N.Y., 10004.

Agreement 9512, between Torm Tramping Co. A/S and Odnamra Shipping Corp., provides for the establishment of a joint service to operate under the trade name of "Peralta Line", between Canadian and U.S. Atlantic ports and U.S. Gulf ports on the one hand and ports of the United Kingdom and the Bordeaux/Hamburg Range on the other.

The agreement also provides for the joint service to (1) act as a single member of conferences, pooling arrangements or other agreements that may operate in, or affect, the whole or any portion of the trades covered and for its representation by Peralta Shipping Corp.; (2) establish rates, charges and practices in trades not covered by any conference of which the joint service is a member; (3) cooperate in supplying tonnage and sailings; (4) share in expenses, profits and losses based on percentages specified therein, and (5) terminate the agreement upon 6 months' written notice by one party to the other, to Peralta Shipping Corp., General Agents and the Commission.

Dated: December 3, 1965.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 65-13125; Filed, Dec. 7, 1965; 8:47 a.m.]

SEATRAIN LINES, INC., AND ATLANTTRAFIK EXPRESS SERVICE

Notice of Agreement Filed for Approval

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

Interested parties may inspect and obtain a copy of the agreement at the Washington Office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. Harvey M. Flitter, Assistant Traffic Manager, Seatrain Lines, Inc., 595 River Road, Edgewater, N.J.

Agreement 9513, between Seatrain Lines, Inc., and Atlanttrafik Express Service, provides for the establishment of a transshipping arrangement between the carriers on the movement of controlled temperature cargo in the trade from loading ports in Australia to ports in Puerto Rico with transshipment at the port of New York, N.Y., under terms and conditions set forth in the agreement.

Dated: December 3, 1965.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 65-13126; Filed, Dec. 7, 1965; 8:47 a.m.]

INDEPENDENT OCEAN FREIGHT FORWARDER APPLICATIONS

Notice of Revisions

Notice is hereby given of changes in the following applications for independent ocean freight forwarder licenses filed pursuant to section 44, Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

GRANDFATHER APPLICANTS

Philippine Forwarding Co., Inc., 150 Nassau Street, New York, N.Y.; Application No. 615, withdrawn November 3, 1965.

NEW APPLICANT

Mr. Reginald William Winter, 426 South Spring Street, Room 409, Los Angeles, Calif.; Application, withdrawn November 3, 1965.

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission, applications for licenses as independent ocean freight forwarders, pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Domestic Regulation, Federal Maritime Commission, Washington, D.C., 20573. Protests received within 60 days from the date of publication of this notice in the FEDERAL REGISTER will be considered.

Span International, Inc., 210 Harvey Street (mailing address), Lincroft, N.J.; David A. Jones, president; Alvin R. Abadie, vice president; Merlin A. Paddock, treasurer.

Eastern Freight Forwarders, Inc., First National Bank Building, Room 420, Mobile, Ala.; M. Woodrow Myers, president; Max Harrison, vice president; Harry D. Hardy, secretary.

Phil Thomas & Son International (Felician E. Tomaszewski, d.b.a.), Monadnock Building, 53 West Jackson Boulevard, Chicago, Ill.; Phil Thomas, proprietor.

Notice is hereby given of changes in the following independent ocean freight forwarder licenses.

ADDRESS CHANGES

H. G. Ollendorff, Inc., 10-15-25 44th Avenue, Long Island City, N.Y.; License No. 281.

Milton C. Merion, 145 Montgomery Avenue, Post Office Box 8, Bala Cynwyd, Pa.; License No. 936.

Schenkers International Forwarders, Inc. (Branch), 1102 World Trade Center, Houston, Tex.; License No. 911.

World-Wide Services, Inc. (Branch), TWA Hangar, Philadelphia International Airport, Philadelphia, Pa.; License No. 480.

J. S. Lipinski Co. (Branch), Post Office Box 48-913, Miami International Airport, Miami, Fla.; License No. 127.

CHANGE OF NAME

American Customs Brokerage Co., to American Customs Brokerage, Inc., Post Office Box 261, 235 South Queen Street, Honolulu, Hawaii; License No. 944.

The Doran Co. (Doran M. Wood, d.b.a), to .Doranco, Inc., Pier 2, Berth 54, Long Beach, Calif.; License No. 1044.

CHANGE OF OFFICERS

Barr Shipping Co., Inc., 52 Broadway, New York, N.Y.; License No. 4; Robert Purcell, treasurer; Robert O'Neil, vice president.

Bevon International, Inc., 196 East Bay Street, Charleston, S.C.; License No. 1056; M. H. Mikell, Jr., assistant secretary.

The Peninsular & Occidental Steamship Co., Pier No. 2, Post Office Box 1349, Miami, Fla.; License No. 675; A. R. MacMannis, president and director; Frank H. Kenan, executive vice president and director; Lawrence Lewis, Jr., vice president and director; K. A. Osborne, vice president, general manager, and director; Edward P. Pfaff, Jr., comptroller and director; W. E. Smith, secretary; George Cordwell, assistant secretary; William C. Steel, assistant secretary; Mrs. M. W. Rockafellow, assistant treasurer; Harold B. Wahl, director and general solicitor; James G. Kenan, director.

GRANDFATHERS LICENSED

November 1965

Afro-Asian Forwarding Co., Inc., 20 Pearl Street, New York, N.Y.; License No. 473, Issued November 16, 1965.

Hasman & Baxt, Inc., 39 Broadway, New York, N.Y.; License No. 766, Issued November 17, 1965.

LATE AND NONLICENSED

November 1965

Traffic Dynamics, Inc., McKees Rocks Industrial Enterprises, McKees Rocks, Pa.; License No. 1098, Issued November 3, 1965.

Gulf Port Forwarding Co., Inc., 1510 Avenue H, Lubbock, Tex.; License No. 1099, Issued November 12, 1965.

Universal Van Lines, Inc., 117 West Virginia Beach Boulevard, Norfolk, Va.; License No. 1100, Issued November 12, 1965.

International Export Packers, Inc., 631 South Pickett Street, Alexandria, Va.; License No. 1101, Issued November 30, 1965.

Union Steamship Co. of New Zealand, Ltd., 230 California Street, San Francisco, Calif.; License No. 1102, Issued November 22, 1965.

Dated December 2, 1965.

THOMAS LISI,
Secretary.

[F.R. Doc. 65-13127; Filed, Dec. 7, 1965; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. RI66-177, etc.]

SINCLAIR OIL & GAS CO. ET AL.

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

NOVEMBER 26, 1965.

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

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

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

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

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before January 12, 1966.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effect date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
R166-177	Sinclair Oil & Gas Co. (Operator), et al., Post Office Box 521, Tulsa, Okla., 74102.	93	3	Natural Gas Pipeline Co. of America (North Spearman Field, Hansford County, Tex.) (R.R. District No. 10).	$1,520	11-1-65	[2] 12-2-65	5-2-66	[3] [4] 16.0	[3] [5] 17.0	
	do	94	9	Northern Natural Gas Co. (Elmwood Field, Beaver County, Okla.) (Oklahoma Panhandle Area).	6,886	11-1-65	[2] 12-2-65	5-2-66	[3] [6] 16.995	[3] [7] [8] 18.128	
R166-178	do	86	6	Natural Gas Pipeline Co. of America (Quinduno Field, Roberts County, Tex.) (R.R. District No. 10).	7,137	11-1-65	[2] 12-2-65	5-2-66	[3] [6] 12.0	[3] [4] [6] 13.0	
	do	135	6	Northern Natural Gas Co. (North Harper Ranch Field, Clark County, Kans.).	4,134	11-1-65	[2] 12-2-65	5-2-66	[3] [4] 15.0	[3] [4] [5] 16.0	
	do	152	3	Colorado Interstate Gas Co. (Mocane Field, Beaver County, Okla.) (Panhandle Area).	3,170	11-1-65	[2] 12-2-65	5-2-66	[3] [6] 16.905	[3] [7] [8] 18.032	
R166-179	Dunn and Kimberlin, 1241 Dallas Athletic Club Bldg., Dallas, Tex., 75201.	1	5	Panhandle Eastern Pipe Line Co. (Moore County, Tex.) (R.R. District No. 10).	1,103	11-4-65	[10] 12-5-65	5-5-66	11.0	[3] [6] 12.0	
R166-180	Pan American Petroleum Corp., Post Office Box 3092, Houston, Tex., 77001.	287	2	Valley Gas Transmission, Inc. (South Oakville Field, Live Oak County, Tex.) (R.R. District No. 2).	8,075	11-4-65	[9] 1-21-66	6-21-66	[11] 14.0	[3] [6] [11] 15.0	

[2] The stated effective date is the effective date requested by Respondent.
[3] Periodic rate increase.
[4] Pressure base is 14.65 p.s.i.a.
[5] Subject to a downward B.t.u. adjustment.
[6] Settlement rate in Sinclair's company-wide settlement in Docket Nos. G-9291, et al. Moratorium on increased rates expired Sept. 1, 1965.
[7] Periodic increase plus proportional upward B.t.u. adjustment.
[8] Includes base rate of 16.0 cents per Mcf plus upward B.t.u. adjustment. Base rate also subject to downward B.t.u. adjustment.
[9] Settlement rate includes 15.0 cents per Mcf base rate plus upward B.t.u. adjustment. Total rate not to exceed 17.0 cents per Mcf. Base rate also subject to downward B.t.u. adjustment.
[10] The stated effective date is the first day after expiration of the required statutory notice.
[11] Subject to downward B.t.u. price adjustment for gas having a heating content of less than 1,000 B.t.u.'s per cubic foot.

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

Dunn and Kimberlin request that their proposed rate increase be permitted to become effective as of December 1, 1965. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit an earlier effective date for Dunn and Kimberlin's rate filing and such request is denied.

All of the proposed increased rates and charges exceed the applicable area price level for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR Ch. I, Part 2, § 2.56).

[F.R. Doc. 65-13037; Filed, Dec. 7, 1965; 8:45 a.m.]

[Docket Nos. CP66-55, RP66-18]

TENNESSEE GAS TRANSMISSION CO.

Findings and Order After Statutory Hearing

NOVEMBER 30, 1965.

On August 19, 1965, Tennessee Gas Transmission Co. (Tennessee), filed in Docket No. CP66-55 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 natural gas to Pennsylvania Gas and Water Co. (Penn Gas and Water) under a proposed initial Rate Schedule SS-E providing for a natural gas storage service, all as more fully set forth in the application.

Due notice of the application was published in the FEDERAL REGISTER on September 2, 1965 (30 F.R. 11294).

On September 23, 1965, a joint petition to intervene herein was filed by United Fuel Gas Co., The Manufacturers Light and Heat Co. and The Ohio Fuel Gas Co. (Petitioners). Petitioners state in the petition to intervene that a formal hearing is not requested and no objection is raised to the disposition of the proceeding under the Commission's shortened procedure method, provided the Commission incorporates conditions in the certificate order to provide that Tennessee shall not, in any rate proceeding, assess against any other class of service any deficiency in revenues under its Rate Schedule SS-E below the cost of service associated therewith and that appropriate costs of all facilities properly allocable to SS-E deliveries shall be subject to investigation and determination in a rate case or rate determination proceeding. Tennessee proposed an alternate condition, which is acceptable to Petitioners, providing (1) that the grant of the certificate requested shall not constitute a determination of the reasonableness or propriety of the rate or the form of the rate Tennessee will charge in connection with the proposed service and shall not be construed as a waiver of any of the requirements of section 4 of the Natural Gas Act, or of section 154 of the Commission's rules and regulations, with respect to the service in question, and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against Tennessee; and (2) that Commission action in this proceeding shall not foreclose nor prejudice any future proceeding or objection relating to the rate to be charged for the service herein authorized, or any position any customer of Tennessee may hereafter take with respect to the proper distribution or allocation of Tennessee's costs and expenses in a future proceeding.

On November 5, 1965, Tennessee filed a letter supplementing its application which stated that:

(1) The proposed SS-E storage service offered to Penn Gas and Water would be available to all of Tennessee's customers in Zones 4 and 5,

(2) The proposed SS-E rate was necessary in order to provide firm winter storage service to Penn Gas and Water because Penn Gas and Water could not qualify for the existing SS-5 service, and

(3) No other existing rate schedule providing winter storage service is available to adequately service Penn Gas and Water.

Tennessee seeks authorization to render a natural gas storage service to Penn Gas and Water and for the delivery of a Daily Storage Quantity of 13,500 Mcf and a Winter Storage Quantity of 1,012,500 Mcf (at 15.025 psia). No additional facilities will be required because a portion of the unallocated maximum day capacity authorized at Docket No. CP65-120 will be utilized and deliveries will be made at the existing point of delivery to Penn Gas and Water.

The service will be rendered at a monthly charge composed of (a) Deliverability Charge of $1.85 times the Daily Storage Quantity, (b) Space Charge of 0.8 cent times the Winter Storage Quantity and (c) 0.5 cent per Mcf injected into or withdrawn from storage; plus a commodity charge of 27.34 cents in the Northern rate zone and 30.84 cents in the New York rate zone per Mcf delivered.

Tennessee further proposes to reduce Penn Gas and Water's existing peak-day contract demand to 24,990 Mcf, a reduction of 4,192 Mcf from the existing contract demand.

Rate Schedule SS-5 makes available to existing contract demand customers in Tennessee's New York rate zone (Zone 5) firm deliveries, during each year's November 1-April 30 withdrawal period, of daily volumes of gas up to a specified Daily Storage Quantity, with total volumes to be delivered during the withdraw period (Winter Storage Quantity) limited to 90 times the Daily Storage Quantity.

Tennessee proposes the new SS-E Schedule primarily to make available to Penn Gas and Water, an existing customer located in Tennessee's Northern Zone (Zone 4), a similar type of storage service now available only to Tennessee's Zone 5 customers under Rate Schedule SS-5. However, Tennessee offers to make the SS-E rate available in Zones 4 and 5, with increased commodity charges applicable in Zone 5. It appears that, if the proposed rate schedule were available only to a single customer, the rate schedule would be discriminatory and unduy preferential in violation of section 4(b) of the Natural Gas Act. We will therefore condition the issuance of this certificate upon the requirement that the new SS-E Rate Schedule be made available in both Zones 4 and 5, with the difference in commodity charges between Zones 4 and 5, as indicated above.

It appears that the terms of Rate Schedule SS-E are more advantageous to Tennessee's customers than the terms of Tennessee's existing Rate Schedule SS-5 and, therefore, it can be presumed that Tennessee's customers currently receiving service under Rate Schedule SS-5 will avail themselves of the new service. The dual rate structure will be allowed to continue for 1 year only in order to permit Penn Gas and Water to receive the service it urgently needs during the coming heating season. However, we are providing in this order for proceedings to be held in Docket No. RP66-18, being instituted herein, at which time Tennessee shall show that the proposed rate schedule is compensatory and that the rate schedule properly allocates to each zone its fair share of the cost of service.

After due notice, no petition to intervene, other than that of United Fuel Gas Co. et al., notice of intervention, or protest to the granting of the application has been filed.

At a hearing held on November 26, 1965, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application submitted in support of the authorization, and upon consideration thereof the Commission, in the light of the previous discussion, finds that a certificate should be issued as hereinafter ordered and conditioned.

The Commission further finds:

(1) Tennessee Gas Transmission Co., a Delaware corporation, having its principal place of business in Houston, Tex., is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of July 15, 1947, in Docket No. G-910 (6 FPC 777).

(2) The proposed sale and delivery of natural gas, as hereinbefore described and as more fully described in the application in this proceeding, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) The aforesaid proposed sale and delivery of natural gas are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued herein and the rights granted hereunder be conditioned upon Tennessee's compliance with all applicable Commission regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a) and (e) of § 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Tennessee Gas Transmission Co., authorizing the sale and delivery of natural gas as described above and as more fully described in the application and filings in this proceeding, subject to the jurisdiction of the Commission, upon the terms and conditions of this order. The certificate shall be effective for a period of 1 year from the date of issuance of this order.

(B) The grant of the certificate herein shall not constitute a determination of the reasonableness or propriety of the rate Applicant proposes to charge in connection with the service herein authorized, or of the form or forms thereof, and shall not be construed as a waiver of any of the requirements of section 4 of the Natural Gas Act or of section 154 of the Commission's rules and regulations with respect to the service herein authorized, and is without prejudice to any findings or orders which have been, or may hereafter be, made by the Commission in any proceeding now pending or hereafter instituted by or against the Applicant. Further, our action in this proceeding shall not foreclose nor prejudice any future proceeding or objection relating to the rate to be charged for the service herein authorized, or any position any customer of Applicant may hereafter take with respect to the proper distribution or allocation of Applicant's cost and expenses in any proceeding where such distribution or allocation is in issue in determining the respective rates to be charged by Applicant for the various types and classifications of service rendered by it.

(C) Tennessee is hereby authorized to place into effect Rate Schedule SS–E for a period of 1 year or until otherwise authorized by the Commission in subsequent proceedings.

(D) Tennessee shall make its Rate Schedule SS–E available to all of its present customers in its Zones 4 and 5 who now purchase gas under Tennessee's SS–5 Rate Schedule.

(E) Tennessee's existing peak-day contract demand service to Pennsylvania is reduced to 24,990 Mcf.

(F) In the near future a hearing will be held in this docket at which time Tennessee shall be required to demonstrate that its SS–E Rate Schedule is compensatory and bears its fair share of Tennessee's cost of service.

(G) Tennessee shall make appropriate tariff filings for the service authorized herein in a form acceptable to the Commission.

(H) On or before February 7, 1966, Tennessee shall file its evidence in Docket No. RP66–18 to support the rates contained in Rate Schedule SS–E as being compensatory and as bearing their fair share of the cost of service for each zone.

(I) On March 7, 1966, a prehearing conference will be held at 10 a.m. e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., 20426, for the purpose of delineating issues, stipulating facts, and, if necessary, of setting dates for the filing of evidence by other parties and rebuttal evidence by Tennessee.

(J) Interventions in Docket No. RP66–18 shall be filed on or before January 14, 1966.

(K) The certificate issued herein and the rights granted hereunder are conditioned upon Applicant's compliance with all applicable Commission regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a) and (e) of § 157.20 of such regulations.

By the Commission.

[SEAL] GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 65–13099; Filed, Dec. 7, 1965; 8:46 a.m.]

[Docket No. CP66–160]

TENNESSEE GAS TRANSMISSION CO.

Notice of Application

NOVEMBER 30, 1965.

Take notice that on November 22, 1965, Tennessee Gas Transmission Co. (Applicant), Post Office Box 2511, Houston, Tex., 77001, filed in Docket No. CP66–160 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition by purchase of 24 miles of 16-inch pipeline presently owned by Socony Mobil Oil Co., Inc. (Socony). Applicant further requests authorization to operate in interstate commerce 8.6 miles of 16-inch pipeline, which pipeline is presently owned by Applicant and used only in the intrastate transportation of natural gas. The proposal involved is more fully set forth in the aforementioned application which is on file with the Commission and open to public inspection.

Applicant states that the entire 32.6 miles of 16-inch pipeline involved in the instant application was constructed in 1960 for the purpose of taking natural gas owned by Socony from the Second Bayou Field, Cameron Parish, La., into Applicant's system. Ownership of the line was divided. Socony owned 24 miles and Applicant 8.6 miles. The natural gas was sold and delivered pursuant to two industrial gas purchase and sales contracts between the parties.

The application states that the industrial contracts have been canceled and conventional gas purchase contracts have been signed and that the parties have agreed that Applicant should own and operate the entire 32.6 miles of pipeline. Pursuant to an agreement dated August 16, 1965, Applicant has agreed to pay to Socony the depreciated net book value of Socony's portion of the line (as of September 1, 1965, said value was $1,051,410).

Applicant states that the remaining recoverable natural gas reserves in the Second Bayou Field are estimated to be approximately 340,000 MMcf.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the natural Gas Act (§ 157.10) on or before December 22, 1965.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 65–13100; Filed, Dec. 7, 1965; 8:46 a.m.]

[Docket No. E–7258]

EL PASO ELECTRIC CO.

Notice of Application

DECEMBER 1, 1965.

Take notice that on November 26, 1965, El Paso Electric Co. (Applicant), filed an application with the Federal Power Commission, pursuant to section 204 of the Federal Power Act, seeking an order authorizing the issuance of short-term Promissory Notes in the aggregate principal amount of $12,000,000 outstanding at any one time.

Applicant is incorporated under the laws of the State of Texas and is qualified to carry on its business in the State of New Mexico with its principal place of business office at El Paso, Tex. The Applicant is engaged in the electric utility business and supplies electric energy at retail in 19 communities in Texas and 22 communities in New Mexico.

According to the application, the securities to be issued consist of Notes, each of a maturity not exceeding 12 months, to commercial banks and not for resale to the public. The total amount of the Notes outstanding at any one time will not exceed $12,000,000 and the Notes will have maturity dates not later than December 31, 1968. The Notes will bear interest at a rate per annum not in excess of ¼ of 1 percent of the prime rate in effect in New York City at the time of the borrowing or at the time of the renewal or extension of the loans as the case may be.

Applicant states that the proceeds from the Notes will be used, pending permanent financing together with other cash from operations, to reimburse the Company for its construction program contemplated and now in progress. Ac-

cording to the Applicant, its construction program for the remainder of the year 1965 and through 1968 will require approximately $36,690,000. The principal items in this program include $9.8 million for generating equipment, $9 million for transmission lines and substations, $900,000 for distribution substations, and $1.9 million for miscellaneous improvements to its system.

Any person desiring to be heard or to make any protest with reference to the application should on or before December 22, 1965, file with the Federal Power Commission, Washington, D.C., 20426, 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.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 65-13101; Filed, Dec. 7, 1965; 8:46 a.m.]

[Docket No. E-7254]

OTTER TAIL POWER CO.

Notice of Application

DECEMBER 1, 1965.

Take notice that on November 17, 1965, an application was filed with the Federal Power Commission pursuant to section 204 of the Federal Power Act by Otter Tail Power Co. (Applicant), a corporation organized under the laws of the State of Minnesota and authorized to do business in the States of North Dakota and South Dakota, with its principal business office in Fergus Falls, Minn., seeking an order authorizing the issuance of unsecured Promissory Notes of up to $10,000,000 aggregate face value.

The Promissory Notes will be payable to such bank or banks from which the Applicant may borrow funds, up to but not exceeding $10,000,000 face amount, at any one time outstanding during the period from January 1, 1966 to December 31, 1968. These notes will bear interest at a rate not exceeding 5½ percent per annum and will have a maturing date of 1 year or less.

The Applicant proposes to issue the notes for the purpose of renewing the Company's bank loans incurred and to be incurred in 1965 to finance temporarily the balances of the 1965 construction program and to provide funds to finance temporarily the Company's 1966-1968 construction program prior to arranging for long-term financing, thereby enabling the Company to most effectively plan such long-term financing and to control the timing thereof. The Applicant's construction program will require the expenditure of $7,497,000 in 1966, $4,387,000 in 1967 and $5,275,000 in 1968 for electric production, electric transmission line and substations, electric distribution, and for electric general and other utility expenses.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 17, 1965, file with the Federal Power Commission, Washington, D.C., 20426, 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.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 65-13102; Filed, Dec. 7, 1965; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3421]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

DECEMBER 2, 1965.

The common stock, 10 cents par value, of Continental Vending Machine Corp., being listed and registered on the American Stock Exchange and having unlisted trading privileges on the Philadelphia-Baltimore-Washington Stock Exchange, and the 6 percent convertible subordinated debentures due September 1, 1976, being listed and registered on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the American Stock Exchange, the Philadelphia-Baltimore-Washington Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period December 3, 1965, through December 12, 1965, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 65-13090; Filed, Dec. 7, 1965; 8:45 a.m.]

[File Nos. 7-2490—7-2495]

COLORADO FUEL AND IRON CORP. ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

DECEMBER 2, 1965.

In the matter of applications of the Detroit Stock Exchange for unlisted trading privileges in certain securities.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

Colorado Fuel & Iron Corp., File 7-2490; Fairchild Camera & Instrument Corp., File 7-2491; General Aniline & Film Corp., File 7-2492; Thiokol Chemical Corp., File 7-2493; U.S. Industries Inc., File 7-2494; Wolverine Shoe & Tanning Corp., File 7-2495.

Upon receipt of a request, on or before December 17, 1965 from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 65-13091; Filed, Dec. 7, 1965; 8:45 a.m.]

[File 7-2489]

McGRAW-HILL, INC.

Notice of Application of Unlisted Trading Privileges and of Opportunity for Hearing

DECEMBER 2, 1965.

In the matter of application of the Philadelphia - Baltimore - Washington Stock Exchange for unlisted trading privileges in a certain security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchanges: McGraw-Hill, Inc., File 7-2489.

Upon receipt of a request, on or before December 17, 1965, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said ap-

plication by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 65-13092; Filed, Dec. 7, 1965; 8:45 a.m.]

UNITED STATES INFORMATION AGENCY

[Public Notice 11; Delegation of Authority 21C]

GENERAL COUNSEL AND DEPUTY GENERAL COUNSEL

Domestic Tort Claims

Pursuant to section 2672 of Title 28 of the United States Code, I hereby delegate to the General Counsel and Deputy General Counsel, authority to consider, ascertain, adjust, determine, and settle any domestic tort claim for money damages of $2,500 or less in accordance with laws relating thereto and as provided in appropriate administrative instructions. This authority may not be redelegated to subordinate officials.

This delegation of authority is effective November 8, 1965, and supersedes Delegation of Authority No. 21A, dated September 9, 1955 (20 F.R. 6988).

LEONARD H. MARKS, *Director.*

[F.R. Doc. 65-13093; Filed, Dec. 7, 1965; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

DECEMBER 3, 1965.

Protests to the granting of an application must be prepared in accordance with § 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA 40160—*Joint motor-rail rates—Southern Motor Carriers.* Filed by Southern Motor Carriers Rate Conference, agent (No. 127), for interested carriers. Rates on property moving on class and commodity rates over joint routes of applicant rail and motor carriers, between points in southern territory, on the one hand, and points in middle Atlantic and New England territories, on the other.

Grounds for relief—Motor-truck competition.

Tariff—Supplement 14 to Southern Motor Carriers Rate Conference, agent, tariff MF-ICC 1361.

FSA 40161—*Newsprint paper to points in southern territory.* Filed by O. W. South, Jr., agent (No. A4804), for interested carriers. Rates on newsprint paper, in carloads, from Childersburg, Coosa Pines, and Mobile, Ala., to points in southern territory, also Ohio and Mississippi River crossings, Virginia cities gateway points and Washington, D.C.

Grounds for relief—Motor-truck competition.

Tariff—Supplement 9 to Southern Freight Association, agent, tariff ICC S-530.

By the Commission.

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

[F.R. Doc. 65-13117; Filed, Dec. 7, 1965; 8:47 a.m.]

[Notice 376]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

DECEMBER 3, 1965.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission, under the Commission's Deviation Rules Revised, 1957 (49 CFR 211.1(c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1(d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(e)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 4963 (Deviation No. 12), JONES MOTOR CO., INC., Spring City, Pa., filed November 24, 1965. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follow: (1) From Boston, Mass., over Interstate Highway 95 to Providence, R.I.; (2) from Providence, R.I., over Interstate Highway 95 to New York, N.Y.; (3) from New York, N.Y., over Interstate Highway 95 to Philadelphia, Pa.; (4) from Philadelphia, Pa., over Interstate Highway 95 to Wilmington, Del.; (5) from Wilmington, Del., over Interstate Highway 95 to Baltimore, Md.; (6) from Baltimore, Md., over Interstate Highway 95 to Washington, D.C.; (7) from Washington, D.C., over Interstate Highway 95 to junction Interstate Highway 85 near Petersburg, Va., thence over Interstate Highway 85 to High Point, N.C.; and (8) from High Point, N.C., over Interstate Highway 85 to Charlotte, N.C.; and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follow: (1) From Boston, Mass., over U.S. Highway 20 to Springfield, Mass., thence over U.S. Highway 5 to New Haven, Conn., thence over U.S. Highway 1 to New York, N.Y.; (2) from Boston, Mass., over U.S. Highway 1 to New Haven, Conn.; (3) from Philadelphia, Pa., over U.S. Highway 1 to New York, N.Y.; (4) from Roanoke, Va., over U.S. Highway 460 to Lynchburg, Va., thence over U.S. Highway 29 via Charlottesville, Va., to Washington, D.C., thence over U.S. Highway 1 to Baltimore, Md., thence over U.S. Highway 40 to junction U.S. Highway 13, thence over U.S. Highway 13 to Trenton, N.J., thence over U.S. Highway 1 to New York; and (5) from Roanoke, Va., over U.S. Highway 220 to Ridgeway, Va.

Thence over Virginia Highway 87 to the Virginia-North Carolina State line, thence over North Carolina Highway 87 to Reidsville, N.C., thence over U.S. Highway 29 to Greensboro, N.C.; thence over Alternate U.S. Highway 29 (formerly portion U.S. Highway 29) to High Point, N.C., thence over U.S. Highway 29 to junction Business Route U.S. Highway 29 (formerly portion U.S. Highway 29), thence over Business Route U.S. Highway 29 to Salisbury, N.C., thence over U.S. Highway 601 (formerly portion U.S. Highway 29) to junction U.S. Highway 29, thence over U.S. Highway 29 to Charlotte, N.C.; and return over the same routes.

No. MC 4963 (Deviation No. 13), JONES MOTOR CO., INC., Spring City, Pa., filed November 24, 1965. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between New York, N.Y., and Youngstown, Ohio, over Interstate Highway 80, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follow: (1) From York, Pa., over U.S. Highway 111 to Harrisburg, Pa., thence over U.S. Highway 322 to junction U.S. Highway 422, thence over U.S. Highway 422 to Reading, Pa., thence over U.S. Highway 222 to Allentown, Pa., thence over unnumbered highway (formerly U.S. Highway 22), via Butztown, Dryland and Wilson, Pa., to junction U.S. Highway 22, thence over U.S. Highway 22 to Newark, N.J.; (2) from Hanover, Pa., over Pennsylvania Highway 116 to junction U.S. Highway 30 (5 miles west of York), thence over U.S. Highway 30 to York, Pa., thence over U.S. Highway 111 to Harrisburg, Pa., thence over U.S. Highway 11 to Carlisle Toll Gate, thence over the Pennsylvania Turnpike to Irwin Toll Gate, thence over

U.S. Highway 30 to Pittsburgh, Pa.; and (3) from Pittsburgh, Pa., over U.S. Highway 30 to junction Ohio Highway 7, thence over Ohio Highway 7 to Youngstown, Ohio, thence over U.S. Highway 422 to Cleveland, Ohio; and return over the same routes.

No. MC 4963 (Deviation No. 14), JONES MOTOR CO., INC., Spring City, Pa., filed November 24, 1965. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between Canton, Ohio, and Wytheville, Va., over Interstate Highway 77, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follow: (1) From Pittsburgh, Pa., over U.S. Highway 19 to Portersville, Pa., thence over U.S. Highway 422 to Youngstown, Ohio, thence over Ohio Highway 18 to Akron, Ohio; (2) from Warren, Ohio, over Ohio Highway 45 to Salem, Ohio, thence over U.S. Highway 62 to Canton, Ohio; (3) from Pittsburgh, Pa., over Pennsylvania Highway 88 to Rochester, Pa., thence over Pennsylvania Highway 68 to junction Pennsylvania Highway 51, thence over Pennsylvania Highway 51 to the Pennsylvania-Ohio State line, thence over Ohio Highway 14 to Columbiana, Ohio, thence over Ohio Highway 46 to Canfield, Ohio, thence over U.S. Highway 224 to junction Ohio Highway 8, thence over Ohio Highway 8 to Akron, Ohio, thence over Ohio Highway 18 to Norwalk, Ohio, thence over U.S. Highway 20 to junction Ohio Highway 51 (formerly Business Route U.S. Highway 20), thence over Ohio Highway 51 to Toledo, Ohio, thence over U.S. Highway 24 to Flat Rock, Mich., thence over U.S. Highway 25 to Detroit, Mich., and thence over U.S. Highway 10 to Flint, Mich. (also from Toledo, Ohio, over U.S. Highway 23 to Flint; also from Flat Rock over U.S. Highway 24 to Pontiac, Mich., thence over U.S. Highway 10 to Flint); (4) from Hanover, Pa., over Pennsylvania Highway 116 to junction U.S. Highway 30 (5 miles west of York, Pa.).

Thence over U.S. Highway 30 to York, Pa., thence over U.S. Highway 111 to Harrisburg, Pa., thence over U.S. Highway 11 to Carlisle Toll Gate, thence over Pennsylvania Turnpike to Irwin Toll Gate, and thence over U.S. Highway 30 to Pittsburgh, Pa., (5) from Hanover, Pa., over Pennsylvania Highway 94 to Mt. Holly Springs, Pa., thence over Pennsylvania Highway 34 to Carlisle Toll Gate; (6) from Baltimore, Md., over U.S. Highway 140 to Reistertown, Md., thence over Maryland Highway 30 to the Maryland-Pennsylvania State line, thence over Pennsylvania Highway 94 to Hanover, Pa., thence over Pennsylvania Highway 116 to junction U.S. Highway 30, thence over U.S. Highway 30 to York, Pa.; (7) from Roanoke, Va., over U.S. Highway 11 via New Market, Va., to Stephens City, Va., thence over Virginia Highway 277 to junction U.S. Highway 340 (formerly Virginia Highway 12), thence over U.S. Highway 340 to junction U.S. Highway 50, thence over U.S. Highway 50 to Washington, D.C. (also from New Market, Va., over U.S. Highway 211 to Washington, D.C.), thence over U.S. Highway 1 to Baltimore, Md., thence over U.S. Highway 40 via the Delaware Memorial Bridge to Deepwater, N.J. (portion formerly shown via U.S. Highway 40 to Pennsville, N.J.), thence over U.S. Highway 130 to junction New Jersey Highway 44 (formerly portion U.S. Highway 130), thence over New Jersey Highway 44 via Paulsboro, N.J., to junction U.S. Highway 130, thence over U.S. Highway 130 to junction U.S. Highway 1, thence over U.S. Highway 1 to New York, N.Y.; and (8) from Roanoke, Va., over U.S. Highway 11 to Bristol, Tenn.; and return over the same routes.

No. MC 35484 (Deviation No. 17), VIKING FREIGHT COMPANY, 1525 South Broadway, St. Louis, Mo., 63104, filed November 19, 1965. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction Indian Nation Turnpike and U.S. Highway 69, north of Savanna, Okla., over Indian Nation Turnpike to junction U.S. Highway 75 at or near Henryetta, Okla., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) from junction U.S. Highways 66 and 75 at or near Sapulpa, Okla., over U.S. Highway 75 to Dallas, Tex., (2) from junction U.S. Highways 66 and 69 (at or near Vinita, Okla.), over U.S. Highway 69 to junction U.S. Highway 75 (at or near Atoka, Okla.); and (3) from St. Louis, Mo., over U.S. Highway 66 to Oklahoma City, Okla., and return over the same routes.

No. MC 42487 (Deviation No. 51), CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, Post Office Box 5138, Chicago, Ill., 60680, filed November 19, 1965. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Indianapolis, Ind. over Interstate Highway 70 to junction U.S. Highway 40 at or near Washington, Pa., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows:

(1) From Chicago, Ill., over U.S. Highway 41 to junction U.S. Highway 52, thence over U.S. Highway 52 to Indianapolis, Ind., thence over U.S. Highway 40 to junction U.S. Highway 35, thence over U.S. Highway 35 to junction U.S. Highway 127, and thence over U.S. Highway 127 to Cincinnati, Ohio, (2) from Cleveland, Ohio, over U.S. Highway 42 to Medina, Ohio, thence over Ohio Highway 3 to Columbus, Ohio, thence over U.S. Highway 40 to Lafayette, Ohio (also from Medina over U.S. Highway 42 to junction unnumbered highway (formerly portion U.S. Highway 42) near Lodi, Ohio), thence over unnumbered highway via Lodi to junction U.S. Highway 42, thence over U.S. Highway 42 to junction unnumbered highway (formerly portion U.S. Highway 42) thence over unnumbered highway via Ashland, Ohio, to junction U.S. Highway 42, thence over U.S. Highway 42 to Lafayette, thence over U.S. Highway 40 to Springfield, Ohio, thence over Ohio Highway 440 (formerly portion U.S. Highway 40) via Donnellsville, Phoneton, Vandalia, and Englewood, Ohio, to junction U.S. Highway 40 (near Clayton, Ohio) thence over U.S. Highway 40 to Indianapolis, Ind., and (3) from Philadelphia, Pa., over U.S. Highway 13 to junction U.S. Highway 40, thence over U.S. Highway 40 to St. Louis, Mo., and return over the same routes.

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Deviation No. 278) (Cancels No. MC 1501 Deviation No. 113), GREYHOUND LINES, INC. (SOUTHERN GREYHOUND LINES DIVISION), 219 East Short Street, Lexington, Ky., 40507, filed November 24, 1965. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage* and *express* and *newspapers*, in the same vehicle with passengers, over a deviation route as follows: From Henderson, N.C., over Interstate Highway 85 to junction U.S. Highway 1 northeast of South Hill, Va., and return over the same route; and over the following access route, from junction Interstate Highway 85 and U.S. Highway 58, over U.S. Highway 58 to South Hill, Va., and return over the same route; for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Richmond, Va., over U.S. Highway 1 via Petersburg and South Hill, Va., and Henderson, N.C., to Raleigh, N.C., and return over the same route.

No. MC 45626 (Deviation No. 20), VERMONT TRANSIT CO., INC., Burlington, Vt., 05402, filed November 22, 1965. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers*, in the same vehicle with passengers, over a deviation route as follows: Between Bellows Falls, Vt., and Ascutney, Vt., over Interstate Highway 91, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: Between Bellows Falls and Ascutney, Vt., over U.S. Highway 5.

No. MC 50026 (Deviation No. 5), ARKANSAS MOTOR COACHES LIMITED, INC., 100 East Markham, Little Rock, Ark., 72201, filed November 22, 1965. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express*, *mail* and *newspapers*, in the same vehicle with passengers, over a deviation route as follows: From junction U.S. Highway 67 and Interstate Highway 30, 2 miles south of Benton, Ark., over Interstate Highway 30 to junction U.S. Highway 270, and

thence over U.S. Highway 270 to Malvern, Ark., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the above-described property over a pertinent service route as follows: From Benton, Ark., over U.S. Highway 67 to junction Arkansas Highway 7 (5 miles north of Arkadelphia, Ark.), and return over the same route.

No. MC 61616 (Deviation No. 13), MIDWEST BUSLINES, INC., 433 West Washington Avenue, North Little Rock, Ark., filed November 22, 1965. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express, mail* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From junction U.S. Highway 67 and Interstate Highway 30, 2 miles south of Benton, Ark., over Interstate Highway 30 to junction U.S. Highway 270, thence over U.S. Highway 270 to Malvern, Ark., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From St. Louis over U.S. Highway 67 to Judsonia, Ark., thence over U.S. Highway 67 to junction U.S. Highway 67C, thence over U.S. Highway 67C to junction U.S. Highway 67, thence over U.S. Highway 67 to Maud, Tex., and return over the same route.

By the Commission.

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

[F.R. Doc. 65-13113; Filed, Dec. 7, 1965; 8:47 a.m.]

[Notice 852]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

DECEMBER 3, 1965.

The following publications are governed by the new Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 109478 (Sub-No. 87), filed November 26, 1965. Applicant: WORSTER MOTOR LINES, INC., East Main Road, Rural Delivery No. 1, North East, Pa. Applicant's representative: William W. Knox, 23 West 10th Street, Erie, Pa., 16501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned, prepared and preserved foodstuffs*, between points in Maine and Manchester, N.H., on the one hand, and, on the other, points in New York, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, and the District of Columbia.

HEARING: December 15, 1965, in Room 524, Lafayette Hotel, 638 Congress Street, Portland, Maine, before Examiner Samuel C. Shoup.

No. MC 113678 (Sub-No. 197), filed November 22, 1965. Applicant: CURTIS, INC., 770 East 51st Avenue, Denver, Colo., 80216. Applicant's representative: Duane W. Acklie, Post Office Box 2028, Lincoln, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in Cameron and Hidalgo Counties, Tex., to points in Louisiana, Nebraska, Colorado, Wisconsin, Michigan, Illinois, Virginia, West Virginia, Pennsylvania, New York, New Jersey, Minnesota, Delaware, Connecticut, Vermont, New Hampshire, Maine, Massachusetts, Rhode Island, District of Columbia, Kansas, Missouri, Iowa, Oklahoma, Arkansas, Mississippi, Indiana, Kentucky, Tennessee, Alabama, Ohio, Georgia, North Carolina, South Carolina, Florida, and Maryland.

HEARING: January 18, 1966, at the Baker Hotel, Dallas, Tex., before Examiner David Waters.

No. MC 117686 (Sub-No. 67), filed November 22, 1965. Applicant: HIRSCHBACH MOTOR LINES, INC., 3324 U.S. Highway 75 North, Sioux City, Iowa. Applicant's representative: J. Max Harding, Post Office Box 2028, Lincoln, Nebr., 68508. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in Cameron and Hidalgo Counties, Tex., to points in Minnesota, Iowa, Nebraska, Arkansas, Louisiana, Mississippi, Kansas, Missouri, South Dakota, and North Dakota.

HEARING: January 18, 1966, at the Baker Hotel, Dallas, Tex., before Examiner David Waters.

No. MC 105636 (Sub-No. 24) (REPUBLICATION), filed March 10, 1965, published FEDERAL REGISTER issue of April 1, 1965, and republished, this issue. Applicant: ARMELLINI EXPRESS LINES, INC., Oak and Brewster Roads, Vineland, N.J. Applicant's representative: Morris J. Winokur, Suite 1920, 2 Penn Center Plaza, John F. Kennedy Boulevard at 15th Street, Philadelphia, Pa., 19102. In the above-entitled proceeding the examiner recommended the issuance to applicant of a certificate of public convenience and necessity authorizing the operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, (1) of (a) flower baskets and containers from Meriden, Conn., to points in Florida, (b) fertilizer in packages, from Vineland, N.J., to points in Florida, (c) florists' supplies and equipment, from New York, N.Y., to points in Florida, and (d) flower sleeves, from Boston, Mass., to points in Florida, and (2) of poultry raisers' vaccines, drugs, insecticides, and equipment, from Vineland, N.J., to Charlotte, N.C., Gainesville, Ga., and Jacksonville, Fla., subject to the restriction that operations in (1) above shall be limited to traffic destined to flower growers. A decision and order of the Commission, Operating Rights Review Board No. 3, dated November 22, 1965, and served November 24, 1965, finds that operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of (1) *florists' supplies and equipment* from New York, N.Y., to points in Florida; (2) *flower baskets and containers* from Meriden, Conn., to points in Florida; (3) *flower sleeves* from Boston, Mass., to points in Florida; (4) *fertilizer*, in packages, from Vineland, N.J., to points in Florida; and (5) *poultry vaccines, drugs*, and *insecticides*, and *equipment* used in the raising of poultry, from Vineland, N.J., to Charlotte, N.C., Gainesville, Ga., and Jacksonville, Fla., subject to the condition that the authority granted herein to the extent that it duplicates any authority presently held by applicant shall not be construed as conferring more than a single operating right. A notice of the authority actually granted herein will be published in the FEDERAL REGISTER and issuance of the certificate herein will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest, who may have relied upon the notice of the application as originally published and would be prejudiced by the lack of proper notice of the authority actually granted herein, may file an appropriate pleading.

No. MC 111729 (Sub-No. 113) (Republication), filed August 24, 1965, published FEDERAL REGISTER issue of September 9, 1965, and republished this issue. Applicant: ARMORED CARRIER CORPORATION, 222-17 Northern Boulevard, Bayside, N.Y. Applicant's representative: Russell S. Bernhard, Commonwealth Building, 1625 K Street NW., Washington 6, D.C. By application filed August 24, 1965, applicant seeks a certificate of public convenience and necessity authorizing operation in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of the commodities and between the points indicated in the findings herein, subject to the restriction that no service shall be performed for any bank or banking institutions, namely, any national bank, State bank, Federal Reserve bank, savings and loan association, or savings bank. An order of the Commission, Operating Rights Board No. 1, dated November 17, 1965, and served November 29, 1965, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, (1) of *exposed and processed film* and *prints, complimentary replacement film, labels, envelopes, and packaging materials*, and *advertising literature* moving therewith, between Alexandria,

Va., on the one hand, and, on the other, York, Pa., and (2) of *microfilm*, negative and positive, and *paper prints*, between Baltimore, Md., on the one hand, and, on the other, the District of Columbia and points in Philadelphia County, Pa. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER, and any proper party in interest may file an appropriate pleading within a period of 30 days from the date of such publication.

No. MC 126102 (Republication), filed March 17, 1964, published FEDERAL REGISTER issue of April 1, 1964, and republished, this issue. Applicant: ANDERSON MOTOR LINES, INC., 37 Woodruff Road, Walpole, Mass. Applicant's representatives: Leon J. Kowal, 73 Tremont Street, Boston, Mass., and Gerard J. Donovan, Post Office Box 126, Hyde Park 36, Mass. By application filed March 17, 1964, as amended, applicant seeks a permit authorizing operations, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of watches, watch bands, books, toys, beverages (nonalcoholic), candy (other than hollow mold), candy in novelty packages, cookies, cosmetics, costume jewelry, popped corn, drugs, drug store supplies, medicines, toilet preparations, greeting cards, paper and paper products, sanitary pads, stationery, store and office supplies, fixtures and displays, plastic articles over 15 pounds per cubic foot, notions, leather goods, razors, radios, lighters, and clocks, between Boston and Norwood, Mass., Providence, R.I., and Atlanta, Ga., on the one hand, and, on the other, points in Arkansas, Alabama, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Iowa, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Oklahoma, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and Colorado.

A decision and order of the Commission, Division I, dated November 15, 1965, and served November 23, 1965, finds that operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of *such commodities* as are sold in drugstores, chain, discount, and department stores excluding commodities in bulk, in tank vehicles, (a) from Norwood, Mass., to Wilmington, Del., Edgewater Park and Vineland, N.J., Cumberland and Hagerstown, Md., Richmond, Va., Danbury, Derby, and New Haven, Conn., Detroit, Grand Rapids, and Muskegon, Mich., and to points in Illinois, Maine, New York, Pennsylvania, and those points in Ohio north of U.S. Highway 36, and *returned shipments* of the commodities specified above; (b) from Atlanta, Ga., to Louisville, Ky., Fort Wayne, Muncie, and Indianapolis, Ind., Dayton and Cincinnati, Ohio, Racine, Wis., Jackson, Miss., Dallas and Groves, Tex., Monroe and New Orleans., La., Portsmouth and Norfolk, Va., Chickasaw, Montgomery, and Tuscaloosa, Ala., Charleston and Columbia, S.C., Memphis, Chattanooga, and Nashville, Tenn., points in Florida, North Carolina, Illinois, and the Washington, D.C., commercial zone, and *returned shipments* of the commodities specified above, limited to a transportation service to be performed under a continuing contract or contracts with Marrud, Inc., of Norwood, Mass. Any person or persons desiring to oppose the relief sought herein, may, within 30 days from the date of this publication in the FEDERAL REGISTER, file an appropriate pleading, consisting of an original and six copies each.

No. MC 127072 (Sub-No. 2) (Republication), filed May 17, 1965, published FEDERAL REGISTER issue of June 9, 1965, and republished, this issue. Applicant: BROWNSVILLE PARTICLE BOARD, INC., Route 1, Brownsville, Oreg. Applicant's representative: Earl V. White, Fifth Avenue, 2130 SW. Fifth Avenue, Portland 1, Oreg. By application filed May 17, 1965, as amended, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle over irregular routes, transporting in bulk, or in bags when transported at the same time with shipments in bulk: (A) Almond shell pellets, from Sacramento, Calif.; (B) safflower pellets, from points in Contra Costa County, Calif.; (C) cottonseed meal and cottonseed pellets, from points in Fresno and Kern Counties, Calif.; and (D) alfalfa meal and alfalfa pellets, from points in Fresno, Kern, Tulare, Kings, Amador, and Sacramento Counties, Calif., and from points in Ada and Cassia Counties, Idaho, to points in Lane, Linn, Benton, Lincoln, Polk, Marion, Clark, Yamhill, Tillamook, Multnomah, Washington, Columbia, and Clatsop Counties, Oreg., and to points in Kittitas, Yakima, and Clark Counties, Wash. The application was referred to Hearing Examiner Robert H. Murphy, for hearing and the recommendation of an appropriate order thereon. Hearing was held on October 12, 1965, at Portland, Oreg. A report and order, served November 24, 1965, finds that the present and future public convenience and necessity require operation by applicant as a common carrier by motor vehicle, in interstate or foreign commerce, over irregular routes, in the transportation of:

(A) *Almond shell pellets*, from Sacramento, Calif.; (B) *safflower pellets*, from Richmond, Calif.; (C) *cottonseed meal and cottonseed pellets*, from points in Fresno and Kern Counties, Calif.; and (D) *alfalfa meal and alfalfa pellets*, from points in Sacramento, Fresno, and Kern Counties, Calif., to points in Lane, Linn, Benton, Lincoln, Polk, Marion, Clark (should read Clackamas County), Yamhill, Tillamook, Multnomah, Washington, Columbia, and Clatsop Counties, Oreg., and to points in Kittitas, Yakima, and Clark Counties, Wash., subject to the condition that the above-specified commodities shall move in bags only when transported at the same time with shipments in bulk, and subject to the further condition that applicant shall maintain completely separate accounting systems for its private and for-hire carrier operations. The hearing examiner further finds that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. NOTE: The purpose of this republication is to show that the destination point of "Clark County, Oreg.," shown in (D) above, should read "Clackamas County, Oreg." Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER, and any proper party in interest may file an appropriate pleading within a period of 30 days from the date of such publication.

No. MC 127552 (Republication), filed September 3, 1965, published FEDERAL REGISTER issue of September 15, 1965, and republished, this issue. Applicant: POINT EXPRESS, INC., 3535 Seventh Avenue, Charleston, W. Va. Applicant's representative: Frank T. Litton, Kanawha Valley Building, Charleston 1, W. Va. By application filed September 3, 1965, applicant seeks a permit or, in the alternative, a certificate of public convenience and necessity, authorizing operation, in interstate or foreign commerce, as either a contract or a common carrier by motor vehicle, over irregular routes, of molten aluminum, to the point indicated in the findings herein from Ravenswood, W. Va., and of empty containers, on return, restricted to the transportation of the involved commodity "in special containers, on special trailers especially constructed to handle these containers," and further limited to a transportation service performed under a continuing contract with Kaiser Ravenswood Works Plant, of Ravenswood, W. Va., a division of Kaiser Aluminum & Chemical Corp., of Oakland, Calif. An Order of the Commission, Operating Rights Board No. 1, dated November 17, 1965, and served November 29, 1965, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, of *molten aluminum*, from the plant site of the Kaiser Aluminum & Chemical Corp., at Ravenswood, W. Va., to Kokomo, Ind.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of

the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate protest or other pleading.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC–F–9245 (Correction) (ORSCHELN BROS. TRUCK LINES, INC.—PURCHASE (PORTION)—IML FREIGHT, INC.), published in the November 3, 1965, issue of the FEDERAL REGISTER on page 13925. The following route description was inadvertently omitted from the operating rights sought to be transferred in the prior notice: *General commodities,* excepting, among others, household goods and commodities in bulk, between Springfield, Mo., and Lebanon, Mo., as an alternate route for operating convenience only, in connection with carrier's regular-route operations authorized between East St. Louis, Ill., and Springfield, Mo., serving no intermediate points, and serving Lebanon, Mo., for the purpose of joinder of routes only.

No. MC–F–9271. Authority sought for merger into MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa., 19050, of the operating rights and property of JAMES TRUCKING CO., Old Fort, Ohio, and for acquisition by MATLACK CORPORATION, and in turn by DUVERNEY B. MATLACK, EDWIN L. MATLACK, E. BROOKE MATLACK, JR., and ROBERT W. MATLACK, all of 10 West Baltimore Avenue, Lansdowne, Pa., 19050, of control of such rights and property through the transaction. Applicants' attorney: Maxwell A. Howell, 1120 Investment Building, 1511 K Street NW., Washington, D.C., 20005. Operating rights sought to be merged: *Chemicals,* in bulk, as a *common carrier,* over irregular routes, between Pittsburgh and Natrona, Pa., on the one hand, and, on the other, points in Ohio and West Virginia. MATLACK, INC. is authorized to operate as a *common carrier* in Maryland, Delaware, Pennsylvania, Virginia, New Jersey, New York, Ohio, West Virginia, North Carolina, Georgia, South Carolina, Indiana, Alabama, Missouri, Tennessee, Minnesota, Michigan, Illinois, Wisconsin, Kansas, Kentucky, Arkansas, Maine, Colorado, New Hampshire, Vermont, Connecticut, Massachusetts, Rhode Island, Florida, Louisiana, Mississippi, Iowa, Nebraska, Oklahoma, Texas, and the District of Columbia. Application has not been filed for temporary authority under Section 210a(b).

NOTE: Following consummation of the transaction in MC–F–9070, approving control, transferor will vacate its remaining authority, pursuant to order entered September 10, 1965, by the Commission, Finance Board No. 1.

No. MC–F–9272. Authority sought for purchase by DEAN VAN LINES, INC., 18420 South Santa Fe Avenue, Post Office Box 923, Long Beach 1, Calif., of the operating rights of PERRY MOVING & STORAGE, INC., 14 West Roy Street, Seattle, Wash., and for acquisition by DEAN VAN & STORAGE, INC., and DEAN INVESTMENT CO., and, in turn by A. E. DEAN, all of Long Beach 1, Calif., of control of such rights through the purchase. Applicants' attorneys and representative: Axelrod, Goodman & Steiner, 39 South La Salle Street, Chicago, Ill., and Phelix Woempner, 14 West Roy Street, Seattle, Wash. Operating rights sought to be transferred: *Household goods* as defined by the Commission, as a *common carrier,* over irregular routes, between Seattle, Wash., and points within 25 miles of Seattle, on the one hand, and, on the other, points in Washington, Oregon, and Idaho. Vendee is authorized to operate as a *common carrier* in all States in the United States (except Alaska and Hawaii) and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–9273. Authority sought for merger into LAKE SHORE DELIVERY, INC., 219 Brigham Road, Dunkirk, N.Y., of the operating rights and property of JACK COOGAN, INC., 417 Temple Street, Dunkirk, N.Y., and for acquisition by JOHN W. COOGAN, SR., 417 Temple Street, Dunkirk, N.Y., of control of such rights and property through the transaction. Applicants' attorney: Albert J. Tener, Bank of Jamestown Bldg., Jamestown, N.Y., 14701. Operating rights sought to be merged: *Household goods,* as defined by the Commission, as a *common carrier,* over irregular routes, between points in that part of Chautauqua County, N.Y., north of New York Highway 17, on the one hand, and, on the other, points in Ohio, Pennsylvania, and New Jersey. LAKE SHORE DELIVERY, INC., is authorized to operate as a *common carrier* in New York, Pennsylvania, and Ohio. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–9274. Authority sought for control by RED BALL MOTOR FREIGHT, INC., 3177 Irving Boulevard, Post Office Box 10837, Dallas, Tex., 75207, of STASI MOTOR FREIGHT, INC., 1401 Independence Avenue, Kansas City, Mo., and for acquisition by H. E. ENGLISH, also of Dallas, Tex., of control of STASI MOTOR FREIGHT, INC., through the acquisition by RED BALL MOTOR FREIGHT, INC. Applicants' attorney: Charles D. Mathews, Post Office Box 10837, Dallas, Tex., 75207. Operating rights sought to be controlled: *General commodities,* excepting among others, household goods, and commodities in bulk, as a *common carrier* over regular routes, between Levy, Ark., and Camp Joseph T. Robinson, Ark., between Palarm, Ark., and Camp Joseph T. Robinson, Ark., serving no intermediate points, between Kansas City, Kans., and Little Rock, Ark., serving intermediate and off-route points, with restriction; *packinghouse products,* from Kansas City, Kans., to Osceola, Ark., serving certain intermediate points; *packinghouse products,* including fresh meats, butter, oleomargarine and eggs, from Kansas City, Kans., to Memphis, Tenn., serving the intermediate point of Kansas City, Mo.; *cottonseed meal* and *cottonseed cake,* from Memphis, Tenn., to Kansas City, Kans., serving the intermediate point of Kansas City, Mo.; and *packinghouse products,* over irregular routes, from Kansas City, Kans., and Kansas City, Mo., to Jonesboro, Ark. RED BALL MOTOR FREIGHT, INC., is authorized to operate as a *common carrier* in Texas, Louisiana, Arkansas, New Mexico, Colorado, Oklahoma, Tennessee, Alabama, Mississippi, and Florida. Application has been filed for temporary authority under section 210a(b).

No. MC–F–9275. Authority sought for purchase by HAGEN, INC., 4120 Floyd Street, Sioux City, Iowa, of the operating rights of GAIL W. DAHL AND FRED E. HAGEN, a partnership, doing business as DAHL TRUCK LINES, 4120 Floyd Street, Sioux City, Iowa, and for acquisition by FRED E. HAGEN, also of Sioux City, Iowa, of control of such rights through the purchase. Applicants' attorney: Donald E. Leonard, Post Office Box 2028, 605 South 14th, Lincoln, Nebr. Operating rights sought to be transferred: *Meats, packinghouse products, butter, eggs,* and *dressed poultry,* as a *contract carrier,* over regular routes, between Sioux City, Iowa, and Luverne, Minn., between Sioux City, Iowa, and Altamont, S. Dak., between Sioux City, Iowa, and Watertown, S. Dak., between Sioux City, Iowa, and Mountain Lake, Minn., serving certain intermediate and off-route points; *meats, meat products, and meat byproducts, dairy products, and articles distributed by meat packinghouses* (with exceptions where specified), as described in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, and other related specified commodities, over irregular routes, from, to, and between certain specified points in Iowa, Minnesota, South Dakota, Nebraska, Montana, North Dakota, Wyoming, Idaho, and Oregon, with certain specified restrictions, as more specifically described in docket No. MC–109749 and subnumbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating, in full, the entirety thereof. Vendee is authorized to operate as a *contract carrier* in Iowa, Illinois, Wisconsin, Nebraska, South Dakota, North Dakota, Wyoming, Minnesota, Montana, Kansas, Missouri, and Idaho. Application has not been filed for temporary authority under section 210a(b). NOTE: Docket No. MC–127042

(Sub-No. 10) is a matter directly related.

No. MC–F–9276. Authority sought for purchase by TRANSCON LINES, 1206 South Maple Avenue, Los Angeles, Calif., 90015, of the operating rights and property of KRAMER-CONSOLIDATED FREIGHT LINES, INC., 4195 Central Avenue, Detroit, Mich., 48210. Applicants' attorneys: Lee Reeder and W. E. Griffin, 1221 Baltimore, Kansas City, Mo., 64105, Courtney B. Rankin and Fred W. Freeman, 800 First National Building, Detroit, Mich., and Walter N. Bieneman, One Woodward Avenue, Suite 1700, Detroit, Mich. Operating rights sought to be transferred: *General commodities*, with certain specified exceptions, as a *common carrier*, over regular and irregular routes, from, to, and between specified points in the States of Illinois, Ohio, Michigan, Pennsylvania, New York, Maryland, New Jersey, Delaware, and the District of Columbia, with certain restrictions, serving various intermediate and off-route points, numerous alternate routes for operating convenience only, as more specifically described in docket No. MC–3261 and subnumbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating in full, the entirety, therof. Applicant also proposes to purchase those rights sought in pending docket No. MC–3261 Sub-No. 33, transporting general commodities (except those of unusual value, livestock, classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment), as a common carrier, over regular routes, between certain specified points in Michigan, serving all intermediate and certain off-route points. Vendee is authorized to operate as a *common carrier* in Missouri, Illinois, Kansas, Indiana, Oklahoma, New Mexico, Ohio, Virginia, California, Texas, Arizona, Tennessee, Alabama, Georgia, and Mississippi. Application has not been filed for temporary authority under section 210a(b). NOTE: Docket No. F.D. 23902 was filed concurrently.

No. MC–F–9277. Authority sought for purchase by DEATON TRUCK LINE, INC., 3409 10th Avenue North, Birmingham, Ala., of a portion of the operating rights of POPLARVILLE TRUCK LINE, INC., Post Office Box 26125, New Orleans, La., and for acquisition by DEATON, INC., also of Birmingham, Ala., of control of such rights through the purchase. Applicants' attorneys: A. Alvis Layne, Pennsylvania Building, Washington, D.C., and John Paul Jones, 189 Jefferson Avenue, Memphis, Tenn. Operating rights sought to be transferred: *General commodities*, except those of unusual value, and except class A and B explosives, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *commmon carrier*, over irregular routes, between Poplarville, Miss., on the one hand, and, on the other, points in Louisiana, within 200 miles of Poplarville. Vendee is authorized to operate as a *common carrier* in Alabama, Georgia, Florida, South Carolina, North Carolina, Kentucky, Tennessee, Mississippi, Louisiana, Texas, Arkansas, Oklahoma, Missouri, Virginia, New Mexico, Colorado, Ohio, and Indiana. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–9278. Authority sought for control by GULF REFRIGERATED EXPRESS, INC., 13990 West 30th Avenue, Golden, Colo., of LABERTEW TRUCKING, INC., 5110 Race Street, Denver, Colo., 80216, and for acquisition by RONALD W. WATTERS, also of Golden, Colo., of control of LABERTEW TRUCKING, INC., through the acquisition by GULF REFRIGERATED EXPRESS, INC. Applicants' attorney: Leslie R. Kehl, 420 Denver Club Building, Denver, Colo., 80202. Operating rights sought to be controlled: *Bananas*, as a *common carrier*, over irregular routes, from New Orleans, La., and Mobile, Ala., to Denver, Colorado Springs, and Pueblo, Colo. GULF REFRIGERATED EXPRESS, INC., holds no authority from this Commission. However, it controls DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., 5135 York Street, Post Office Box 16021, Denver, Colo., which is authorized to operate as a *common carrier* in Colorado, New Mexico, Texas, Louisiana, Florida, Oklahoma, Alabama, Mississippi, Wyoming, Nebraska, Arkansas, Kansas, Arizona, California, North Dakota, South Dakota, Oregon, Washington, Idaho, Nevada, Montana, Utah, Georgia, and Tennessee. Application has been filed for temporary authority under section 210a(b).

No. MC–F–9279. Authority sought for purchase by LIBERTY TRANSFER COMPANY, INC., 1601 Cuba Street, Baltimore, Md., of the operating rights of RED CIRCLE FREIGHT LINES, INC., 1615 Cuba Street, Baltimore, Md., and for acquisition by W. ELMER CONSTANTINE, also of Baltimore, Md., of control of such rights through the purchase. Applicants' attorney: S. Harrison Kahn, 733 Investment Building, Washington, D.C. Operating rights sought to be transferred: *Canned food products*, as a *contract carrier*, over irregular routes, from Baltimore, Md., to New York, N.Y., and certain specified points in New Jersey; from Baltimore, Md., to Fair Lawn, N.J. Restriction: The operations authorized herein immediately above, are limited to a transporation service to be performed, under a continuing contract, or contracts, with The Great Atlantic and Pacific Tea Co., Inc., of New York, N.Y.; *washing, cleaning and polishing materials and compounds, and empty containers and supplies* used in connection therewith, from Passaic, N.J., to Baltimore, Md., and Washington, D.C.; with persons (as defined in section 203(a) of the Interstate Commerce Act) who operate retail stores, the business of which is the sale of food, for the transportation of the commodities indicated and in the manner described below: *such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and, in connection therewith, *equipment, materials* and *supplies* used in the conduct of such business, from Brooklyn, N.Y., to Baltimore, Md.; and with persons (as defined in section 203(a) of the Interstate Commerce Act) who operate wholesale, retail, and chain grocery and food business houses, the business of which is the sale of food, for the transportation of the commodities indicated and in the manner specified below:

Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, *equipment, materials* and *supplies*, used in the conduct of such business, between points in the NEW YORK, N.Y., commercial zone, as defined by the Commission in 1 M.C.C. 665, on the one hand, and, on the other, certain specified points in New Jersey; *such merchandise* as is dealt in by retail grocery stores, and *materials, supplies and equipment* used in the conduct of such business, from points in the New York commercial zone as defined by the Commission, except Brooklyn, N.Y., to Baltimore, Md.; *green coffee beans*, from Baltimore, Md., to Brooklyn, N.Y.; and *frozen fruits* and *frozen berries*, from Baltimore, Md., to Newark, N.J., and points in the New York, N.Y., commercial zone, as defined by the Commission. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with the following shippers: The Great Atlantic & Pacific Tea Co., New York, N.Y., Southern Packing Co., Baltimore, Md. Vendee is authorized to operate as a *contract carrier* in Maryland, Delaware, New York, Pennsylvania, New Jersey, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–9280. Authority sought for purchase by FEUER TRANSPORTATION, INC., Federal and Knowles Streets, Yonkers, N.Y., 10702, of a portion of the operating rights of L. T. STEVENSON MOTOR LINES, INC., 11 West 42d Street, New York, N.Y., 10036, and for acquisition by JORDAN LIPPNER, also of Yonkers, N.Y., of control of such rights through the purchase. Applicants' attorneys: Zelby & Burstein, 160 Broadway, New York, N.Y., 10038, William D. Traub, 10 East 40th Street, New York, N.Y., 10016, and Nachamie & Benjamin, 11 West 42d Street, New York, N.Y., 10036. Operating rights sought to be transferred: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over irregular routes, between points in the NEW YORK, N.Y., commercial zone, as defined by the Commission in 1 M.C.C. 665, on the one hand, and, on the other, points in Nassau and Suffolk Counties, N.Y., and those in that part of Fairfield County, Conn., on and west of a line beginning at the New York-Connecticut State line and extending along Connecticut Highway 29 to Long Island Sound. Vendee is authorized to operate as a *common carrier*, in New Jersey, New York, and Connecticut.

Application has been filed for temporary authority under section 210a(b).

No. MC–F–9282. Authority sought for purchase by CALHOUN TRUCKING COMPANY, INC., 4325 Bath Street, Philadelphia, Pa., 19137, of the operating rights of DELAWARE INTERSTATE EXPRESS CO., 919 Glenview Street, Philadelphia, Pa., and for acquisition by LEO HOLT, SR., 6810 Roosevelt Boulevard, Philadelphia, Pa., of control of such rights through the purchase. Applicants' attorneys: Morris J. Winokur 1920 Two Penn Center Plaza, Philadelphia, Pa., 19102, and Raymond A. Thistle, Jr., Suite 1408–09, 1500 Walnut Street, Philadelphia, Pa., 19102. Operating rights sought to be transferred: *General commodities*, except those of unusual value, dairy products as defined by the Commission, class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier*, over irregular routes, between Philadelphia, Pa., on the one hand, and, on the other, Wilmington, and Yorklyn, Del., between Philadelphia, Pa., on the one hand, and, on the other, certain specified points in New Jersey; *general commodities*, except those of unusual value, classes A and B explosives, alcoholic liquors, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Ocean City, N.J., and points within 10 miles of Ocean City other than Atlantic City, N.J., on the one hand, and, on the other, certain specified points in Pennsylvania.

General commodities, except those of unusual value, classes A and B explosives, alcoholic beverages, film, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Philadelphia, Pa., on the one hand, and, on the other, Points in Cape May County, N.J.; *groceries*, from Philadelphia, Pa., to points in that part of New Jersey south of U.S. Highway 30, with exceptions; and *petroleum products*, in containers, from Marcus Hook, Pa., and Claymont, Del., to Hammonton, Pleasantville, and Atlantic City, N.J. Vendee holds no authority from this Commission. However, by report and order, dated July 23, 1965, by the Commission, Finance Board No. 1, in docket No. MC–F–8940, CALHOUN TRUCKING COMPANY, INC., was authorized to purchase the operating rights and property of (1) LEO HOLT, doing business as HOLT'S MOTOR EXPRESS; (2) JOSEPH CALHOUN, doing business as CALHOUN TRUCKING COMPANY; and of the operating rights of (3) HOLT MOTOR EXPRESS, INC., all of Philadelphia, Pa., which are authorized to operate as *common carriers*, in: (1) Pennsylvania, New York, New Jersey, Maryland, and Delaware; (2) Pennsylvania, New Jersey, Delaware, Maryland, New York, and the District of Columbia; and (3) Pennsylvania. Application has been filed for temporary authority under section 210a (b).

No. MC–F–9283. Authority sought for purchase by VAN CURLER TRUCKING CORP., 121 La Grange Avenue, Rochester, N.Y., 14613, of the operating rights and property of HENRY A. CLOSSER, doing business as CLOSSER'S ROCHESTER-OSWEGO & FULTON EXPRESS LINES, 719 Ridge Road West, Ontario, N.Y., 14519, and for acquisition by CHARLES A. BOMRAD, also of Rochester, N.Y., 14613, of control of such rights and property through the purchase. Applicants' representative: Raymond A. Richards, 35 Curtice Park, Webster, N.Y., 14580. Operating rights sought to be transferred: Under a certificate of registration, in docket No. MC–34052 (Sub-No. 2), covering the transportation of general commodities, as a common carrier, in intrastate commerce, within the State of New York. Vendee is authorized to operate as a *common carrier* in New York. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–9284. Authority sought for purchase by M & M TANK LINES, INC., Post Office Box 4174, North Station, Winston-Salem, N.C., 27102, of a portion of the operating rights of FALWELL FAST FREIGHT, INC., 3915 Campbell Avenue, Lynchburg, Va., and for acquisition by S. H. MITCHELL, Post Office Box 612, Winston-Salem, N.C., of control of such rights through the purchase. Applicants' attorney and representative: A. W. Flynn, Jr., Post Office Box 127, Greensboro, N.C., 27402, and Frank C. Philips, Post Office Box 612, Winston-Salem, N.C., 27102. Operating rights sought to be transferred: *Petroleum products*, in bulk, in tank trucks, as a *common carrier*, over irregular routes, from Greensboro, N.C., and points within 15 miles of Greensboro, to points in Halifax, Henry, Wythe, Montgomery, Roanoke, Campbell, Rockbridge, Allegheny, and Pittsylvania Counties, Va., from Richmond, Va., to Caldwell, W. Va., from Friendship, N.C., to Honaker, Bedford, and Galax, Va.; *petroleum and petroleum products*, as described in appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from points in York County, Va., to points in Delaware, Maryland, North Carolina, West Virginia, and the District of Columbia; and *asphalt* and *asphalt products*, in bulk, in tank vehicles, from Greensboro, N.C., to points in Virginia (except points in Halifax, Henry, Wythe, Montgomery, Roanoke, Campbell, Rockbridge, Allegheny, and Pittsylvania Counties), West Virginia, and points in Kentucky and Tennessee on and east of a line beginning at Covington, Ky., at the Ohio River and U.S. Highway 27, extending southerly along U.S. Highway 27, through Kentucky and Tennessee to the Tennessee-Georgia State line. Vendee is authorized to operate as a *common carrier* in South Carolina, Virginia, North Carolina, Georgia, Tennessee, New Jersey, and Florida. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–9285. Authority sought for purchase by WOOSTER EXPRESS, INC., Post Office Box 1469, Hartford, Conn., of the operating rights of ALBERT KROSNOSKI, doing business as AMBOY EXPRESS, Sayreville, N.J., and for acquisition by JOSEPH RAVALESE, 1028 Farmington Avenue, West Hartford, Conn., PATSY RAVALESE, 39 Hunter Drive, West Hartford, Conn., and JOSEPH RAVALESE, JR., 111 Meadow Lane, West Hartford, Conn., of control of such rights through the purchase. Applicants' attorney: Russell P. Sage, 2001 Massachusetts Avenue NW., Washington, D.C., 20036. Operating rights sought to be transferred: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between New York, N.Y., and Philadelphia, Pa., serving the intermediate point of Trenton, N.J., restricted to traffic moving to or from points other than New York, N.Y., all other intermediate points without restriction and off-route points within 10 miles of the above-specified portions of U.S. Highway 1 and New Jersey Highway 25; *shirts, piece goods, pajamas, thread, trimmings, buttons, underwear, leather, paper, glass* and *metal frames*, over irregular routes, between Jersey City, Newark, Elizabeth, Linden, Rahway, Perth Amboy, and Fords, N.J., on the one hand, and, on the other, New York, N.Y.; *handkerchiefs*, from South River, N.J., to New York, N.Y.; and *machinery, equipment*, and *supplies*, used or useful in the manufacture of shirts and handkerchiefs, from New York, N.Y., to Perth Amboy and South River, N.J. Vendee is authorized to operate as a *common carrier* in Massachusetts, New Jersey, and Connecticut. Application has been filed for temporary authority under section 210a(b).

No. MC–F–9286. Authority sought for purchase by CLAREMONT MOTOR LINES, INC., Post Office Box 702, Claremont, N.C., of a portion of the operating rights of J & M TRANSPORTATION CO., INC., Post Office Box 589, Americus, Ga., and for acquisition by LOY THOMAS MILLER and DALE MAURICE MILLER, both also of Claremont, N.C., of control of such rights through the purchase. Applicants' attorney: Paul M. Daniell, 1600 First Federal Building, Atlanta, Ga., 30303. Operating rights sought to be transferred: *Salt and salt products*, and *pepper*, in packages, when transported in mixed loads with salt and salt products, as a *common carrier*, over irregular routes, from Marysville and St. Clair, Mich., and Rittman and Akron, Ohio, to points in Alabama, Florida, Georgia, Kentucky, North Carolina, South Carolina, Tennessee, and Virginia; and *animal and poultry* mineral feed mixtures, in packages, in mixed loads with salt and salt products, from Rittman, Ohio, and Marysville, Mich., to points in Alabama, Florida, Georgia, Kentucky, North Carolina, South Carolina, Tennessee, and Virginia. Vendee is authorized to operate as a *common carrier* in North Carolina, Ohio, Virginia, West Virginia,

and Maryland. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

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

[F.R. Doc. 65-13114; Filed, Dec. 7, 1965; 8:47 a.m.]

[Notice 854]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

DECEMBER 3, 1965.

The following publications are governed by the new Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

Special notice. The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

The applications immediately following are assigned for hearing at the time and place designated in the notice of filing as here published in each proceeding. All of the proceedings are subject to the special rules of procedure for hearing outlined below:

SPECIAL RULES OF PROCEDURE FOR HEARING

(1) All of the testimony to be adduced by applicant's company witnesses shall be in the form of written statements which shall be submitted at the hearing at the time and place indicated.

(2) All of the written statements by applicant's company witnesses shall be offered in evidence at the hearing in the same manner as any other type of evidence. The witnesses submitting the written statements shall be made available at the hearing for cross-examination, if such becomes necessary.

(3) The written statements by applicant's company witnesses, if received in evidence, will be accepted as exhibits. To the extent the written statements refer to attached documents such as copies of operating authority, etc., they should be referred to in written statement as numbered appendices thereto.

(4) The admissibility of the evidence contained in the written statements and the appendices thereto, will be at the time of offer, subject to the same rules as if the evidence were produced in the usual manner.

(5) Supplemental testimony by a witness to correct errors or to supply inadvertent omissions in his written statement is permissible.

No. MC 107496 (Sub-No. 433), filed November 22, 1965. Applicant: RUAN TRANSPORT CORPORATION, Keosauqua Way at Third, Des Moines, Iowa, 50309. Applicant's representative: H. L. Fabritz (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer ingredients,* in bulk, from the plant site of Mid-South Chemical Co. at or near Peoria, Ill., to points in Iowa, Indiana, Michigan, Minnesota, Missouri, Ohio, South Dakota, and Wisconsin. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

HEARING: January 17, 1966, at the U.S. Court House & Federal Office Building, 219 South Dearborn Street, Chicago, Ill., before Examiner Edith H. Cockrill.

No. MC 127215 (Sub-No. 14), filed November 19, 1965. Applicant: KENDRICK CARTAGE CO., a corporation, Salem, Ill. Applicant's representative: Thomas F. Kilroy, 1815 H Street NW., Washington, D.C., 20006. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia, nitrogen fertilizer solution, aqua ammonia,* in bulk, in tank vehicles, and *fertilizer and fertilizer ingredients,* in bulk, (1) from the plant sites of the Midsouth Chemical Co. and Tuloma Gas Products Co., located at or near Peoria, Ill., to points in Iowa, Indiana, Michigan, Minnesota, Missouri, Ohio, South Dakota, and Wisconsin, and (2) from the plant site of the Tuloma Gas Products Co. at Burlington, Iowa, to points in Illinois, Indiana, Michigan, Minnesota, Missouri, Nebraska, South Dakota, and Wisconsin. NOTE: Applicant is also authorized to conduct operations as a contract carrier in Permit MC 110117, and subs thereunder, therefore dual operations may be involved.

HEARING: January 17, 1966, at the U.S. Courthouse & Federal Office Building, 219 South Dearborn Street, Chicago, Ill., before Examiner Edith H. Cockrill.

By the Commission.

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

[F.R. Doc. 85-13115; Filed, Dec. 7, 1965; 8:47 a.m.]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

DECEMBER 3, 1965.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

State Docket No. assigned 33557, filed November 9, 1965. Applicant: PUTNAM TRANSFER & STORAGE CO., 1502 Woodlawn Avenue, Zanesville, Ohio. Applicant's representative: Robert N. Krier, 50 West Broad Street, Columbus, Ohio. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of: *Property,* over irregular routes, from and to points and places in Hopewell Township, Perry County, Ohio.

HEARING: December 21, 1965 at 10 a.m. e.s.t., at the offices of the Public Utilities Commission of Ohio, 111 North High Street, Columbus, Ohio. Requests for procedural information including the time for filing protests, concerning this application should be addressed to the Public Utilities Commission of Ohio, 111 North High Street, Columbus, Ohio, and should not be directed to the Interstate Commerce Commission.

State Docket No. assigned 33566, filed November 12, 1965. Applicant: D. G. & M. MOTOR FREIGHT, INC., 4701 Silverwood Drive, Kettering, Ohio. Applicant's representative: William V. Blake, 123 Glencoe Road, Columbus, Ohio, 43214. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of: *Property,* over *regular routes,* between Dayton, Ohio and Georgetown, Manchester and Waynesville, Ohio: From Dayton, Ohio, to Xenia, Ohio, over U.S. Highway 35, thence from Xenia, Ohio, over U.S. Highway 68 to Georgetown, Ohio, and return over the same route; from Dayton, Ohio, to Wilmington, Ohio, over Ohio Highway 48 to the junction of Ohio Highway 48 and Ohio Highway 73, thence over Ohio Highway 73 to Wilmington, Ohio, and return over the same route; from Georgetown, Ohio, to Manchester, Ohio, over Ohio Highway 125 to junction of Ohio Highway 125 and Ohio Highway 136, thence over Ohio Highway 136, and return over the same route; from Georgetown, Ohio, to Manchester, Ohio, over U.S. Highway 68 to junction of U.S. Highway 68 and U.S. Highway 52, thence over U.S. Highway 52 and return over the same route. Restricted to service at: Georgetown, Manchester, Waynesville and Dayton, Ohio.

HEARING: December 21, 1965, at 10 a.m., e.s.t., at the Public Utilities Commission of Ohio, 111 North High Street, Columbus, Ohio. Requests for procedural information including the time for filing protests, concerning this application should be addressed to the Public Utilities Commission of Ohio, 111 North High Street, Columbus, Ohio, and should not be directed to the Interstate Commerce Commission.

By the Commission.

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

[F.R. Doc. 65-13116; Filed, Dec. 7, 1965; 8:47 a.m.]

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