FEDERAL REGISTER

VOLUME 22 NUMBER 142

Washington, Wednesday, July 24, 1957

TITLE 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration, Department of Agriculture

Subchapter B—Farm Ownership Loans

[FHA Instruction 428.1]

PART 331—POLICIES AND AUTHORITIES

AVERAGE VALUES OF FARMS; MAINE

On July 16, 1957, for the purposes of Title I of the Bankhead-Jones Farm Tenant Act, as amended, the average value of efficient family-type farm-management units for the county identified below was determined to be as herein set forth. The average value heretofore established for said county, which appears in the tabulations of average values under § 331.17, Chapter III, Title 6 of the Code of Federal Regulations, is hereby superseded by the average value set forth below for said county.

MAINE	*Average value*
County:	
Aroostook	$25,000

(Sec. 41, 50 Stat. 428, as amended; 7 U. S. C. 1015)

Dated: July 18, 1957.

[SEAL] H. C. SMITH,
Acting Administrator,
Farmers Home Administration.

[F. R. Doc. 57-6015; Filed, July 23, 1957; 8:45 a. m.]

TITLE 7—AGRICULTURE

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

PART 51—FRESH FRUITS, VEGTABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION AND STANDARDS)

SUBPART—UNITED STATES STANDARDS FOR FRESH CRANBERRIES FOR PROCESSING [1]

On June 4, 1957, a notice of proposed rule making was published in the FEDERAL REGISTER (22 F. R. 3881) regarding a proposed issuance of United States Standards for Fresh Cranberries for Processing.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the following United States Standards for Fresh Cranberries for Processing are hereby promulgated pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., as amended; 7 U. S. C. 1621 et seq.).

GENERAL

Sec.
51.3030 General.

GRADES

51.3031 U. S. No. 1.

UNCLASSIFIED

51.3032 Unclassified.

DEFINITIONS

51.3033 Clean.
51.3034 Mature.
51.3035 Fairly well colored.
51.3036 Damage.
51.3037 Diameter.

AUTHORITY: §§ 51.3030 to 51.3037 issued under sec. 205, 60 Stat. 1090, as amended; 7 U. S. C. 1624.

GENERAL

§ 51.3030 *General.* (a) These standards apply only to the commonly cultivated Cranberry (Vaccinium macrocarpon).

(b) The primary purpose of these standards is for classifying Cranberries intended for manufacture of strained sauce. When used for other styles of packs such as cocktail, whole sauce, etc., other size and quality requirements may be specified using the quality factors and defects established in these standards.

GRADES

§ 51.3031 *U. S. No. 1.* "U. S. No. 1" consists of fresh cranberries which are clean, mature, fairly well colored and which are not soft or decayed and which are free from worms or worm holes and which are free from damage caused by bruises, scars, freezing, sunscald, foreign material, disease, insects or mechanical or other means.

(a) The minimum diameter shall be nine-thirty-seconds of an inch.

(Continued on p. 5855)

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

CONTENTS

FEDERAL REGISTER

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Federal Register Division, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

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CONTENTS—Continued

CODIFICATION GUIDE

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

(b) Incident to proper grading and handling, the following tolerances, by count, shall be permitted in any lot:

(1) 3 percent for cranberries which fail to meet the size requirement;

(2) 20 percent for cranberries which fail to meet the color requirements for individual cranberries;

(3) 10 percent for cranberries which fail to meet the remaining requirements of the grade but not more than one-half of this amount, or 5 percent, shall be allowed for berries which have worm holes or which are soft or affected by decay: *Provided,* That an additional tolerance of 2 percent for berries which are soft or affected by decay, or a total of not more than 7 percent, for berries which have worm holes or which are soft or affected by decay, shall be allowed en route or at destination: *And provided further,* That not more than one-half of 1 percent, included in the above tolerances, shall be allowed for Black Rot; and,

(4) One-tenth (1/10) of 1 percent for cranberries infested with worms.

UNCLASSIFIED

§ 51.3032 *Unclassified.* "Unclassified" consists of cranberries which have not been classified in accordance with the foregoing grade. The term "unclassified" is not a grade within the meaning of these standards, but is provided as a designation to show that no grade has been applied to the lot.

DEFINITIONS

§ 51.3033 *Clean.* "Clean" means that the cranberries are practically free from dirt, dust, spray residue, or other adhering foreign material.

§ 51.3034 *Mature.* "Mature" means that the cranberry has reached the stage of development which will insure the proper completion of the ripening process.

§ 51.3035 *Fairly well colored.* "Fairly well colored" means that 75 percent of the surface of the individual cranberry, in the aggregate, shows pink or red color characteristic of the variety.

§ 51.3036 *Damage.* "Damage" means any defect which materially affects the edible or processing quality of the cranberry. The following shall be considered as damage:

(a) Foreign material when the processing quality of the cranberries in the container is materially affected; and,

(b) Any one of the following defects, or any combination of defects the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:

(1) Bruises or scars which materially affect the edible or processing quality of the individual cranberry; and,

(2) Insects when any insect injury affects an aggregate area of the surface of the individual cranberry greater than that of a circle one-eighth inch in diameter.

§ 51.3037 *Diameter.* "Diameter" means the greatest dimension measured at right angles to a line from stem to blossom end of the berry.

The United States Standards for Fresh Cranberries for Processing contained in this subpart shall become effective 30 days after publication hereof in the FEDERAL REGISTER.

Dated: July 19, 1957.

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

[F. R. Doc. 57-6014; Filed, July 23, 1957; 8:45 a. m.]

Chapter IV—Federal Crop Insurance Corporation

PART 420—MULTIPLE CROP INSURANCE

SUBPART—REGULATIONS FOR THE 1956 AND SUCCEEDING CROP YEARS

MISCELLANEOUS AMENDMENTS

The following amendments to riders, issued pursuant to § 420.7 of the above identified regulation (20 F. R. 3526, 5765, 8071; 21 F. R. 49, 1381, 4473, 5883, 6858, 7314, 7787, 8534, 9397; 22 F. R. 2076, 2796, 3284) are hereby published:

1. An amendment, effective for the 1958 crop year in the county designated below, revising section 5, and adding section 10 and section 11 to the Rider No. 1 for the 1957 and succeeding crop years to the Multiple Crop Insurance Policy as follows:

5. *Insurance unit.* (a) If combined crop protection is provided under the contract an insurance unit means (1) all the insurable acreage of all insured crops in the county in which the insured has 100 percent interest at the time of planting, plus any acreage owned by him and worked for him by a sharecropper(s), or (2) all the insurable acreage of all insured crops in the county which is owned by one person and is operated by the insured as a tenant at the time of planting or worked by the insured as a sharecropper, or (3) all the insurable acreage of all insured crops in the county which is owned by the insured and is rented to one tenant at the time of planting. Land rented for cash or for a fixed commodity payment shall be considered as owned by the lessee.

(b) If separate crop protection is provided under the contract an insurance unit means the same as in (a) above except that insurance units will be determined separately for each insured crop.

10. *Election of type of insurance protection.* The insured may elect to have insurance protection provided on the basis of (a) separate crop protection under which insurance units are determined separately for each insured crop or (b) combined crop protection under which insurance units include a combination of all insured crops. The insured coverage, the premium, and any indemnity will be determined separately for each insurance unit. For the first crop year of a contract the election must be made at the time the application for insurance is filed. For any subsequent crop year such election may be made or changed by the insured notifying the county office in writing prior to the cancellation date for the crop year the change is to become effective. An election once made shall continue in effect for subsequent crop years unless changed by the insured or the Corporation and if no election is made insurance will be provided on the basis of combined crop protection.

11. Notwithstanding the provisions of County Rider No. 1 to the Multiple Crop Insurance Policy for St. Martin Parish, Louisiana, sweet potatoes will not be an insurable crop for the 1958 and succeeding crop years.

This above amendment is applicable in the following county:

Louisiana—§ 420.66.
St. Martin—§ 420.66-1.

2. An amendment, effective for the 1958 crop year in the counties designated below, revising section 5 and adding section 10 to the Rider No. 1 for the 1957 and succeeding crop years to the Multiple Crop Insurance Policy as follows:

5. *Insurance unit.* (a) If combined crop protection is provided under the contract an insurance unit means (1) all the insurable acreage of all insured crops in the county in which the insured has 100 percent interest at the time of planting, plus any acreage owned by him and worked for him by a sharecropper(s), or (2) all the insurable acreage of all insured crops in the county which is owned by one person and is operated by the insured as a tenant at the time of planting or worked by the insured as a sharecropper, or (3) all the insurable acreage of all insured crops in the county which is owned by the insured and is rented to one tenant at the time of planting. Land rented for cash or for a fixed commodity payment shall be considered as owned by the lessee.

(b) If separate crop protection is provided under the contract an insurance unit means the same as in (a) above except that insurance units will be determined separately for each insured crop.

10. *Election of type of insurance protection.* The insured may elect to have insurance protection provided on the basis of (a) separate crop protection under which insurance units are determined separately for each insured crop or (b) combined crop protection under which insurance units include a combination of all insured crops. The insured coverage, the premium, and any indemnity will be determined separately for each insurance unit. For the first crop year of a contract the election must be made at the time the application for insurance is filed. For any subsequent crop year such election may be made or changed by the insured notifying the county office in writing prior to the cancellation date for the crop year the change is to become effective. An election once made shall continue in effect for subsequent crop years unless changed by the insured or the Corporation and if no election is made insurance will be provided on the basis of combined crop protection.

This above amendment is applicable in the following counties:

Arkansas—§ 420.53.
Arkansas—§ 420.53-1.
Louisiana—§ 420.66.
Vermilion—§ 420.66-2.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; U. S. C. 1506, 1516)

F. N. MCCARTNEY,
Manager,
Federal Crop Insurance Corporation.

[F. R. Doc. 57-6043; Filed, July 23, 1957; 8:53 a. m.]

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

[Docket No. AO-247-A4]

PART 916—MILK IN UPSTATE MICHIGAN MARKETING AREA

ORDER AMENDING ORDER, REGULATING HANDLING

Sec.

AUTHORITY: §§ 916.0 to 916.101 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c.

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

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

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

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

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

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 5 cents per hundredweight or such amount not to exceed 5 cents per hundredweight as the Secretary may prescribe with respect (a) to all receipts within the month of milk from producers, including milk of such handlers' own production, (b) to any other source milk allocated to Class I pursuant to §§ 916.46 and 916.47, and (c) the applicable amount specified in § 916.84 (a) (2) or (b) (2).

(b) *Additional findings.* It is necessary in the public interest to make this part effective not later than August 1, 1957. Any delay beyond that date in the effective date of this part will impair the proper operation of the part and will threaten the orderly marketing of milk in the Upstate Michigan marketing area. The provisions of the said part are well known to handlers, the recommended decision having been issued by the Acting Deputy Administrator, Agricultural Marketing Service, on June 4, 1957 (22 F. R. 4021) and the final decision having been issued by the Acting Secretary of Agriculture on July 3, 1957. Therefore, reasonable time has been afforded persons affected to prepare for its effective date. In view of the foregoing, it is hereby found and determined that good cause exists for making this part effective August 1, 1957, and that it would be contrary to the public interest to delay the effective date of this part for 30 days after its publication in the FEDERAL REGISTER. (See sec. 4 (c), Administrative Procedure Act, 5 U. S. C. 1001 et seq.).

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

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

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

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

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

DEFINITIONS

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

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

§ 916.3 *U. S. D. A.* "U. S. D. A." means the United States Department of Agriculture.

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

§ 916.5 *Upstate Michigan marketing area.* "Upstate Michigan marketing area", hereinafter referred to as the "marketing area" means all of the territory, including all municipal corporations, within: the counties of Manistee, Benzie, Grand Traverse, Kalkaska, Crawford, Leelanau, Antrim, Otsego, Charlevoix, Emmett, Cheboygan, and Wexford; Presque Isle County except for the civil townships of Krakow and Presque Isle; all in the State of Michigan.

§ 916.6 *Distributing plant.* "Distributing plant" means all the premises, buildings, and facilities of any milk processing or packaging plant from which any fluid milk product is disposed of during the month on a route in the marketing area.

§ 916.7 *Supply plant.* "Supply plant" means all the premises, buildings, and facilities of any milk receiving plant from which milk or skim milk conforming to the sanitation requirements of any duly constituted health authority relating to milk for consumption in the marketing area in the form of fluid milk products is moved during the month to a distributing plant.

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

(a) A distributing plant other than that of a producer-handler, or one described in § 916.82 or § 916.83, from which during the month:

(1) Disposition of fluid milk products on routes in the marketing area equals or exceeds the smaller of:

(i) Twenty percent of such plant's receipts from qualified dairy farmers, or

(ii) 150,000 pounds; and

(2) Total disposition of fluid milk products on routes during the month equals or exceeds 50 percent of receipts of fluid milk products from qualified dairy farmers and supply plants.

(b) A supply plant from which during the month 50 percent or more of receipts from qualified dairy farmers is moved to a pool distributing plant. Any supply plant that was a pool plant during each of the months of July through January immediately preceding shall continue as a pool plant for each of the following months of February through June unless written request to the contrary is filed with the market administrator on or before the first day of such month.

§ 916.9 *Handler.* "Handler" means:

(a) The operator of a pool plant(s) in his capacity as such;

(b) The operator of any nonpool distributing plant; or

(c) A cooperative association with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant.

§ 916.10 *Qualified dairy farmer.* "Qualified dairy farmer" means a person, other than a producer-handler, who produces milk in conformity with the sanitation requirements of any duly constituted health authority relating to milk for consumption in the marketing area in the form of a fluid milk product.

§ 916.11 *Producer.* "Producer" means any qualified dairy farmer whose milk is received directly from the farm at a pool plant or is diverted from a pool plant for the account of a handler or a cooperative association. Milk so diverted for the account of the operator of a pool plant shall be deemed to have been received at the pool plant from which diverted.

§ 916.12 *Producer-handler.* "Producer-handler" means a person who is a handler and who produces milk, but received no milk from other producers.

§ 916.13 *Producer milk.* "Producer milk" means milk delivered by one or more producers.

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

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

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

§ 916.15 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers, duly organized as such under the laws of any State, which the Secretary determines:

(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 full authority in the sale of milk of its members; and

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

§ 916.16 *Fluid milk product.* "Fluid milk product" means milk, flavored milk, skim milk, buttermilk, half-and-half, or other mixtures of cream and milk containing less than 18 percent butterfat.

§ 916.17 *Route.* "Route" means a delivery (including delivery by a vendor, or sale from a plant or plant store) of any fluid milk product, other than a delivery in bulk form to any milk processing plant.

MARKET ADMINISTRATOR

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

§ 916.21 *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.

§ 916.22 *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, 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 § 916.74;

(1) The cost of his bond and of the bonds of his employees,

(2) His own compensation, and

(3) All other expenses, except those incurred under § 916.75, 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 in this part, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly announce, 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 made (1) reports pursuant to §§ 916.30 through 916.33, or (2) payments pursuant to §§ 916.70, 916.72, 916.74, and 916.75;

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

(h) Audit records of all handlers to verify the reports and payments required pursuant to the provisions of this part; and

(i) Publicly announce the prices determined for each month as follows:

(1) On or before the 5th day of each month, the minimum class prices for the preceding month computed pursuant to § 916.51, and the handler butterfat dif-

ferential computed pursuant to § 916.52; and

(2) On or before the 12th day of each month the uniform price for the preceding month, computed pursuant to § 916.61, and the producer butterfat differential computed pursuant to § 916.62.

REPORTS, RECORDS, AND FACILITIES

§ 916.30 *Monthly reports of receipts and utilization.* On or before the 5th working day of each month, each handler operating a pool plant(s), each cooperative association that is a handler pursuant to § 916.9 (c), and, except as otherwise provided in §§ 916.32 and 916.33, each handler operating a nonpool distributing plant, shall report to the market administrator for the preceding month, in the detail and on forms prescribed by the market administrator, the following with respect to (a) all producer milk received (in lieu thereof milk received from qualified dairy farmers at a nonpool distributing plant), (b) all skim milk and butterfat in the form of fluid milk products or cream received from pool plants of other handlers, and (c) all other source milk:

(1) The quantities of butterfat and skim milk contained in such receipts, and their sources;

(2) The utilization or disposition of such receipts; and

(3) Such other information with respect to such receipts and their utilization or disposition as the market administrator may prescribe.

§ 916.31 *Payroll reports.* On or before the 20th day of each month each handler who received milk from producers or qualified dairy farmers shall report his producer payroll for the preceding month which shall show:

(a) The pounds of milk received from each producer or qualified dairy farmer and the percentage of butterfat contained therein;

(b) The amount and date of payment to each producer or qualified dairy farmer or to a cooperative association; and

(c) The nature and amount of each deduction or charge involved in the payments referred to in paragraph (b) of this section.

§ 916.32 *Producer-handler reports.* Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall prescribe.

§ 916.33 *Exempt handler reports.* Each handler exempt pursuant to § 916.82 or § 916.83 shall report to the market administrator his disposition of fluid milk products on routes in the marketing area at such time and in such manner as the market administrator shall prescribe.

§ 916.34 *Records and facilities.* Each handler shall maintain and make available to the market administrator, during the usual hours of business, such accounts and records, of all of his operations and such facilities as are necessary to verify reports or to ascertain the correct information with respect to (a) the receipts and utilization or disposition of all skim milk and butterfat received, including all milk products received and disposed of in the same form, (b) the weights and tests for butterfat, skim milk and other contents of all milk and milk products handled, (c) inventories of all dairy products on hand at the beginning and end of each month, and (d) payments to producers and cooperative associations.

§ 916.35 *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 three years to begin at the end of the month to which such books and records pertain: *Provided,* That, if within such three-year period, the market administrator notifies a handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 916.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat required to be reported pursuant to § 916.30, shall be classified (separately as skim milk and butterfat) in the classes set forth in § 916.41.

§ 916.41 *Classes of utilization.* Subject to the conditions set forth in §§ 916.42 and 916.43, the classes of utilization shall be:

(a) Class I utilization shall be all skim milk and butterfat (1) disposed of for consumption in the form of fluid milk products; and (2) not accounted for as Class II or Class III utilization.

(b) Class II utilization shall be all skim milk and butterfat (1) used to produce any product other than those specified in paragraphs (a) or (c) of this section; (2) disposed of as fluid cream; (3) in shrinkage of producer milk up to 2 percent of receipts from producers; and (4) in fluid milk products and cream in inventory at the end of the month.

(c) Class III utilization shall be all skim milk and butterfat (1) used to produce butter, dry milk (either whole or nonfat) or cheese in any form except cottage cheese; (2) disposed of for livestock feed or skim milk dumped subject to prior notification to and inspection (at his discretion) by the market administrator; and (3) in shrinkage of other source milk.

§ 916.42 *Shrinkage.* (a) If producer milk is utilized in conjunction with other source milk, the shrinkage shall be allocated pro rata between the receipts of skim milk and butterfat in producer milk and other source milk.

(b) Producer milk transferred to the pool plant of another handler without first having been received for the purpose of weighing and testing in the transferor handler's plant shall be included in the receipts at the plant of the transferee handler for the purpose of computing his shrinkage and shall be excluded at the plant of the transferor handler in computing his shrinkage.

§ 916.43 *Transfers.* (a) Skim milk and butterfat disposed of from a pool plant to the pool plant of another handler in the form of milk or skim milk shall be Class I utilization, unless utilization in another class is indicated by both handlers in their reports submitted pursuant to § 916.30: *Provided,* That in no event shall the amount so classified in such class be greater than the amount of producer milk used in such class by the transferee handler after allocating other source milk in his plant in series beginning with the lowest priced utilization.

(b) Skim milk and butterfat moved in the form of milk or skim milk from a pool plant to a nonpool plant shall be Class I utilization unless all of the following conditions are met:

(1) Utilization in another class is indicated by the handler in his report submitted pursuant to § 916.30;

(2) The operator of the transferee plant had actually used in the month of such movement an equivalent amount of skim milk and butterfat in such class or moved such amount to another nonpool plant which meets the requirements of subparagraph (3) of this paragraph and utilized in the month an equivalent amount of skim milk and butterfat in such class;

(3) The operator of the transferee plant maintains books and records which are made available if requested by the market administrator and which are adequate for the verification of such utilization.

(c) Skim milk and butterfat disposed of from a fluid milk plant to a producer-handler shall be Class I utilization.

§ 916.44 *Responsibility of handlers.* All skim milk and butterfat shall be classified as Class I utilization unless the handler who first received such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise.

§ 916.45 *Computation of skim milk and butterfat in each class.* For each month the market administrator shall correct for mathematical and obvious errors the monthly report submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I, and Class II and Class III utilization for such handler.

§ 916.46 *Allocation of butterfat classified.* The pounds of butterfat remaining after making the following computations shall be the pounds in each class allocated to milk received from producers:

(a) Subtract from the total pounds of butterfat in Class II utilization, the pounds of butterfat shrinkage allowed pursuant to § 916.41 (b) (3);

(b) Subtract from the pounds of butterfat remaining in each class the pounds of butterfat contained in milk or milk products received in packaged form which were classified and priced under another marketing agreement or order

issued pursuant to the act and disposed of in the same form as received;

(c) Subtract from the pounds of butterfat remaining in each class, in series beginning with the lowest priced utilization, the pounds of butterfat remaining in other source milk;

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

(e) Subtract from the remaining pounds of butterfat in each class, the pounds of butterfat received from other handlers in such classes pursuant to § 916.43 (a); and

(f) Add to the remaining pounds of butterfat in Class II utilization the pounds subtracted pursuant to paragraph (a) of this section;

(g) If the remaining pounds of butterfat in all classes exceed the pounds of butterfat in milk received from producers, subtract such excess from the remaining pounds of butterfat in each class, in series beginning with the lowest-priced utilization.

§ 916.47 *Allocation of skim milk classified.* Allocate the pounds of skim milk in each class to milk received from producers in a manner similar to that prescribed for butterfat in § 916.46.

§ 916.48 *Computation of total producer milk in each class.* The amounts computed pursuant to §§ 916.46 and 916.47 will be combined into one total for each class and the weighted average butterfat content of producer milk in each class will be determined.

MINIMUM PRICES

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

(a) The average of the basic or field prices per hundredweight reported to have been paid, or to be paid, for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the U. S. D. A.:

PRESENT OPERATOR AND LOCATION

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

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

(1) From the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the mid-point of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the U. S. D. A. during the month; substract 3 cents, add 20 percent thereof and multiply by 3.5.

(2) From the simple average, as computed by the market administrator, of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in 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 U. S. D. A., deduct 5.5 cents and then multiply by 8.2.

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

Kraft Foods Co., Cadillac, Mich.
Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Kraft Foods Co., Clare, Mich.

§ 916.51 *Class prices.* Subject to the provisions of §§ 916.52 and 916.53 the prices per hundredweight to be paid by each handler, f. o. b. his pool plant for milk received from producers or from cooperative associations during the month, shall be as follows:

(a) *Class I milk.* Through June 30, 1958 the Class I milk price shall be the basic formula price plus $1.05 during the months of February through June and plus $1.45 during the months of July through January.

(b) *Class II milk.* The Class II milk price shall be the basic formula price.

(c) *Class III milk.* The Class III milk price shall be the basic formula price less 20 cents.

§ 916.52 *Handler butterfat differential.* There shall be added to or subtracted from, as the case may be, the prices of milk for each class as computed pursuant to § 916.51, for each one-tenth of one percent variation in the average butterfat test of the milk in each class above or below 3.5 percent an amount equal to the producer butterfat differential determined pursuant to § 916.62.

§ 916.53 *Handler location adjustments.* For milk which is received from producers at a pool plant located more than 90 miles but not more than 110 miles, by shortest highway distance, as determined by the market administrator, from the Court House in either Grayling or Manistee, whichever is closer, and utilized as Class I, the price shall be the price effective pursuant to § 916.51 (a), less 12 cents, and less 1 cent additional for each 20 miles or fraction thereof over 110 miles.

§ 916.54 *Use of equivalent price.* If for any reason a price quotation required by this order for computing class prices or for any other purpose 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 PRICES TO PRODUCERS

§ 916.60 *Value of producer milk.* The value of producer milk received during the month by each handler at pool plants shall be computed by the market administrator as follows:

(a) Multiply the hundredweight of producer milk in each class pursuant to § 916.48 by the applicable respective class prices, adjusted pursuant to §§ 916.52 and 916.53, and add together the resulting amounts;

(b) Add the value of any excess utilization deducted from each class pursuant to § 916.46 (g) and the corresponding step of § 916.47 computed at the applicable class price; and

(c) Add the amount obtained through multiplying by the difference between the Class II price for the preceding month and the Class I price for the current month the lesser of:

(1) The hundredweight of milk subtracted from Class I pursuant to § 916.46 (d) and the corresponding step of § 916.47; or

(2) The hundredweight of producer milk classified as Class II milk (except as shrinkage) for the preceding month.

§ 916.61 *Computation of the uniform price.* For each month, the market administrator shall compute the uniform price per hundredweight for producer milk of 3.5 percent butterfat content delivered to pool plants (before location adjustment), as follows:

(a) Combine into one total the individual values of milk of all handlers computed pursuant to § 916.60;

(b) Add, if the weighted average butterfat test of all producer milk represented in paragraph (a) of this section is less than 3.5 percent, or subtract, if the weighted average butterfat test of such milk is more than 3.5 percent, an amount computed by multiplying the total pounds of butterfat represented by the difference of such average butterfat test from 3.5 percent by the butterfat differential provided in § 916.62 multiplied by 10;

(c) Add the aggregate of the values of the applicable producer location adjustments pursuant to § 916.63;

(d) Add not less than one half of the unobligated balance in the producer equalization fund;

(e) Divide the resulting amount by the hundredweight of milk received from producers; and

(f) Subtract not less than 6 cents nor more than 7 cents.

§ 916.62 *Producer butterfat differential.* In making payments pursuant to § 916.70, the uniform price shall be increased or decreased for each one-tenth of one percent of butterfat content in the milk received from each producer or a cooperative association above or below 3.5 percent, as the case may be, by a butterfat differential of 7 cents when the average price of butter as described in § 916.50 (b) (1) is 60 cents, which differential shall be increased one-half cent for each full 5 cents variance in such price of butter above 60 cents and decreased one-half cent for each full 5-cent variance in such price of butter below 64.99 cents.

§ 916.63 *Producer location adjustments.* In making payments to producers or cooperative associations pursuant

to § 916.70 a handler may deduct, with respect to all milk received by him from producers at a pool plant located by shortest highway distance as determined by the market administrator, more than 90 miles from the Court Houses in both Grayling and Manistee the amount per hundredweight applicable to the pool plant as set forth in § 916.53.

§ 916.64 *Notification.* On or before the 12th day after the end of each month, the market administrator shall mail to each handler, at his last known address, a statement showing for such month:

(a) The amount and value of his producer milk in each class;

(b) The uniform price computed pursuant to § 916.61 and the butterfat differential computed pursuant to § 916.62;

(c) The amount to be paid by such handler pursuant to §§ 916.70, 916.74, and 916.75; and

(d) The amount due such handler from the producer-equalization fund, or the amount to be paid by such handler to the producer-equalization fund, as the case may be.

PAYMENT FOR MILK

§ 916.70 *Time and method of payment.* (a) (1) Except as provided in paragraph (b) of this section, on or before the 15th day after the end of each month each handler who received milk from producers shall pay for milk received during such month to each producer for milk received from him the uniform price as provided in § 916.61 adjusted by the butterfat differential pursuant to § 916.62 and the location adjustment pursuant to § 916.63.

(2) If by such date a handler has not received full payment pursuant to § 916.73, he may reduce his total payments to all producers and cooperative associations uniformly by not more than the amount of reduction in payment from the market administrator; he shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator.

(b) (1) Upon receipt of a written request from a cooperative association which the Secretary determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the association, each handler shall pay to the cooperative association on or before the 15th day of each month, in lieu of payments pursuant to paragraph (a) of this section an amount equal to the gross sum due for all milk received from certified members, less amounts owing by each member-producer to the handler for supplies purchased from him on prior written order or as evidenced by a delivery ticket signed by the producer and submit to the cooperative association written information which shows for each such member-producer (i) the total pounds of milk received from him during the preceding month, (ii) the total pounds of butterfat contained in such milk, (iii) the number of days on which milk was received, and (iv) the amounts withheld by the handler in payment for supplies sold. The foregoing payment and submission of information shall be made with respect to milk of each producer whom the cooperative association certifies is a member, which is received on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the association.

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

§ 916.71 *Producer-equalization fund.* The market administrator shall establish and maintain a separate fund, known as the "producer-equalization fund" into which he shall deposit all payments received pursuant to §§ 916.72 and 916.84 (including any adjustments thereto pursuant to § 916.76) and out of which he shall make all payments pursuant to § 916.73 (including any adjustments thereto pursuant to § 916.76).

§ 916.72 *Payments to the producer-equalization fund.* On or before the 13th day after the end of each month, each handler whose value of milk is required to be computed pursuant to § 916.60 shall pay to the market administrator any amount by which such value for such month is greater than the minimum amount required to be paid by him pursuant to § 916.70.

§ 916.73 *Payments out of the producer-equalization fund.* On or before the 14th day after the end of each month, the market administrator shall pay to each handler any amount by which the value of milk for such handler for the month pursuant to § 916.60 is less than the total minimum amount required to be paid by him pursuant to § 916.70, less any unpaid obligations of such handler to the market administrator pursuant to § 916.72: *Provided,* That if the balance in the producer-equalization fund is insufficient to make all payments to all such handlers pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necesary funds become available.

§ 916.74 *Expense of administration.* As his pro rata share of the expense of administration of this part, each handler shall pay to the market administrator on or before the 13th day after the end of each month 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe, with respect (a) to all receipts within the month of milk from producers, including milk of such handlers' own production, (b) to any other source milk allocated to Class I pursuant to §§ 916.46 and 916.47, and (c) the applicable amount specified in § 916.84 (a) (2) or (b) (2).

§ 916.75 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments pursuant to § 916.70 for milk received from each producer (including milk of such handler's own production) at a plant not operated by a cooperative association of which such producer is a member, shall deduct 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe, and, on or before the 13th day after the end of each month, shall pay such deductions to the market administrator. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received from producers and to provide producers with market information, such services to be performed by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers whose milk is received at a plant not operated by a cooperative association of which such producers are members, and for whom a cooperative association is actually performing the services described in paragraph (a) of this section, as determined by the Secretary, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from payments required pursuant to § 916.70 as may be authorized by such producers, and pay such deductions on or before the 13th day after the end of the month to the cooperative association rendering such services of which such producers are members.

§ 916.76 *Errors in payments.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses adjustments to be made, for any reason, which result in moneys due:

(a) To the market administrator from such handler,

(b) To such handler from the market administrator, or

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

§ 916.77 *Overdue accounts.* Any unpaid obligation of a handler or of the market administrator pursuant to § 916.72 through § 916.76 shall be increased one-half of one percent on the first day of the month next following the due date of such obligation and on the first day of each month thereafter until such obligation is paid.

§ 916.78 *Termination of obligations.* (a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the month during which the mar-

ket administrator receives the handler's report of utilization of the milk involved in such obligation, unless, within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

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

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

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

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

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the month during which the milk involved in the claim was received if an underpayment is claimed or two 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.

APPLICATION OF PROVISIONS

§ 916.80 *Milk caused to be delivered by cooperative associations.* Milk referred to in this part as received from producers by a handler shall include milk of producers caused to be delivered to such handler by a cooperative association.

§ 916.81 *Producer-handler exemption.* A producer-handler shall be exempt from all provisions of this part except §§ 916.32, 916.34 and 916.35.

§ 916.82 *Handler exemption.* A handler who operates a plant from which an average of less than 100 points (one point being defined as one pint of half-and-half or one quart of any other Class I product) of Class I milk per day is disposed of in the marketing area during the month on route(s) shall, with respect to such plant, be exempted for such month from all provisions of this part except §§ 916.33, 916.34 and 916.35.

§ 916.83 *Milk subject to other Federal orders.* Milk received at the plant of a handler at which the handling of milk is fully subject during the month to the pricing and payment provisions of another marketing agreement or order issued pursuant to the act and from which the disposition of Class I milk in the other Federal marketing area, either during the month or during the average of the 12 preceding months, exceeds that in the Upstate Michigan marketing area shall be exempted for such month from all the provisions hereof except §§ 916.33, 916.34 and 916.35 unless the Secretary determines that such plant is more appropriately regulated under this part.

§ 916.84 *Handler operating a nonpool distributing plant.* Each handler, other than a producer-handler or one exempt pursuant to §§ 916.82 or 916.83, who during the month operates a nonpool distributing plant, shall, in lieu of the payments required pursuant to §§ 916.70 through 916.74, pay to the market administrator as follows:

(a) If such handler so elects at the time of reporting pursuant to § 916.30, his obligations shall be as follows:

(1) On or before the 13th day after the end of the month, for the producer-settlement fund, an amount equal to the difference between the value of the Class I milk disposed of during the month on routes in the marketing area at the applicable Class I price for the month and the value of such milk at the Class III price; and

(2) On or before the 13th day after the end of the month, as his pro rata share of the expense of administration, the rate specified in § 916.74 with respect to Class I milk disposed of on routes in the marketing area.

(b) Unless such handler elects to have his obligations computed pursuant to paragraph (a) of this section, his obligations shall be as follows:

(1) On or before the 25th day after the end of the month, for the producer-settlement fund, the lesser of the amount computed pursuant to paragraph (a) (1) of this section, or any plus amount resulting from the following computation:

(i) Compute an amount equal to the value of milk which would be computed pursuant to § 916.60 for milk received from qualified dairy farmers at such plant for such month if such plant had been a pool plant;

(ii) Deduct the gross payments made by the handler to qualified dairy farmers for milk received at such plant for such month. Gross payments to be included in this computation shall be limited to cash payments made to the dairy farmer or his assignee on or before the date of the report required pursuant to § 916.31, plus the value of any supplies or services furnished by the handler on prior written authorization or as evidenced by a delivery ticket signed by the dairy farmer; and

(2) On or before the 13th day after the end of the month, as his pro rata share of the expense of administration, an amount equal to that which would have been computed pursuant to § 916.74 had such plant been a pool plant.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

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

§ 916.91 *When suspended or terminated.* The Secretary shall, whenever he finds that this part, or any provisions thereof, obstructs or does not tend to effectuate the declared policy of the act, terminate or suspend the operation of this part or any such provisions thereof.

§ 916.92 *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.

§ 916.93 *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 expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers, in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 916.100 *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.

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

Issued at Washington, D. C., this 19th day of July 1957 to be effective August 1, 1957.

[SEAL] EARL L. BUTZ,
Assistant Secretary.

[F. R. Doc. 57-6039; Filed, July 23, 1957; 8:52 a. m.]

[Amdt. 1]

PART 957—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

LIMITATION OF SHIPMENTS

Findings. (a) Pursuant to Marketing Agreement No. 98 and Order No. 57, as amended (7 CFR Part 957), regulating the handling of Irish potatoes grown in certain designated counties in Idaho and Malheur County, Oregon, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.), and upon the basis of the recommendation and information submitted by the Idaho-Eastern Oregon Potato Committee, established pursuant to said marketing agreement and order, as amended, and upon other available information, it is hereby found that the amendment to the limitation of shipments, as hereinafter provided, will tend to effectuate the declared policy of the act.

(b) It is hereby 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 in the FEDERAL REGISTER (5 U. S. C. 1001 et seq.) in that (i) 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, (ii) more orderly marketing in the public interest, than would otherwise prevail, will be promoted by regulating the shipment of potatoes, in the manner set forth below, on and after the effective date of this amendment, (iii) compliance with this amendment will not require any special preparation on the part of handlers which cannot be completed by the effective date, (iv) reasonable time is permitted, under the circumstances, for such preparation, (v) information regarding the committee's recommendations has been made available to producers and handlers in the production area, and (vi) this amendment relieves restrictions on the handling of potatoes grown in the production area.

Order, as amended. The provisions of § 957.316 (b) (1) (22 F. R. 4785, July 9, 1957) are hereby amended to read as follows:

(b) *Order.* (1) Except as otherwise provided in this section, during the period from July 24, 1957, through September 20, 1957, no handler shall ship potatoes of any variety unless such potatoes are generally "fairly clean," which means that at least 90 percent of such potatoes are "fairly clean," as such terms are defined in the United States Standards for Potatoes (§§ 51.1540 to 51.1559 of this title), and

(i) If they are of the round varieties (including, but not being limited to, Bliss Triumph, and Pontiac varieties), such potatoes meet the requirements of the U. S. No. 2, or better, grade, 1⅞ inches minimum diameter,

(ii) If they are of the White Rose variety, such potatoes meet the requirements of the U. S. No. 2, or better, grade, 5 ounces minimum weight: *Provided,* That any such potatoes that grade not less than U. S. No. 1, may be shipped if they are of 2 inches minimum diameter and 4 ounces minimum weight, and (iii) If they are of any other variety (including, but not being limited to, Russet Burbank, Early Gem, and Kennebec varieties), such potatoes meet the requirements of the U. S. No. 2, or better, grade, and are of 2 inches minimum diameter and 4 ounces minimum weight.

as such terms, grades, and sizes are defined in the United States Standards for Potatoes (§§ 51.1540 to 51.1559 of this title), including the tolerances set forth therein.

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

Dated July 19, 1957, to become effective upon publication in the FEDERAL REGISTER.

[SEAL] FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 57-6040; Filed, July 23, 1957; 8:53 a. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

PART 131—HANDLING OF ANTI-HOG-CHOLERA SERUM AND HOG-CHOLERA VIRUS

DETERMINATION RELATIVE TO BUDGET OF EXPENSES AND FIXING RATES OF ASSESSMENT FOR 1957

On June 12, 1957, a notice of proposed rule making was published in the FEDERAL REGISTER (22 F. R. 4135) regarding the budget of expenses and the fixing of the rates of assessment for the calendar year 1957, under the marketing agreement and the marketing order (9 CFR 131.1 et seq.), regulating the handling of anti-hog-cholera serum and hog-cholera virus. This regulatory program is effective pursuant to Public Law No. 320, 74th Congress, approved August 24, 1935 (7 U. S. C. 851 et seq.).

The notice provided a period of 30 days for interested parties to file data, views or arguments with the Hearing Clerk. After consideration of all relevant matters, including the proposals set forth in the aforesaid notice, it is hereby found and determined that:

a. Section 131.157 is added to read as follows:

§ 131.157 *Budget of expenses and rates of assessment for the calendar year 1957*—(a) *Budget of expenses.* The expenses which will necessarily be incurred by the Control Agency, established pursuant to the provisions of the marketing agreement and of the marketing order (§§ 131.1 to 131.96), for the maintenance and functioning of said Agency during the calendar year 1957, will amount to $37,290.00 under the recommendation of the Control Agency, from which shall be deducted the unexpended balance of $9,275.55 on hand with said Control Agency on January 1, 1957, from assessments collected during the calendar year 1956, leaving a balance of $28,014.45 to be collected during the calendar year 1957.

(b) *Rates of assessment.* Of the amount of $28,014.45 to be collected during the calendar year 1957, the sum of $21,571.12 shall be assessed against handlers who are manufacturers, and $6,443.33 shall be assessed against handlers who are wholesalers. The pro rata share of the expenses of the Control Agency to be paid for the calendar year 1957 by each handler who is a manufacturer shall be $15.50 for each ten thousand dollars or fraction thereof of serum and virus sold by such handler during the calendar year 1956 and the pro rata share of such expenses to be paid for the calendar year 1957 by each handler who is a wholesaler shall be $25.00 for the first ten thousand dollars or fraction thereof and $2.37 for each additional ten thousand dollars or fraction thereof of serum and virus sold by such handler. Such assessments shall be paid by each respective handler in accordance with the applicable provisions of the marketing agreement and order (§§ 131.1 to 131.96).

(c) *Terms.* As used in this section, the terms "handler", "manufacturer", "wholesaler", "virus", and "serum" shall have the same meaning as is given to each such term in said marketing agreement and marketing order (§§ 131.1 to 131.96).

Findings relative to effective date. It is hereby further found that (1) the fiscal year of the Control Agency established pursuant to the provisions of the marketing agreement and the marketing order corresponds to the calendar year, and the current calendar year 1957 is already well advanced; (2) the expenses of operating this regulatory program since January 1, 1957, have been paid with funds representing assessments collected in excess of expenses incurred during the calendar year 1956 and prepayments of a portion of their 1957 assessments by manufacturer and wholesaler handlers; (3) nearly all such funds have now been expended; (4) in order for the administrative assessments to be collected, it is essential that the specification of the assessment rates be effective immediately so as to enable the Control Agency to perform its respective duties and functions under the aforesaid marketing agreement and marketing order; and (5) no preparation with respect to this determination is required of persons regulated which cannot be completed prior to the effective date hereof. Wherefore, it is hereby determined that good cause exists for making this determination effective upon its publication in the FEDERAL REGISTER.

(49 Stat. 781-782; 7 U. S. C. 851-855)

Done at Washington, D. C., this 18th day of July 1957, to become effective upon publication in the FEDERAL REGISTER.

[SEAL] B. T. SHAW,
Administrator, Agricultural Research Service.

[F. R. Doc. 57-6042; Filed, July 23, 1957; 8:53 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Civil Air Regs., Amdt. 43–7]

PART 43—GENERAL OPERATION RULES

VARIATION OF AIRCRAFT MAXIMUM WEIGHTS WITH ALTITUDE

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 19th day of July 1957.

It has been brought to the attention of the Civil Aeronautics Board that difficulty has been encountered in the interpretation of the Civil Air Regulations with respect to the provisions concerning variation of aircraft maximum weights with altitude for transport category airplanes. In order to clarify the Board's intention in this matter, this amendment to Part 43 of the Civil Air Regulations is being promulgated.

The presently effective certification regulations applicable to transport category airplanes, contained in Part 4b of the Civil Air Regulations, require the determination of the maximum certificated weights. The provisions of this part permit, at the option of the applicant for type certification, the establishment of different maximum weights for the airplane at each altitude and for each practicably separable operating condition; e. g., take-off, en route, and landing. In addition, the applicant is permitted to elect the altitudes at which maximum weights are to be established. In other words, the applicant may request certification of an airplane at sea level only or up to any altitude he might choose. If the applicant chooses a high airport elevation for certification, he may vary the maximum weights of the airplane for the various airport elevations between sea level and the highest airport elevation or he may establish the maximum weights for one airport elevation and use those weights for all airport elevations below the one selected. For example, if the airplane will be operated out of airports at elevations of 5,000 feet or less, the airplane's maximum take-off and landing weights will be determined for an altitude of 5,000 feet and those weights will be used for all operations; or, on the other hand, the weight can be varied for intermediary airport elevations since this usually results in higher maximum weights for lower airport elevations.

In addition to the aforementioned certification requirements, Part 4b requires that an Airplane Flight Manual be prepared by the applicant. The regulations applicable to this Airplane Flight Manual require that the weight limitations determined in accordance with that part be listed as operating limitations of the airplane. Therefore, if the applicant chooses to vary the weight of the airplane with altitude, this variation becomes an operating limitation on the airplane. Accordingly, if he chooses to certificate the airplane at sea level only, the airplane would be limited to operations out of and into sea level airports. Similarly, if the applicant certificates the airplane for an airport elevation of 5,000 feet, the airplane would be limited to operations out of and into airports at elevations of 5,000 feet or less and if, in addition, he does not choose to vary the airplane's weight with altitude, the weights established for 5,000 feet would be applicable for all airports up to the 5,000-foot elevation. If, however, the applicant chooses to vary the weight with altitude, the airplane weight limitation at a particular airport would depend on the airport elevation.

Presently effective provisions of Parts 40, 41, and 42 of the Civil Air Regulations prohibit take-offs and landings of large transport category airplanes in passenger service at airports with elevations outside the altitude range for which maximum take-off and landing weights have been determined, and, further, provide that the weight of the airplane at take-off and landing shall not exceed the authorized maximum take-off and landing weights for the elevation of the airport at which the take-off or landing is made. This provision in Parts 40, 41, and 42 was specifically included in the text for passenger-carrying airplanes for the convenience of the operator since these airplanes are subject to performance operating limitations which are applicable over and above the certification limitations required by Part 4b. It became evident that singling out air carrier passenger service gave the erroneous impression to some operators that non-air-carrier and cargo service were not subject even to the certification limitations.

The intent of Draft Release No. 55–29 was to correct this impression by indicating directly that the certification limitations of Part 4b are applicable to all airplanes certificated in accordance with the transport category performance requirements, irrespective of the type of operation involved.

With respect to cargo operations under Parts 40 and 41, it should be noted that they may be conducted in accordance with provisions established by the Administrator under Part 42. Under Part 42, the Administrator has developed Civil Aeronautics Manual material applicable to transport category airplanes in cargo operations which prohibits the weight of the airplane at take-off from exceeding the authorized maximum take-off weight for the elevation of the airport from which the take-off is made. Therefore, when cargo operations are conducted under Part 42 the same take-off limitations apply as apply to passenger-carrying airplanes.

The Board has adopted Special Civil Air Regulations applicable to C–46, DC–3, and L–18 airplanes. Special Civil Air Regulation No. SR–406C requires that the C–46 airplane in passenger service be re-certificated under the provisions of Part 4b of the Civil Air Regulations by a date certain. Special Civil Air Regulation No. SR–407, applicable to the DC–3 and L–18, permits the maximum certificated weights for these airplanes to be increased if the performance requirements of either Part 4a or Part 4b are complied with. The provisions of Part 4a permit certification with sea level data only. This limitation of Part 4a with respect to sea level data has led to additional confusion when an airplane so certificated is operated in accordance with Part 43. It was the Board's intention that, if operators of DC–3 or L–18 airplanes re-certificate their airplanes in accordance with the provisions of Special Civil Air Regulation No. SR–407, the operating limitations contained in the Airplane Flight Manual would establish the weights for the airplane after the re-certification since under the provisions of Part 43 it is required that all airplanes be operated in accordance with the limitations contained in the Airplane Flight Manual.

It was proposed in a notice of proposed rule making published in the FEDERAL REGISTER (20 F. R. 9312) and circulated to the industry as Civil Air Regulations Draft Release No. 55–29 to amend the present operating regulations to prohibit all transport category airplanes certificated under the provisions of Part 4a or Part 4b, or re-certificated in accordance with SR–406C or SR–407, from operating at altitudes exceeding the altitude for which maximum certificated weights have been established.

It was apparent from the comments received on Draft Release No. 55–29 that misinterpretation of the regulations was even more widespread than previously believed. Accordingly, supplemental notice was given in the FEDERAL REGISTER (21 F. R. 1867) and circulated to the industry as Civil Air Regulations Draft Release No. 56–8 that a public discussion would be of constructive assistance to a more general understanding of the problems involved.

Pursuant to the supplemental notice, a meeting was held to discuss this subject on April 12, 1956, in Washington, D. C. Since most of the confusion with respect to this subject stems from operations involving DC–3 and L–18 type airplanes, participants in this meeting were predominantly operators of such airplanes. In explanation of the Board's proposal, it was pointed out that Special Civil Air Regulation No. SR–407 contains a provision which permits an increase in the maximum certificated weight in accordance with the transport category provisions contained in Part 4a or Part 4b; and that SR–407 includes a note indicating that the application of transport category performance requirements usually results in establishment of maximum certificated weights which vary with altitude. Therefore, if an operator requested and received approval under SR–407 for an increase in take-off weight, such weight would decrease as the elevation of the airport increases from which the operation is conducted. To clarify the situation as it pertains to the variation-of-weights-with-altitude requirements for all transport category airplanes, Part 43 is being amended by limiting operations to airport elevations where the weight has been determined and requiring that the airplane at take-off and landing shall not exceed the authorized maximum take-off and landing weights established for the altitude.

Interested persons have been afforded an opportunity to participate in the making of this amendment and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends

Part 43 of the Civil Air Regulations (14 CFR Part 43, as amended) effective August 23, 1957.

By adding a new § 43.11 to read as follows:

§ 43.11 *Transport category airplane weight limitations.* (a) No transport category airplane or airplane certificated in accordance with the transport category performance requirements shall be taken off from any airport located at an elevation outside of the altitude range for which maximum take-off weights have been determined, and no airplane shall depart for an airport of intended destination or have any airport specified as an alternate which is located at an elevation outside of the altitude range for which maximum landing weights have been determined.

(b) The weight of the airplane at take-off shall not exceed the authorized maximum take-off weight for the elevation of the airport from which the take-off is to be made.

(c) The weight at take-off shall be such that, allowing for normal consumption of fuel and oil in flight to the airport of intended destination, the weight on arrival will not exceed the authorized maximum landing weight for the elevation of such airport.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601, 604, 52 Stat. 1007, 1010, as amended; 49 U. S. C. 551, 554)

Effective: August 23, 1957.

Adopted: July 19, 1957.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 57-6044; Filed, July 23, 1957; 8:54 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 6617]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

RENOR CO., INC., ET AL.

Subpart—*Advertising falsely or misleadingly:* § 13.170 *Qualities or properties of product or service.*

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, Renor Company, Inc. (Milwaukee, Wis.), et al., Docket 6617, June 27, 1957]

In the Matter of Renor Company, Inc., a Corporation, and John T. Benson, Craig Benson and Charles B. Ryan, Individually and as Officers of Said Corporation; Glenn W. Braun and Clyde Witt, Copartners Trading as Rennel Products; Charles J. Braun and Rose Marie Witt, Copartners Trading as Rennel Sales; and John T. Benson and Craig Benson, Copartners Trading as The Rennel Company

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a corporation in Milwaukee, Wis., and a partnership of its officers doing business in Chicago, Ill., each selling only in its own State a laxative preparation under the names "Renor Concentrate" and "Rennel Concentrate", respectively, with disseminating by mail and in commerce newspaper advertisements which represented that the preparation constituted an effective treatment for obesity.

Following proceedings during which the complaint was amended to include radio broadcasts and dismissed as to four individual respondents, the hearing examiner made his initial decision and order to cease and desist from which counsel for respondents appealed on the question of the Commission's jurisdiction under section 12 (a) (1) of the Federal Trade Commission Act as amended by the Wheeler-Lea Act. Having heard the matter on briefs, the Commission denied the appeal and on June 27 adopted the initial decision as the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondent Renor Company, Inc., a corporation and its officers; respondents John T. Benson, Craig Benson and Charles B. Ryan, individually and as officers of said corporation; and respondents John T. Benson and Craig Benson, copartners, trading as The Rennel Company, or under any other name, and respondents' agents, representatives and employees directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of the preparation designated as Renor Concentrate or Rennel Concentrate or of any other preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same name or names or any other name, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement by means of the United States mails or by any means in commerce as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents directly or by implication:

(a) That said preparation constitutes a competent or effective treatment for obesity,

(b) That said preparation will reduce the weight of the user.

By "Final Order", report of compliance was required as follows:

It is ordered, That the respondent Renor Company, Inc., a corporation, and respondent Charles Ryan, individually and as an officer of said corporation, and respondents John T. Benson and Craig Benson, individually and as officers of said corporation, and as copartners trading as The Rennel Company, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order contained in said initial decision.

Issued: June 27, 1957.

By the Commission.

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

[F. R. Doc. 57-6026; Filed, July 23, 1957; 8:49 a. m.]

[Docket 6548]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

O-JIB-WA MEDICINE CO. ET AL

Subpart—*Advertising falsely or misleadingly:* § 13.170 *Qualities or properties of product or service.* Subpart—*Misrepresenting oneself and goods—Goods:* § 13.1710 *Qualities or properties.*

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, O-Jib-Wa Medicine Co. et al., Flint, Mich., Docket 6548, June 27, 1957]

In the Matter of Kenneth W. Shafe, Individually and Trading as O-Jib-Wa Medicine Co., and Kenneth G. Morrish, Individually and Doing Business as Continental Products Company and as General Sales and Production Manager of O-Jib-Wa Medicine Co.

This proceeding was heard by a hearing examiner on the complaint of the Commission charging two individuals in Flint, Mich., with representing falsely in advertisements in newspapers that their medicinal preparation "O-Jib-Wa Bitters", and the similar product "Oscoda Bitters" prepared for out-of-State distribution, constituted effective treatments for rheumatism, arthritis, and other diseases and their symptoms, and charging one of them with making the same representations for the latter product on order sheets and in letters.

Following hearings in due course, the hearing examiner made his initial decision, including findings and order to cease and desist, from which both counsel filed cross-appeals. The Commission, after hearing the matter on briefs and oral argument, on June 27 denied respondents' appeal and granted that of complaint counsel, modified certain findings and conclusions of the initial decision, and substituted its order for that of the hearing examiner.

The order to cease and desist, as thus modified, is as follows:

I. *It is ordered,* That the respondent Kenneth W. Shafe, individually and trading as O-Jib-Wa Medicine Company, or trading under any other name, and the respondent Kenneth G. Morrish, individually and trading as Continental Products Company, or trading under any other name, and as manager of O-Jib-Wa Medicine Company, and said respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of either of the preparations now

designated as "O-Jib-Wa Bitters" and "Oscoda Bitters," or any other product of substantially the same composition or possessing substantially similar properties, whether sold under the same name or any other names, do forthwith cease and desist from:

A. Disseminating or causing to be disseminated by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which represents directly or by implication that either of said preparations, however taken:

(a) Constitutes an adequate, effective or reliable treatment for, will arrest the progress of, correct the underlying causes of or cure any form of arthritis or rheumatism;

(b) Constitutes an adequate, effective or reliable treatment for the symptoms or manifestations of any form of arthritis or rheumatism, including pain, swelling and stiffness or will afford relief from the aches, pains or other discomforts thereof;

(c) Will stop backache, cleanse the blood of poisons or waste, promote better digestion or give one pep or vitality;

(d) Is an adequate, effective or reliable treatment for indigestion, overtaxed nerves or any disease or disorder of the stomach, liver, kidneys, blood or the symptoms thereof.

B. Disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase in commerce as "commerce" is defined in the Federal Trade Commission Act, of the preparation designated "Oscoda Bitters," which advertisement contains any of the representations prohibited in paragraph I (A) hereof.

II. *It is further ordered,* That the respondent Kenneth G. Morrish, individually and trading as Continental Products Company, or trading under any other name, and his agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of the preparation now designated as "Oscoda Bitters," or of any other product of substantially the same composition or possessing substantially similar properites, whether sold under the same name or under any other name, do forthwith cease and desist from:

A. Disseminating or causing to be disseminated by means of the United States mails or by any other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which represents directly or by implication that said preparation, however taken, constitutes an adequate, effective or reliable treatment for any form of rheumatism, arthritis, neuritis, sciatica or the symptoms thereof or for any disease or disorder of the blood, stomach, liver, kidneys or nervous system or the symptoms thereof.

B. Disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing or which is likely to induce directly or indirectly the purchase in commerce as "commerce" is defined in the Federal Trade Commission Act of the respondent's said preparation, which advertisement contains any of the representations prohibited in paragraph II (A) hereof.

By "Final Order", report of compliance was required as follows:

It is further ordered, That the respondents, Kenneth W. Shafe and Kenneth G. Morrish, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

It is further ordered, That the initial decision of the hearing examiner, as modified by the Commission, is hereby adopted as the decision of the Commission.

Issued: June 27, 1957.

By the Commission.

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

[F. R. Doc. 57-6027; Filed, July 23, 1957; 8:49 a. m.]

[Dockets 6659, 6661, 6663, 6664]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

WALKER-SCOTT CORP. ET AL.

Subpart—*Advertising falsely or misleadingly:* § 13.30 *Composition of goods:* Fur Products Labeling Act; § 13.73 *Formal regulatory and statutory requirements:* Fur Products Labeling Act; § 13.155 *Prices:* Comparative; exaggerated as regular and customary; § 13.235 *Source or origin:* Maker or seller, etc.: *Fur Products Labeling Act.* Subpart—*Invoicing products falsely:* § 13.1108 *Invoicing products falsely:* Fur Products Labeling Act. Subpart—*Neglecting, unfairly or deceptively, to make material disclosure:* § 13.1845 *Composition:* Fur Products Labeling Act; § 13.1852 *Formal regulatory and statutory requirements:* Fur Products Labeling Act; § 13.1865 *Manufacture or preparation:* Fur Products Labeling Act. Subpart—*Using misleading name*—Goods: § 13.2280 *Composition:* Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U. S. C. 45, 69f) [Cease and desist orders: Walker-Scott Corp. d. b. a. Walker-Scott Co., San Diego, Calif., Docket 6659; Meier & Frank Co., Portland, Oreg., Docket 6661; Lipman, Wolfe & Co., Portland, Oreg., Docket 6663; and Harold B. Toplon d. b. a. Urist & Toplon, Los Angeles, Calif., Docket 6664; June 27, 1957]

In the Matter of Walker-Scott Corporation, a Corporation, Doing Business as Walker-Scott Company; Meier & Frank Co., a Corporation; Lipman, Wolfe & Company, a Corporation; Harold B. Toplon, an Individual Doing Business as Urist & Toplon

These four consolidated cases were heard by a hearing examiner on the complaint of the Commission charging an individual in Los Angeles, Calif., concessionaire and operator of the fur departments of the three corporate retailer respondents located in San Diego, Calif., and Portland, Oreg., and said retailers, with violating the Fur Products Labeling Act by fictitious pricing of fur products in advertising fur sales, failing to reveal in advertising and invoicing essential information, and failing in other respects to conform to requirements of the act.

Following an agreement between the parties containing consent order, the hearing examiner made his initial decision and order to cease and desist which became on June 27 the decision of the Commission.

The four orders to cease and desist are as follows:

Order as to the Respondent Walker-Scott Corporation, a Corporation, Doing Business as Walker-Scott Company (Respondent in Docket No. 6659)

It is ordered, That respondent Walker-Scott Corporation, a corporation trading as Walker-Scott Company, or under any other trade name or names, and respondent's representatives, agents and employees, directly or through any corporate or other device, lease, assignment, or agreement, in connection with the introduction into commerce, or the sale, advertisement, offer for sale, transportation, or distribution in commerce of any fur product, or in connection with the sale, advertisement, offer for sale, transportation, or distribution of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur", and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices to purchasers of fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product, as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

(b) That the fur product contains or is composed of used fur, when such is a fact;

(c) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is a fact;

(d) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is a fact;

(e) The name and address of the person issuing such invoice;

(f) The name of the country of origin of any imported fur contained in a fur product.

2. Setting forth on invoices required information in abbreviated form.

3. Failing to set forth on invoices an item number or mark assigned to fur products.

B. Falsely or deceptively advertising fur products, through the use of any advertisement, representation, public announcement, or notice which is intended to aid, promote or assist, directly or indirectly, in the sale or offering for sale of fur products, and which:

1. Fails to disclose the name or names of any animal or animals producing the fur or furs contained in fur products as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

2. Represents directly or by implication that the regular or usual price of any fur product is any amount which is in excess of the price at which the respondent has usually and customarily sold such products in the recent regular course of business;

3. Makes use of comparative prices or percentage savings claims unless such compared prices or savings claims are based upon current market values or upon a bona fide compared price which was in effect during a period of time designated in such advertisement;

4. Makes use of any pricing or savings claims or representations of the types referred to in paragraph B 2 and 3 above, unless there are maintained by respondent full and adequate records disclosing the facts upon which such claims or representations are based.

Order as to the Respondent Meier & Frank Co., a Corporation (Respondent in Docket No. 6661)

It is ordered, That respondent Meier & Frank Co., a corporation, and its officers, and respondent's representatives, agents and employees, directly or through any corporate or other device, lease, assignment, or agreement, in connection with the introduction into commerce, or the sale, advertisement, offer for sale, transportation, or distribution in commerce of any fur product, or in connection with the sale, advertisement, offer for sale, transportation, or distribution of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices to purchasers of fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product, as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

(b) That the fur product contains or is composed of used fur, when such is a fact;

(c) That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur, when such is a fact;

(d) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is a fact;

(e) The name and address of the person issuing such invoice;

(f) The name of the country of origin of any imported fur contained in a fur product.

2. Setting forth required information in abbreviated form.

B. Falsely or deceptively advertising fur products, through the use of any advertisement, representation, public announcement, or notice which is intended to aid, promote, or assist, directly or indirectly, in the sale or offering for sale of fur products, and which:

1. Fails to disclose:

(a) The name or names of any animal or animals producing the fur or furs contained in fur products as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

(b) That the fur products contain or are composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact.

2. Contains the name or names of any anmial or animals other than the name or names specified in Paragraph B 1 (a) above.

3. Represents directly or by implication that the regular or usual price of any fur product is any amount which is in excess of the price at which the respondent has usually and customarily sold such products in the recent regular course of business.

4. Makes use of comparative prices or percentage savings claims unless such compared prices or savings claims are based upon current market values or upon a bona fide compared price which was in effect during a period of time designated in such advertisement.

5. Makes use of any pricing or savings claims or representations of the types referred to in Paragraph B 3 and 4 above, unless there are maintained by respondent full and adequate records disclosing the facts upon which such claims or representations are based.

Order as to the Respondent Lipman, Wolfe & Company, A Corporation (Respondent in Docket No. 6663)

It is ordered, That respondent Lipman, Wolfe & Company, a corporation, and respondent's representatives, agents and employees, directly or through any corporate or other device, lease, assignment, or agreement, in connection with the introduction into commerce, or the sale, advertisement, offer for sale, transportation, or distribution in commerce of any fur product, or in connection with the sale, advertisement, offer for sale, transportation, or distribution of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

1. Failing to affix labels to fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

(b) That the fur product contains or is composed of used fur, when such is a fact;

(c) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur when such is a fact;

(d) That the fur product is composed in whole or in substantial part of paws, tails, bellies or waste fur, when such is a fact;

(e) The name, or other identification issued and registered by the Commission, of one or more persons who manufactured such fur product for introduction into commerce, introduced it into commerce, sold it in commerce, advertised or offered it for sale in commerce, or transported or distributed it in commerce;

(f) The name of the country of origin of any imported furs used in the fur product.

2. Setting forth on labels attached to fur products:

(a) Required information in abbreviated form.

(b) Required information mingled with nonrequired information.

(c) Required information in improper sequence.

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices to purchasers of fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product, as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

(b) That the fur product contains or is composed of used fur, when such is a fact;

(c) That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur, when such is a fact;

(d) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is a fact;

(e) The name and address of the person issuing such invoice;

(f) The name of the country of origin of any imported fur contained in a fur product.

2. Setting forth required information in abbreviated form.

C. Falsely or deceptively advertising fur products, through the use of any advertisement, representation, public announcement, or notice which is intended to aid, promote, or assist, directly or indirectly, in the sale or offering for sale of fur products, and which:

1. Fails to disclose:

(a) That the fur products contain or are composed of bleached, dyed or otherwise artificially colored fur, when such is the fact.

(b) That the fur products are composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact.

2. Represents directly or by implication that fur products are being offered at prices which are at or below wholesale prices or that the regular or usual price of any fur product is any amount which is in excess of the price at which the respondent has usually and customarily sold such products in the recent regular course of business.

3. Makes use of comparative prices or percentage savings claims unless such compared prices or savings claims are based upon current market values or upon a bona fide compared price which

was in effect during a period of time designated in such advertisement.

4. Represents fur products as being clearance stock, or a special purchase at closeout prices, or as being from the stock of another who is leaving the fur business, where contrary to the fact.

5. Makes use of any pricing or savings claims or representations of the types referred to in Paragraph C 2 and 3 above, unless there are maintained by respondent full and adequate records disclosing the facts upon which such claims or representations are based.

Order as to the Respondent Harold B. Toplon, an Individual Doing Business as Urist & Toplon (Respondent in Docket No. 6664)

It is ordered, That respondent Harold B. Toplon, an individual doing business as Urist & Toplon or under any other trade name or names, and respondent's representatives, agents and employees, directly or through any corporate or other device, lease, assignment, or agreement, in connection with the introduction into commerce, or the sale, advertisement, offer for sale, transportation, or distribution in commerce of any fur product, or in connection with the sale, advertisement, offer for sale, transportation, or distribution of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices to purchasers of fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product, as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations;

(b) That the fur product contains or is composed of used fur, when such is a fact;

(c) That the fur product contains or is composed of bleached, dyed or otherwise artificially by colored fur, when such is a fact;

(d) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is a fact;

(e) The name and address of the person issuing such invoice;

(f) The name of the country of origin of any imported fur contained in a fur product.

2. Setting forth on invoices required information in abbreviated form.

3. Failing to set forth on invoices an item number or mark assigned to fur products.

B. Falsely or deceptively advertising fur products, through the use of any advertisement, representation, public announcement, or notice which is intended to aid, promote, or assist, directly or indirectly, in the sale or offering for sale of fur products, and which:

1. Fails to disclose:

(a) The name or names of any animal or animals producing the fur or furs contained in fur products as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

(b) That the fur products contain or are composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

(c) That the fur products are composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact.

2. Contains the name or names of any animal or animals other than the name or names specified in paragraph B 1 (a) above.

3. Represents directly or by implication that fur products are being offered at prices which are at or below wholesale prices or that the regular or usual price of any fur product is any amount which is in excess of the price at which the respondent has usually and customarily sold such products in the recent regular course of business.

4. Makes use of comparative prices or percentage savings claims unless such compared prices or savings claims are based upon current market values or upon a bona fide compared price which was in effect during a period of time designated in such advertisement.

5. Represents fur products as being clearance stock or a special purchase at closeout prices, or as being from the stock of another who is leaving the fur business, where contrary to the fact.

6. Makes use of any pricing or savings claims or representations of the type referred to in Paragraph B 3 and 4 above, unless there are maintained by respondent full and adequate records disclosing the facts upon which such claims or representations are based.

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

It is ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: June 27, 1957.

By the Commission.

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

[F. R. Doc. 57-6028; Filed, July 23, 1957; 8:50 a. m.]

TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

Subchapter N—Irrigation Projects; Construction Costs

PART 141—PARTIAL PAYMENT CONSTRUCTION CHARGES ON INDIAN IRRIGATION PROJECTS

ASSESSMENT AND COLLECTION OF ADDITIONAL CONSTRUCTION COSTS; CORRECTION

In Federal Register Document 57-5239, published on page 4728, issue dated July 4, 1957, the title of the issuing officer, Hatfield Chilson, should read "Acting Secretary of the Interior."

D. OTIS BEASLEY, *Administrative Assistant Secretary.*

JULY 17, 1957.

[F. R. Doc. 57-6019; Filed, July 23, 1957; 8:46 a. m.]

TITLE 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

[T. D. 6243]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

CAPITAL GAINS AND LOSSES

On November 15, 1955, notice of proposed rulemaking regarding the regulations for taxable years beginning after December 31, 1953, and ending after August 16, 1954, under parts I, II, and III of subchapter P of chapter 1 of the Internal Revenue Code of 1954, was published in the FEDERAL REGISTER (20 F. R. 8471). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the following regulations, which also give effect to the amendment made by section 5 of the Life Insurance Company Tax Act of 1955, are hereby adopted:

CAPITAL GAINS AND LOSSES

TREATMENT OF CAPITAL GAINS

TREATMENT OF CAPITAL LOSSES

GENERAL RULES FOR DETERMINING CAPITAL GAINS AND LOSSES

AUTHORITY: §§ 1.1201 to 1.1223-1 issued under sec. 7805, 68A Stat. 917; 26 U. S. C. 7805.

CAPITAL GAINS AND LOSSES

TREATMENT OF CAPITAL GAINS

§ 1.1201 *Statutory provisions; alternative tax.*

SEC. 1201. *Alternative tax*—(a) *Corporations.* If for any taxable year the net long-term capital gain of any corporation exceeds the net short-term capital loss, then, in lieu of the tax imposed by sections 11, 511, 802 (a), 821 (a) (1) or (b), and 831 (a), there

is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

(1) A partial tax computed on the taxable income reduced by the amount of such excess, at the rates and in the manner as if this subsection had not been enacted, and

(2) An amount equal to 25 percent of such excess, or, in the case of a taxable year beginning before April 1, 1954, an amount equal to 26 percent of such excess.

In the case of a taxable year beginning before April 1, 1954, the amount under paragraph (2) shall be determined without regard to section 21 (relating to effect of change of tax rates).

(b) *Other taxpayers.* If for any taxable year the net long-term capital gain of any taxpayer (other than a corporation) exceeds the net short-term capital loss, then, in lieu of the tax imposed by sections 1 and 511, there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

(1) A partial tax computed on the taxable income reduced by an amount equal to 50 percent of such excess, at the rate and in the manner as if this subsection had not been enacted, and

(2) An amount equal to 25 percent of the excess of the net long-term capital gain over the net short-term capital loss.

[Section 1201 (a) as amended by sec. 5 of the Life Insurance Company Tax Act for 1955, effective for taxable years beginning after December 31, 1954. For taxable years beginning before January 1, 1955, section 1201 (a) did not provide that the alternative tax would be in lieu of the tax imposed by section 802 (a).]

§ 1.1201–1 *Alternative tax.*—(a) *Corporations.* In case the net long-term capital gain of any corporation exceeds the net short-term capital loss, section 1201 (a) imposes an alternative tax in lieu of the tax imposed by sections 11, 511, 821 (a) (1) or (b), and 831 (a), if and only if such alternative tax is less than the tax imposed by such sections. For taxable years beginning after December 31, 1954, the alternative tax shall also be in lieu of the tax imposed by section 802 (a) if such alternative tax is less than the tax imposed by such section. The alternative tax is not in lieu of the personal holding company tax imposed by section 541, or of any other tax not specifically set forth in section 1201 (a). The alternative tax is the sum of (1) a partial tax computed at the rates provided by sections 11, 511, 802 (a) (for taxable years beginning after December 31, 1954), 821 (a) (1) or (b), and 831 (a) on the taxable income of the taxpayer decreased by the amount of the excess of the net long-term capital gain over the net short-term capital loss, and (2) an amount equal to 25 percent of such excess or, in the case of a taxable year beginning before April 1, 1954, an amount equal to 26 percent of such excess. In the computation of the partial tax the special deductions provided for in sections 243, 244, 245, 247, 922, and 941 shall not be recomputed as the result of the reduction of taxable income by the excess of net long-term capital gain over net short-term capital loss.

(b) *Other taxpayers.* In case the net long-term capital gain of a taxpayer (other than a corporation) exceeds the net short-term capital loss, section 1201 (b) imposes an alternative tax in lieu of the tax imposed by sections 1 and 511, if and only if such alternative tax is less than the tax imposed by sections 1 and 511. The alternative tax is not in lieu of any other tax not specifically set forth in section 1201 (b). The alternative tax is the sum of—

(1) A partial tax, computed at the rates provided by sections 1 and 511 on the taxable income reduced by an amount equal to 50 percent of the excess of the net long-term capital gain over the net short-term capital loss, plus

(2) 25 percent of the excess of the net long-term capital gain over the net short-term capital loss.

See § 1.1–3 for rule relating to the computation of the limitation on tax under section 1 (c) in cases where the alternative tax is imposed. See § 1.34–2 (a) for rule relating to the computation of the dividend received credit under section 34 and § 1.35–1 (a) for rule relating to the computation of credit for partially tax-exempt interest under section 35 in cases where the alternative tax is imposed.

(c) *Tax-exempt trusts and organizations.* In applying section 1201 in the case of tax-exempt trusts or organizations subject to the tax imposed by section 511, the only amount which is taken into account as capital gain or loss is that which is taken into account in computing unrelated business taxable income under section 512. Under section 512, the only amount taken into account as capital gain or loss is that resulting from the application of section 631 (a), relating to the election to treat the cutting of timber as a sale or exchange.

(d) *Joint returns.* In the case of a joint return, the excess of any net long-term capital gain over any net short-term capital loss is to be determined by combining the long-term capital gains and losses and the short-term capital gains and losses of the spouses.

(e) *Application of section.* The following example illustrates the application of the provisions of section 1201 and of this section in the case of an individual taxpayer:

Example. A, a single individual, has for the calendar year 1954 taxable income (exclusive of capital gains and losses) of $99,400. He realizes in 1954 a gain of $50,000 on the sale of a capital asset held for 19 months and sustains a loss of $20,000 on the sale of a capital asset held for five months. He has no other capital gains or losses. Since the alternative tax is less than the tax otherwise computed under section 1, the tax payable is the alternative tax, that is $74,298. The tax is computed as follows:

Tax Under Section 1

Taxable income exclusive of capital gains and losses		$99,400
Net long-term capital gain (100 percent of $50,000)	$50,000	
Net short-term capital loss (100 percent of $20,000)	20,000	
Excess of net long-term capital gain over the net short-term capital loss		30,000
		129,400

Tax Under Section 1—Continued

Deduction of 50 percent of excess of net long-term capital gain over the net short-term capital loss (section 1202)	$15,000
Taxable income	114,400
Tax under section 1	80,136

Alternative Tax Under Section 1201 (b)

Taxable income	$114,400
Less 50 percent of excess of net long-term capital gain over net short-term capital loss (section 1201 (b) (1))	15,000
Taxable income exclusive of capital gains and losses	99,400
Partial tax (tax on $99,400)	66,798
Plus 25 percent of $30,000	7,500
Alternative tax under section 1201 (b)	74,298

§ 1.1202 *Statutory provisions; deduction for capital gains.*

SEC. 1202. *Deduction for capital gains.* In the case of a taxpayer other than a corporation, if for any taxable year the net long-term capital gain exceeds the net short-term capital loss, 50 percent of the amount of such excess shall be a deduction from gross income. In the case of an estate or trust, the deduction shall be computed by excluding the portion (if any), of the gains from the taxable year from sales or exchanges of capital assets, which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.

§ 1.1202–1 *Deduction for capital gains.* (a) In computing gross income, adjusted gross income, taxable income, net capital gain, and net capital loss, 100 percent of any gain or loss (computed under section 1001, recognized under section 1002, and taken into account without regard to sections 1201–1241, inclusive) upon the sale or exchange of a capital asset shall be taken into account regardless of the period for which the capital asset has been held. Nevertheless, the net short-term capital gain or loss and the net long-term capital gain or loss must be separately computed. In computing the adjusted gross income or the taxable income of a taxpayer other than a corporation, if for any taxable year the net long-term capital gain exceeds the net short-term capital loss, 50 percent of the amount of the excess is allowable as a deduction from gross income under section 1202.

(b) For the purpose of computing the deduction allowable under section 1202 in the case of an estate or trust, any long-term or short-term capital gains which, under sections 652 and 662, are includible in the gross income of its income beneficiaries as gains derived from the sale or exchange of capital assets must be excluded in determining whether, for the taxable year of the estate or trust, its net long-term capital gain exceeds its net short-term capital loss. To determine the extent to which such gains are includible in the gross income of a beneficiary, see the regu-

lations under sections 652 and 662. For example, during 1954 a trust realized a gain of $1,000 upon the sale of stock held for 10 months. Under the terms of the trust instrument all of such gain must be distributed during the taxable year to A, the sole income beneficiary. Assuming that under section 652 or 662 A must include all of such gain in his gross income, the trust is not entitled to any deduction with respect to such gain under section 1202. Assuming A had no other capital gains or losses for 1954, he would be entitled to a deduction of $500 under section 1202. For purposes of this section, an income beneficiary shall be any beneficiary to whom an amount is required to be distributed, or is paid or credited, which is includible in his gross income.

(c) The provisions of this section may be illustrated by the following example:

Example. A, an individual, had the following transactions in 1954:

Long-term capital gain	$6,000	
Long-term capital loss	4,000	
Net long-term capital gain		$2,000
Short-term capital loss	1,800	
Short-term capital gain	300	
Net short-term capital loss		1,500
Excess of net long-term capital gain over net short-term capital loss		500

Since the net long-term capital gain exceeds the net short-term capital loss by $500, 50 percent of the excess, or $250, is allowable as a deduction under section 1202.

TREATMENT OF CAPITAL LOSSES

§ 1.1211 *Statutory provisions; limitation on capital losses.*

SEC. 1211. *Limitation on capital losses*—(a) *Corporations.* In the case of a corporation, losses from sales or exchanges of capital assets shall be allowed only to the extent of gains from such sales or exchanges.

(b) *Other taxpayers.* In the case of a taxpayer other than a corporation, losses from sales or exchanges of capital assets shall be allowed only to the extent of the gains from such sales or exchanges, plus the taxable income of the taxpayer or $1,000, whichever is smaller. For purposes of this subsection, taxable income shall be computed without regard to gains or losses from sales or exchanges of capital assets and without regard to the deductions provided in section 151 (relating to personal exemptions) or any deduction in lieu thereof. If the taxpayer elects to pay the optional tax imposed by section 3, "taxable income" as used in this subsection shall be read as "adjusted gross income".

§ 1.1211–1 *Limitation on capital losses.* (a) Section 1211 (a) provides that, in the case of a corporation, losses from sales or exchanges of capital assets shall be allowed as deductions only to the extent of the gains from such sales or exchanges, and section 1211 (b) provides that, in the case of a taxpayer other than a corporation, losses from sales or exchanges of capital assets shall be allowed as a deduction only to the extent of the gains from such sales or exchanges, plus the taxable income of the taxpayer or $1,000, whichever is smaller. For purposes of section 1211 (b), taxable income is to be computed without regard to gains or losses from sales or exchanges of capital assets and without regard to the deductions provided in section 151 (relating to personal exemptions) or any deduction in lieu thereof. For example, the deductions available to estates and trusts under section 642 (b) are in lieu of the deductions allowed under section 151, and, in the case of estates and trusts, are to be added back to taxable income for the purposes of section 1211 (b).

(b) The provisions of section 1211 (b) may be illustrated by the following examples:

Example (1). A, an individual with one exemption allowable as a deduction under section 151, has the following transactions in 1954:

Taxable income exclusive of capital gains and losses		$4,400
Deductions provided in section 151		600
Taxable income for purposes of section 1211 (b)		5,000
Long-term capital gain	$1,000	
Long-term capital loss	5,300	
Net long-term capital loss	4,300	
Amount deductible under section 1211 (b)		1,000

Example (2). B, an individual with one exemption allowable as a deduction under section 151, has the following transactions in 1954:

Taxable income exclusive of capital gains and losses		$90
Deductions provided in section 151		600
Taxable income for purposes of section 1211 (b)		690
Long-term capital gain	$1,000	
Long-term capital loss	5,200	
Net long-term capital loss	4,200	
Amount deductible under section 1211 (b)		690

In example (1), the net long-term capital loss of $4,300 is allowable in 1954 only to the extent of $1,000 since the latter amount is smaller than the taxable income of $5,000. The remaining $3,300 of the net long-term capital loss becomes a net capital loss to be carried over to succeeding years. In example (2), since taxable income for purposes of section 1211 (b) is $690 and since that amount is smaller than the $4,200 net long-term capital loss and is less than $1,000, only $690 of the net long-term capital loss of $4,200 is allowable in 1954, leaving a net capital loss of $3,510 to be carried over. For carryover of a net capital loss, see § 1.1212–1.

(c) See section 582 (c) for modification of the limitation under section 1211 (a) in the case of a bank, as defined in section 581.

(d) In the case of a joint return, the limitation under section 1211 (b), relating to the allowance of losses from sales or exchanges of capital assets, is to be computed and the net capital loss determined with respect to the combined taxable income and the combined gains and losses of the spouses.

(e) In case the tax is computed under section 3 (relating to optional tax if adjusted gross income is less than $5,000) the term "taxable income" as used in section 1211 (b) shall be read as "adjusted gross income".

§ 1.1212 *Statutory provisions; capital loss carryover.*

SEC. 1212. *Capital loss carryover.* If for any taxable year the taxpayer has a net capital loss, the amount thereof shall be a short-term capital loss in each of the 5 succeeding taxable years to the extent that such amount exceeds the total of any net capital gains of any taxable years intervening between the taxable year in which the net capital loss arose and such succeeding taxable year. For purposes of this section, a net capital gain shall be computed without regard to such net capital loss or to any net capital losses arising in any such intervening taxable years, and a net capital loss for a taxable year beginning before October 20, 1951, shall be determined under the applicable law relating to the computation of capital gains and losses in effect before such date.

§ 1.1212–1 *Net capital loss carryover.* (a) Any taxpayer sustaining a net capital loss may, under section 1212, carry over such loss to each of the five succeeding taxable years and treat it in each of such five succeeding taxable years as a short-term capital loss to the extent not allowed as a deduction against any net capital gains of any taxable years intervening between the taxable year in which the net capital loss was sustained and the taxable year to which carried. The carryover is thus applied in each succeeding taxable year to offset any net capital gain in such succeeding taxable year. The amount of the net capital loss carryover may not be included in computing a new net capital loss of a taxable year which can be carried forward to the next five succeeding taxable years. Under section 1212, a net capital loss for a taxable year beginning before October 20, 1951, is to be determined under the applicable law relating to the computation of capital gains and losses in effect before such date. Thus, where the applicable law for a taxable year beginning before October 20, 1951, provided that only certain percentages of the gain or loss recognized upon the sale or exchange of a capital asset should be taken into account in computing net capital loss, such percentages are to be taken into account in computing net capital loss for any such taxable year under section 1212. In the case of nonresident alien individuals not engaged in trade or business within the United States, see section 871 and the regulations thereunder for special rules on capital loss carryovers.

(b) The practical operation of the provisions of section 1212 may be illustrated by the following example:

Example. (1) For the taxable years 1952 to 1956, inclusive, an individual with one exemption allowable under section 151 (or corresponding provision of prior law) is assumed to have a net short-term capital loss, net short-term capital gain, net long-term capital loss, net long-term capital gain, and taxable income (net income for 1952 and 1953) as follows:

	1952	1953	1954	1955	1956
Carryover from prior years:					
From 1952		($50,000)	($29,500)	($29,500)	
From 1954				(19,500)	($13,000)
Net short-term loss (computed without regard to the carryovers)	($30,000)	(5,000)	(10,000)	—	
Net short-term gain (computed without regard to the carryovers)				40,000	
Net long-term loss	(20,500)		(10,000)	(5,000)	
Net long-term gain		25,000			15,000
Net income or taxable income, computed without regard to capital gains and losses, and, after 1953, without regard to the deduction provided by section 151	500	500	500	1,000	500
Net capital gain (computed without regard to the carryovers)		20,500		36,000	
Net capital loss	(50,000)		(19,500)		
Deduction allowable under section 1202			None	None	1,000
Taxable income (after deductions allowable under sections 151 and 1202)			None	None	900

(2) *Net capital loss of 1952.* The net capital loss is $50,000. This figure is the excess of the losses from sales or exchanges of capital assets over the sum of (i) gains (in this case, none) from such sales or such exchanges, and (ii) net income (computed without regard to capital gains and losses) of $500. This amount may be carried forward in full as a short-term loss to 1953. However, in 1953 there was a net capital gain of $20,500, as defined by section 117 (a) (10) (B) of the Internal Revenue Code of 1939, and limited by section 117 (e) (1) of the 1939 Code, against which this net capital loss of $50,000 is allowed in part. The remaining portion—$29,500—may be carried forward to 1954 and 1955 since there was no net capital gain in 1954. In 1955 this $29,500 is allowed in full against net capital gain of $36,000, as defined by section 1222 (9) (B) and limited by section 1212.

(3) *Net capital loss of 1954.* The net capital loss is $19,500. This figure is the excess of the losses from sales or exchanges of capital assets over the sum of (i) gains (in this case, none) from such sales or exchanges and (ii) taxable income (computed without regard to capital gains and losses and the deductions provided in section 151) of $500. This amount may be carried forward in full as a short-term loss to 1955. The net capital gain in 1955, before deduction of any carryovers, is $36,000. The $29,500 balance of the 1953 loss is first applied against the $36,000, leaving a balance of $6,500. Against this amount the $19,500 loss arising in 1954 is applied, leaving a loss of $13,000, which may be carried forward to 1956. Since this amount is treated as a short-term capital loss in 1956 under section 1212, the excess of the net long-term capital gain over the net short-term capital loss is $2,000 ($15,000 minus $13,000). Half of this excess is allowable as a deduction under section 1202. Thus, after also deducting the exemption allowed as a deduction under section 151 ($600) the taxpayer has a taxable income of $900 for 1956.

(c) (1) The following rules shall be applied in computing net capital loss carryovers by husband and wife:

(i) If a husband and wife making a joint return for any taxable year made separate returns for the preceding year, any net capital loss carryover of each spouse from such preceding taxable year may be carried forward to the taxable year as a short-term capital loss to the extent provided by section 1212.

(ii) If a joint return was made for the preceding taxable year, any net capital loss carryover from such preceding taxable year may be carried forward to the taxable year as a short-term capital loss to the extent provided by section 1212.

(iii) If a husband and wife making separate returns for any taxable year made a joint return for the preceding taxable year, any net capital loss carryover from such preceding taxable year shall be allocated to the spouses on the basis of their individual net capital losses which gave rise to such net capital loss carryover, and the net capital loss carryover so allocated to each spouse may be carried forward by such spouse to the taxable year as a short-term capital loss to the extent provided in section 1212.

(iv) If separate returns are made both for the taxable year and the preceding taxable year, any net capital loss carryover of each spouse from such preceding taxable year may be carried forward by such spouse to the taxable year as a short-term capital loss to the extent provided in section 1212.

(2) The provisions of subdivisions (i) and (iii) of subparagraph (1) of this paragraph may be illustrated by the following example:

Example. If H and W, husband and wife, make a joint return for 1955, having made separate returns for 1954 in which H had a net capital loss of $3,000 and W had a net capital loss of $2,000, in their joint return for 1955 they would have a short-term capital loss of $5,000 (the sum of their separate net capital loss carryovers from 1954), allowable to the extent provided by section 1212. If, on the other hand, they make separate returns in 1955 following a joint return in 1954 in which their net capital loss was $5,000 allocable $3,000 to H and $2,000 to W, the carryover of H as a short-term capital loss for the purpose of his 1955 separate return would be $3,000 and that of W for her separate return would be $2,000, each allowable to the extent provided by section 1212.

GENERAL RULES FOR DETERMINING CAPITAL GAINS AND LOSSES

§ 1.1221 *Statutory provisions; capital asset defined.*

SEC. 1221. *Capital asset defined.* For purposes of this subtitle, the term "capital asset" means property held by the taxpayer (whether or not connected with his trade or business), but does not include—

(1) Stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business;

(2) Property, used in his trade or business, of a character which is subject to the allowance for depreciation provided in section 167, or real property used in his trade or business;

(3) A copyright, a literary, musical, or artistic composition, or similar property, held by—

(A) A taxpayer whose personal efforts created such property, or

(B) A taxpayer in whose hands the basis of such property is determined, for the purpose of determining gain from a sale or exchange, in whole or in part by reference to the basis of such property in the hands of the person whose personal efforts created such property;

(4) Accounts or notes receivable acquired in the ordinary course of trade or business for services rendered or from the sale of property described in paragraph (1); or

(5) An obligation of the United States or any of its possessions, or of a State or Territory, or any political subdivision thereof, or of the District of Columbia, issued on or after March 1, 1941, on a discount basis and payable without interest at a fixed maturity date not exceeding one year from the date of issue.

§ 1.1221–1 *Meaning of terms.* (a) The term "capital assets" includes all classes of property not specifically excluded by section 1221. In determining whether property is a "capital asset", the period for which held is immaterial.

(b) Property used in the trade or business of a taxpayer of a character which is subject to the allowance for depreciation provided in section 167 and real property used in the trade or business of a taxpayer is excluded from the term "capital assets". Gains and losses from the sale or exchange of such property are not treated as gains and losses from the sale or exchange of capital assets, except to the extent provided in section 1231. See § 1.1231–1. Property held for the production of income, but not used in a trade or business of the taxpayer, is not excluded from the term "capital assets" even though depreciation may have been allowed with respect to such property under section 23 (l) of the Internal Revenue Code of 1939 before its amendment by section 121 (c) of the Revenue Act of 1942. However, gain or loss upon the sale or exchange of land held by a taxpayer primarily for sale to customers in the ordinary course of his business, as in the case of a dealer in real estate, is not subject to the provisions of sections 1201–1241, inclusive.

(c) A copyright, a literary, musical, or artistic composition, and similar property are excluded from the term "capital assets" if held by a taxpayer whose personal efforts created such property, or if held by a taxpayer in whose hands the basis of such property is determined, for the purpose of determining gain from a sale or exchange, in whole or in part by reference to the basis of such property in the hands of the person whose personal efforts created such property. As to the application of section 1231 to the sale or exchange of such property held by such a taxpayer, see § 1.1231–1. For purposes of section 1221 (3), the phrase "similar property" includes, for example, such property as a theatrical production, a radio program, a newspaper cartoon strip, or any other property eligible for copyright protection (whether under statute or common law), but does not include a patent or an invention, or a design which may be protected only under the patent law and not under the copyright law.

(d) Section 1221 (4) excludes from the definition of "capital asset" accounts or notes receivable acquired in the ordinary course of trade or business for services rendered or from the sale of stock in trade or inventory or property held for

sale to customers in the ordinary course of trade or business. Thus, if a taxpayer acquires a note receivable for services rendered, reports the fair market value of the note as income, and later sells the note for less than the amount previously reported, the loss is an ordinary loss. On the other hand, if the taxpayer later sells the note for more than the amount originally reported, the excess is treated as ordinary income.

(e) Obligations of the United States or any of its possessions, or of a State or Territory, or any political subdivision thereof, or of the District of Columbia, issued on or after March 1, 1941, on a discount basis and payable without interest at a fixed maturity date not exceeding one year from the date of issue, are excluded from the term "capital assets." An obligation may be issued on a discount basis even though the price paid exceeds the face amount. Thus, although the Second Liberty Bond Act (31 U. S. C. 754) provides that United States Treasury bills shall be issued on a discount basis, the issuing price paid for a particular bill may, by reason of competitive bidding, actually exceed the face amount of the bill. Since the obligations of the type described in this paragraph are excluded from the term "capital assets", gains or losses from the sale or exchange of such obligations are not subject to the limitations provided in sections 1201–1241, inclusive. It is, therefore, not necessary for a taxpayer (other than a life insurance company taxable under part I of subchapter L of chapter 1 of the Internal Revenue Code of 1954 as amended by the Life Insurance Company Tax Act of 1955, and, in the case of taxable years beginning before January 1, 1955, subject to taxation only on interest, dividends, and rents) to segregate the original discount accrued and the gain or loss realized upon the sale or other disposition of any such obligation. See section 454 (b) with respect to the original discount accrued. The provisions of this paragraph may be illustrated by the following examples:

Example (1). A (not a life insurance company) buys a $100,000, 90-day Treasury bill upon issuance for $99,998. As of the close of the forty-fifth day of the life of such bill, he sells it to B (not a life insurance company) for $99,999.50. The entire net gain to A of $1.50 may be taken into account as a single item of income, without allocating $1 to interest and $0.50 to gain. If B holds the bill until maturity his net gain of $0.50 may similarly be taken into account as a single item of income, without allocating $1 to interest and $0.50 to loss.

Example (2). The facts in this example are the same as in example (1) except that the selling price to B is $99,998.50. The net gain to A of $0.50 may be taken into account without allocating $1 to interest and $0.50 to loss, and, similarly, if B holds the bill until maturity his entire net gain of $1.50 may be taken into account as a single item of income without allocating $1 to interest and $0.50 to gain.

§ 1.1222 *Statutory provisions; other terms relating to capital gains and losses.*

SEC. 1222. *Other terms relating to capital gains and losses.* For purposes of this subtitle—

(1) *Short-term capital gain.* The term "short-term capital gain" means gain from the sale or exchange of a capital asset held for not more than 6 months, if and to the extent such gain is taken into account in computing gross income.

(2) *Short-term capital loss.* The term "short-term capital loss" means loss from the sale or exchange of a capital asset held for not more than 6 months, if and to the extent that such loss is taken into account in computing taxable income.

(3) *Long-term capital gain.* The term "long-term capital gain" means gain from the sale or exchange of a capital asset held for more than 6 months, if and to the extent such gain is taken into account in computing gross income.

(4) *Long-term capital loss.* The term "long-term capital loss" means loss from the sale or exchange of a capital asset held for more than 6 months, if and to the extent that such loss is taken into account in computing taxable income.

(5) *Net short-term capital gain.* The term "net short-term capital gain" means the excess of short-term capital gains for the taxable year over the short-term capital losses for such year.

(6) *Net short-term capital loss.* The term "net short-term capital loss" means the excess of short-term capital losses for the taxable year over the short-term capital gains for such year.

(7) *Net long-term capital gain.* The term "net long-term capital gain" means the excess of long-term capital gains for the taxable year over the long-term capital losses for such year.

(8) *Net long-term capital loss.* The term "net long-term capital loss" means the excess of long-term capital losses for the taxable year over the long-term capital gains for such year.

(9) *Net capital gain*—(A) *Corporations.* In the case of a corporation, the term "net capital gain" means the excess of the gains from sales or exchanges of capital assets over the losses from such sales or exchanges.

(B) *Other taxpayers.* In the case of a taxpayer other than a corporation, the term "net capital gain" means the excess of—

(i) The sum of the gains from sales or exchanges of capital assets, plus taxable income (computed without regard to the deductions provided by section 151, relating to personal exemptions or any deduction in lieu thereof) of the taxpayer or $1,000, whichever is smaller, over

(ii) The losses from such sales or exchanges.

For purposes of this subparagraph, taxable income shall be computed without regard to gains or losses from sales or exchanges of capital assets. If the taxpayer elects to pay the optional tax under section 3, the term "taxable income" as used in this subparagraph shall be read as "adjusted gross income."

(10) *Net capital loss.* The term "net capital loss" means the excess of the losses from sales or exchanges of capital assets over the sum allowed under section 1211. For the purpose of determining losses under this paragraph, amounts which are short-term capital losses under section 1212 shall be excluded.

§ 1.1222–1 *Other terms relating to capital gains and losses.* (a) The phrase "short-term" applies to the category of gains and losses arising from the sale or exchange of capital assets held for six months or less; the phrase "long-term" to the category of gains and losses arising from the sale or exchange of capital assets held for more than six months. The fact that some part of a loss from the sale or exchange of a capital asset may be finally disallowed because of the operation of section 1211 does not mean that such loss is not "taken into account in computing taxable income" within the meaning of that phrase as used in sections 1222 (2) and 1222 (4).

(b) In the definition of "net short-term capital gain", as provided in section 1222 (5), the amounts brought forward to the taxable year under section 1212 are short-term capital losses for such taxable year.

(c) Gains and losses from the sale or exchange of capital assets held for not more than six months (described as short-term capital gains and short-term capital losses) shall be segregated from gains and losses arising from the sale or exchange of such assets held for more than six months (described as long-term capital gains and long-term capital losses).

(d) In the case of a corporation, the term "net capital gain" means the excess of the gains from sales or exchanges of capital assets over the losses from such sales or exchanges, which losses include any amounts brought forward pursuant to section 1212. In the case of a taxpayer other than a corporation, the term "net capital gain" means the excess of (1) the sum of the gains from sales or exchanges of capital assets, plus taxable income (computed without regard to gains and losses from sales or exchanges of capital assets and without regard to the deductions provided by section 151, relating to personal exemptions, or any deductions in lieu thereof) of the taxpayer or $1,000, whichever is smaller, over (2) the losses from such sales or exchanges, which losses include amounts brought forward under section 1212. Thus, in the case of estates and trusts, taxable income for the purposes of section 1222 (9) (B) (i) shall be computed without regard to gains and losses from sales or exchanges of capital assets and without regard to the deductions allowed by section 642 (b) to estates and trusts in lieu of personal exemptions. In the case of a taxpayer whose tax liability is computed under section 3, the term "taxable income", for purposes of this paragraph, shall be read as "adjusted gross income." For application of the term "net capital gain," in computing the capital loss carryover under section 1212, see § 1.1212–1 (b).

(e) The term "net capital loss" means the excess of the losses from sales or exchanges of capital assets over the sum allowed under section 1211. However, amounts which are short-term capital losses under section 1212 are excluded in determining such "net capital loss".

(f) See section 165 (g) and section 166 (e), under which losses from worthless stocks, bonds, and other securities (if they constitute capital assets) are required to be treated as losses under sections 1201–1241 from the sale or exchange of capital assets, even though such securities are not actually sold or exchanged. See also section 1231 and § 1.1231–1 for the determination of whether or not gains and losses from the involuntary conversion of capital assets and from the sale, exchange, or involuntary conversion of certain property used in the trade or business shall be treated as gains and losses from the sale

or exchange of capital assets. See also section 1236 and § 1.1236–1 for the determination of whether or not gains from the sale or exchange of securities by a dealer in securities shall be treated as capital gains, or whether losses from such sales or exchanges shall be treated as ordinary losses.

(g) In the case of nonresident alien individuals not engaged in trade or business within the United States, see section 871 and the regulations thereunder for the determination of the net amount of capital gains subject to tax.

§ 1.1223 *Statutory provisions; holding period of property.*

SEC. 1223. *Holding period of property.* For purposes of this subtitle—

(1) In determining the period for which the taxpayer has held property received in an exchange, there shall be included the period for which he held the property exchanged if, under this chapter, the property has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as the property exchanged, and, in the case of such exchanges after March 1, 1954, the property exchanged at the time of such exchange was a capital asset as defined in section 1221 or property described in section 1231. For purposes of this paragraph—

(A) An involuntary conversion described in section 1033 shall be considered an exchange of the property converted for the property acquired, and

(B) A distribution to which section 355 (or so much of section 356 as relates to section 355) applies shall be treated as an exchange.

(2) In determining the period for which the taxpayer has held property however acquired there shall be included the period for which such property was held by any other person, if under this chapter such property has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as it would have in the hands of such other person.

(3) In determining the period for which the taxpayer has held stock or securities received upon a distribution where no gain was recognized to the distributee under section 1081 (c) (or under section 112 (g) of the Revenue Act of 1928, 45 Stat. 818, or the Revenue Act of 1932, 48 Stat. 705), there shall be included the period for which he held the stock or securities in the distributing corporation before the receipt of the stock or securities on such distribution.

(4) In determining the period for which the taxpayer has held stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility (under section 1091 relating to wash sales) of the loss from the sale or other disposition of substantially identical stock or securities, there shall be included the period for which he held the stock or securities the loss from the sale or other disposition of which was not deductible.

(5) In determining the period for which the taxpayer has held stock or rights to acquire stock received on a distribution, if the basis of such stock or rights is determined under section 307 (or under so much of section 1052 (c) as refers to section 113 (a) (23) of the Internal Revenue Code of 1939), there shall (under regulations prescribed by the Secretary or his delegate) be included the period for which he held the stock in the distributing corporation before the receipt of such stock or rights upon such distribution.

(6) In determining the period for which the taxpayer has held stock or securities acquired from a corporation by the exercise of rights to acquire such stock or securities, there shall be included only the period beginning with the date on which the right to acquire was exercised.

(7) In determining the period for which the taxpayer has held a residence, the acquisition of which resulted under section 1034 in the nonrecognition of any part of the gain realized on the sale or exchange of another residence, there shall be included the period for which such other residence had been held as of the date of such sale or exchange. For purposes of this paragraph, the term "sale or exchange" includes an involuntary conversion occurring after December 31, 1950, and before January 1, 1954.

(8) In determining the period for which the taxpayer has held a commodity acquired in satisfaction of a commodity futures contract there shall be included the period for which he held the commodity futures contract if such commodity futures contract was a capital asset in his hands.

(9) Any reference in this section to a provision of this title shall, where applicable, be deemed a reference to the corresponding provision of the Internal Revenue Code of 1939, or prior internal revenue laws.

(10) *Cross reference.* For special holding period provision relating to certain partnership distributions, see section 735 (b).

§ 1.1223–1 *Determination of period for which capital assets are held.* (a) The holding period of property received in an exchange by a taxpayer includes the period for which the property which he exchanged was held by him, if the property received has the same basis in whole or in part for determining gain or loss in the hands of the taxpayer as the property exchanged. However, this rule shall apply, in the case of exchanges after March 1, 1954, only if the property exchanged was at the time of the exchange a capital asset in the hands of the taxpayer or property used in his trade or business as defined in section 1231 (b). For the purposes of this paragraph the term "exchange" includes the following transactions: (1) An involuntary conversion described in section 1033, and (2) a distribution to which section 355 (or so much of section 356 as relates to section 355) applies. Thus, if property acquired as the result of a compulsory or involuntary conversion of other property of the taxpayer has under section 1033 (c) the same basis in whole or in part in the hands of the taxpayer as the property so converted, its acquisition is treated as an exchange and the holding period of the newly acquired property shall include the period during which the converted property was held by the taxpayer. Thus, also, where stock of a controlled corporation is received by a taxpayer pursuant to a distribution to which section 355 (or so much of section 356 as relates to section 355) applies, the distribution is treated as an exchange and the period for which the taxpayer has held the stock of the controlled corporation shall include the period for which he held the stock of the distributing corporation with respect to which such distribution was made.

(b) The holding period of property in the hands of a taxpayer shall include the period during which the property was held by any other person, if such property has the same basis in whole or in part in the hands of the taxpayer for determining gain or loss from a sale or exchange as it would have in the hands of such other person. For example, the period for which property acquired by gift after December 31, 1920, was held by the donor must be included in determining the period for which the property was held by the taxpayer if, under the provisions of section 1015, such property has, for the purpose of determining gain or loss from the sale or exchange, the same basis in the hands of the taxpayer as it would have in the hands of the donor.

(c) In determining the period for which the taxpayer has held stock or securities received upon a distribution where no gain was recognized to the distributee under section 1081 (c) (or under section 112 (g) of the Revenue Act of 1928, 45 Stat. 818, or the Revenue Act of 1932, 48 Stat. 705), there shall be included the period for which he held the stock or securities in the distributing corporation before the receipt of the stock or securities on such distribution.

(d) If the acquisition of stock or securities resulted in the nondeductibility (under section 1091, relating to wash sales) of the loss from the sale or other disposition of substantially identical stock or securities, the holding period of the newly acquired securities shall include the period for which the taxpayer held the securities with respect to which the loss was not allowable.

(e) The period for which the taxpayer has held stock, or stock subscription rights, received on a distribution shall be determined as though the stock dividend, or stock right, as the case may be, were the stock in respect of which the dividend was issued if the basis for determining gain or loss upon the sale or other disposition of such stock dividend or stock right is determined under section 307. If the basis of stock received by a taxpayer pursuant to a spin-off is determined under so much of section 1052 (c) as refers to section 113 (a) (23) of the Internal Revenue Code of 1939, and such stock is sold or otherwise disposed of in a taxable year which is subject to the Internal Revenue Code of 1954, the period for which the taxpayer has held the stock received in such spin-off shall include the period for which he held the stock of the distributing corporation with respect to which such distribution was made.

(f) The period for which the taxpayer has held stock or securities issued to him by a corporation pursuant to the exercise by him of rights to acquire such stock or securities from the corporation will, in every case and whether or not the receipt of taxable gain was recognized in connection with the distribution of the rights, begin with and include the day upon which the rights to acquire such stock or securities were exercised. A taxpayer will be deemed to have exercised rights received from a corporation to acquire stock or securities therein where there is an expression of assent to the terms of such rights made by the taxpayer in the manner requested or authorized by the corporation.

(g) The period for which the taxpayer has held a residence, the acquisition of which resulted under the provisions of section 1034 in the nonrecognition of any

part of the gain realized on the sale or exchange of another residence, shall include the period for which such other residence had been held as of the date of such sale or exchange. See § 1.1034–1. For purposes of this paragraph, the term "sale or exchange" includes an involuntary conversion occurring after December 31, 1950, and before January 1, 1954.

(h) If a taxpayer accepts delivery of a commodity in satisfaction of a commodity futures contract, the holding period of the commodity shall include the period for which the taxpayer held the commodity futures contract, if such futures contract was a capital asset in his hands.

(i) If shares of stock in a corporation are sold from lots purchased at different dates or at different prices and the identity of the lots cannot be determined, the rules prescribed by the regulations under section 1012 for determining the cost or other basis of such stocks so sold or transferred shall also apply for the purpose of determining the holding period of such stock.

(j) Any reference in section 1223 or this section to another provision of the Internal Revenue Code of 1954 is, where applicable, to be deemed a reference to the corresponding provision of the Internal Revenue Code of 1939, or prior internal revenue laws. The provisions of prior internal revenue laws here intended are the sections referred to in the sections of the 1939 Code which correspond to the sections of the 1954 Code referred to in section 1223. Thus, the sections corresponding to section 1081 (c) are section 371 (c) of the Revenue Act of 1938 and section 371 (c) of the 1939 Code. The sections corresponding to section 1091 are section 118 of each of the following: The Revenue Acts of 1928, 1932, 1934, 1936, and 1938, and the 1939 Code.

[SEAL] RUSSELL C. HARRINGTON,
Commissioner of Internal Revenue.

Approved: July 18, 1957.

DAN THROOP SMITH,
Deputy to the Secretary.

[F. R. Doc. 57–6029; Filed, July 23, 1957; 8:50 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix—Public Land Orders

[Public Land Order 1446]

[BLM 034316 (S. D.)]

RESERVING LANDS WITHIN BLACK HILLS NATIONAL FOREST FOR USE OF FOREST SERVICE, DEPARTMENT OF AGRICULTURE: AS THE PACTOLA ADMINISTRATIVE SITE

By virtue of the authority vested in the President by the act of June 4, 1897 (30 Stat. 34–36; U. S. C. 473) and otherwise, and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Subject to valid existing rights, the following described public lands within the Black Hills National Forest in South Dakota, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining but not the mineral leasing laws, and reserved for use of the Forest Service, Department of Agriculture, as the Pactola Administrative Site:

BLACK HILLS PRINCIPAL MERIDIAN

T. 2 N., R. 5 E.,
Sec. 25, W½W½
Sec. 26, NE¼ and N½SE¼

The area described contains 400 acres.

This order shall take precedence over but not otherwise affect the existing reservation of the lands for national forest purposes.

ROGER C. ERNST,
Assistant Secretary of the Interior.

JULY 18, 1957.

[F. R. Doc. 57–6030; Filed, July 23, 1957; 8:50 a. m.]

[Public Land Order 1447]

[BLM 038003]

ARKANSAS

RESERVING PUBLIC LANDS WITHIN OUACHITA NATIONAL FOREST FOR USE OF FOREST SERVICE AS ADDITIONS TO JACK CREEK AND BARD SPRINGS RECREATION AREAS

By virtue of the authority vested in the President by the act of June 4, 1897 (30 Stat. 34, 36; 16 U. S. C. 473) and otherwise, and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Subject to valid existing rights, the following-described public lands within the Ouachita National Forest in Arkansas are hereby withdrawn from all forms of appropriation under the public land laws, including the mining but not the mineral-leasing laws nor the act of July 31, 1947 (61 Stat. 681; 69 Stat. 367; 30 U. S. C. 601–604) as amended, and reserved for use of the Forest Service, Department of Agriculture, as additions to the Jack Creek and Bard Springs Recreation Areas, which were established by Public Land Order No. 1335 of August 27, 1956:

FIFTH PRINCIPAL MERIDIAN

JACK CREEK RECREATION AREA

T. 4 N., R. 27 W.,
Sec. 3, lot 9.
The tract described contains 39.54 acres.

BARD SPRINGS RECREATION AREA

T. 4 S., R. 28 W.,
Sec. 20 SE¼NW¼NE¼, S½NE¼NE¼, and N½S½NE¼.

The areas described aggregate 70 acres.

This order shall take precedence over, but not otherwise affect the existing reservation of the lands for national forests purposes.

ROGER C. ERNST,
Assistant Secretary of the Interior.

JULY 18, 1957.

[F. R. Doc. 57–6031; Filed, July 23, 1957; 8:51 a. m.]

TITLE 29—LABOR

Chapter XII—Federal Mediation and Conciliation Service

PART 1401—AVAILABILITY OF INFORMATION

PLACES AT WHICH INFORMATION MAY BE OBTAINED

Section 1401.1 is hereby revised to read as follows:

§ 1401.1 *Places at which information may be obtained.* Any individual, employer or union, or representative thereof, desiring information regarding the operations of the Service within a region should communicate with the regional office of the Service in the region in which the labor dispute or other matter exists with respect to which information is sought. General inquiries for information concerning the Service should be addressed to the Federal Mediation and Conciliation Service, 14th and Constitution Avenue NW., Washington 25, D. C. The location of regional offices of the Service and their respective jurisdictions are as follows:

Region No., Address, and Jurisdiction

1—Room 1016, Parcel Post Building, 341 Ninth Avenue, New York 1, N. Y.—Maine; New Hampshire; Vermont; Connecticut; Rhode Island; Massachusetts; New York; and northern New Jersey (counties of Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union, and Warren).

2—Room 1015, Jefferson Building, 1015 Chestnut Street, Philadelphia 7, Pa.—Pennsylvania; Delaware; Maryland; District of Columbia; West Virginia; Southern New Jersey (counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem); northern Virginia (City of Alexandria, and counties of Frederick, Arlington, Fairfax, Clarke, Loudoun, Prince William, Fauquier, Warren, Shenandoah, Rockingham, Page, Rappahannock, Culpeper, Stafford, King George, Madison, Greene, Northampton and Accomac).

3—Room 346 Peachtree at 7th Street Building, 50 Seventh Street NE., Atlanta 23, Ga.—Virginia (except those areas under Region 2 jurisdiction); southwest Kentucky (counties of Fulton, Hickman, Carlisle, Ballard, McCracken, Graves, Marshall, Calloway, Livingston, Todd, Lyon, Trigg, Caldwell, Crittenden, Union, Webster, Hopkins, Christian, Muhlenberg, Logan and Simpson; Tennessee; North Carolina; South Carolina; Georgia; Florida; Alabama; Mississippi; Louisiana; Puerto Rico; and the Virgin Islands.

4—Room 435, Old Federal Building, Public Square and Superior Street, Cleveland 14, Ohio—Indiana (counties of Clark and Floyd); Kentucky (except the counties under Region 3 jurisdiction); Ohio; Michigan; (lower peninsula; upper peninsula under Region 5 jurisdiction).

5—Room 1515 Consumers Building, 220 South State Street, Chicago 4, Illinois—Illinois (except the counties under Region 6 jurisdiction); Indiana (except Clark and Floyd counties under Region 4 jurisdiction); Wisconsin; Minnesota; North Dakota; South Dakota; and Michigan (upper peninsula; lower peninsula under Region 4 jurisdiction).

6—Room 404, Old Custom House Building, 815 Olive Street, St. Louis 1, Mo.—Iowa; Missouri; southwest Illinois (counties of Calhoun, Greene, Jersey, Madison, Macoupin, Monroe, Randolph, and St. Clair); Arkansas; Nebraska; Kansas; Oklahoma; and Texas (except El Paso and Hudspeth counties under Region 7 jurisdiction).

7—Room 332, Appraisers Building, 630 Sansome Street, San Francisco 11, California — Washington; Oregon; California; Idaho; Montana; Wyoming; Nevada; Utah; Colorado; Arizona; New Mexico; southwest Texas (counties of El Paso and Hudspeth); Alaska; Hawaii; and Guam.

(Sec. 202, 61 Stat. 153, as amended; 29 U. S. C. 172)

JOSEPH F. FINNEGAN,
Director.

JULY 15, 1957.

[F. R. Doc. 57-6024; Filed, July 23, 1957; 8:47 a. m.]

TITLE 50—WILDLIFE

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

Subchapter F—Alaska Commercial Fisheries

PART 104—BRISTOL BAY AREA

PART 107—CHIGNIK AREA

PART 116—SOUTHEASTERN ALASKA AREA

MISCELLANEOUS AMENDMENTS

Basis and purpose. In compliance with the requirements of § 104.5 announcement is made that the number of units of gear registered by districts to fish in the week ending July 27, 1957 is as follows:

	Units
Naknek-Kvichak district	469
Nushagak district	294
Egegik district	96
Ugashik district	59

1. Notwithstanding the provisions of § 104.5 fishing is permitted in the week ending July 27, 1957, as follows:

Naknek-Kvichak district: From 9 o'clock antemeridian July 22 to 3 o'clock antemeridian July 23 and from 9 o'clock antemeridian July 25 to 3 o'clock antemeridian July 26.

Nushagak district: From 9 o'clock antemeridian July 22 to 9 o'clock antemeridian July 23 and from 9 o'clock antemeridian July 25 to 9 o'clock antemeridian July 26.

Egegik district: From 9 o'clock antemeridian July 22 to 3 o'clock postmeridian July 23 and from 9 o'clock antemeridian July 25 to 3 o'clock postmeridian July 26.

Ugashik district: From 9 o'clock antemeridian July 22 to 3 o'clock postmeridian July 23 and from 9 o'clock antemeridian July 25 to 3 o'clock postmeridian July 26.

2. Paragraph (b) of § 107.3, as amended July 4, 1957, 22 F. R. 4729, is further amended by deleting the text and substituting in lieu thereof "from 6 o'clock postmeridian Friday to 6 o'clock antemeridian Monday."

3. Section 116.8b is amended by adding the following proviso: "*Provided,* That an additional quota of 7500 short tons may be taken during 1957 only in the combined Sumner Strait, Clarence Strait, Southern, and South Prince of Wales Island regulatory fishing districts."

The above changes shall become effective immediately upon publication in the FEDERAL REGISTER.

Since immediate action is necessary, notice and public procedure on this amendment are impracticable (60 Stat. 237; 5 U. S. C. 1001 et seq.).

(Sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221)

SETON H. THOMPSON,
Acting Director,
Bureau of Commercial Fisheries.

[F. R. Doc. 57-6072; Filed, July 22, 1957; 4:09 p. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Parts 81, 221]

INDIAN MONEY ACCOUNTS AND PRIORITY OF CLAIMS

LAST ILLNESS AND FUNERAL EXPENSES

JULY 17, 1957.

Notice is hereby given of intention to revise §§ 81.25 and 221.10, Title 25 of the Code of Federal Regulations, to read as set forth below. The purpose of these revisions is to clarify the responsibilities of the Superintendents of the Bureau of Indian Affairs concerning their authorization of last illness and funeral expenses from Individual Indian Money accounts, and also to limit the amounts of such expenses not previously authorized, to which priority of payment will be extended on the basis of claims filed against an Indian's estate.

All interested persons are hereby given the opportunity to submit in writing views, data, and arguments concerning the proposed revisions, to the Commissioner of Indian Affairs, Department of the Interior, Washington 25, D. C., within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

ROGER ERNST,
Assistant Secretary of the Interior.

1. Section 81.25 is revised to read as follows:

§ 81.25 *Priority of claims.* (a) Claims shall be allowed priority in payment in the following order, except as is otherwise provided in paragraph (b) of this section:

(1) Probate fee;

(2) Claims for expenses not previously authorized, for last illness not in excess of $500, and for funeral not in excess of $250;

(3) Unsecured claims of indebtedness to the United States or any of its agencies;

(4) Unsecured claims of indebtedness to the tribe of which the decedent was a member or to any of its subsidiary organizations;

(5) Claims of the state on account of social security or old-age assistance payments; and

(6) Claims of general creditors, including that portion of expenses of last illness not previously authorized in excess of $500 and that portion of funeral charges not previously authorized in excess of $250.

(b) The preference of the probate fee and of other claims may be deferred, in the discretion of the Examiner, in making adjustments or compromises beneficial to the estate.

(c) No claims of general creditors shall be allowed if the value of the estate is $1,500 or less and the decedent is survived by a spouse or by one or more minor children. If the estate is valued in excess of $1,500, or if the estate is valued at $1,500 or less and the decedent is not survived by a spouse or by any minor children, the claims of general creditors may be allowed in the discretion of the Examiner of Inheritance. If the income of the estate is not sufficient to permit the payment of allowed claims of general creditors within three years from the date of allowance, the unpaid balance of such claims shall not be enforceable against the estate or any of its assets.

2. Section 221.10 is revised to read as follows:

§ 221.10 *Funds of deceased Indians.* Funds of a deceased Indian may be disbursed:

(a) For the payment of obligations previously authorized, including authorized expenses of last illness;

(b) For authorized funeral expenses;

(c) For support of dependent members of the family of decedent in such amounts deemed necessary to avoid hardship and consistent with the value of the estate and the interest of probable heirs;

(d) For necessary expenses to conserve the estate pending the completion of probate proceedings;

(e) For probate fees and claims allowed pursuant to Parts 81 and 82 of this chapter.

[F. R. Doc. 57-6021; Filed, July 23, 1957; 8:46 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Parts 717, 719]

[Administrative Order 488]

CHILDREN'S DRESS AND RELATED PRODUCTS INDUSTRY; NEEDLEWORK AND FABRICATED TEXTILE PRODUCTS INDUSTRY; SWEATER AND KNIT SWIMWEAR INDUSTRY

RESIGNATION OF COMMITTEE CHAIRMAN, DESIGNATION OF NEW CHAIRMAN, AND APPOINTMENT OF COMMITTEE MEMBER

Jaime Benitez, of Rio Piedras, Puerto Rico, appointed a public member and chairman of Industry Committee Nos. 31-C, 31-D, and 31-E by Administrative

Order No. 483 (22 F. R. 3757), has resigned from these Committees.

The Secretary of Labor, pursuant to authority under the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended; 29 U. S. C. 201 et seq.), hereby designates Mr. John W. McConnell of Ithaca, New York, as chairman, and also hereby appoints Mr. David M. Helfeld of Rio Piedras, Puerto Rico to serve on Industry Committee Nos. 31–C, 31–D, and 31–E, as a representative of the public.

This order amends Administrative Order No. 483, as previously amended by Administrative Order No. 486.

Signed at Washington, D. C., this 18th day of July 1957.

JAMES P. MITCHELL,
Secretary of Labor.

[F. R. Doc. 57–6048; Filed, July 23, 1957; 8:54 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 12106; FCC 57–786]

TELEVISION BROADCAST STATIONS; BRAINERD-FAIRMONT-MANKATO, MINN.; ESTHERVILLE, IOWA

TABLE OF ASSIGNMENTS

In the matter of amendment of § 3.606 *Table of assignments,* Television Broadcast Stations; Brainerd-Fairmont-Mankato, Minn.; Estherville, Iowa; Docket No. 12106.

1. Notice is hereby given of rule making in the above-entitled matter.

2. The Commission has before it for consideration three conflicting petitions for amendment of § 3.606 *Table of assignments,* Television Broadcast Stations. The first was filed on May 3, 1957, and amended on May 22, 1957, by KNUJ, Inc., and requests that Channel 12 be assigned to Mankato, Minnesota, by substituting Channel 37 for Channel 12 at Brainerd, Minnesota, as follows:

City	Channel No.	
	Present	Proposed
Brainerd, Minn	12	37
Mankato, Minn	15–	12, 15–

The second was filed on May 28, 1957, by Minnowa Broadcasting Co. and requests that Channel 12 even be assigned to Fairmont, Minnesota, without any other changes in the Table except a change in the offset carrier requirement at Brainerd from 12 even to 12— and at Ironwood, Michigan, from 12— to 12+. The third request was filed on June 17, 1957 by Lee Rádio, Inc., and requests that Chanel 12 be assigned to Estherville, Iowa, without any other changes in the Table. A reply and opposition to the Minnowa petition was filed by KNUJ, Inc., on June 25, 1957, and a reply and opposition to the Lee Radio petition was filed by this party on June 27, 1957.

3. In support of their requests petitioners urge that the proposals would conform to the rules; would provide a first local television service; and would provide a first service to substantial areas and populations.

4. The Commission is of the view that rule making proceedings should be instituted in this matter in order that interested parties may submit their views and relevant data.

5. Any interested person who is of the view that the proposals herein should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before August 15, 1957, written data, views, or arguments setting forth his comments. Comments in support of the proposals may also be filed on or before the same date. Comments or briefs in reply to such original comments as may be submitted should be filed within 10 days from the last day for filing said original comments or briefs. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for filing such additional comments is established.

6. Authority for the adoption of the amendments proposed is contained in sections 1, 4 (i), and (j), 301, 303 (c), (d), (f), and (r) and 307 (b) of the Communications Act of 1934, as amended, and section 4 of the Administrative Procedure Act.

7. In accordance with the provisions of § 1.764 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs or comments shall be furnished the Commission.

Adopted: July 18, 1957.

Released: July 19, 1957.

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

[F. R. Doc. 57–6035; Filed, July 23, 1957; 8:52 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

OREGON

AIR NAVIGATION FACILITIES WITHDRAWAL NO. 58–1

JULY 12, 1957.

By virtue of the authority vested in the Secretary, Department of the Interior, by section 4 of the act of May 24, 1928 (45 Stat. 728; 49 U. S. C. 211–214) and pursuant to the authority delegated to the Director, Bureau of Land Management, of August 16, 1950, as amended, and redelegated by Order No. 541 of April 21, 1954 (19 F. R. 2473), as amended, it is ordered as follows:

Subject to valid existing rights, the following described revested Oregon and California Railroad grant lands in Lane County, are hereby withdrawn from all forms of appropriation under the public land laws, including mining and mineral leasing laws, except grazing leases and management and disposal of forest resources which shall remain under the administration of the Bureau of Land Management in conformity with the act of August 28, 1937 (50 Stat. 874), and reserved for use by the Civil Aeronautics Administration, Department of Commerce, as an air navigation facilities site.

WILLAMETTE MERIDIAN, OREGON

T. 15 S., R. 7 W.,
Sec. 7: Lots 11, 12, SW¼SE¼.

The area described aggregates 110.90 acres.

VIRGIL T. HEATH,
State Supervisor.

Notice for Filing Objections to Air Navigation Facilities Withdrawal No. 58–1

Notice is hereby given that for a period of 30 days from the date of publication of this notice, persons having cause to object to the terms of the above order withdrawing certain lands may file their objections in duplicate in the office of the State Supervisor, Bureau of Land Management, 1001 N. E. Lloyd Blvd., P. O. Box 3861, Portland 8, Oregon. In case objections are filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced. Where a hearing is held, the opponents may state their views and the proponents of the order can explain its purpose, intent, and extent. Should any objection be filed, whether or not a hearing is held, notice of the determination as to whether the order should be rescinded, modified, or let stand, will be given to all interested parties of record and the general public.

VIRGIL T. HEATH,
State Supervisor.

JULY 12, 1957.

[F. R. Doc. 57–6020; Filed, July 23, 1957; 8:46 a. m.]

Bureau of Reclamation

MARBLE CANYON PROJECT, ARIZONA AND UTAH

FIRST FORM RECLAMATION WITHDRAWAL

MARCH 14, 1957.

Pursuant to the authority delegated by Departmental Order No. 2765 of July 30, 1954, I hereby withdraw the following described lands from public entry under

the first form of withdrawal as provided by section 3 of the act of June 17, 1902 (32 Stat. 388):

SALT LAKE BASE AND MERIDIAN, UTAH

T. 41 S., R. 1 W.,
Sec. 20, Lot 1, E½, E½NW¼, SW¼NW¼, E½SW¼;
Sec. 29, E½, E½NW¼, NE¼SW¼;
Sec. 33, W½W½.
T. 42 S., R. 1 W.,
Sec. 4, Lots 3, 4, 5, 6 and 7, SE¼NW¼, E½SW¼, W½SE¼;
Sec. 5, Lots 1 and 2, S½NE¼, E½SE¼;
Sec. 8, E½NE¼, E½SW¼, SE¼;
Sec. 9, Lots 1 to 6 incl., W½NE¼, E½W½, NW¼SE¼;
Sec. 17, E½NE¼, SE¼;
Sec. 20, E½E½;
Sec. 21, W½, S½SE¼;
Sec. 27, W½SW¼, SW¼SE¼;
Sec. 28, E½, NW¼, W½SW¼;
Sec. 29, E½NE¼, SW¼NW¼, S½;
Sec. 30, Lots 2, 3 and 4, SW¼NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 31, all;
Sec. 33, NE¼, W½NW¼, E½SE¼;
Sec. 34, all;
Sec. 35, SW¼, W½SE¼.
T. 43 S., R. 1 W.,
Sec. 1, Lot 4, SW¼NE¼, S½NW¼, SW¼, W½SE¼;
Sec. 3, all;
Sec. 4, Lot 1, SE¼NE¼, SW¼, NE¼SE¼, S½SE¼;
Sec. 5, Lots 3 and 4, S½NW¼, NE¼SW¼, SE¼;
Sec. 6, Lots 1 and 2, S½NE¼;
Sec. 8, Lots 1, 2 and 5, SW¼NE¼;
Sec. 9, Lots 1 to 4 incl., S½N½, N½S½;
Sec. 10, all;
Sec. 11, Lots 1 to 4 incl., S½N½, SW¼;
Sec. 12, Lots 2, 3, and 4, SW¼NE¼, S½NW¼;
Sec. 14, W½NE¼, W½, W½SE¼, SE¼SE¼;
Sec. 15, E½, E½W½;
Sec. 22, N½NE¼;
Sec. 23, N½, NE¼SW¼, SE¼;
Sec. 24, W½;
Sec. 25, W½;
Sec. 26, NE¼, E½SE¼;
Sec. 33, SW¼NE¼, NW¼, NE¼SW¼, W½SE¼, SE¼SE¼;
Sec. 35, E½E½.
T. 44 S., R. 1 W.,
Sec. 1, all;
Sec. 3, N½, N½S½;
Sec. 4, N½NE¼, SE¼NE¼;
Sec. 11, Lots 3 and 4, N½NE¼;
Sec. 12, all, unsurveyed.
T. 44 S., R. 1 E.,
Secs. 5, 6, 7 and 8, all.

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 42 N., R. 5 E.,
Sec. 32, E½, unsurveyed;
Sec. 33, all, unsurveyed.

The above area aggregates approximately 17,255.89 acres.

E. G. NIELSEN,
Assistant Commissioner.

[74973]

JULY 18, 1957.

I concur. The records of the Bureau of Land Management will be noted accordingly.

The lands shall be administered by the Bureau of Land Management until such time as they are needed for reclamation purposes.

EDWARD WOOZLEY,
Director,
Bureau of Land Management.

Notice for Filing Objections to Order Withdrawing Public Lands for the Marble Canyon Project, Arizona and Utah

MARCH 14, 1957.

Notice is hereby given that for a period of 30 days from the date of publication of this notice, persons having cause to object to the terms of the above order withdrawing certain public lands in the States of Arizona and Utah, for use in connection with the Marble Canyon Project may present their objections to the Secretary of the Interior. Such objections should be in writing, should be addressed to the Secretary of the Interior, and should be filed in duplicate in the Department of the Interior, Washington 25, D. C.

In case any objection is filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced, where opponents to the order may state their views and where the proponents of the order can explain its purpose, intent, and extent. Should any objection be filed, notice of the determination by the Secretary as to whether the order should be rescinded, modified or let stand will be given to all interested parties of record and the general public.

E. G. NIELSEN,
Assistant Commissioner.

[F. R. Doc. 57-6022; Filed, July 23, 1957; 8:47 a. m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

[Dept. Order 157 (Amended), Revocation]

OFFICE OF STRATEGIC INFORMATION

REVOCATION NOTICE

JULY 1, 1957.

The material appearing in 20 F. R. 7233 is hereby revoked.

The Office of Strategic Information, as defined by Department Order No. 157 (amended) of August 23, 1955, in the Office of the Secretary of Commerce is hereby abolished.

The Office of the Assistant Secretary of Commerce for Administration shall make disposition of the personnel, funds, equipment and records of the Office of Strategic Information.

This order revokes Department Order No. 157 (amended) of August 23, 1955.

[SEAL] SINCLAIR WEEKS,
Secretary of Commerce.

[F. R. Doc. 57-6018; Filed, July 23, 1957; 8:45 a. m.]

DEPARTMENT OF AGRICULTURE

Commodity Stabilization Service

[Notice 1 of Requirement of Certification—1957]

ENTRY OF SUGAR OR LIQUID SUGAR INTO CONTINENTAL UNITED STATES

SUGAR REQUIREMENTS AND QUOTAS

Pursuant to § 817.4 of this part (13 F. R. 127; 14 F. R. 1169, 16 F. R. 12847), notice is hereby given that the direct-consumption portion of the 1957 sugar quota for Cuba, amounting to 375,000 short tons of sugar, raw value, has been filled to the extent of 80 per centum or more. Accordingly, pursuant to § 817.4 of this part, after the close of business on July 23, 1957, and for the remainder of the calendar year 1957, Collectors of Customs shall not permit the entry into the continental United States from Cuba of any direct-consumption sugar unless and until the certification described in § 817.4 (a) is issued.

Issued this 19th day of July 1957.

[SEAL] THOS. H. ALLEN,
Acting Director,
Sugar Division,
Commodity Stabilization Service.

[F. R. Doc. 57-6041; Filed, July 23, 1957; 8:53 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 8681]

TRANS-ALASKAN AIRLINES, INC.; ENFORCEMENT CASE

NOTICE OF HEARING

In the matter of the revocation of Interim Operating Authorization No. 42 issued to Trans-Alaskan Airlines, Inc.

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, and regulations thereunder, that a hearing in the above-entitled matter is assigned to be held on July 30, 1957, at 10:00 a. m., e. d. t., in Room 1011, Temporary Building No. 5, 16th Street and Constitution Avenue NW., Washington, D. C., before Examiner Edward T. Stodola.

Dated at Washington, D. C., July 19, 1957.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 57-6045; Filed, July 23, 1957; 8:54 a. m.]

[Docket No. 8682]

SOURDOUGH AIR TRANSPORT

POSTPONEMENT OF HEARING

In the matter of the revocation of Interim Operating Authorization No. 37 issued to Antone R. Johansen and Dorothy Johansen, d/b/a Sourdough Air Transport.

Notice is hereby given that the hearing in the above-entitled matter now assigned for July 24, 1957, has been postponed to August 14, 1957, at 10:00 a. m., e. d. s. t., in Room E-210, Temporary Building No. 5, 16th Street and Constitution Avenue NW., Washington, D. C., before Examiner Paul N. Pfeiffer.

Dated at Washington, D. C., July 19, 1957.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 57-6047; Filed, July 23, 1957; 8:54 a. m.]

[Docket Nos. 8863, 8864]

AERONAVES DE MEXICO, S. A.

NOTICE OF HEARING

In the matter of the application of Aeronaves de Mexico, S. A. for a foreign air carrier permit to engage in foreign air transportation between the terminal points Mexico City, Mexico, and New York, New York, via the intermediate point Washington, D. C., Docket No. 8863.

In the matter of the application of Aeronaves de Mexico, S. A., for a foreign air carrier permit to engage in foreign air transportation between the terminal points Mexico City, Mexico and New Orleans, Louisiana via intermediate points in Mexico, Docket No. 8864.

Notice is hereby given, pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that hearing in the above-entitled application is assigned for July 30, 1957, at 10:00 a. m., e. d. s. t., in Room E-224, Temporary Building No. 5, 16th Street and Constitution Avenue NW., Washington, D. C., before Chief Examiner Francis W. Brown.

Dated at Washington, D. C., July 19, 1957.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 57-6046; Filed, July 23, 1957; 8:54 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 10968 etc.; FCC 57M-705]

GREAT LAKES TELEVISION, INC., ET AL.

ORDER SCHEDULING HEARING

In re applications of Great Lakes Television, Inc., Buffalo, New York, Docket No. 10968, File No. BPCT-1812; Leon Wyskatycki, d/b as Greater Erie Broadcasting Company, Buffalo, New York, Docket No. 10969, File No. BPCT-1827; WKBW-TV, Inc., Buffalo, New York, Docket No. 10970, File No. BPCT-1841; for construction permits for new television stations (Channel 7).

It is ordered, This 19th day of July 1957, that H. Gifford Irion will preside at the hearing in the above-entitled proceeding which was directed by the Commission in its Memorandum Opinion and Order of July 18, 1957, and that the said hearing shall be held in the offices of the Commission, Washington, D. C., commencing at 10:00 a. m., Wednesday, July 31, 1957.

Released: July 19, 1957.

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

[F. R. Doc. 57-6037; Filed, July 23, 1957; 8:52 a. m.]

[Docket No. 10968, etc.; FCC 57-772]

GREAT LAKES TELEVISION, INC., ET AL.

MEMORANDUM OPINION AND ORDER REOPENING HEARING RECORD

In re applications of Great Lakes Television, Inc., Buffalo, New York, Docket No. 10968, File No. BPCT-1812; Leon Wyszatycki, d/b as Greater Erie Broadcasting Company, Buffalo, New York, Docket No. 10969, File No. BPCT-1827; WKBW-TV, Inc., Buffalo, New York, Docket No. 10970, File No. BPCT-1841; for construction permits for new television stations (channel 7).

1. The Commission has before it for consideration (1) Joint Request for Official Notice filed by Greater Erie Broadcasting Company and Great Lakes Television, Inc. on September 11, 1956; (2) Opposition to Joint Request for Official Notice and Request for Alternative Relief filed by WKBW-TV on September 20, 1956; (3) Comment on Joint Request for Official Notice filed by the Broadcast Bureau on September 20, 1956; and (4) Reply to Opposition filed by Greater Erie Broadcasting and Great Lakes Television, Inc. on September 27, 1956.

2. These pleadings stem from the fact that the financial qualifications of WKBW-TV, which were at issue in this proceeding, are based in part on a bank loan, the availability of which is subject to the condition precedent of a network affiliation. The record discloses that WKBW-TV would satisfy this condition precedent through an affiliation with American Broadcasting Company, and in evidence thereof, presented an executory agreement whereby ABC agreed to affiliate with WKBW-TV in the event that applicant received the grant. The executory agreement, dated September 29, 1954, provides for the execution of the standard ABC affiliation contract no earlier than 90 days and no later than six months after WKBW-TV should receive a grant for the Buffalo, Channel 7, facility, the affiliation contract to expire no later than two years from the date of execution of the executory agreement (September 29, 1956). Thus, by its own terms, this agreement expired no later than September 29, 1956.

3. Great Lakes and Greater Erie allege that American Broadcasting Company has since the close of the record in this proceeding affiliated with station WGR-TV in Buffalo and that this fact is disclosed by copies of the ABC-WGR affiliation contract filed with the Commission in accordance with its Rules. We are asked to take official notice of our network files in order to ascertain the accuracy of the foregoing. Based on this allegation, petitioners contend that the ABC affiliation is no longer available to WKBW-TV, and it is, therefore, no longer able to meet the condition precedent to its bank loan, and can no longer establish itself as financially qualified to construct and operate its proposed station.

3a. In its opposition, WKBW-TV contends that the Commission must reach its decision on the basis of the record, and cannot go outside the record to take official notice of facts not disclosed therein. Alternatively, WKBW-TV requests that, in the event the Commission takes official notice of the ABC-WGR affiliation contract, the record in this proceeding be reopened in order to admit affidavits demonstrating that the bank no longer requires a network affiliation as a condition precedent to its loan.

4. In their reply to the opposition, Great Lakes and Greater Erie contend that by WKBW-TV's failure to controvert the fact of the ABC-WGR contract in its opposition, it has waived its right to do so in the record. They further argue that the alternative relief requested should be denied as an untimely attempt to amend its application.

5. In essence, we are here requested to take official notice of Commission records and to conclude therefrom that WKBW-TV, Inc. is financially disqualified. WKBW-TV, Inc. has, however, demanded its right to show the contrary. (Section 7 (d) Administrative Procedure Act.) Under these circumstances, the facts involved being material to our decision, the problem can be resolved only by reopening the record.

6. We turn now to WKBW's request to show, in a reopened record, that its financial qualifications are unaffected. Our policy prohibits an applicant in a comparative hearing from improving the comparative features of its proposal subsequent to the latest date at which our rules would allow amendment of its application. However, financial qualifications, like legal qualifications, constitute absolute rather than comparative features of an application. An applicant must establish his financial qualifications at the threshold of a proceeding, but once he has done so such qualifications will not be compared with the like qualifications of his competitors. (See Scripps Howard Radio, Inc. v. FCC 7 RR 2001.) Thus, we do not regard WKBW's request as being a belated attempt to improve its competitive position.

7. Although it is not our policy to permit applicants, who have failed in the hearing process to prove their financial qualifications, to amend their applications to cure the defect, we are not here confronted with such a situation. The Examiner found on the basis of the facts of record that at the time of this hearing WKBW-TV, Inc. was financially qualified. Events transpiring subsequent to the closing of the record, due largely to the passage of time and not within the control of the applicant, have served to cast doubt on the facts of record. We are not asked to permit WKBW-TV to show a new source of funds, but merely to show that the same funds are available from the same source with a restrictive condition of the loan removed. The form of the relief requested by WKBW-TV, however, would deny the other parties the right to cross-examine the witnesses presented to prove the present status of its bank loan or to offer evidence in rebuttal and, consequently, consideration of the affidavits submitted by WKBW-TV as requested must be denied. Nevertheless, WKBW-TV equitably should be afforded an opportunity to show the present availability of the loan in question.

Accordingly, it is ordered, That the Joint Request for Official Notice filed by Great Lakes and Greater Erie and the Request for Alternative Relief filed by WKBW-TV are denied.

It is further ordered, On the Commission's own motion, that the record in this proceeding be Reopened and the matter Remanded to the Hearing Examiner for

the limited purpose of (1) permitting amendment of the application of WKBW–TV to show the terms of its loan agreement, if any, with the Manufacturers and Traders Trust Co.; (2) taking evidence on the following issues:

(a) To determine whether there is presently outstanding an agreement of affiliation between WKBW–TV and American Broadcasting Company which would satisfy the requirements of the loan commitment of the Manufacturers and Traders Trust Co.; and

(b) In the event of a negative finding on issue (a) above, to determine whether WKBW–TV presently has a loan commitment from the Manufacturers and Traders Trust Co. adequate to establish, in conjunction with other matters of record herein, the financial qualifications of WKBW–TV to construct and operate its proposed station; and

(3) the issuance of a supplement to the Initial Decision restricted to such issues; and

It is further ordered, That the further hearing required herein be held as expeditiously as possible.

Adopted: July 18, 1957.

Released: July 19, 1957.

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

[F. R. Doc. 57–6036; Filed, July 23, 1957; 8:52 a. m.

[Docket No. 12089, 12090; FCC 57M–704]

PORT CITY TELEVISION CO., INC., AND BAYOU BROADCASTING CORP.

ORDER SCHEDULING PREHEARING CONFERENCE

In re applications of Port City Television Company, Inc., Baton Rouge, Louisiana, Docket No. 12089, File No. BPCT–2262; for construction permit for new television broadcast station; Bayou Broadcasting Corporation, Baton Rouge, Louisiana, Docket No. 12090, File No. BMPCT–4417; for modification of construction permit for new television broadcast station.

It is ordered, This 18th day of July 1957, that a prehearing conference, in accordance with § 1.813 of the rules, will be held in the above-entitled matter at 11:00 a. m., July 25, 1957, in the Commission's offices at Washington, D. C.

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

[F. R. Doc. 57–6038; Filed, July 23, 1957; 8:52 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G–10739, etc.]

ATLANTIC REFINING CO. ET AL.

NOTICE OF APPLICATIONS AND DATE OF HEARING

JULY 18, 1957.

In the matters of The Atlantic Refining Company, Docket No. G–10739; Wilcox Trend Gathering System, Inc., Docket Nos. G–10840, G–11782; Robert Mosbacher, Operator, et al., Docket No. G–11681; Edwin W. Pauley, Docket No. G–12481.

Take notice that on July 31, 1956, Wilcox Trend Gathering System, Inc. (Wilcox), a Delaware corporation having its principal place of business at Houston, Texas, filed at Docket No. G–10840 an application for a certificate of public convenience and necessity, as supplemented October 23, and December 27, 1956, pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of two supply laterals and appurtenances to be installed in the Tulsita-Wilcox Field, Bee County, Texas, and the Chicolete Creek Field, Lavaca and Jackson Counties, Texas, in order to receive natural gas to be purchased from The Atlantic Refining Company (Atlantic), pursuant to a 20-year gas sales contract dated March 1, 1956, between Wilcox and Atlantic. Said contract will be assigned by Wilcox to Texas Eastern Transmission Corporation (Texas Eastern), as buyer.

Wilcox proposes the following facilities:

(a) Approximately 1.42 miles of 3½-inch O. D. supply lateral pipeline extending from Atlantic's G. L. Courtney No. 10–B well in the Tulsita-Wilcox Field to a point of connection with Wilcox's existing 14-inch main transmission line at Milepost 85.6 in Bee County, Texas, together with a meter station and appurtenant equipment. Estimated cost is $17,800.

(b) Approximately 2.52 miles of 4½-inch O. D. supply lateral pipeline extending from Atlantic's Neuhaus No. 1 well in the Chicolete Creek Field to a point of connection with Wilcox's existing 16-inch main transmission line at Milepost 22.4 in Lavaca County, Texas, together with a meter station and appurtenant equipment. Estimated cost is $33,800.

The estimated total cost of $51,600 for the above proposed facilities is to be financed from corporate funds.

Also take notice that on January 24, 1957, Wilcox filed in Docket No. G–11782 an application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of the following supply lateral pipelines with appurtenances, in Goliad County, Texas:

(a) Approximately 1.44 miles of 3½-inch O. D. pipeline, together with a meter station, to extend from a point of connection on Wilcox's existing Melrose Field lateral to a point in the Poehler Field, in order to receive natural gas produced by Atlantic and Edwin W. Pauley (Pauley) from the Bluntzer No. 1–B well in said Poehler Field. Atlantic operates the well.

(b) Approximately 1.33 miles of 3½-inch O. D. pipeline, together with a meter station, to extend from a point of connection on Wilcox's existing Weesatche Field lateral to a point in the East Poehler Field, in order to receive natural gas produced by Robert Mosbacher, Operator (Mosbacher), et al., from the Henry J. Koenig No. 1 well in said East Poehler Field.

(c) Approximately 1.44 miles of 6⅝-inch O. D. pipeline partially looping Wilcox's existing 3-inch West Weesatche Field lateral from Milepost 0.01 to Milepost 1.43 to increase the capacity of said lateral in order to transport the additional volumes of gas which will become available from the Poehler and East Poehler Fields. Facilities described in (a) and (c) above will be interconnected to the West Weesacte lateral through other existing lines.

Wilcox states that the estimated total initial cost of the above proposed facilities is approximately $64,300, which cost is to be financed from corporate funds.

On July 12, 1956, Atlantic filed in Docket No. G–10739 an application for a certificate of public convenience and necessity, as amended December 12, 1956, covering the above sales of gas to Texas Eastern, assignee of Wilcox, under the aforesaid sales contract dated March 1, 1956, as amended. In addition to the above Tulsita-Wilcox, Chicolete Creek and Poehler Fields, said sales contract, as amended, includes acreage from six other fields, namely, the West George West Field, Live Oak County, Texas; in McMullen County, Texas, the Baker-Wilcox, Loma Alta and Rhode Ranch Fields; and in De Witt County, Texas, the Meyersville and Koenig Fields. Wilcox did not apply in its instant docket for facilities to take gas from these later six fields as such fields are already connected to Wilcox's existing facilities authorized at Docket Nos. G–1959 and G–2208.

In addition to Atlantic the following related independent producer applications have been filed:

Docket No.	Applicant	Date filed	Contract date
G–11681	Robert Mosbacher, Operator, et al	Dec. 28, 1956	Nov. 28, 1956
G–12481	Edwin W. Pauley	Apr. 25, 1957	Feb. 1, 1956

Mosbacher, as Operator, is filing for itself and also for W. T. Mendell, a co-owner (10 percent) and signatory seller party with Mosbacher (90 percent) of the acreage in East Poehler Field involved herein.

Pauley has excuted his own contract, dated Februray 1, 1956, for the sale of his interest in the gas to be sold in the Poehler Field and states that Atlantic is the operator of the well.

Proposed deliveries from the Poehler and East Poehler Fields will be made at the meter stations to be installed by Wilcox as proposed herein. Proposed deliveries from the Meyersville and Koenig Fields will be made in the respective fields.

Producers' facilities consist of customary lease equipment.

Wilcox further states that it will transport the gas received from Producer Applicants for redelivery to Texas Eastern at Provident City, Texas, and that Texas Eastern will transport the subject gas in interstate commerce for resale.

Said applications are on file with the Commission and open for public inspection.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on August 20, 1957, at 9:30 a. m., e. d. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised it will be unnecessary for applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before August 12, 1957. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57-6025; Filed, July 23, 1957; 8:48 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812-1091]

IRA HAUPT & CO.

NOTICE OF AND ORDER FOR HEARING ON APPLICATION FOR EXEMPTION FROM REQUIREMENT THAT UNIT INVESTMENT TRUST ISSUE REDEEMABLE SECURITIES

JULY 17, 1957.

In the matter of Ira Haupt & Co. (Municipal Investment Trust Fund, Series A), (File No. 812-1091).

Notice is hereby given that Ira Haupt & Co., a registered broker-dealer and sponsor and depositor of the Municipal Investment Trust Fund, Series A, ("the Trust") a registered unit investment trust fund, has filed an application pursuant to section 6 (c) of the Investment Company Act of 1940 ("the act") for exemption from the provisions of sections 2 (a) (31), 4 (2) and 22 (e) of the act to the extent that these sections require the securities issued by the Trust to be redeemable either by the Trust or a person designated by the Trust as its agent. Applicant also seeks the same exemption with respect to any other unit investment trust fund established in the future by applicant under a trust agreement substantially identical in terms with the trust agreement hereinafter summarized.

The Trust was established April 29, 1957 by a trust indenture and agreement entered into between the depositor and Guaranty Trust Company of New York, as trustee. Pursuant to the trust agreement the depositor will deposit with the trustee $5,000,000 principal amount of bonds, the interest income on which will be exempt from Federal income taxes, and will receive certificates representing 5,000 units representing undivided fractional interests in the trust fund. These certificates will be sold by the depositor to an underwriting group to be formed for the purpose of their public distribution. The price to the public of a unit will be approximately its current net asset value as determined by the depositor plus an underwriting commission of 4.166 percent of such value.

The trust agreement provides that as the bonds which were originally deposited are redeemed, matured or otherwise liquidated the proceeds will be distributed annually, and there will be no reinvestment nor substitution of securities except in certain refundings. The depositor will determine which bonds shall be sold from time to time upon the happening of certain specified events or for the purpose of redeeming outstanding certificates which the depositor has repurchased.

The trust agreement also provides that the depositor will repurchase the certificates from the holders and has the right, at its election, to either resell the same or present the same to the trustee for redemption. The price at which certificates are repurchased will be determined by the depositor on the last business day of the week in which certificates are presented for repurchase, and payment will be made on the next business day. The price at which the certificate will be redeemed by the Trust will be determined by the depositor on the day in which it is presented to the Trust for redemption, which date may not be more than four days after the repurchase date. Both the repurchase and redemption prices are to be determined by the depositor on the basis, among other things, of the bid prices for the underlying bonds on the date of repurchase or redemption. If the depositor refuses to repurchase a certificate the trustee is required within sixty days after notice of such refusal to appoint a successor depositor, and pending such appointment the trustee shall act in the capacity of the depositor. If the trustee is unable to appoint a successor depositor it is required to liquidate the Trust.

The Commissioner of Internal Revenue has ruled that the Trust will not constitute an association taxable as a corporation for Federal income tax purposes, and interest on the deposited bonds which is exempt from Federal income tax will not constitute taxable income to the Trustee or to the certificate holders.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors that a hearing be held with respect to the application pursuant to section 6 (c);

It is ordered, Pursuant to section 40 (a) of the act, that a hearing on the aforesaid application under the applicable provisions of the act and of the rules of the Commission thereunder be held on the 5th day of August 1957, at 10:00 a. m., in the office of the Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At such time the Hearing Room Clerk will advise as to the room in which such hearing will be held. Any person desiring to be heard or otherwise wishing to participate in the proceedings is directed to file with the Secretary of the Commission his application as provided by Rule XVII of the Commission's rules of practice on or before the date provided in that rule, setting forth any issues of law or facts which he desires to controvert or any additional issues which he deems raised by this Notice and Order or by such application.

It is further ordered, That William W. Swift, or any officer or officers of the Commission, designated by it for that purpose, shall preside at said hearing. The officer so designated is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42 (b) of the Investment Company Act of 1940 and to a hearing officer under the Commission's rules of practice.

The Division of Corporate Regulation having advised the Commission that it has made a preliminary examination of the application, and that upon the basis thereof the following matters and questions are presented for consideration, without prejudice to its specifying additional matters and questions upon further examination:

(1) Whether the certificates issued by the Trust are redeemable securities within the meaning of section 2 (a) (31) of the act if the depositor in the repurchase of the same is not acting as an agent of the Trust, and there is no absolute right in the certificate holder to present the same to the Trustee for redemption.

(2) Whether, if the certificates issued by the Trust are not redeemable securities, it is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the act to exempt the trust from the provisions of section 4 (2) (C) of the act requiring a unit investment trust to issue only redeemable securities.

(3) Whether, if the certificates issued by the Trust are redeemable securities, it is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the act to exempt the Trust from the provisions of section 22 (e) of the act prohibiting the Trust from suspending the right of redemption or postponing the date of payment or satisfaction upon redemption of the certificates for more than seven days after the tender of the certificates to the Trust or its agent designated for that purpose for redemption.

(4) Whether, in connection with the granting of an exemption from the provisions of section 4 (1) or 22 (e) of the act, the Commission should impose con-

ditions and if so, the nature of such conditions.

(5) Whether, to the extent the application seeks exemption from sections 4 (2) and 22 (e) of the act for any other unit investment trust hereafter established by the applicant as depositor, the application should be dismissed.

It is further ordered, That at the aforesaid hearing attention be given to the foregoing matters and questions.

It is further ordered, That the Secretary of the Commission shall give notice of the aforesaid hearing by mailing a copy of this notice and order by registered mail to Ira Haupt & Co. and Guaranty Trust Company of New York and that notice to all other persons be given by publication of this notice and order in the FEDERAL REGISTER and that a general release of this Commission in respect of this notice and order be distributed to the press and mailed to the mailing list for releases.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 57-6016; Filed, July 23, 1957; 8:45 a. m.]

INTERSTATE COMMERCE COMMISSION

[Notice 1]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JULY 19, 1957.

The following letter-notices of proposals to operate over deviation routes for operating convenience only with no service at intermediate points 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 operation 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-2306 (Deviation No. 1), STRICKLAND MOTOR FREIGHT LINES, INC., 3011 Gulden, P. O. Box 5689, Dallas, Texas, accepted for filing July 15, 1957. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities,* with certain exceptions, over a deviation route, between Cleveland, Ohio and Newark, N. J., as follows: from Cleveland over the Ohio Turnpike, Pennsylvania Turnpike, and New Jersey Turnpike to Newark and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Cleveland and Newark over the following routes: from Cleveland over Ohio Highway 84 to junction Ohio Highway No. 46, thence Ohio Highway No. 46 to Ashtabula, Ohio, thence U. S. Highway No. 20 to junction New York Highway No. 78, thence New York Highway No. 78 to junction New York Highway No. 33, thence New York Highway No. 33 to Batavia, New York, thence New York Highway No. 5 to Albany, New York, thence New York Highway No. 9J to Junction U. S. Highway No. 9, thence U. S. Highway No. 9 to Newark, New Jersey, and return over the same routes.

No. MC-2894 (Deviation No. 1), RED STAR TRANSIT COMPANY, INC., 7950 Dix Avenue, Detroit 9, Mich., accepted for filing July 15, 1957. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities,* with certain exceptions, over a deviation route, between Toledo, Ohio and junction of U. S. Highways 24 and 24-A, as follows: from Toledo over U. S. Highway 24-A to its junction with U. S. Highway 24 and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Toledo, Ohio and the junction of U. S. Highways 24 and 24-A over U. S. Highway 24.

No. MC-8902 (Deviation No. 1), THE WESTERN EXPRESS COMPANY, 1277 East 40th Street, Cleveland 14, Ohio, accepted for filing July 15, 1957. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities,* with certain exceptions, between Interchange No. 1 and Interchange No. 12, over the Massachusetts Turnpike and various access routes as a deviation route for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over the following pertinent routes: from the Massachusetts-New York State line over U. S. Highway 20 to Boston, Mass.; from Pittsfield, Mass., over Massachusetts Highway 9 to Boston, Mass.; from junction Massachusetts Highway 41 and U. S. Highway 20 over Massachusetts Highway 41 to junction Massachusetts Highway 102, thence over Massachusetts Highway 102 to junction U. S. Highway 20, and return over these routes.

No. MC-10928 (Deviation No. 1), SOUTHERN-PLAZA EXPRESS, INC., P. O. Box 837, Dallas 21, Texas, filed July 15, 1957. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities,* with certain exceptions, over a deviation route, between Tulsa, Okla., and Joplin, Mo., as follows: from Tulsa over the Will Rogers Turnpike to Joplin, Mo. and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Tulsa, Okla., and Joplin, Mo., over U. S. Highway 66.

No. MC-15214 (Deviation No. 1), MERCURY MOTORWAYS, INC., 947 Louise Street, South Bend, Ind., accepted for filing July 15, 1957. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities,* with certain exceptions, over a deviation route, between junction Michigan Highway 205 and U. S. Highway 112, and junction Indiana Highway 212 and U. S. Highway 20, as follows: from the junction of Michigan Highway 205 and U. S. Highway 112 over U. S. Highway 112 to Niles, Mich., thence over U. S. Highway 112 and Michigan Highway M-60 to New Buffalo, Mich., thence over U. S. Highway 12 to Indiana Highway 212, thence over Indiana Highway 212 to U. S. Highway 20, and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the above described commodities between the same points over the following pertinent routes: from Chicago over U. S. Highway 12 to Michigan City, Ind., thence over U. S. Highway 35 to junction U. S. Highway 20, thence over U. S. Highway 20 to junction Indiana Highway 2, thence over Indiana Highway 2 to South Bend, Ind., and thence over U. S. Highway 33 to Elkhart; from South Bend over U. S. Highway 20 to Elkhart, Ind., thence over Indiana Highway 120 to Bristol, Ind., (also from South Bend over U. S. Highway 20 to junction Indiana Highway 112, thence over Indiana Highway 112 to Elkhart, Ind., thence over Indiana Highway 120 to Bristol), thence over Indiana Highway 15 to junction U. S. Highway 131, thence over U. S. Highway 131 to Mottville, Mich., and thence over U. S. Highway 112 to Detroit, and return over the same routes.

No. MC-31389 (Deviation No. 1), McLEAN TRUCKING COMPANY, 617 Waughtown Street, Winston-Salem, N. C., accepted for filing July 15, 1957. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities,* with certain exceptions, over a deviation route between Albany, N. Y., and Suffern, N. Y. as follows: from Albany over the New York State Thruway to Suffern, and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over the following pertinent routes: from Albany over U. S. Highway 9 to New York; from Albany over U. S. Highway 9W to Newburgh, N. Y., thence over New York Highway 32 to junction New York Highway 17, thence over New York Highway 17 to New York-New Jersey State Line, thence over New Jersey Highway 17 to junction New Jersey Highway 3, thence over New Jersey Highway 3 to junction U. S. Highway 1, thence over U. S. Highway 1 to Newark, and return over the same routes.

No. MC 42329 (Deviation No. 1), HAYES FREIGHT LINES, INC., 39 South La Salle Street, Chicago 3, Ill., accepted for filing July 15, 1957. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities,* with certain exceptions, over a deviation route, between Memphis, Tenn., and St.

Louis, Mo., as follows: from Memphis over U. S. Highway 61 to junction with Missouri Highway 25 at or near Cape Girardeau, Mo., thence over Missouri Highway 25 to junction U. S. Highway 61 at or near Festus, Mo., and thence over U. S. Highway 61 to St. Louis and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Memphis, Tenn., and St. Louis, Mo., over a route which passes near or through East Cairo and East St. Louis, Ill., over U. S. Highway 51 and Illinois Highway 3.

No. MC 44592 Sub 1 (Deviation No. 1), MIDDLE ATLANTIC TRANSPORTATION CO., INC., 10720 Memphis Avenue, Cleveland 9, Ohio, accepted for filing July 15, 1957. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between Harrisburg, Pa., and Pittsburgh, Pa., as follows: from Harrisburg over U. S. Highway 11 to Chambersburg, Pa., thence over U. S. Highway 30 to Pittsburgh, Pa., and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Harrisburg, Pa., and Pittsburgh, Pa., over U. S. Highway 22 via Amity Hall and Ebensburg, Pa.

No. MC 59625 (Deviation No. 1), DELAWARE TRUCKING COMPANY, INC., 301 West Seymour Street, Muncie, Ind., filed July 17, 1957. Attorney for said carrier, Ferdinand Born, 708 Chamber of Commerce Building, Indianapolis 4, Ind. Carrier proposes to operate as a *common carrier* of *various commodities* over a deviation route between Muncie, Ind., and Detroit, Mich., as follows: from Muncie, Ind., over Indiana Highway 3 to Fort Wayne, thence over U. S. Highway 27 to its junction with U. S. Highway 112 at or near Coldwater, Mich., thence over U. S. Highway 112 to Detroit, Mich., and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Muncie, Ind., and Detroit, Mich., over the following pertinent route: from Muncie, Ind., over Indiana Highway 67 to the Indiana-Ohio State line, thence over Ohio Highway 29 to St. Marys, Ohio, thence over U. S. Highway 33 to Wapakoneta, Ohio, and return over U. S. Highway 25 via Toledo, Ohio, to Detroit, and return over the same route.

No. MC–74721 (Deviation No. 1) MOTOR CARGO, INC., 1540 West Market Street, Akron 13, Ohio, accepted for filing July 15, 1957. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, between Philadelphia, Pa., and Wilkes-Barre, Pa., over the Northern Extension of the Pennsylvania Turnpike and various access highways, as a deviation route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over the following pertinent routes: from Lewistown over U. S. Highway 522 to junction U. S. Highway 11, thence over U. S. Highway 11 to Scranton, Pa. and thence over U. S. Highway 611 to Easton; from Philadelphia over U. S. Highway 611 to Easton, and return over the same routes.

No. MC–105957 (Deviation No. 1), DELTA MOTOR LINE, INC., P. O. Box 8367, Battlefield Station, Jackson 4, Mich., accepted for filing July 15, 1957. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between Jackson, Miss., and New Orleans, La., as follows: from Jackson over U. S. Highway 49 to junction Mississippi Highway 13, near Mendenhall, Miss.; thence over Mississippi Highway 13 to Columbia, Miss.; thence over Mississippi Highway 35 to the Mississippi-Louisiana State Line; thence over Louisiana Highway 21 to Covington, La.; thence over U. S. Highway 190 to approaches to the Lake Pontchartrain Causeway (Bridge) near Mandeville, La.; thence via said approachways and via Lake Pontchartrain Causeway (Bridge) over Lake Pontchartrain to unnumbered approaches and highways extending from southern end of Lake Pontchartrain Causeway (Bridge) to intersection with U. S. Highway 61 near New Orleans, La.; thence over U. S. Highway 61 to New Orleans and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Jackson, Miss. and New Orleans, La. over U. S. Highway 51.

MOTOR CARRIERS OF PASSENGERS

No. MC–1501 (Deviation No. 1), THE GREYHOUND CORPORATION (EASTERN GREYHOUND LINES), 2600 Hamilton Avenue, Cleveland 14, Ohio, accepted for filing July 15, 1957. Carrier proposes to operate as a *common carrier* by motor vehicle of *passengers* over a deviation route as follows: from the junction of U. S. Highway 20 and the Massachusetts Turnpike at Interchange No. 2 (Lee Interchange) via the Massachusetts Turnpike to the eastern terminus of the Massachusetts Turnpike at Interchange No. 14 near Weston, Mass.; also from Springfield, Mass. via access streets and access road to Interchange No. 6 of the Massachusetts Turnpike (Indian Orchard Interchange); also from junction U. S. Highway 20 and Massachusetts State Highway No. 15 near Sturbridge, Mass. via Massachusetts State Highway No. 15 to Interchange No. 9 of the Massachusetts Turnpike (Route 15 extension Interchange) and return over the same route for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport passengers over the following pertinent routes: from the junction of U. S. Highway 1 and Massachusetts Highway 128 over Massachusetts Highway 128 to junction Massachusetts Highway 37; from Boston, Mass. over U. S. Highway 20 via Worcester, Mass. to Springfield, Mass. (also Boston over Massachusetts Highway 9 to Worcester); from Worcester over Massachusetts Highway 12 to junction U. S. Highway 20, thence over U. S. Highway 20 via Charlton City, Mass. to junction Massachusetts Highway 15, thence over Massachusetts Highway 15 via Sturbridge to the Massachusetts-Connecticut State Line; from Boston over Massachusetts Highway 9 to Worcester, Mass. (also from Boston over U. S. Highway 20 via Northboro, Mass., to junction unnumbered highway at a point approximately one mile southwest of Northboro, Mass., thence over unnumbered highway via Shrewsbury, Mass., to junction Massachusetts Highway 9 at a point approximately three miles east of Worcester, Mass., thence as specified above to Worcester), thence over Massachusetts Highway 12 to junction U. S. Highway 20, thence over U. S. Highway 20 via Fiskdale, Mass., to Springfield, Mass., thence over Massachusetts Highway 116 to Holyoke, Mass., thence over U. S. Highway 202 to junction U. S. Highway 5, thence over U. S. Highway 5 to Northampton, Mass., thence over Massachusetts Highway 9 to Pittsfield, Mass. (also from Springfield, Mass. over U. S. Highway 20 via West Springfield, Mass., to Pittsfield, Mass.; also from West Springfield, Mass. over U. S. Highway 5 to junction U. S. Highway 202 west of Holyoke, Mass.), thence over U. S. Highway 20 to Albany, N. Y.; and return over these routes.

No. MC–1501 (Deviation No. 2), GREYHOUND CORPORATION (EASTERN GREYHOUND LINES), 2600 Hamilton Avenue, Cleveland 14, Ohio, accepted for filing July 15, 1957. Carrier proposes to operate as a *common carrier* by motor vehicle of *passengers* between Philadelphia, Pa., and Wilkes-Barre, Pa., over the Northeastern Extension of the Pennsylvania Turnpike and various access roads, as a deviation route for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport passengers over the following pertinent routes: from Baltimore over U. S. Highway 1 to Lansdowne, Pa., thence over unnumbered highway to Philadelphia, Pa., thence over U. S. Highway 611 via East Stroudsburg and Stroudsburg, Pa., to Daleville, Pa., thence over Pennsylvania Highway 502 to junction Pennsylvania Highway 307, thence over Pennsylvania Highway 307 to Scranton, Pa., and thence over U. S. Highway 11 to Northumberland; from Swiftwater over Pennsylvania Highway 940 to Blakeslee, Pa., thence over Pennsylvania Highway 115 to Kingston; from Blakeslee Corners over Pennsylvania Highway 115 to Saylorsburg, Pa., thence over Pennsylvania Highway 12 to Stockertown, Pa., and thence over Pennsylvania Highway 115 to Easton; from Bartonsville over Pennsylvania Highway 12 to Saylorsburg; from Wilkes-Barre over unnumbered highway to Pittston; from Dupont over Pennsylvania Highway 315 to Wilkes-Barre; from East Stroudsburg over U. S. Highway 209 to junction Pennsylvania Highway 196 (formerly Pennsylvania Highway 190) thence over Pennsylvania Highway 196 to junction Pennsylvania Highway 90, thence over Pennsylvania Highway 90 to Paradise

Valley, Pa., thence over Pennsylvania Highway 196 (formerly Pennsylvania Highway 615) to Mt. Pocono; from junction New U. S. Highway 611 and Old U. S. Highway 611 over New U. S. Highway 611 to junction Old U. S. Highway 611; and return over the same routes.

No. MC–2890 (Deviation No. 1), AMERICAN BUSLINES, INC., 1341 P Street, Lincoln 8, Nebr., accepted for filing July 15, 1957. Carrier proposes to operate as a *common carrier* by motor vehicle of *passengers* between the Indiana-Illinois State line near West Point Interchange, Ind. and South Bend Interchange, Ind. over Northern Indiana Toll Road and various approaches, for operating convenience only serving no intermediate points. The notice indicates that the carrier is presently authorized to transport passengers between Chicago, Ill., and South Bend, Ind. over a route described as follows: from Chicago over U. S. Highway 41 to Hammond, Ind., (also from Chicago over city streets via Calumet City, Ill., to Hammond), thence over U. S. Highway 20 via Gary, Ind. to junction U. S. Highway 421 (formerly Indiana Highway 43), thence over U. S. Highway 421 to Michigan City, Ind., thence over Indiana Highway 29 to junction U. S. Highway 20, thence over U. S. Highway 20 to South Bend, Ind.

No. MC–2890 (Deviation No. 2), AMERICAN BUSLINES, INC., 1341 P Street, Lincoln, Nebr., accepted for filing July 15, 1957. Carrier proposes to operate as a *common carrier* by motor vehicle of *passengers* between Dallas, Texas, and Fort Worth, Texas over the Dallas-Fort Worth Turnpike as a deviation route for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport passengers between Dallas and Fort Worth over U. S. Highway 80.

No. MC–107586 (Deviation No. 1), CONTINENTAL BUS SYSTEM, INC. (CONTINENTAL TRAILWAYS), 315 Continental Avenue, Dallas, Texas, accepted for filing July 15, 1957. Carrier proposes to operate as a *common carrier* by motor vehicle of *passengers* over a deviation route between Dallas, Tex., and Fort Worth, Tex., as follows: from Dallas over the Dallas-Fort Worth Turnpike to Fort Worth and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport passengers between Dallas and Fort Worth over U. S. Highway 7 and Texas Highways 183, 356 and 121.

By the Commission.

[SEAL] HAROLD D. McCOY,
Secretary.

[F. R. Doc. 57–6033; Filed, July 23, 1957; 8:51 a. m.]

[Notice 174]

MOTOR CARRIER APPLICATIONS

JULY 19, 1957.

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 and by brokers under sections 206, 209, and 211 of the Interstate Commerce Act and certain other procedural matters with respect thereto. (49 CFR 1.241)

All hearings will be called at 9:30 o'clock a. m., United States Standard Time (or 9:30 o'clock a. m., Local Daylight Saving Time, if that time is observed), unless otherwise specified.

APPLICATIONS ASSIGNED FOR ORAL HEARING OR PRE-HEARING CONFERENCE

MOTOR CARRIERS OF PROPERTY

No. MC 18738 (Sub No. 24), filed July 8, 1957, SIMS MOTOR TRANSPORT LINES, INC., 610 West 138th Street, Chicago 27, Ill. Applicant's attorney: Ferdinand Born, 708 Chamber of Commerce Building, Indianapolis, Ind. For authority to operate as a *common carrier*, over irregular routes, transporting: *Inselrock* and *concrete slabs*, from North Judson, Ind., to points in Ohio, Illinois, those in the lower peninsula of Michigan, St. Louis, Mo., and Louisville, Ky., and *damaged shipments* of the above-specified commodities on return. Applicant is authorized to conduct similar operations in Illinois, Indiana, Kentucky, Michigan, Missouri, and Ohio.

HEARING: July 26, 1957, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner Lacy W. Hinely.

No. MC 31820 (Sub No. 25), filed June 3, 1957, (Amended), AUTOMOTIVE CONVEYING CO. OF NEW JERSEY, INC., P. O. Box 595, Mahwah, N. J. Applicant's attorney: August W. Heckman, 880 Bergen Avenue, Jersey City 6, N. J. For authority to operate as a *common carrier*, over irregular routes, transporting: *Passenger automobiles and trucks, passenger automobile and truck chassis*, in initial movements, in truckaway and driveaway service, from Mahwah, N. J., to St. Louis, Mo., and points in Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, and Wisconsin. Applicant is authorized to transport similar commodities in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia.

HEARING: September 10, 1957, at 346 Broadway, New York, N. Y., before Examiner Robert A. Joyner.

No. MC 43038 (Sub No. 404), filed July 1, 1957, COMMERCIAL CARRIERS, INC., 3399 E. McNichols Road, Detroit 12, Mich. For authority to operate as a *common carrier*, over irregular routes, transporting: *Motor vehicles*, in initial movements, in truckaway service, from the site of the Cadillac Motor Car Division of General Motors Corporation in Detroit, Mich., to all points in Texas. Applicant is authorized to conduct similar operations in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia.

HEARING: September 27, 1957, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner John McCarthy.

No. MC 57932 (Sub No. 4), filed June 18, 1957, NORTH SHORE TRANSPORTATION CO., INC., 121–06 Merrill Street, Jamaica 34, N. Y. For authority to operate as a *common carrier*, over irregular routes, transporting: *Cast iron* and *steel pipe* and *fittings*, 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 Westchester County, N. Y. Applicant is authorized to conduct operations in New York and New Jersey.

HEARING: September 20, 1957, at the New York Public Service Commission, 199 Church Street, New York, N. Y., before Examiner Robert A. Joyner.

No. MC 59336 (Sub No. 15), filed July 15, 1957, U. S. TRUCK COMPANY, INC., 2290 24th Street, Detroit, Mich. Applicant's attorney: Wilhelmina Boersma, 2850 Penobscot Building, Detroit 26, Mich. For authority to operate as a *common carrier*, transporting: *General commodities*, including *Class A and B explosives*, but excluding articles of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the site of the Enrico Fermi Atomic Energy Plant, located in Frenchtown Township, Monroe County, Mich., as an off-route point in connection with applicant's authorized regular route operations between Detroit, Mich., and Toledo, Ohio. Applicant is authorized to transport similar commodities in Michigan and Ohio.

HEARING: July 31, 1957, at the Olds Hotel, Lansing, Mich., before Joint Board No. 76.

No. MC 73905 (Sub No. 2), filed June 14, 1957, CIRILO FLETCHER and ELIZABETH FLETCHER, a partnership, doing business as CITCHER TRANSPORTATION COMPANY, 784 Fulton Street, Brooklyn, N. Y. For authority to operate as a *common carrier*, over irregular routes, transporting: *Furniture*, between New York, N. Y., on the one hand, and, on the other, points in New Jersey, Connecticut, Massachusetts and Pennsylvania, and points in New York within 50 miles of New York, N. Y.

NOTE: Applicant states the purpose of this application is to remove the modification "uncrated" from the commodity description in existing authority. Applicant is authorized to transport furniture in Connecticut, Massachusetts, New Jersey, New York, and Pennsylvania.

HEARING: September 11, 1957, at 346 Broadway, New York, N. Y., before Examiner Robert A. Joyner.

No. MC 74164 (Sub No. 3), filed April 2, 1957, WEST FARMS EXPRESS, INC., 3622 Park Avenue, Bronx, N. Y. Applicant's attorney: Arthur J. Piken, 160–16 Jamaica Avenue, Jamaica 32, N. Y. For authority to operate as a *common carrier*, over irregular routes, transporting: *General commodities*, except those of un-

usual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between New York, N. Y., on the one hand, and, on the other, points in Westchester County, N. Y.

HEARING: September 5, 1957, at 346 Broadway, New York, N. Y., before Examiner Robert A. Joyner.

No. MC 109708 (Sub No. 6), filed June 26, 1957, ERVIN J. KRAMER, doing business as MARYLAND TANK TRANSPORTATION CO., 3820 Lewin Avenue, Baltimore, Md. Applicant's attorney: Harry C. Ames, Jr., Transportation Building, Washington, D. C. For authority to operate as a *common carrier*, over irregular routes, transporting: *Tallow* and *grease*, from Reckord (Harford County), Md., to Wilmington and Delmar, Del., and Philadelphia, Pa.

HEARING: September 9, 1957, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Joint Board No. 199.

No. MC 110525 (Sub No. 337), filed June 28, 1957, CHEMICAL TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. Applicant's attorney: Gerald L. Phelps, Munsey Building, Washington 4, D. C. For authority to operate as a *common carrier*, over irregular routes, transporting: *Liquid chemicals and coal tar products*, in bulk, in tank vehicles, between Toledo, Ohio, on the one hand, and, on the other, points in Brooke and Monongalia Counties, W. Va., Monroe and Erie Counties, N. Y., and Allegheny, Beaver and Washington Counties, Pa. Applicant is authorized to transport similar commodities in Alabama, Arkansas, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia.

HEARING: September 25, 1957, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner John McCarthy.

No. MC 112206 (Sub No. 4), filed June 19, 1957, STAPLE TRUCKING SERVICE, INC., 102 Junius Street, Brooklyn 12, N. Y. For authority to operate as a *contract carrier*, over irregular routes, transporting: *Such merchandise* as is dealt in by manufacturers or distributors of electronic and electrical products and devices and household appliances, and *equipment, materials and supplies* used or useful in the manufacture, sale and distribution of such commodities, between points in Clark Township, Newark and Rockaway, N. J. and points in the New York, N. Y., Commercial Zone as defined by the Commission in 1 M. C. C. 665 and those in Nassau and Westchester Counties, N. Y. Applicant is authorized to conduct operations in New York and New Jersey.

HEARING: September 23, 1957, at 346 Broadway, New York, N. Y., before Examiner Robert A. Joyner.

No. MC 114711 (Sub No. 1), filed June 24, 1957, FRANK SASLOVSKY, doing business as ASSOCIATED CARRIAGE SERVICE, 1465 38th Street, Brooklyn 18, N. Y. Applicant's attorney: Edward M. Alfano, 36 West 44th Street, New York 36, N. Y. For authority to operate as a *contract carrier*, over irregular routes, transporting: *Crated and uncrated baby carriages and baby furniture*, from New York, N. Y. to points in New Jersey within 60 miles of New York, N. Y., *damaged and returned shipments of the named commodities* on return. Applicant now holds authority in Permit No. MC 114711 to transport uncrated baby carriages within the same territory. All duplicating authority will be eliminated.

HEARING: September 25, 1957, at 346 Broadway, New York, N. Y., before Examiner Robert A. Joyner.

No. MC 115537, filed August 23, 1955, (REOPENED FOR FURTHER HEARING), LOUIS PALADINO, 44 Blackford Ave., Yonkers, N. Y. Applicant's attorney: Martin Werner, 295 Madison Avenue, New York 17, N. Y. For authority to operate as a *common carrier*, over irregular routes, transporting: *Homing pigeons*, in seasonal operations during the period between March 1st and October 31st of each year, both inclusive, between New York, N. Y., points in Westchester County, N. Y., and points in Fairfield County, Conn., on the one hand, and, on the other, points in Bergen, Essex, Hudson, Mercer, Middlesex, Monmouth, Somerset and Union Counties, N. J., and New York, N. Y.

FURTHER HEARING: September 9, 1957, at 346 Broadway, New York, N. Y., before Examiner Robert A. Joyner.

No. MC 115791 (Sub No. 1), filed June 17, 1957, WILLIAM SFORZA, FRANK SFORZA AND MICHAEL J. SFORZA, a Partnership, doing business as SFORZA BROTHERS TRANSPORTATION COMPANY, 1143 Sackett Avenue, Bronx 61, N. Y. Applicant's attorney: Evan Howell, 839 17th Street NW., Washington, D. C. For authority to operate as a *common carrier*, over irregular routes, transporting: *Fuel oil and asphalt*, in bulk, in tank vehicles, from Perth Amboy and Linden, N. J., to New York, N. Y., and points in Nassau and Suffolk Counties, N. Y.

HEARING: September 12, 1957, at 346 Broadway, New York, N. Y., before Examiner Robert A. Joyner.

No. MC 116179 (Sub No. 1), filed June 7, 1957, ANDREW KOMAR, doing business as KOMAR'S TRUCKING, R. D. 2, Box 164c, Bound Brook, N. J. Applicant's attorney: Herman B. J. Weckstein, 1060 Broad Street, Newark 2, N. J. For authority to operate as a *common carrier*, over irregular routes, transporting: *Machinery for the manufacture of corrugated boxes*, from Linden, N. J., to points in Illinois, Indiana, Kentucky, Michigan, New Jersey, New York, Ohio and Pennsylvania. *Returned and rejected machinery for the manufacture of corrugated boxes*, on return.

HEARING: September 19, 1957, at the U. S. Court Rooms, Newark, N. J., before Examiner Robert A. Joyner.

No. MC 116410 (Sub No. 2), filed June 28, 1957, R. W. BRAWSHAW, doing business as R. W. BRADSHAW TRANSFER, Hudson, N. C. For authority to operate as a *common carrier*, over irregular routes, transporting: *Rough and dressed lumber*, between points in North Carolina, Pennsylvania, West Virginia, Virginia, Kentucky, Ohio and Indiana. Applicant is authorized to conduct operations in Ohio, North Carolina, District of Columbia, Maryland, West Virginia, Pennsylvania, South Carolina, Georgia, Tennessee, and Kentucky.

HEARING: September 24, 1957, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner John McCarthy.

No. MC 116721, filed June 10, 1957, BIG T TRUCKING CORP., 6102 20th Avenue, Brooklyn, N. Y. Applicant's attorney: Irving Abrams, 1776 Broadway, New York 19, N. Y. For authority to operate as a *contract carrier*, over irregular routes, transporting: *Sewer pipe* and *sewer pipe fittings*, from Liverpool, Palmyra and Uhrichsville, Ohio, to Glendale, Long Island, N. Y., and *damaged and rejected shipments* of the above-specified commodities on return movements.

HEARING: September 5, 1957, at 346 Broadway, New York, N. Y., before Examiner Robert A. Joyner.

No. MC 116733, filed June 12, 1957, EDWARD HAGMANN AND EDWARD C. HAGMANN, a Partnership, doing business as HAGMANN TRUCKING CO., Ryerson Road, Lincoln Park, N. J. Applicant's representative: Bert Collins, 140 Cedar Street, New York 6. N. Y. For authority to operate as a *contract carrier*, over irregular routes, transporting: *Machinery*, and *machinery parts*, between points in Morris, Passaic, Bergen, Essex, and Union Counties, N. J., on the one hand, and, on the other, points in New York, Pennsylvania, Connecticut, Rhode Island, Massachusetts, and Delaware.

HEARING: September 6, 1957, at 346 Broadway, New York, N. Y., before Examiner Robert A. Joyner.

No. MC 116759, filed June 20, 1957, EUGENE POTTS, Fox Hollow Road, R. D. 2, Williamsport, Pa. Applicant's representative: Lester L. Greevy, 29 West Fourth Street, Williamsport, Pa. For authority to operate as a *contract carrier*, over irregular routes, transporting: *Steel castings, patterns* and *machinery*, between Williamsport, Pa., on the one hand, and, on the other, Lynchburg, Va., Atlantic City, N. J., and Binghamton and Buffalo, N. Y.

NOTE: Applicant states the commodities specified are to be transported for Darling Valve & Manufacturing Co.

HEARING: September 23, 1957, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner John McCarthy.

No. MC 116770, filed June 24, 1957, ACTIVE CARTAGE LIMITED, 230 Eastern Avenue, Toronto, Ontario, Canada, Applicant's representative: William D. Traub, 60 East 42d Street, New York 17, N. Y. For authority to operate as a *common carrier*, over irregular routes, transporting: *Steel*, moving on pole-trailer equipment, between Lackawanna, N. Y. and ports of entry on the international boundary line between the United States and Canada at or near Buffalo and Niagara Falls, N. Y.

HEARING: September 24, 1957, at 346 Broadway, New York, N. Y., before Examiner Robert A. Joyner.

No. MC 116801, filed July 8, 1957, S. H. GILBERT, doing business as S. H. GILBERT TRUCK LINE, 725 Caldwell, Corbin, Ky. Applicant's attorney: Ollie L. Merchant, 712 Louisville Trust Building, Louisville 2, Ky. For authority to operate as a *common carrier*, over irregular routes, transporting: *Lumber*, from points in Bell, Harlan and Knox Counties, Ky., to points in Ohio.

HEARING: September 13, 1957, at the U. S. Court Rooms, Louisville, Ky., before Joint Board No. 37, or if the Joint Board waives its right to participate, before Examiner Richard H. Roberts.

No. MC 116786, filed July 1, 1957, PAUL A. PEDERSON, P. O. Box 417, Chester, Va. Applicant's attorney: Garland M. Harwood, Jr., State Planters Bank Building, Richmond 19, Va. For authority to operate as a *common carrier*, over irregular routes, transporting: *Radio-active materials*, in special containers, between points in the United States.

HEARING: September 26, 1957, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner John McCarthy.

MOTOR CARRIERS OF PASSENGERS

No. MC 3647 (Sub No. 216), filed June 26, 1957, PUBLIC SERVICE COORDINATED TRANSPORT, a Corporation, 180 Boyden Avenue, Maplewood, N. J. Applicant's attorney: Frederick M. Broadfoot, General Solictor, Public Service Coordinated Transport (same address as applicant). For authority to operate as a *common carrier*, over regular routes, transporting: *Passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, (1) between Wayne Township, N. J., and Oakland, N. J., serving all intermediate points, from junction Ratzer Road and Oakwood Drive in Wayne, N. J., over Ratzer Road to junction Black Oak Ridge Road and New Jersey Highway 23, thence over Black Oak Ridge Road to junction Paterson-Hamburg Turnpike, thence over Paterson-Hamburg Turnpike to junction Wanaque Avenue in Pompton Lakes, N. J., thence over Wanaque Avenue to junction Colfax Avenue, thence over Colfax Avenue to junction West Oakland Avenue in Oakland, N. J., thence over West Oakland Avenue to junction Ramapo Valley Road, thence over Ramapo Valley Road to junction Franklin Avenue, thence over Franklin Avenue to junction Rutgers Drive, thence over Rutgers Drive to junction Harvard Way, thence over Harvard Way to junction Princeton Terrace, thence over Princeton Terrace to junction Rutgers Drive in Oakland, N. J., and return over the same route to junction Colfax Avenue and Lakeside Avenue in Pompton Lakes, N. J., thence over Lakeside Avenue to junction Wanaque Avenue, thence over Wanaque Avenue to junction Colfax Avenue and thence over the same route to junction Ratzer Road at Oakwood Drive in Wayne, N. J. (2) between junction Ratzer Road and Church Lane and junction Paterson-Hamburg Turnpike and Black Oak Ridge Road, Wayne Township, N. J., from junction Ratzer Road and Church Lane over Church Lane to junction Paterson-Hamburg Turnpike, thence over Paterson-Hamburg Turnpike to junction Black Oak Ridge Road, and return over the same route, serving all intermediate points. Applicant is authorized to conduct similar operations in New Jersey and New York.

HEARING: October 7, 1957, at the New Jersey Board of Public Utility Commissioners, State Office Building, Raymond Boulevard, Newark, N. J., before Joint Board No. 119.

No. MC 52980 (Sub No. 11), filed April 5, 1957, ROYAL BLUE COACHES, INC., 8 Main Street, Clinton, N. J. Applicant's attorney: Paul F. Barnes, 225 South 15th Street Philadelphia 2, Pa. For authority to operate as a *common carrier*, over regular routes, transporting: *Passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, between Allentown, Pa., and Hammonton and Bordentown, N. J.: (a) from Allentown, over U. S. Highway 309 to junction Pennsylvania Highway 73, thence over Pennsylvania Highway 73 to the Pennsylvania-New Jersey State line, thence over New Jersey Highway 73 to junction U. S. Highway 30, thence over U. S. Highway 30 to junction U. S. Highway 206 (Hammonton), and return over the same route, serving no intermediate points, and (b) from Allentown, Pa., over U. S. Highway 22 to junction North-South Pennsylvania Turnpike, thence over the North-South Pennsylvania Turnpike to junction of West-East Pennsylvania Turnpike, thence over the West-East Pennsylvania Turnpike to junction of New Jersey Turnpike, thence over the New Jersey Turnpike to junction of U. S. Highway 206 (Bordentown), and return over the same route, serving no intermediate points. Applicant is authorized to conduct similar operations in Pennsylvania, New York, and New Jersey.

HEARING: September 13, 1957, at the New Jersey Board of Public Utility Commissioners State Office Building, Raymond Boulevard, Newark, N. J., before Joint Board No. 67.

No. MC 116766 (Sub No. 1), filed July 11, 1957, W. M. A. TRANSIT COMPANY, 4421 Southern Avenue SE., Bradbury Heights, Md. Applicant's attorneys: Earl M. Foreman and D. Jay Hyman, Tower Building, Washington 5, D. C. For authority to operate as a *contract carrier*, over irregular routes, transporting: *Passengers and their bagagge*, between points within the territory authorized as an origin territory for charter operations in Maryland (including Fort George G. Meade), Virginia and the District of Columbia, and points in the territory now authorized to be served in charter operations. Applicant is authorized to conduct common carrier operations in Maryland and the District of Columbia.

HEARING: September 30, 1957, at the Offices of the Interstate Commerce Commission, Washington, D. C., (before Joint Board No. 68.

APPLICATIONS FOR BROKERAGE LICENSES

No. MC 12661, filed June 3, 1957, SAMUEL STEPHEN SANTANIELLO, doing business as SANTANIELLO'S TOURS, 932 Bangs Avenue, Asbury Park, N. J. For a license (BMC 5) authorizing operations as a *broker* at Asbury Park, N. J., in arranging for the transportation in interstate or foreign commerce, by motor vehicle, of *Groups of passengers and their baggage*, in the same vehicle with passengers, beginning and ending at Asbury Park, N. J., and extending to points in New York, Maryland, Delaware, Virginia, Pennsylvania, New Jersey (including points in Monmouth, Ocean and Middlesex Counties, N. J.), and the District of Columbia.

HEARING: September 18, 1957, at the U. S. Court Rooms, Newark, N. J., before Joint Board No. 119, or, if the Joint Board waives its right to participate, before Examiner Robert A. Joyner.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING IS REQUESTED

MOTOR CARRIERS OF PROPERTY

No. MC 19201 (Sub No. 100), filed July 2, 1957, PENNSYLVANIA TRUCK LINES, INC., 116 South Main Street, Pittsburgh, Pa. Applicant's attorney: Robert H. Griswold, Commerce Building (P. O. Box 432), Harrisburg, Pa. For authority to operate as a *common carrier*, over regular routes, transporting: *General commodities*, including *articles of unusual value, commodities in bulk*, and *those requiring special equipment*, but excluding Class A and B explosives, and household goods as defined by the Commission, in service auxiliary to, or supplemental of rail service of The Pennsylvania Railroad Company, (1) between Canton, Ohio and Akron, Ohio over Ohio Highway 8, serving no intermediate points, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations (a) between Kensington, Ohio and Lima, Ohio, (b) between Cleveland, Ohio and Marietta, Ohio, and (c) between Wooster, Ohio and Akron, Ohio; (2) between Akron, Ohio and Montrose, Ohio, over Ohio Highway 18, serving no intermediate points, but serving Montrose, Ohio for purposes of joinder only, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations (a) between Wooster, Ohio and Akron, Ohio, and (b) between Cleveland, Ohio and Marietta, Ohio; (3) between junction U. S. Highway 21 and Ohio Highway 176, immediately south of Ghent, Ohio, and junction Ohio Highway 176 and Ohio Highway 18, east of Montrose, Ohio, over Ohio Highway 176, serving no intermediate points, but serving the termini points for purposes of joinder only, as an alternate route for operating convenience only, in connection with applicant's authorized regular route operations (a) between applicant's proposed operations between Akron, Ohio and Montrose, Ohio (described in (2) above), and (b) between Cleveland, Ohio and Marietta, Ohio; and (4) between junction Ohio Highways 8 and 82, west of Macedonia, Ohio, and junction Ohio Highway 14 and U. S. Highway 21, within the corporate limits of Cleveland, Ohio, from junction Ohio Highways 8 and 82 over Ohio Highway 8 to Bedford,

Ohio, thence over Ohio Highway 14 to junction U. S. Highway 21, and return over the same route, serving no intermediate points, but serving junction Ohio Highways 8 and 82, and junction Ohio Highway 14 and U. S. Highway 21 for purposes of joinder only, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations (a) between Akron, Ohio and Macedonia, Ohio, (b) between Cleveland, Ohio and Marietta, Ohio, and (c) between Wooster, Ohio and Akron, Ohio. Applicant is authorized to transport similar commodities in Indiana, Ohio, Pennsylvania, and West Virginia. RESTRICTION: (*In connection with* (1), (2), *and* (3) *above*): (a) The service to be performed by said carrier shall be limited to service which is auxiliary to, or supplemental of, rail service of The Pennsylvania Railroad Company; and (b) Such further specific conditions as the Commission, in the future, may find it necessary to impose in order to restrict said carrier's operation to service which is auxiliary to, or supplemental of, rail service. RESTRICTION: (*In connection with* (4) *above:* (a) The service by motor vehicle to be performed by carrier shall be limited to service which is auxiliary to, or supplemental of, the train service of The Pennsylvania Railroad Company, hereinafter called the Railroad; (b) Carrier shall not render any service to or from any point not a station on the rail lines of the Railroad; (c) Shipments transported by carrier shall be limited to those which it receives from or delivers to the Railroad under a through bill of lading covering, in addition to movement by said carrier, a prior or subsequent movement by rail; and (d) All contractual arrangements between carrier and the Railroad shall be reported to the Interstate Commerce Commission and shall be subject to revision if and as the Commission shall find it to be necessary in order that such arrangements shall be fair and equitable to the parties.

NOTE: Dual operations or common control may be involved.

No. MC 66562 (Sub No. 1370) (CORRECTION), filed June 21, 1957, published page 4699 issue of the FEDERAL REGISTER July 3, 1957, RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N. Y. Applicant's attorney: James E. Thomas, Alston, Sibley, Miller, Spann & Shackelford, 1220 The Citizens and Southern National Bank Building, Atlanta 3, Ga. The foregoing notice of the filing of the subject application indicated authority was sought to transport the commodities named therein, between Pensacola, Fla., and *Elgin* Air Force Base, Fla., in error. The correct name of the Air Force Base is *Eglin* Air Force Base, Fla.

No. MC 75872 (Sub No. 17), filed July 5, 1957, BOSTON & MAINE TRANSPORTATION COMPANY, 1 Monsignor O'Brien Highway, Cambridge, Mass. Applicant's attorney: R. G. Bleakney, Jr., Law Dept., Boston and Maine Railroad, 150 Causeway Street, Boston 14, Mass. For authority to operate as a *common carrier*, over regular routes, transporting: *General commodities*, in substitute motor-for-rail service which is auxiliary to or supplemental of rail service of the Boston and Maine Railroad, between Beverly, Mass. and Rockport, Mass., from Beverly over Massachusetts Highway 127 to Rockport; also, from Beverly over Massachusetts Highway 22 to junction Massachusetts Highway 128, thence over Massachusetts Highway 128 to Gloucester, Mass., thence over Massachusetts Highway 127 to Rockport, and return over the same routes, serving all intermediate points which are stations on the rail line of Boston and Maine Railroad, subject to the restrictions that the service to be performed shall be limited to that which is auxiliary to or supplemental of rail service of the Boston and Maine Railroad, that applicant shall not serve any point not a station on the rail lines of the Boston and Maine Railroad, that shipments transported shall be limited to those moving under railroad or Railway Express Agency billing, that authority to transport Class A and B explosives shall be limited in point of time to a period of five years from the effective date of the certificate, and such further conditions as the Commission, in future may find necessary to impose in order to restrict applicant's operation to service which is auxiliary to or supplemental of rail service. Applicant is authorized to conduct operations in New Hampshire, Maine, Massachusetts, and Vermont.

No. MC 92983 (Sub No. 236), filed July 9, 1957, ELDON MILLER, INC., 330 East Washington Street, Iowa City, Iowa. For authority to operate as a *common carrier*, over irregular routes, transporting: *Refermented distillers slop*, in bulk, in tank vehicles, from Muscatine, Iowa, to Pekin, Ill.

No. MC 110388 (Sub No. 9), filed July 5, 1957, UNION PACIFIC MOTOR FREIGHT COMPANY, 1416 Dodge Street, Omaha 2, Nebr. Applicant's attorney: John J. Burchell, 1416 Dodge Street, Omaha 2, Nebr. For authority to operate as a *common carrier*, over regular routes, transporting: *General commodities, including commodities in bulk*, but excluding those of unusual value, Class A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment, between Portland, Oreg., and Troutdale, Oreg., from Portland over U. S. Highway 30 to Troutdale, (also over Alternate U. S. Highway 30, also known as Banfield Expressway, to junction of U. S. Highway 30, thence over U. S. Highway 30 to Troutdale, and also over unnumbered county road known as Northeast Halsey Street, sometimes called Barr Road to Troutdale), and return over the same routes, serving the intermediate or off-route points of Hemlock, Rockwood, and Fairview, Oregon.

NOTE: Applicant states that the proposed service shall be limited to that which is auxiliary to, or supplemental of, the rail service of Union Pacific Railroad Company. Applicant is authorized to conduct operations in Wyoming, Idaho, Utah, Kansas, Missouri, Iowa, Oregon, Nevada, and Colorado.

PETITIONS

No. MC 67916 (Sub No. 13), THE NEW YORK CENTRAL RAILROAD COMPANY, 466 Lexington Avenue, New York 17, N. Y. Applicant's attorney: Herbert Burstein, 466 Lexington Avenue, New York 17, N. Y. PETITION FOR REOPENING, RECONSIDERATION AND MODIFICATION OF ORDERS dated September 18, 1952, and March 31, 1954, wherein applicant is authorized to operate as a *common carrier*, by motor vehicle of *general commodities* (without exceptions) between specified points in New York, Ohio, Pennsylvania, Indiana, and Illinois, over regular routes, serving intermediate and off-route points which are stations on the rail lines of applicant, subject to certain specified conditions. These conditions include the imposition of certain key point restrictions which bar applicant from transportation of shipments between said key points, or through, or to, or from, more than one of said key points. By the instant petition applicant seeks the elimination therefrom of the conditions naming Erie, Pa., Buffalo, N. Y., Cleveland, Toledo, and Columbus, Ohio, Elkhart, Ind., Chicago and Kankakee, Ill., as key points, insofar as such key points are applicable to commodities handled in Railway Express service, and milk, cream, newspapers and newspaper supplements moving in rail baggage service.

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 (2) and 210a (b) of the Interstate Commerce Act and certain other procedural matters with respect thereto. (49 CFR 1.240.)

MOTOR CARRIERS OF PROPERTY

No. MC–F–6584, published in the May 22, 1957, issue of the FEDERAL REGISTER on page 3615. Supplemental application filed July 11, 1957, shows R. J. BABCOCK, 11 Oak Street SE., Minneapolis, Minn., H. H. JANKE, 2941 West 36th Street, Chicago, Ill., and R. E. THEEL, 2303 Third Avenue, North, Fargo, N. Dak., as the persons in control of Dakota Transfer & Storage Co.

No. MC–F 6621 (corrected) published in the July 3, 1957, issue of the FEDERAL REGISTER on page 4701. The original publication indicated that GALEN J. ROUSH and RUTH ROUSH were the controlling stockholders of ROADWAY EXPRESS, INC., whereas it should have shown GALEN J. ROUSH only.

Mo. MC–F 6638. Authority sought for purchase by CALVIN D. ZIMMERMAN, Mifflin, Pa., of a portion of the operating rights of SHOEMAKER BROTHERS, INC., 1006 West College Avenue, State College, Pa. Applicants' attorney: John A. R. Welsh, Mifflintown, Pa. Operating rights sought to be transferred: *Clay products*, as a *common carrier* over irregular routes, from points in Centre County, Pa., to points in Massachusetts, Connecticut, New York, New Jersey, Ohio, Delaware, Maryland and West Virginia. Vendee is authorized to operate as a *common carrier* in Delaware, Pennsylvania, Maryland, New Jersey, New York, Virginia, Massachusetts, Rhode Island, Connecticut, Ohio, West Virginia,

and the District of Columbia. Application has not been filed for temporary authority under section 210a (b).

No. MC–F 6639. Authority sought for purchase by BABCOCK & LEE FREIGHT LINES, INC., 1002 Third Avenue North, Billings, Mont., of a portion of the operating rights of KATHERINE M. LEE AND TIM M. BABCOCK, doing business as BABCOCK AND LEE, 1002 Third Avenue North, Billings, Mont., and for acquisition by TIM M. BABCOCK and KATHERINE M. LEE, both of Billings, of control of such rights through the purchase. Applicants' attorney: Franklin S. Longan, 319 Securities Building, Billings, Mont. Operating rights sought to be transferred: *General Commodities*, with certain exceptions including household goods and commodities in bulk, as a *common carrier* over regular routes between Billings, Mont., and Absarokee, Mont., and between Roundup, Mont., and Billings, Mont., serving certain intermediate points. Vendee holds no authority from this Commission, but its controlling stockholders control, through stock ownership and management, BABCOCK & LEE PETROLEUM TRANSPORTERS, INC., which is authorized to operate as a *common carrier* in Montana, North Dakota, South Dakota, and Wyoming. Application has not been filed for temporary authority under section 210a (b).

No. MC–F 6640. Authority sought for purchase by BABCOCK & LEE PETROLEUM TRANSPORTERS, INC., 1002 Third Avenue North, Billings, Mont., of a portion of the operating rights of KATHERINE M. LEE AND TIM M. BABCOCK, doing business as BABCOCK AND LEE, 1002 Third Avenue North, Billings, Mont., and for acquisition by TIM M. BABCOCK and KATHERINE M. LEE, both of Billings, of control of such rights through the purchase. Applicants' attorney: Franklin S. Longan, 319 Securities Building, Billings, Mont. Operating rights sought to be transferred: *Petroleum crude oil*, in bulk, in tank vehicles, as a *common carrier* over irregular routes, between points in Dawson, Prairie, Wibaux, Fallon, Rosebud, McCone and Musselshell Counties, Mont.; *aviation gasoline*, in bulk, in tank vehicles, from Sinclair, Wyo., to the site of the Miles City, Mont., Municipal Airport. Vendee is authorized to operate as a *common carrier* in Montana, North Dakota, South Dakota, and Wyoming. Application has not been filed for temporary authority under section 210a (b).

No. MC–F 6641. Authority sought for purchase by PIEDMONT MOUNTAIN FREIGHT LINES, INC., 403 B Street, North Wilkesboro, N. C., of a portion of the operating rights of THE MOUNTAIN TRANSIT CORPORATION, (WILLIAM M. JENNINGS, JR., and C. E. HAWTHORNE, CO-RECEIVERS), P. O. Box 155, Wytheville, Va. Applicants' attorney: W. L. Osteen, P. O. Box 785, North Wilkesboro, N. C. Operating rights sought to be transferred: *General commodities*, with certain exceptions including household goods and commodities in bulk, as a *common carrier* over a regular route, between Wytheville, Va., and Independence, Va., serving the intermediate and off-route point of Rural Retreat, Va.; *lumber*, over irregular routes, from points in Alleghany and Wilkes Counties, N. C., Wythe and Bland Counties, Va., to points in Maryland and West Virginia. Vendee is authorized to operate as a *common carrier* in North Carolina, Virginia, New York, Pennsylvania, Maryland, South Carolina, and Georgia. Application has been filed for temporary authority under section 210a (b).

MOTOR CARRIERS OF PASSENGERS

No. MC–F–6637. Authority sought for control and merger by SOMERSET BUS CO., INC., U. S. Highway 22, Mountainside, N. J., of the operating rights and property of THE GREEN FLYER, INC., doing business as GREEN FLYER, 444 Hillside Avenue, Hillside, N. J., and for acquisition by FRANK J. NOLL and MAE A. NOLL, both of 138 De Lacey Avenue, North Plainfield, N. J., ISIDOR M. NOLL and TERESA M. NOLL, both of 262 Hillside Avenue, Springfield, N. J., of control of such rights and property through the transaction. Applicants' attorney: Wilmer A. Hill, Transportation Building, Washington 6, D. C. Operating rights sought to be controlled and merged: *Passengers and their baggage*, as a *common carrier*, over a regular route, between Fanwood, N. J., and New York, N. Y., serving certain intermediate points, over two alternate regular routes for operating convenience only. SOMERSET BUS CO., INC., is authorized to operate as a *common carrier* in New Jersey, New York, Pennsylvania, Maryland, and the District of Columbia. Application has been filed for temporary authority under section 210a (b).

By the Commission.

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

[F. R. Doc. 57–6034; Filed, July 23, 1957; 8:51 a. m.]

FOURTH-SECTION APPLICATIONS FOR RELIEF

JULY 19, 1957.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 34026: *Cement—Alabama points to Lebanon, Tenn.* Filed by O. W. South, Jr., Agent, for interested rail carriers. Rates on cement and related commodities, carloads from North Birmingham and Phoenixville, Ala., to Lebanon, Tenn.

Grounds for relief: Circuitous routes.

Tariff: Supplement 95 to Agent Spaninger's tariff I. C. C. 1447.

FSA No. 34027: *Petroleum products—Cody, Wyo., to Idaho and Montana points.* Filed by Chicago, Burlington & Quincy Railroad Company, Agent, for interested rail carriers. Rates on gasoline and refined oil, illuminating or burning, tank-car loads from Cody, Wyo., to specified points in Idaho and Montana.

Grounds for relief: Motor truck competition and circuitous routes.

Tariff: Supplement 17 to Chicago, Burlington & Quincy Railroad Company's tariff I. C. C. 20474.

FSA No. 34028: *Sand—Tennessee points to official and W. T. L. territories.* Filed by O. W. South, Jr., Agent, for interested rail carriers. Rates on sand, carloads from Camden, Hollow Rock, Lipe, and Sawyers Mill, Tenn., to Points in official, Illinois and western trunk-line territories.

Grounds for relief: Short-line distance formula and circuitous routes.

FSA No. 34029: *Lumber and forest products—British Columbia to U. S. points.* Filed by W. J. Prueter, Agent, for interested rail carriers. Rates on lumber and forest products, carloads from specified points in British Columbia, Canada on the Pacific Great Eastern Railway Company to various destinations in the United States in defined groups in Agent W. J. Preuter's tariff I. C. C. 1474.

Grounds for relief: Circuitous routes.

Tariff: Supplement 277 to Agent Prueter's tariff I. C. C. 1474.

FSA No. 34030: *Industrial alcohols—Corpus Christi, Tex., to Minnesota and North Dakota.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on industrial alcohols, tank-car loads from Corpus Christi, Tex., to specified points in Minnesota and North Dakota.

Grounds for relief: Modified short-line distance formula and circuitous routes.

Tariff: Supplement 114 to Agent Kratzmeir's tariff I. C. C. 4064.

FSA No. 34031: *Volume L. C. L. class rates between official and Illinois territories.* Filed by O. E. Schultz, Agent, for interested rail carriers. Rates on various commodities moving on volume less-than-carload rates as described in the application, between points in official and Illinois territories, on the one hand, and points on the Belt Railway Company of Chicago and the Southern Railway System in Illinois territory, on the other.

Grounds for relief: Short-line distance formula, carrier competition and circuitous routes.

Tariff: Supplement 20 to Agent C. W. Boin's tariff I. C. C. A–1051.

FSA No. 34032: *All commodities to Manitowoc, Wis.* Filed by O. E. Schultz, Agent, for interested rail carriers. Rates on merchandise, straight or mixed carloads from points in New England and trunk line territories to Manitowoc, Wis.

Grounds for relief: Circuitous routes.

Tariff: Supplement 4 to D & H Railroad Tariff I. C. C. No. 298 and five other tariffs.

FSA No. 34033: *Chlorinated phenol solution—St. Louis, Mo., group to New Orleans, La., group.* Filed by O. W. South, Jr., Agent, for interested rail carriers. Rates on chlorinated phenol petroleum solution, carloads from St. Louis, Mo., and East St. Louis, Ill., to New Orleans, La., and points in the New Orleans switching district.

Grounds for relief: Circuitous routes.

Tariff: Supplement 58 to Agent Spaninger's tariff I. C. C. 1548.

FSA No. 34034: *Caustic soda—McIntosh and Huntsville, Ala., to Virginia points.* Filed by O. W. South, Jr., Agent, for interested rail carriers. Rates on liquid caustic soda, tank-car loads from McIntosh and Huntsville, Ala., to Ampthill, Covington and Hopewell, Va.

Grounds for relief: Competition and circuitous routes.

Tariff: Supplement 2 to Agent Spaninger's tariff I. C. C. 1536.

FSA No. 34035: *Soda ash—Lake Charles, La., to Boylston, Ala.* Filed by O. W. South, Jr., Agent, for interested rail carriers. Rates on soda ash, in bulk, in cars or in bulk in bags or barrels, straight or mixed carloads from Lake Charles, La., to Boylston, Ala.

Grounds for relief: Circuitous routes.

Tariff: Supplement 236 to Agent Kratzmeir's tariff I. C. C. 4087.

FSA No. 34036: *Perlite rock—Antonito and Florence, Colo., to National City, Mich.* Filed by W. J. Prueter, Agent, for interested rail carriers. Rates on perlite rock, carloads from Antonito and Florence, Colo., to National City, Mich.

Grounds for relief: Short-line distance formula and circuitous routes.

Tariff: Supplement 32 to Agent Prueter's tariff I. C. C. A–4171.

FSA No. 34037: *Tea—North Atlantic and Hampton Roads ports to Indianapolis, Ind.* Filed by O. E. Schultz, Agent, for interested rail carriers. Rates on tea, carloads from Albany and New York, N. Y., Baltimore, Md., Boston, Mass., Philadelphia, Pa., Norfolk, Va., and other Hampton Roads ports to Indianapolis, Ind.

Grounds for relief: Port competition with New Orleans, La., and other Gulf ports, port relationships and circuitous routes.

Tariffs: Supplement 50 to Agent C. W. Boin's tariff I. C. C. A–1017 and two other tariffs.

FSA No. 34038: *Crude petrolatum—Lake Charles and West Lake Charles, La., to Empire, N. C.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on crude petrolatum, tank-car loads from Lake Charles and West Lake Charles, La., to Empire, N. C.

Grounds for relief: Short-line distance formula, and circuitous routes.

Tariffs: Supplement 130 to Agent Kratzmeir's tariff I. C. C. 4118.

By the Commission.

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

[F. R. Doc. 57–6032; Filed, July 23, 1957; 8:51 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

LEARNER EMPLOYMENT CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended; 29 U. S. C. 201 et seq.), the regulations on employment of learners (29 CFR Part 522), and Administrative Order No. 414 (16 F. R. 7367), the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. The effective and expiration dates, occupations, wage rates, number or proportion of learners, learning periods, and the principal product manufactured by the employer for certificates issued under general learner regulations (§§ 522.1 to 522.11) are as indicated below. Conditions provided in certificates issued under special industry regulations are as established in these regulations.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.20 to 522.24, as amended).

The following learner certificates were issued authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

Colonial Shirt Corp., Woodbury, Tenn.; effective 7–21–57 to 7–20–58 (dress and sport shirts).

Morris Freezer & Co., Inc., 1200 West Main, Wytheville, Va.; effective 7–19–57 to 7–18–58 (boys' woven shirts).

Lanier Manufacturing Co., 112 Russell Street, Easley, S. C.; effective 7–19–57 to 7–18–58 (men's sport shirts).

Tic Tac Co., Inc., Dicoy Creek Road, Camden, S. C.; effective 7–18–57 to 7–17–58 (children's outerwear).

Wildwood Clothing Co., Inc., 112 East Schellenger Avenue, Wildwood, N. J.; effective 7–20–57 to 7–19–58. Workers engaged in the manufacture of men's pants only (men's pants).

Wildwood Clothing Co., Inc., 112 East Schellenger Avenue, Wildwood, N. J.; effective 7–20–57 to 7–19–58. Workers engaged in the production of ladies' shorts and slacks only (ladies' shorts and slacks).

Wythe Shirt Manufacturing Corp., West Spring Street, Wytheville, Va.; effective 7–19–57 to 7–18–58 (boys' woven shirts).

The following learner certificates were issued for normal labor turnover purposes. The effective and expiration dates and the number or proportion of learners authorized are indicated.

Era's, Inc., Mooresville, N. C.; effective 7–11–57 to 7–10–58; 10 learners (ladies' nylon and cotton dusters).

Hemlock Manufacturing Co., 923 Hamilton Street (Rear), Allentown, Pa.; effective 7–15–57 to 7–14–58; five learners (women's lingerie, blouses).

Horton Garment Co., Atchison, Kans.; effective 7–11–57 to 7–10–58; 10 learners (junior dresses).

M & H Dress Manufacturing Co., Inc., 410 Washington Street, Jermyn, Pa.; effective 7–11–57 to 7–10–58; 10 learners (contract sewing, ladies' cotton dresses).

Pickenbrock Co., Dyersville, Iowa; effective 7–15–57 to 7–14–58; five learners (women's cotton wash uniforms and pajamas).

Relda Apparel Manufacturing Co., Inc., 47 Main Street, Hughesville, Pa.; effective 7–9–57 to 7–9–58; 10 learners (women's dresses).

Rita's Sportswear, 242 North Main Street, Moscow, Pa.; effective 7–22–57 to 7–21–58; 10 learners (children's wear, women's blouses).

Style Rite Robes, Inc., 1531 Washington Avenue, St. Louis, Mo.; effective 7–15–57 to 7–14–58; 10 learners (men's and boys' lounging robes).

Whiteville Garment Manufacturing Co., Wilmington Road, Whiteville, N. C.; effective 7–12–57 to 7–11–58; 10 learners, (denim jeans).

The following learner certificates were issued for plant expansion purposes. The effective and expiration dates and the number of learners authorized are indicated.

Jamestown Shirt Corp., Jamestown, Tenn.; effective 7–10–57 to 1–9–58; 30 learners (sport shirts).

Manufacturers' Sportswear, Inc., Meadow at Maple Streets, Scranton, Pa.; effective 7–31–57 to 1–30–58; 25 learners (trousers).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.40 to 522.43, as amended).

Aberdeen Hosiery Mills, Co., Inc., Aberdeen, N. C.; effective 7–15–57 to 1–14–58; 13 learners for plant expansion purposes (seamless).

The Batesville Co., Batesville, Miss.; effective 7–10–57 to 1–9–58; 25 learners for plant expansion purposes (seamless).

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.11, as amended).

Alco Canning Co., Inc., Water Street, Lubec, Maine; effective 7–12–57 to 1–11–58; authorizing the employment of 10 learners for normal labor turnover purposes, in the occupation of sardine packer for a learning period of 160 hours at the rates of 80 cents an hour for the first 80 hours and 85 cents an hour for the remaining 80 hours (sardines).

Gibberman Brothers & Co., 2600 Fifth Avenue, Rock Island, Ill.; effective 7–12–57 to 1–11–58; authorizing the employment of 5 percent of the total number of factory production workers for normal labor turnover purposes, in the occupations of sewing machine operator, hand sewer, final presser, and finishing operations involving hand sewing, each for a learning period of 480 hours at the rates of 85 cents an hour for the first 280 hours and 90 cents an hour for the remaining 200 hours (men's dress clothing).

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9.

Signed at Washington, D. C., this 16th day of July 1957.

MILTON BROOKE,
Authorized Representative of the Administrator.

[F. R. Doc. 57–6023; Filed, July 23, 1957; 8:47 a. m.]