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Rules and Regulations

Title 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration, Department of Agriculture

SUBCHAPTER B—FARM OWNERSHIP LOANS

[FHA Instruction 443.1, Administration Letter 703 (440)]

PART 331—POLICIES AND AUTHORITIES

Miscellaneous Amendments

1. Section 331.4, Title 6, Code of Federal Regulations (21 F.R. 10444), is superseded by § 331.2, Title 6, Code of Federal Regulations (21 F.R. 10443), which is revised to read as follows:

§ 331.2 Objectives.

The basic objectives of Farm Ownership loans are to enable farm families to become soundly established in a successful system of farming and to qualify for credit from other sources within a reasonable period, to promote more secure occupancy of farms and farm homes, and to correct economic instability resulting from changing conditions and some forms of farm tenancy. Primary emphasis will be given to assisting farm families who will conduct a family-type farming operation. Supervision will be provided borrowers to the extent necessary to achieve the objectives of the loan and to protect the interests of the Government in accordance with Part 302 of this chapter. These objectives will be accomplished by extending credit and supervisory assistance to:

(a) Individuals who will be owner-operators of family-type farms that will provide adequate income to meet living and operating expenses and amounts due on their loans.

(b) Disabled veterans who will be owner-operators of less than family-type farms that, together with their pensions, will provide adequate income to meet living and operating expenses and amounts due on their loans.

(c) Individuals who are established bona fide farmers and owner-operators of less than family-type farms that, with income from other sources, will enable the family to meet living and operating expenses and amounts due on their loans.

(Secs. 1, 41, 50 Stat. 522, as amended, 528, as amended, sec. 18, 72 Stat. 840; 7 U.S.C. 1001, 1015, 1006e; Order of Acting Sec. of Agr., 19 F.R. 74, 22 F.R. 8188)

2. Section 331.3, Title 6, Code of Federal Regulations (21 F.R. 10443, 24 F.R. 10942), is revised to delete the definition of "income," delete the limitation of land includable within the term "farm," modify the definition of a less than family-type farm, and prescribe the use of a new County Committee certification form. The section as revised reads as follows:

§ 331.3 Definitions.

(a) *Family-type farm.* A family-type farm is defined as a farm (1) that is of sufficient size and productivity to furnish income that will enable a farm family to have a reasonable standard of living, pay operating expenses, including maintenance of necessary livestock, farm and home equipment, land and buildings, pay their debts, and have a reasonable reserve to meet unforseen emergencies, (2) for which the management is furnished by the operator and his immediate family, and (3) for which the labor is furnished primarily by such operator and family except during seasonal peakload periods. It is not intended to include in this definition farms which require large amounts of seasonal hired labor.

(b) *Less than family-type farm.* A less than family-type farm is defined as a farm on which the applicant's income from the land he owns will be insufficient to meet the requirements of a family-type farm as defined in paragraph (a) of this section. In any case, to be suitable for a Farm Ownership loan, a less than family-type farm is one (1) that will produce agricultural commodities in sufficient quantities that the proceeds from their sale will be a substantial portion of the operator's total cash income, (2) that will provide farm income which together with any income from other sources, including income from rented land or grazing permits, will enable the family to have a reasonable standard of living, pay operating expenses, pay their debts, and have a reasonable reserve for unforeseen emergencies, (3) on which the management is furnished by the operator and his immediate family, (4) for which the labor is furnished primarily by the operator and his immediate family except during seasonable peak-load periods, and (5) that will be recognized in the community as a farm rather than a rural residence. It is not intended to include in this definition farms which require large amounts of seasonal hired labor.

(c) *Farm.* The word "farm" as used in regulations relating to Farm Ownership loans includes the land, buildings, fences, water, water stock, water facilities, and other improvements which customarily pass with the farm in the change of ownership.

(1) In some states, certain improvement items or appurtenances which ordinarily would be considered a part of the real estate may, by agreement between the owner of the land and the person furnishing or using such appurtenances, remain personal property. Such an agreement would be binding on a Farm Ownership borrower who purchases the land. In all cases where funds are included in a Farm Ownership loan to purchase such improvement or appurtenances, the County Supervisor, with the advice of the designated attorney, title insurance company, or the Office of the General Counsel, will ascertain that such appurtenances are free from any liens or encumbrances and are covered adequately by a first real estate or chattel mortgage.

(2) In some areas, facilities or improvement items not generally considered to be a part of the real estate, however, ordinarily do pass with the land when such a farm changes ownership. If it is administratively determined that certain such items customarily do pass with the land in the area, Farm Ownership loan funds may be included for the acquisition of such items necessary to the efficient operation of the farm. The advice of the designated attorney, title insurance company, or the Office of the General Counsel should be obtained in such cases. Where such facilities or improvement items do not commonly pass with the land when such a farm changes ownership, Farm Ownership loan funds will not be used for acquisition of the facilities even though such facilities may be necessary to the efficient operation of the farm.

(d) *Average value.* The term "average value" for a county, parish, or locality means the average value of efficient family-type farm-management units situated in the county or parish as shown in § 331.17 of this part.

(e) *Fair and reasonable value.* The term "fair and reasonable value of the farm" means the amount certified by the County Committee on Form FHA 440–2, "County Committee Certification," to be the value of the farm after planned improvements are made.

(Secs. 1, 2, 3, 41, 50 Stat. 522, as amended, 523, as amended, 528, as amended, sec. 18, 72 Stat. 840; 7 U.S.C. 1001, 1002, 1003, 1015, 1006e; Order of Acting Sec. of Agr., 19 F.R. 74, 22 F.R. 8188)

3. Subparagraph (4) of § 331.5(a), Title 6, Code of Federal Regulations (25 F.R. 1905), is revised to delete the provision relating to applicants who spend a major portion of their time in off-farm employment, and to read as follows:

§ 331.5 Eligibility and preference.

(a) * * *

(4) If he is applying for a loan on a less than family-type farm, be (i) an owner-operator who is an established bona fide farmer conducting substantial farming operations and who, for a substantial portion of his life, has resided on a farm and depended on a farm income for his livelihood, or (ii) a disabled veteran with a pensionable disability and who has previous farming experience or training.

(Secs. 1, 3, 41, 50 Stat. 522, as amended, 523, as amended, 528, as amended, sec. 18, 72 Stat. 840; 7 U.S.C. 1001, 1003, 1015, 1006e; Order of Acting Sec. of Agr., 19 F.R. 74, 22 F.R. 8188)

4. Subparagraph (1) of § 331.6(b), Title 6, Code of Federal Regulations (25

F.R. 1905), is revised to amend the exceptions pertaining to land purchase; paragraph (c) of § 331.6, Title 6, Code of Federal Regulations (22 F.R. 7629), also is revised to modify the scope of eligible poultry enterprises. Paragraphs (b) (1) and (c) read as follows:

§ 331.6 Loan purposes.

* * * * *

(b) Farm Ownership loans may not be made for the purpose of:

(1) Purchasing land when (i) the farm will be "less than family-type farm," as defined in § 331.(b) of this part, except for a qualified disabled veteran, (ii) the applicant will be spending a substantial portion of his time during the year in off-farm employment, (iii) the applicant will be renting land which will be a substantial part of his total farming operation, or (iv) a major portion of the income-producing acreage will be in the conservation reserve under the Soil Bank Program. However, if the land under a conservation reserve contract will be available for use by the first full crop year after the date of loan approval, the land may be purchased with loan funds.

* * * * *

(c) Within the policies and regulations applicable to the making of Farmerns Home Administration loans, the following will be observed in considering applications for loans involving poultry production:

(1) Farmers Home Administration loans will not be made to establish new operators in large commercial poultry enterprises for the production of meat birds or eggs.

(2) Farmers Home Administration loans may be made to establish or expand small poultry enterprises needed to supplement farming operations, provided the total poultry enterprise will not exceed a 10,000-broiler capacity or a 1,500-layer capacity. For other types of poultry enterprises, the labor requirements should not be greater than that required for 10,000 broilers or 1,500 layers.

(3) Farmers Home Administration loans may be made to established family-type farmers who are primarily engaged in the production of meat birds or eggs or whose poultry enterprise constitutes a substantial part of their farming systems to finance such enterprise, including the making of adjustments as necessary for a sound operation, provided they have a good record of operations, have the managerial ability to successfully carry on the proposed operations, and the total farming operations will not exceed family-type.

(4) Farmers Home Administration loans may be made to established poultry producers, other than those referred to in subparagraphs (2) and (3) of this paragraph, but who are otherwise eligible, to finance their customary level of poultry operations provided they have a good record of operations.

(5) The above policies do not prohibit the making of Farmers Home Administration loans to poultry producers for purposes other than the production of poultry.

(Secs. 1, 2, 3, 41, 44, 50 Stat. 522, as amended, 523, as amended, 528, as amended, 530, as amended, sec. 17, 70 Stat. 802, as amended, sec. 18, 72 Stat. 840; 7 U.S.C. 1001, 1002, 1003, 1015, 1018, 1006d, 1006e; Order of Acting Sec. of Agr., 19 F.R. 74, 22 F.R. 8188)

5. Section 331.14, Title 6, Code of Federal Regulations (22 F.R. 2503), is revised to restrict the loan approval authority of State Office officials and to read as follows:

§ 331.14 Loan approval authority.

The State Director is authorized to approve or disapprove Farm Ownership loans in accordance with this chapter. However, no initial or subsequent Farm Ownership loan may be approved by the State Director without prior consent of the National Office if the amount of the proposed Farm Ownership loan plus the principal amount of any real estate liens of the applicant will exceed $50,000 when the loan is closed, or if the proposed Farm Ownership loan, together with the principal balance owed on other Farmers Home Administration loans, would cause the total indebtedness to Farmers Home Administration to exceed $50,000. The loan docket and the State Director's recommendation should be submitted with any request for authority to approve a loan in excess of these limitations. The State Director may redelegate loan approval authority in writing to qualified State Office employees other than Area Supervisors.

(Sec. 41, 50 Stat. 528, as amended, sec. 18, 72 Stat. 840; 7 U.S.C. 1015, 1006e; Order of Acting Sec. of Agr., 19 F.R. 74, 22 F.R. 8188)

Dated: August 3, 1961.

HOWARD BERTSCH,
Administrator.
Farmers Home Administration.

[F.R. Doc. 61-7528; Filed, Aug. 8, 1961; 8:50 a.m.]

Title 7—AGRICULTURE

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 723—CIGAR-FILLER TOBACCO, CIGAR-BINDER TOBACCO, AND CIGAR-FILLER AND BINDER TOBACCO

Subpart—Cigar-Filler Tobacco, Cigar-Binder Tobacco and Cigar-Filler and Binder Tobacco Marketing Quota Regulations, 1962-63 Marketing Year

Correction

In F.R. Doc. 61-6724, appearing at page 6414 of the issue for Tuesday, July 18, 1961, the phrase "and labor, and equipment available for the production of tobacco;" in the third sentence of § 723.1326(a), should read "land, labor, and equipment available for the production of tobacco;".

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Regulatory Docket No. 832; Amdt. 43-14]

PART 43—GENERAL OPERATION RULES

Use of Private Pilots in Charity Airlifts

Section 43.60 of the Civil Air Regulations provides that a private pilot shall not pilot aircraft for compensation or hire. However, this regulation also provides that a private pilot may pilot aircraft in connection with a business if the flight is merely incidental thereto; and that an aircraft salesman holding a private pilot certificate may demonstrate aircraft in flight to a prospective purchaser if he has logged 200 hours of pilot flight time.

For many years charitable organizations used the "Charity Airlift" as a means of raising funds. In such an airlift, the charitable organization offered an airplane ride in exchange for a personal donation. Many of the rides were given in aircraft furnished and operated by private pilots who provided their services without compensation. The money donated by the passengers was retained by the charitable organization, and no payment for the service rendered was made to the pilot or aircraft owner; however, in some cases the organization paid for or supplied the fuel and oil consumed during the flights.

Shortly before the Federal Aviation Agency was established, Civil Aeronautics Board Examiners rendered several opinions on violation cases involving private pilots who had donated their services for fund-raising flights. The Examiners concluded that § 43.60 required pilots engaging in such flights to hold commercial pilot certificates. For some time thereafter, the Federal Aviation Agency permitted the operation of charity airlifts using private pilots, by issuing an individual exemption to the sponsor of each airlift. These exemptions specified safety requirements believed necessary for the particular airlift being conducted. This procedure was discontinued in June 1960 on the premise that passengers who receive rides because of charitable donations are entitled to fly with pilots who meet commercial pilot standards.

In May of 1961, the National Foundation (March of Dimes) petitioned the Federal Aviation Agency to reconsider the matter of charity airlifts involving private pilot participation. The Foundation pointed out that the prohibition against the use of private pilots for such airlifts had adversely affected fund-raising efforts and that the practical effect had been to reduce pilot participation in the 1961 March of Dimes airlifts by nearly 75 percent. They suggested an amendment to the regulations, with the incorporation of special provisions as necessary, which would permit private pilots to participate in charity airlifts.

Consideration has been given to their petition. We have determined that (1) the use of private pilots operating under reasonable restrictions and with adequate supervision should provide a level of safety comparable to that expected of a commercial operation; (2) the heavy administrative burden formerly associated with the issuance of specific exemptions would be eliminated by an appropriate amendment to Part 43 of the Civil Air Regulations; and (3) private pilot participation in charity airlifts, with suitable safety provisions, is in the public interest.

Since this amendment relieves a restriction and delay in extending such relief would impose an unnecessary burden on certain persons, the Administrator for good cause finds that notice and public procedure hereon would be contrary to the public interest and may be omitted, and that this amendment may be made effective on less than 30 days' Notice.

In consideration of the foregoing, § 43.60 of Part 43 of the Civil Air Regulations (14 CFR Part 43, as amended) is hereby amended to read as follows, effective August 9, 1961.

§ 43.60 Private pilot.

A private pilot shall not pilot aircraft for compensation or hire, except as provided in paragraphs (a) through (c) of this section.

(a) A private pilot may pilot aircraft in connection with any business or employment, if the flight is merely incidental thereto and does not involve the carriage of persons or property for compensation or hire.

(b) An aircraft salesman holding a private pilot certificate may demonstrate aircraft in flight to a prospective purchaser if he has at least 200 hours of flight time credited in accordance with the provisions of Part 20 of this chapter.

(c) Subject to the provisions of subparagraphs (1) through (6) of this paragraph, a private pilot may pilot an aircraft used in a passenger-carrying airlift sponsored by a charitable organization, where the passengers make a donation to the organization for such carriage.

NOTE: For the purpose of this regulation, charitable organizations are those listed in Publication No. 78 of the U.S. Treasury Department entitled "Cumulative List, Organizations Described in section 170(c) of the Internal Revenue Code of 1954," and additions thereto. This list is compiled by the Internal Revenue Service and is issued by the Superintendent of Documents, Government Printing Office, Washington 25, D.C., and is available for reference at District Offices of the Internal Revenue Service.

(1) The sponsor of the airlift shall notify the FAA General Aviation District Office having jurisdiction over the area concerned, at least 7 days in advance, and shall furnish that office with any essential information regarding the airlift, on request.

(2) All flights shall be conducted from public airports adequate for the aircraft used, or from other airports that have been approved for the operation by an FAA inspector.

(3) Each participating private pilot shall have logged at least 200 hours of flight time credited in accordance with the provisions of Part 20 of this chapter.

(4) No acrobatic or formation flights shall be conducted.

(5) Each aircraft used shall be certificated in the standard category, and shall comply with the 100-hour inspection requirement of § 43.22.

(6) All flights shall be conducted in conformity with visual flight rules and during daylight hours.

(Secs. 313(a), 601, 72 Stat. 752, 775, 49 U.S.C. 1354, 1421)

Issued in Washington, D.C., on August 1, 1961.

N. E. HALABY,
Administrator.

[F.R. Doc. 61-7440; Filed, Aug. 8, 1961; 8:45 a.m.]

Chapter III—Federal Aviation Agency

SUBCHAPTER D—AIRPORT REGULATIONS

[Regulatory Docket No. 842]

PART 571—DULLES INTERNATIONAL AIRPORT

The Dulles International Airport is presently under construction by the Federal Aviation Agency. Persons have been entering the airport without authority and using the land and facilities thereof, particularly when construction operations are not in progress. In order to protect the airport and prevent possible damage resulting from such entry and use, it is necessary to adopt the following regulation which prohibits any unauthorized entry upon or use of the Dulles International Airport. Any person violating this regulation shall be guilty of a misdemeanor punishable by a fine of not more than $500, or not more than six months imprisonment, or both.

This is the first regulation issued covering Dulles International Airport. As construction proceeds additional regulations will be issued and included in this part.

Inasmuch as this regulation relates to the management of public property, compliance with the notice, public procedure, and effective date provisions of section 4 of the Administrative Procedure Act is unnecessary.

Acting pursuant to the authority vested in me by the Act of September 7, 1950 (64 Stat. 770), as amended by the Act of August 23, 1958 (72 Stat. 731), a new Part 571 of the regulations of the Administrator is adopted to read as follows:

Sec.
571.1 Unauthorized entry upon and use of airport
571.2 Penalties

AUTHORITY: §§ 571.1 and 571.2 issued under Sections 4 and 10 of the Act of September 7, 1950 (64 Stat. 771, 772), as amended by the Act of August 23, 1958 (72 Stat. 731).

§ 571.1 Unauthorized entry upon and use of airport.

No person shall come upon or use the Dulles International Airport except a person authorized by the Administrator of the Federal Aviation Agency or his authorized representative. As used in this part, the Dulles International Airport includes the land, and the buildings and facilities now under construction thereon, located in Fairfax and Loudoun Counties, Virginia, the land being that acquired in Civil No. 1638M, United States District Court for the Eastern District of Virginia, Alexandria Division.

§ 571.2 Penalties.

Any person who knowingly and willfully violates this part shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than $500, or imprisoned not more than six months, or both.

This part shall become effective August 9, 1961.

Issued in Washington, D.C., on August 7, 1961.

N. E. HALABY,
Administrator.

[F.R. Doc. 61-7566; Filed, Aug. 8, 1961; 8:54 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, AND INVESTMENT COMPANY ACT OF 1940

Miscellaneous Amendments

On May 3, 1961, notice of proposed amendments of rules governing the form and content of financial statements filed by insurance companies other than life and title insurance companies was published in the FEDERAL REGISTER (26 F.R. 3819).

This revision reflects changes in requirements of the Annual Statement filed with state regulatory authorities and developments in insurance reporting since these articles were originally adopted.

As a result of the reluctance on the part of independent public accountants to express an opinion in respect of the financial statements included in the Annual Statement and the accounting principles and practices reflected therein as required by § 210.2-02(c) without taking exception to certain insurance accounting practices, there has grown up the practice of reconciling the statutory capital share equity and net income or loss with capital share equity and net income or loss as determined in accordance with generally accepted accounting principles and practices.

Special note 2 of § 210.7–05 gives recognition to this practice where such differences are deemed to be material, the principal differences being in the accounting for nonadmitted assets and commissions and expenses incurred in writing insurance.

After consideration of all such relevant matter as was presented by interested persons regarding the rule changes proposed, the amendments so published are hereby adopted, subject to the changes set forth below.

1. In § 210.7–05, clause (b) of paragraph 2 is changed.

2. In § 210.7–05, paragraph 5 is amended.

3. The authority citation is amended.

The revised sections shall be effective with respect to financial statements for any fiscal year ending on or after December 31, 1960, filed as part of any registration statement, application for registration or report. However, if a registrant so elects, the revised sections may be applied to financial statements filed prior to that date.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

JULY 26, 1961.

I. Section 210.7–01 is amended to read as follows:

§ 210.7–01 Application of §§ 210.7–01 to 210.7–06.

These sections shall be applicable to financial statements filed for insurance companies other than life and title insurance companies. (Title insurance companies shall comply with the requirements of §§ 210.5–01 to 210.5–04.)

II. Sections 210.7–03 to 210.7–06 are amended to read as follows:

§ 210.7–03 Balance sheets.

Balance sheets filed for insurance companies other than life and title insurance companies shall comply with the following provisions:

ADMITTED ASSETS

1. *Bonds.*

2. *Investments in stocks other than stocks of affiliates.* State separately: (a) preferred stocks and (b) common stocks.

3. *Investments in stocks of affiliates.*

(a) *In insurance companies.* Include only stocks of insurance companies under this subcaption.

(b) *In other affiliates.* Include under this subcaption stocks of other affiliates. If any such "other affiliate" controls insurance companies the stock of such "other affiliate" shall be included under this subcaption, and the fact of such control shall be stated in a note to the balance sheet.

4. *Mortgage loans on real estate.* State separately (a) first liens and (b) other than first liens.

5. *Real estate.* State parenthetically the amount of encumbrances deducted.

6. *Cash and cash items.* State separately (a) cash on hand, demand deposits, and time deposits and (b) call loans.

7. *Agents' balances and/or gross premiums in course of collection.* State parenthetically the amount of ceded reinsurance balances payable deducted, if material.

8. *Due from other insurance companies.* Include reinsurances recoverable on losses paid, etc.; do not include premium balances.

9. *Interest, dividends and real estate income due and accrued.*

10. *Other assets.* State separately any significant items.

LIABILITIES, CAPITAL SHARES AND SURPLUS

11. *Losses and claims.*

12. *Loss adjustment expenses.*

13. *Unearned premiums.*

14. *Dividends declared and upaid.* State separately amounts payable to (a) policyholders and (b) stockholders.

15. *Borrowed money.* State here or in a note as to each loan (a) from whom borrowed, (b) date of loan, (c) repayment terms and other conditions governing each loan, (d) due date, (e) extensions granted, (f) original amount, and (g) interest rate.

16. *Other liabilities.* State separately any significant items.

17. *Commitments and contingent liabilities.* See §§ 210.3–18, 210.3–19(g) and 210.7–05–4.

18. *Capital shares.* State for each class of shares the title of issue, the number of shares authorized, the number of shares outstanding and the capital share liability thereof, and, if convertible, the basis of conversion. Show also the dollar amount, if any, of capital shares subscribed but unissued, and of subscriptions receivable thereon.

19. *Surplus.* (a) Separate captions shall be shown for (1) paid-in surplus, (2) surplus arising from revaluation of assets, (3) other capital surplus, and (4) earned surplus (i) appropriated and (ii) unappropriated. There shall be included under earned surplus, appropriated, all reserves and segregations of surplus, mandatory or voluntary, which are general contingency reserves whose purposes are not specific, or reserves for indefinite possible future losses, such as, for example, for future decline in value of investments or for contingencies.

(b) If undistributed earnings of subsidiaries are included, state the amount thereof parenthetically or otherwise. However, in a consolidated statement the preceding sentence shall have reference only to the undistributed earnings of subsidiaries not consolidated in such statement.

(c) An analysis of such surplus account setting forth the information prescribed in § 210.11–02 shall be given for each period for which a profit and loss statement is filed, as a continuation of the related profit and loss statement or in the form of a separate statement of surplus, and shall be referred to here. In this statement caption 3, *Other additions to surplus,* shall be subdivided to show (1) unrealized gain on bonds and stocks from change in market values (2) unrealized gain on other investments from change in market values, and (3) all others, designating clearly the nature thereof. Likewise, caption 4, *Deductions from surplus other than dividends,* shall be subdivided to show (A) unrealized loss on bonds and stocks from change in market values (B) unrealized loss on other investments from change in market values, and (C) all others, designating clearly the nature thereof.

(d) If separate balances are not shown in the accounts for the divisions of surplus in (a) above other than for earned surplus appropriated, i.e., if the company has not, up to the opening of the period of report, differentiated in its accounting for surplus as indicated, then the unsegregated surplus may be stated in one amount, and, in lieu of such segregation, there shall be given as a note an analysis of surplus since organization. Such analysis shall show (1) total net income after income taxes, (2) aggregate dividends paid (A) in cash, and (B) in capital stock, (3) total paid-in surplus, (4) unrealized gain or loss from change in market values, (5) aggregate transfers to reserves, (6) change in nonadmitted assets, and (7) other additions or deductions of material amount, indicating clearly the nature of the item.

§ 210.7–04 Profit and loss or income statements.

Profit and loss or income statements filed for insurance companies other than life and title insurance companies shall comply with the following provisions:

UNDERWRITING PROFIT OR LOSS

1. *Net premiums written.* State premiums written including reinsurance assumed less reinsurance ceded.

2. *Increase or decrease in unearned premium reserve.*

3. *Premiums earned.*

4. *Losses incurred.*

5. *Loss expense incurred.*

6. *Balance.*

7. *Commissions and brokerage.* State commissions and brokerage less amount received on return premiums and reinsurance.

8. *Salaries and other compensation.* State the total amount paid to directors, officers, employees and agents not paid by commission other than amounts allocable to loss and investment expense.

9. *Taxes, licenses and fees.* State the total amount excluding income taxes.

10. *All other underwriting expenses.* Include hereunder all other underwriting expenses not included above. State separately any material amount. Do not include investment expense under this caption.

11. *Other underwriting profit or loss.* Include the income or loss from unusual or nonrecurring contingent profits or reinsurance agreements, pools and other miscellaneous contracts, licenses and agreements, etc. Give in a note a brief explanation of any items included in this account.

12. *Profit or loss from underwriting.*

INVESTMENT INCOME OR LOSS

13. *Interest on bonds.*

14. *Dividends.* State separately dividends from (a) unaffiliated companies and (b) affiliated companies.

15. *Interest on mortgage loans.*

16. *Real estate income.*

17. *Other investment income.* State separately any material amount.

18. *Total investment income.*

19. *Investment expense.* Include interest on encumbrances, real estate expense, supervisory service, other fees, salaries, administrative expenses, etc. State separately any material amounts.

20. *Net investment income.* Realized gains or losses on investments shall be reported in caption 26 below. Unrealized gains or losses resulting from change in market values shall be reported in the appropriate surplus account.

21. *Total income and profit or loss from underwriting and investment.*

22. *Dividends to policy holders.*

23. *Net income or loss before provision for income taxes.*

24. *Provision for income taxes.* State separately (a) Federal normal income tax and surtax, and (b) other income taxes. Amounts allocable to realized gains or losses on investments shall be reported in caption 26 below.

25. *Net income or loss.*

26. *Realized gains or losses on investments.* State parenthetically or otherwise the amount of income taxes deducted.

27. *Net income or loss and realized gains or losses on investments.*

§ 210.7–05 Special notes to financial statements.

1. Assets shall be set forth in the balance sheet at admitted asset values. Book values of assets included under captions 1, 2, 3(a), 3(b), 4, and 5 shall be shown parenthetically or in a note.

The total amount of non-admitted assets shall be stated in a note, and if such amount exceeds one percent of the total admitted

assets then a separate statement shall be presented showing the details of such assets. State in a note or otherwise the amount of assets charged to income or surplus immediately upon acquisition during the period, if significant.

There shall also be added as a note to the financial statements the following:

"The term 'admitted assets' means the assets stated at values at which they are permitted to be reported to the respective domiciliary State regulatory authority for balance sheet purposes in the annual report in accordance with the rules and regulations of such regulatory authority.

"The term 'non-admitted assets' means 'assets' other than assets which are so permitted to be reported."

2. State in tabular form in a note or otherwise, together with appropriate explanation, a reconciliation of material differences between (a) capital share equity as reported on the balance sheet and capital share equity as determined in accordance with generally accepted accounting principles and practices, and (b) net income or loss as reported on the profit and loss or income statement and net income or loss as determined in accordance with generally accepted accounting principles and practices.

3. State in a note the amount of surplus not available for payment of dividends to stockholders. See § 210.3–19(f).

4. Explain in a note the basis of determining the unearned premiums and the estimated liability for losses and claims and state the amounts deducted in respect of reinsurance carried with other companies.

5. If the company wrote mortgage guaranty surety bonds during the period of report, state the amount of liability in force therefor as of the date of the balance sheet.

§ 210.7–06 What schedules are to be filed.

(a) Except as expressly provided otherwise in the applicable form:

(1) The schedules specified below in this section as schedules I, II, III, IV, V, VI, VIII, and IX shall be filed as of the date of the most recent balance sheet filed for each person or group. Such schedules shall be certified if the related balance sheet is certified.

(2) All other schedules specified below in this section shall be filed for each period for which a profit and loss statement is filed. Such schedules shall be certified if the related profit and loss statement is certified.

(b) Reference to the schedule shall be made against the appropriate captions of the balance sheet and the profit and loss statement.

(c) If the information required by any schedule (including the footnotes thereto) may be shown in the related balance sheet or profit and loss statement without making such statement unclear or confusing, that procedure may be followed and the schedule omitted.

Schedule I—Bonds. The schedule prescribed by § 210.12–23 shall be filed in support of caption 1 of each balance sheet.

Schedule II—Stocks—Other than stocks of affiliates. The schedule prescribed by § 210.12–24 shall be filed in support of caption 2 of each balance sheet.

Schedule III—Mortgage loans on real estate. The schedule prescribed by § 210.12–25 shall be filed in support of caption 4 of each balance sheet.

Schedule IV—Real Estate. The schedule prescribed by § 210.12–26 shall be filed in support of caption 5 of each balance sheet.

Schedule V—Summary of investments in securities—Other than securities of affiliates. The summary schedule prescribed by § 210.12–27 shall be filed in conjunction with Schedules I and II.

Schedule VI—Investments in stocks of affiliates. The schedule prescribed by § 210.12–28 shall be filed in support of caption 3 of each balance sheet.

Schedule VII—Premiums, losses and underwriting expense. The schedule prescribed by § 210.12–29 shall be filed in support of caption 13 of each balance sheet and captions 1, 3, 4, 5, 7, 8, 9, and 10 of each profit and loss statement.

Schedule VIII—Capital shares. The schedule prescribed by § 210.12–14 shall be filed in support of caption 18 of each balance sheet.

Schedule IX—Other securities. If there are any classes of securities not included in Schedule VII, set forth in this schedule information concerning such securities corresponding to that required for the securities in such schedule. If the securities required to be reported on the schedules prescribed by §§ 210.12–10, 210.12–12 or 210.12–15 are present, those schedules should be used. Information need not be set forth, however, as to notes, drafts, bills of exchange or bankers' acceptances having a maturity at the time of issuance of not exceeding one year.

Schedule X—Income from dividends—Equity in net profit and loss of affiliates. The schedule prescribed by § 210.12–17 shall be filed in support of caption 14(b) of each profit and loss statement.

Schedule XI—Summary of realized gains or losses on sale or maturity of investment. The schedule prescribed by § 210.12–30 shall be filed in support of caption 26 of each profit and loss statement.

III. The subcaption immediately preceding § 210.12–23 is amended to read: "For Insurance Companies".

IV. Sections 210.12–23 to 210.12–30 are amended to read:

§ 210.12–23 Bonds.[1]

(For insurance companies.)

Column A. Name of issuer and title of issue.[2]
Column B. Principal amount of bonds and notes.
Column C. Actual cost (excluding accrued interest).
Column D. Book value.[3]
Column E. Market value.[4]
Column F. Amortized or investment value.[5]
Column G. Admitted asset value.[6]

[1] (a) In lieu of this schedule there may be filed Schedule D, Part 1, of the annual statement filed with the respective domiciliary State regulatory authority. In such case the method of determining market value shown in Column 7 of that schedule shall be stated in a note.

(b) All money columns shall be totaled.

[2] (a) Bonds shall be grouped in accordance with the classification required under § 210.12–27 and listed alphabetically in each group.

(b) Indicate by appropriate symbol those bonds which are non-income producing or in default as to principal or interest.

[3] State the basis of determining the amount.

[4] State the method of determining market value.

[5] Indicate by a symbol whether amortized or estimated value. State the basis of determining estimated value.

[6] If admitted asset value is different from the amount shown in either Column C, D, E, or F, state the basis of determining such value.

§ 210.12–24 Stocks—other than stocks of affiliates.[1]

(For insurance companies.)

Column A. Name of issuer and title of issue.[2]
Column B. Number of shares.
Column C. Actual cost.
Column D. Book value.[3]
Column E. Market or estimated value.[4]
Column F. Admitted asset value.[5]

[1] (a) In lieu of this schedule there may be filed Schedule D, Part 2, of the annual statement filed with the respective State domiciliary regulatory authority. *Provided,* (1) That from the totals of the proper columns there be deducted the amounts represented by the investment in stocks of affiliates called for in the schedule prescribed by § 210.12–28; and (2) the method of determining market value shown in column 6 of Schedule D, Part 2, be stated.

(b) All money columns shall be totaled.

[2] (a) Stocks shall be grouped in accordance with the classification required under § 210.12–27 and listed alphabetically in each group.

(b) Indicates by appropriate symbol those stocks which are non-income producing.

[3] State the basis of determining the amount.

[4] Indicate by a symbol whether market or estimated value. State the basis of determining such value.

[5] If admitted asset value is different from the amount shown in either Column C, D, or E, state the basis of determining such value.

§ 210.12–25 Mortgage loans on real estate.[1]

(For insurance companies.)

Column A. Summarize by State and classification indicated below.[2]

Name of State

Farm mortgages—insured (total).
Farm mortgages—other (total).
City mortgages—insured (total).
City mortgages—other (total).
Total.
Total, all States.

Column B. Amount of principal indebtedness.
Column C. Book value of mortgages.
Column D. Admitted asset value.[3]
Column E. Appraised value of land and buildings.

[1] All money columns shall be totaled.

[2] (a) Mortgage loans shall be grouped by States and in accordance with the classifications indicated in Column A above.

(b) Mortgage loans other than first lien loans shall be listed separately in a like manner.

(c) State in a note the amount of mortgage loans in each State and classification (1) upon which interest is overdue more than three months; and (2) which are in the process of foreclosure.

[3] If admitted asset value is different from the amount shown in either Column B or C, state the basis of determining such value.

§ 210.12–26 Real estate owned.[1]

(For insurance companies.)

Column A. Summarize by State and classification of property as indicated below.

Name of State

Farms (total).
Residential (total).
Apartments and business (total).
Unimproved (total).
Total.
Total, all States.
Column B. Amount of encumbrances.
Column C. Actual cost.
Column D. Book value less encumbrances.
Column E. Market or fair value less encumbrances.[2]
Column F. Admitted asset value.[3]

[1] All money columns shall be totaled.
[2] State the basis of determining such value.
[3] If admitted asset value is different from the amount shown in either Column C, D, or E, state the basis of determining such value.

§ 210.12–27 Summary of investments in securities—other than securities of affiliates.[1]

(For insurance companies.)

Column A. Type of security.

1. Bonds and Notes

(a) Government.
(b) States, territories, and possessions.
(c) Political subdivisions of States, territories and possessions.
(d) Government agencies and authorities.
(e) Railroads.
(f) Public utilities.
(g) Industrial and miscellaneous.
Total bonds and notes.

2. Stocks

Preferred stocks

(h) Railroad.
(i) Public utilities.
(j) Banks, trust and insurance companies.
(k) Industrial and miscellaneous.
Total preferred stocks.

Common stocks

(l) Railroad.
(m) Public utilities.
(n) Banks, trust and insurance companies.
(o) Industrial and miscellaneous.
Total common stocks.
Total stocks.
Total investments in securities other than securities of affiliates.
Column B. Actual cost.
Column C. Book value.
Column D. Market value.
Column E. Amortized or investment value of bonds and notes.
Column F. Admitted asset value.

[1] All money columns shall be totaled.

§ 210.12–28 Investments in stocks of affiliates.[1]

(For insurance companies.)

Column A. Name of issuer and title of issue.[2]
Column B. Number of shares.
Column C. Actual cost.
Column D. Book value.[3]
Column E. Market or estimated value.[4]
Column F. Admitted asset value.[5]

[1] All money columns shall be totaled.
[2] Group separately (a) stocks of insurance companies and (b) stocks of other affiliates. Within group (b) classify according to type of business. Give totals for each group and class.
[3] State the basis of determining the amount.
[4] Indicate by a symbol whether market or estimated value. State the basis of determining such value.
[5] If admitted asset value is different from the amount shown in either Column C, D, or E, state the basis of determining such value.

§ 210.12–29 Premiums, Losses, and Underwriting Expense.[1]

(For insurance companies other than life and title insurance companies.)

Part 1—Premiums

Column A. Line of insurance.
Column B. Unearned premiums beginning of period.
Column C. Net premiums written.
Column D. Unearned premiums end of period.
Column E. Premiums earned during period.

Part 2—Losses and Underwriting Expenses.[2]

Column F. Losses incurred during period.
Column G. Loss expense incurred during period.
Column H. Commissions and brokerage incurred during period.
Column I. Other underwriting expense incurred during period.[3]

[1] All money columns shall be totaled.
[2] Fire insurance companies may furnish information under Columns G, H, and I by totals only, if the information required by such columns is not available by lines of insurance.
[3] Include in this column all amounts set forth in the related profit and loss statement under captions 8, 9, and 10.

§ 210.12–30 Summary of realized gains or losses on sale or maturity of investments.[1]

(For insurance companies).

Column A. Type of security.
Bonds.
Stocks—other than stocks of affiliates.
Stocks—affiliates.
Mortgage loans.
Real estate.
Other.
Total.
Income taxes allocable to realized gains.
Net realized gains or losses.
Column B. Aggregate cost.
Column C. Aggregate proceeds.
Column D. Gain or loss.

[1] All money columns shall be totaled.

§ 210.12–31 [Revocation]

V. Section 210.12–31, *Profit and loss on sale or maturity of investments,* is revoked.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since extensions of time, under certain conditions, for the effective date of the Nematocide, Plant Regulator, Defoliant, and Desiccant Amendment of 1959 were contemplated by the statute as amended, as a relief of restrictions on the agricultural industry.

Effective date. This order shall become effective on the date of signature.

(Public Law 85–19, 75 Stat. 42; 7 U.S.C. 135)

Dated: August 2, 1961.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 61–7511; Filed, Aug. 8, 1961; 8:47 a.m.]

(Secs. 6, 7, 8, 10, and 19(a) of the Securities Act of 1933, as amended, 48 Stat. 78, 79, 81, and 85, 15 U.S.C. 77f to 77h, 77j and 77s; secs. 12, 13, 15(d), and 23(a) of the Securities Exchange Act of 1934, as amended, 48 Stat. 892, 894, 895, and 901, 15 U.S.C. 78l, 78m, 78o, and 78w; secs. 5(b), 14, and 20(a) of the Public Utility Holding Company Act of 1935, 49 Stat. 812, 827, and 823, 15 U.S.C. 79e, 79n, and 79t; secs. 8, 30, 31(c), and 38(a) of the Investment Company Act of 1940, as amended, 54 Stat. 803, 836, 838, and 841, 15 U.S.C. 80a–29, 80a–30, and 80a–37)

[F.R. Doc. 61–7509; Filed, Aug. 8, 1961; 8:53 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Further Extensions of Effective Date of Public Law 86–139 as It Affects Section 408 of Federal Food, Drug, and Cosmetic Act

Under the provisions of Public Law 86–139 (73 Stat. 388, as amended 75 Stat. 42; 7 U.S.C. 135 et seq.), and under the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (25 F.R. 8625), the Commissioner has further extended the effective date of this statute as it affects section 408 of the Federal Food, Drug, and Cosmetic Act for certain specified uses of nematocides, plant regulators, defoliants, or desiccants. The list previously published on § 120.37 (21 CFR 120.37; 26 F.R. 5920) is amended by adding thereto the following new items:

§ 120.37 Further extensions of effective date of Public Law 86–139 as it affects section 408 of the Federal Food, Drug, and Cosmetic Act.

* * * * *

Product	Specified uses or restrictions	Effective date of statute extended to—
p-Chlorophenoxyacetic acid	On cane berries and grapes to produce larger fruit	Jan. 1, 1964
Do	On figs to produce large seedless fruit	Do.
Methyl ester of naphthaleneacetic acid	On potatoes to inhibit sprouting	Jan. 1, 1963
Pentachlorophenol	On cotton and soybeans as a defoliant	Do.
Sodium salt of beta-naphthoxyacetic acid	On pineapples to delay maturation	July 1, 1962
2,4,5-Trichlorophenoxyacetic acid or its butyl ester.	On grapefruit to increase size and control fruit drop.	Do.
2,4,5-Trichlorophenoxyacetic acid or its triethylamine salt.	On apricots to improve color and control fruit drop.	Jan. 1, 1963

[F.R. Doc. 61–7511; Filed, Aug. 8, 1961; 8:47 a.m.]

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Tolerance for Residues of Sodium Dehydroacetate

A petition was filed with the Food and Drug Administration by The Dow Chemical Company, Midland, Michigan, requesting the establishment of a tolerance of 30 parts per million for residues of sodium dehydroacetate, expressed as dehydroacetic acid, in or on bananas from post-harvest use, of which residue not more than 10 parts per million should be in the edible portion.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which a tolerance is being established.

After consideration of the data submitted in the petition and other relevant material which show that the tolerance established in this order will protect the public health, and by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and delegated to the Commissioner of Food and Drugs by the Secretary (25 F.R. 8625), the regulations for tolerances for pesticide chemicals in or on raw agricultural commodities are amended by adding to § 120.159 (21 CFR 120.159) a tolerance for residues of sodium dehydroacetic acid on bananas. As amended, § 120.159 reads as follows:

§ 120.159 Tolerances for residues of sodium dehydroacetate.

Tolerances are established for residues of sodium dehydroacetate, expressed as dehydroacetic acid, from postharvest application in or on raw agricultural commodities, as follows:

65 parts per million in or on strawberries.

30 parts per million in or on bananas, of which residue not more than 10 parts per million shall be in the pulp after peel is removed and discarded.

Any person who will be adversely affected by the foregoing order may at any time prior to the thirtieth day from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: August 2, 1961.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 61-7512; Filed, Aug. 28, 1961; 8:47 a.m.]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

SORBITOL

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition filed by Germantown Manufacturing Company, 5100 Lancaster Avenue, Philadelphia 31, Pennsylvania, and other relevant material has concluded that the following regulation should issue in conformity with section 409 of the Federal Food, Drug, and Cosmetic Act, with respect to the food additive sorbitol in nonstandardized frozen desserts for special dietary use. Therefore, pursuant to the provisions of the act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), Subpart D of the food additive regulations (21 CFR Part 121) is amended by adding thereto the following new section:

§ 121.1053 Sorbitol.

The food additive sorbitol may be safely used in food in accordance with the following prescribed conditions:

(a) It is used or intended for use in nonstandardized frozen desserts for special dietary use as a stabilizer and nutritive sweetener in such amount that the average serving of such food will not contain in excess of 15 grams of the additive, nor will the daily consumption of the additive in such food exceed 40 grams.

(b) To assure safe use of the additive, in addition to the other information required by the act:

(1) The label of the additive and any intermediate premix shall bear:

(i) The name of the additive.

(ii) A statement of the concentration or strength of the additive in any intermediate premixes.

(2) The label or labeling of the additive shall also include:

(i) Adequate directions to provide a final product that complies with the limitations prescribed in paragraph (a) of this section.

(ii) Adequate labeling directions to provide a finished food labeled as provided in paragraph (c) of this section.

(c) To assure safe use of the additive, in addition to the other information required by the act, the label on the market package shall comply with the following: If the amount of a food that may reasonably be consumed as an average serving contains 5 grams or more of sorbitol, the label shall bear a statement of the number of grams of sorbitol in an average serving of the food. The average serving shall be expressed in terms of a convenient unit or units of such food or as a convenient unit of measure that can be readily understood and utilized by purchasers of such food. The label shall also bear a statement that the consumption of more than 15 grams of sorbitol at one time or more than 40 grams of sorbitol per day may have laxative effects.

Any person who will be adversely affected by the foregoing order may at any time prior to the thirtieth day from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: August 2, 1961.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 61-7513; Filed, Aug. 8, 1961; 8:47 a.m.]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

BHT (BUTYLATED HYDROXYTOLUENE) AND BHA (BUTYLATED HYDROXYANISOLE)

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition filed by Kellogg Company, 235 Porter Street, Battle Creek, Michigan, and other relevant material, has concluded that the following amendments to the food additive regulations should issue with respect to BHT (butylated hydroxytoluene) and BHA (butylated hydroxyanisole) as antioxidants in dry breakfast cereals. Therefore, pursuant to the provisions of the act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), §§ 121.1034 and 121.1035 (21 CFR 121.1034, 121.1035; 26 F.R. 1053, 1984) of the food additive regulations are amended as set forth below:

1. Section 121.1034(b) is amended by adding thereto a new subparagraph (2):

§ 121.1034 BHT (butylated hydroxytoluene) as an antioxidant.

* * * * *

(b) * * *

(2) In dry breakfast cereals, alone or in combination with BHA (butylated hydroxyanisole), whereby the maximum amount of the additives, alone or in combination, does not exceed 50 parts per million (0.005 percent) of the weight of the dry cereal.

2. Section 121.1035(b) is amended by adding thereto a new subparagraph (4):

§ 121.1035 BHA (butylated hydroxyanisole) as an antioxidant.

* * * * *

(b) * * *

(4) In dry breakfast cereals, alone or in combination with BHT (butylated hydroxytoluene), whereby the maximum amount of the additives, alone or in combination, does not exceed 50 parts per million (0.005 percent) of the weight of the dry cereal.

Any person who will be adversely affected by the foregoing order may at any time prior to the thirtieth day from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: August 2, 1961.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 61-7514; Filed, Aug. 8, 1961; 8:48 a.m.]

Title 45—PUBLIC WELFARE

Chapter II—Bureau of Public Assistance, Social Security Administration, Department of Health, Education, and Welfare

PART 211—CARE AND TREATMENT OF MENTALLY ILL NATIONALS OF THE UNITED STATES, RETURNED FROM FOREIGN COUNTRIES

Chapter II of Title 45 of the Code of Federal Regulations, is amended by adding Part 211, as follows:

Sec.

AUTHORITY: §§ 211.1 to 211.14 issued under sections 1–11, 74 Stat. 308–310; 24 U.S.C. 321–329.

§ 211.1 General definitions.

When used in this part:

(a) "Act" means Public Law 86–571, approved July 5, 1960, 74 Stat. 308, entitled "An act to provide for the hospitalization, at St. Elizabeths Hospital in the District of Columbia or elsewhere, of certain nationals of the United States adjudged insane or otherwise found mentally ill in foreign countries, and for other purposes";

(b) The term "Secretary" means the Secretary of Health, Education, and Welfare;

(c) The term "Department" means the Department of Health, Education, and Welfare;

(d) The term "Director" means the Director of the Bureau of Public Assistance of the Social Security Administration, Department of Health, Education, and Welfare;

(e) The term "eligible person" means an individual with respect to whom the certificates referred to in § 211.3 are furnished to the Director in connection with the reception of an individual arriving from a foreign country;

(f) The term "Public Health Service" means the Public Health Service in the Department of Health, Education, and Welfare;

(g) The term "agency" means an appropriate State or local public or nonprofit agency with which the Bureau has entered into arrangements for the provision of care, treatment, and assistance pursuant to the Act;

(h) The term "State" means a State or Territory of the United States, the Commonwealth of Puerto Rico, or the District of Columbia;

(i) The term "residence" means residence as determined under the applicable law or regulations of a State or political subdivision for the purpose of determining the eligibility of an individual for hospitalization in a public mental hospital.

(j) The term "legal guardian" means a guardian, appointed by a court, whose powers, duties, and responsibilities include the powers, duties, and responsibilities of guardianship of the person.

§ 211.2 General.

The Director shall make suitable arrangements with agencies to the end that any eligible person will be received, upon request of the Secretary of State, at the port of entry or debarkation upon arrival in the United States from a foreign country and be provided, to the extent necessary, with temporary care, treatment, and assistance, pending transfer and release or hospitalization pursuant to the Act. The Director shall also make suitable arrangements with appropriate divisions of the Public Health Service, Bureau of Medical Services, with Saint Elizabeths Hospital in the District of Columbia, with Federal hospitals outside of the Department, or with other public or private hospitals to provide the eligible person with care and treatment in a hospital. The Director shall maintain a roster setting forth the name and address of each eligible person currently receiving care and treatment, or assistance, pursuant to the Act.

§ 211.3 Certificates.

The following certificates are necessary to establish that an individual is an eligible person:

(a) *Certificates as to nationality.* A certificate issued by an authorized official of the Department of State, stating that the individual is a national of the United States.

(b) *Certificate as to mental condition.* Either (1) a certificate obtained or transmitted by an authorized official of the Department of State that the individual has been legally adjudged insane in a named foreign country; or (2) a certificate of an appropriate authority or person stating that at the time of such certification the individual was in a named foreign country and was in need of care and treatment in a mental hospital. A statement shall, if possible, be incorporated into or attached to the certificate furnished under this paragraph setting forth all available medical and other pertinent information concerning the individual.

(c) *Appropriate authority or person.* For the purpose of paragraph (b)(2) of this section a medical officer of the Public Health Service or of another agency of the United States, or a medical practitioner legally authorized to provide care or treatment of mentally ill persons in the foreign country, is an "appropriate authority or person", and shall be so identified in his execution of the certificate. If such a medical officer or practitioner is unavailable, an authorized official of the Department of State may serve as an "appropriate authority or person," and shall, in the execution of the certificate, identify himself as serving as such person due to the unavailability of a suitable medical officer or practitioner.

§ 211.4 Notification to legal guardian, spouse, next of kin, or interested persons.

(a) Whenever an eligible person arrives in the United States from a foreign country, or when such person is transferred from one State to another, the Director shall, upon such arrival or transfer (or in advance thereof, if possible), provide for notification of his legal guardian, or in the absence of such a guardian, of his spouse or next of kin,

or in the absence of any of these, of one or more interested persons, if known.

(b) Whenever an eligible person is admitted to a hospital pursuant to the Act, the Director shall provide for immediate notification of his legal guardian, spouse, or next of kin, if known.

§ 211.5 Action under State law; appointment of guardian.

Whenever an eligible person is incapable of giving his consent to care and treatment in a hospital, either because of his mental condition or because he is a minor, the agency will take appropriate action under State law, including, if necessary, procuring the appointment of a legal guardian, to ensure the proper planning for and provision of such care and treatment.

§ 211.6 Reception; temporary care, treatment, and assistance.

(a) *Reception.* The agency will meet the eligible person at the port of entry or debarkation, will arrange for appropriate medical examination, and will plan with him, in cooperation with his legal guardian, or, in the absence of such a guardian, with other interested persons, if any, for needed temporary care and treatment.

(b) *Temporary care, treatment, and assistance.* The agency will provide for temporary care, treatment, and assistance, as reasonably required for the health and welfare of the eligible person. Such care, treatment, and assistance may be provided in the form of hospitalization and other medical and remedial care (including services of necessary attendants), food and lodging, money payments, transportation, or other goods and services. The agency will utilize the Public Health Service General Hospital nearest to the port of entry or debarkation or any other suitable public or private hospital, in providing hospitalization and medical care, including diagnostic service as needed, pending other appropriate arrangements for serving the eligible person.

§ 211.7 Transfer and release of eligible person.

(a) *Transfer and release to relative.* If at the time of arrival from a foreign country or any time during temporary or continuing care and treatment the Director finds that the best interests of the eligible person will be served thereby, and a relative, having been fully informed of his condition, agrees in writing to assume responsibility for his care and treatment, the Director shall transfer and release him to such relative. In determining whether his best interests will be served by such transfer and release, due weight shall be given to the relationship of the individuals involved, the financial ability of the relative to provide for such person, and the accessibility to necessary medical facilities.

(b) *Transfer and release to appropriate State authorities, or agency of the United States.* If appropriate arrangements cannot be accomplished under paragraph (a) of this section, and if no other agency of the United States is responsible for the care and treatment of the eligible person, the Director shall endeavor to arrange with the appropriate State mental health authorities of the eligible person's State of residence or legal domicile, if any, for the assumption of responsibility for the care and treatment of the eligible person by such authorities and shall, upon the making of such arrangements in writing, transfer and release him to such authorities. If any other agency of the United States is responsible for the care and treatment of the eligible person, the Director shall make arrangements for his transfer and release to that agency.

§ 211.8 Continuing hospitalization.

(a) *Authorization and arrangements.* In the event that appropriate arrangements for an eligible person in need of continuing care and treatment in a hospital cannot be accomplished under § 211.7, or until such arrangements can be made, care and treatment shall be provided by the Director in Saint Elizabeths Hospital in the District of Columbia, in an appropriate Public Health Service Hospital, or in such other suitable public or private hospital as the Director determines is in the best interests of such person.

(b) *Transfer to other hospital.* At any time during continuing hospitalization, when the Director deems it to be in the interest of the eligible person or of the hospital affected, the Director shall authorize the transfer of such person from one hospital to another and, where necessary to that end, the Director shall authorize the initiation of judicial proceedings for the purpose of obtaining a commitment of such person to the Secretary.

(c) *Place of hospitalization.* In determining the placement or transfer of an eligible person for purposes of hospitalization, due weight shall be given to such factors as the location of the eligible person's legal guardian or family, the character of his illness and the probable duration thereof, and the facilities of the hospital to provide care and treatment for the particular health needs of such person.

§ 211.9 Examination and reexamination.

Following admission of an eligible person to a hospital for temporary or continuing care and treatment, he shall be examined by qualified members of the medical staff as soon as practicable, but not later than the fifth day after his admission. Each such person shall be reexamined at least once within each six month period beginning with the month following the month in which he was first examined.

§ 211.10 Termination of hospitalization.

(a) *Discharge or conditional release.* If, following any examination, the head of the hospital finds that the eligible person hospitalized for mental illness (whether or not pursuant to a judicial commitment) is not in need of such hospitalization, he shall be discharged. In the case where hospitalization was pursuant to a judicial commitment, the head of the hospital may, in accordance with laws governing hospitalization for mental illness as may be in force and generally applicable in the State in which the hospital is located, conditionally release him if he finds that this is in his best interests.

(b) *Notification to committing court.* In the case of any person hospitalized under § 211.8 who has been judicially committed to the custody of the Secretary, the Secretary will notify the committing court in writing of the discharge or conditional release of such person under this section or of his transfer and release under § 211.7.

§ 211.11 Request for release from hospitalization.

If an eligible person who is hospitalized pursuant to the Act, or his legal guardian, spouse, or adult next of kin, requests his release, such request shall be granted by the Director if his best interests will be served thereby, or by the head of the hospital if he is found not to be in need of hospitalization by reason of mental illness. The right of the Director, or the head of the hospital, to refuse such request and to detain him for care and treatment shall be determined in accordance with laws governing the detention, for care and treatment, of persons alleged to be mentally ill as may be in force and applicable generally in the State in which such hospital is located, but in no event shall the patient be detained more than forty-eight hours (excluding any period of time falling on a Sunday or a legal holiday observed by the courts of the State in which such hospital is located) after the receipt of such request unless within such time (a) judicial proceedings for such hospitalization are commenced or (b) a judicial extension of such time is obtained, for a period of not more than five days, for the commencement of such proceedings.

§ 211.12 Federal payments.

The arrangements made by the Director with an agency or hospital for carrying out the purposes of the Act shall provide for payments to such agency or hospital, either in advance or by way of reimbursement, of the costs of reception, temporary care, treatment, and assistance, continuing care and treatment, and transportation, pursuant to the Act, and payments for other expenditures necessarily and reasonably related to providing the same. Such arrangements shall include the methods and procedures for determining the amounts of the advances or reimbursements, and for remittance and adjustment thereof.

§ 211.13 Financial responsibility of the eligible person; collections, compromise, or waiver of payment.

(a) *For temporary care and treatment.* If an eligible person receiving temporary care, treatment, and assistance, pursuant to the Act, has financial resources available to pay all or part of the costs of such care, the Director shall require him to pay for such costs, either in advance or by way of reimbursement, unless in his judgment it would be inequitable or impracticable to require such payment.

(b) *For continuing care and treatment.* Any eligible person receiving continuing care and treatment in a hospital, or his estate, shall be liable to pay or contribute toward the payment of the costs or charges therefor, to the same extent as such person would, if a resident of the District of Columbia, be liable to pay, under the laws of the District of Columbia, for his care and maintenance in a hospital for the mentally ill in that jurisdiction.

(c) *Collections, compromise, or waiver of payment.* The Director may, in his discretion, where in his judgment substantial justice will be best served thereby or the probable recovery will not warrant the expense of collection, compromise, or waive the whole or any portion of, any claim for continuing care and treatment, and assistance, and in the process of arriving at such decision, the Director may make or cause to be made such investigations as may be necessary to determine the ability of the patient to pay or contribute toward the cost of his continuing care and treatment in a hospital.

§ 211.14 Disclosure of information.

(a) All certificates, records, reports, or other papers, or any information received at any time by the Secretary or by an officer or employee of the Department in the course of discharging the duties under the Act, and that are not otherwise a matter of public record, shall be kept confidential and shall not be disclosed except insofar:

(1) As the eligible person or his legal guardian, if any (or, if he is a minor, his parent or legal guardian), shall consent, or

(2) As disclosure may be necessary to carry out any functions of the Secretary under the Act, or

(3) As disclosure may be directed by the order of a court of competent jurisdiction.

(b) Where arrangements are made with an agency or hospital for care, treatment, and assistance pursuant to the Act, provisions shall be made to assure that no voluntary disclosure shall be made of any information received by such agency or hospital in the course of discharging the duties under such arrangement except as provided in paragraph (a) of this section.

(c) Nothing in this section shall preclude disclosure, upon proper inquiry, of information as to the presence of an eligible person in a hospital, or as to his general condition and progress.

Effective date. This part shall become effective on the effective date of the Act appropriating funds for the administration of Public Law 86–571.

Dated: July 20, 1961.

[SEAL] WILLIAM L. MITCHELL,
Commissioner of Social Security.

Approved: August 1, 1961.

ABRAHAM RIBICOFF,
Secretary.

[F.R. Doc. 61–7516; Filed, Aug. 8, 1961; 8:48 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 13913; FCC 61–1021]

PART 1—PRACTICE AND PROCEDURE

Agreements Between Parties for Amendment or Dismissal of, or Failure to Prosecute Broadcast Applications

1. The Commission has before it for consideration its notice of proposed rule making released January 13, 1961, wherein amendments to § 1.316 of the Commission's rules were proposed so as to implement sections 311(c) and 307(b) of the Communications Act of 1934. Section 311(c) provides, inter alia, that it shall be unlawful for any applicants for broadcast facilities to effectuate by agreement the removal of any mutually exclusive application without the approval of the Commission, and that the Commission shall approve such agreement only if it finds it to be consistent with the public interest, convenience, or necessity. Section 311 further provides that the Commission may not find an agreement to be in the public interest if (unless it contemplates a merger) it contemplates the making of a payment to a party for the withdrawal of his application which is in excess of his legitimately expended and to be expended costs in connection with the preparation, filing, and advocacy of the grant of the application. Section 307(b) enjoins the Commission "to provide a fair, efficient, and equitable distribution of radio service . . . among the several States and communities."

2. On January 11, 1961, the Commission adopted amendments to § 1.316 of the Rules to implement the above provisions of section 311 and to enable the Commission to ascertain the facts where an agreement has been entered into between conflicting applicants. The same day we adopted the notice of proposed rule making which is the subject of this Report and Order. The notice expressed the Commission's concern over those cases in which a section 307(b) issue was initially presented by mutually exclusive applications but which disappeared upon withdrawal of an application pursuant to an agreement between the parties. In such cases, instead of a Commission determination that one community rather than another should receive a grant of broadcast facilities, as contemplated by section 307(b), the conflict between the parties was resolved solely on the basis of their private interests. It was proposed therefore that the commission

> • • • consider approval of an agreement for the withdrawal of the only application in a community in a section 307(b) case only after other persons have been afforded an opportunity to apply for a station on the same frequency, in the same community and with substantially the same engineering characteristics as the application to be withdrawn, and thus succeed to the demand for service which is to be removed by the agreement between the parties.

3. Comments in response to the Commission's proposal have been filed by American Broadcasting-Paramount Theatres, Inc. (ABC), Radio Carmichael (an applicant), the Federal Communications Bar Association, Coastal Broadcasting, Inc. (an applicant), Harve Musicasters (an applicant), Cal-Coast Broadcasters (licensee of standard broadcast station KSEE, Santa Maria, California), and Kern County Broadcasting Co. (licensee of KLYD, KLYD–FM, and KLYD–TV, Bakersfield, Calif.).

4. Enactment of section 311(c) by the Communications Act Amendments, 1960 articulated Congressional recognition of the problems attendant to so-called "pay-offs" in the prosecution of mutually exclusive broadcast applications before the Commission. Congress therein conditioned Commission approval of agreements which would cause an applicant to withdraw upon certain findings with respect to the amount to be paid to the withdrawing applicant and with respect to whether the agreement was otherwise in the public interest. While these provisions of section 311(c) and § 1.316 of the rules, as now written, give the Commission some control over agreements to withdraw where a section 307(b) issue is present, they fail to provide us with completely adequate means to carry out our statutory mandate under section 307(b). For it is the view of the Commission that before a determination is made whether particular withdrawal agreements, which resolve the 307(b) issue according to the private interests of the applicants, are in the public interest, opportunity should be afforded to other interested parties to succeed to the facilities sought to be withdrawn.

5. This can be accomplished through the proposed rule as, in substance, it suspends the operation of the "cut-off" rules, thus enabling the Commission to accept additional applications for the facilities sought to be withdrawn. Should another application be filed, the Commission can then evaluate the relative needs of the communities concerned, instead of having the 307(b) issue precluded by an agreement between the applicants which results in the withdrawal of one applicant with no opportunity for other interested persons to apply for the same facilities.

6. The necessity to make this opportunity available is particularly pressing when a 307(b) issue is presented, for the grant of the remaining application may totally preclude the establishment of facilities in the community which the withdrawing applicant had sought to serve. Although it is not uncommon for the grant of broadcast facilities (particularly for standard broadcast stations) to preclude the establishment of further service in other communities, and though much of the distribution of facilities has thus been made on a random demand basis, the situation with which we are here concerned is different. For the proposed rule is not directed to the situation where there is but one application before us, but touches only those cases wherein there has been demand for broadcast facilities in a particular community, expressed in an application, and where

that application is then proposed to be withdrawn via an agreement between competing parties. In these circumstances, we make the considered judgment that our statutory responsibility under section 307(b) will be met and the public interest best served by protecting the broadcasting needs of particular communities for which broadcast facilities have been proposed, and then withdrawn, by providing, by rule, for further opportunity where appropriate for other persons to apply for the facilities sought to be withdrawn.

7. In its direct operation, then, the rule will serve the public interest by providing further opportunity in certain cases for interested persons to apply for the facilities sought to be withdrawn when there is a 307(b) issue present. Benefit can also be expected, however, in this situation, insofar as the rule acts to deter those who would use our processes for their private gain. For those who now file applications with the expectation that they will be able to bring about the withdrawal of competing applicants for other communities through a merger, or those who file an application in the expectation that they can extract a merger with a more favorable competing application as the price for the withdrawal of their application will be confronted with the fact that no such agreement can be entered into without the possibility of other parties coming in and succeeding to the application sought to be withdrawn. Section 311(c) of the Act now operates in much the same manner in the area of pay-offs as no agreements may be approved by the Commission which contemplate the payment of more than the legitimately expended and to be expended costs in connection with the filing and advocacy of the application to be withdrawn. The Commission does not expect, however, that the deterrent aspect of the rules will discourage bona fide applicants from filing for broadcasting facilities but we do expect that our responsibility under section 307(b) will be more fully met.

8. The additional time which would be allowed for filing further applications under the rule (two weeks for publication plus 30 days), plus the added delay necessitated by a hearing should further applications be filed, has been criticized by commenting parties as unfairly adding to the time that a party must wait before his application can be acted on by the Commission, and which time would be eliminated if agreements were approved and the rule not in effect. ABC in particular has noted that the rule may seriously lengthen the time within which badly needed service can be brought to the public in two areas—the "clear channel" and Docket 13340 proceedings—by discouraging consolidation of interests between competing applicants for clear channel frequencies and additional television stations in major markets (when the Commission acts in these areas) and forcing them to conduct protracted hearings. Our considered judgment is that in all cases where 307(b) issues arise our responsibility under that section can best be discharged through adoption of the rule as set out below. While the prompt disposal of all matters before us is desired, speed as a goal in the administrative process cannot be pursued irrespective of the results achieved.

9. Objection to the rule has also been raised on the ground that situations will arise where, because of a fundamental engineering defect in an application or because of intervening grants by the Commission or other changed circumstances, an applicant may have good cause to enter into an agreement to withdraw, and that in these cases inviting further applications which face the same obstacles is not warranted. We are not persuaded, however, that this possibility negates the utility of the proposed rule. It calls for the elapse of a brief period and public notice to provide opportunity for the filing of a substitute application to serve the same principal city only in cases where the previous applicant withdraws pursuant to agreement with a party with opposed interests who undertakes to give consideration for the withdrawal. Whether in these circumstances an alleged or apparent defect is curable may properly be left for adjudication of any substitute application which may be filed. Moreover, even if in some cases withdrawal is in fact induced by changed circumstances warranting such decision on the part of the previous applicant, we do not discern therein reasons for failing to provide opportunity for the same community to obtain service through a substitute application.

10. As originally proposed the requirements of the Rule for publication of the fact of a proposed withdrawal and the subsequent acceptance of new applications would be imposed whenever a withdrawal agreement was entered into and a section 307(b) issue was present. It is apparent, however, that certain agreements between competing applicants may by the withdrawal of a particular application actually accomplish the fair, efficient and equitable distribution of service which is our goal. It is not the purpose of the Commission to discourage such a result and we have, accordingly, amended the rule to provide that further opportunity for new persons to apply for the facilities sought to be withdrawn will be accorded only when withdrawal of an application through an agreement would unduly impede that distribution of radio service which is required by section 307 (b) of the Communications Act.

11. ABC in its comments has expressed doubts about the legal authority to support adoption of the rule. Although section 311 does not explicitly provide for the rule, we think it clear that our broad authority and responsibility under section 307(b) provide a fully adequate basis for the course here adopted.

12. The Rule (as set out below) has been clarified to indicate that where more than 30 days is otherwise available to file a new application, the time within which new applications must be filed is not limited to 30 days after the required publication is completed. Similarly, no less than 30 days will be permitted to file a new application after publication of the notice notwithstanding the provisions of other rules. Local notice of the time within which new applications may be filed must also be given by the withdrawing applicant.

13. Rule changes are not normally effective until 30 days after publication in the FEDERAL REGISTER. However, the Commission is of the opinion that good cause is present to make the rule effective immediately upon publication in the FEDERAL REGISTER. Delay in the processing of applications now before us to which the rule may be applicable otherwise will be encountered. The Commission is of the opinion that the public interest would be served by avoiding such delay and making the rule effective upon publication in the FEDERAL REGISTER. Pursuant, therefore, to § 1.219 of the rules and section 4(c) of the Administrative Procedure Act, the rule changes adopted herein will become effective August 15, 1961.

14. In view of the foregoing the Commission is of the opinion that the public interest would be served by adoption of the rule as set forth below. *It is therefore ordered,* Pursuant to the authority of sections 4 (i) and (j), 303(r), 307(b), and 311(c) of the Communications Act of 1934, as amended, that effective August 15, 1961, Part 1 of the Commission's rules and regulations is amended as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

Adopted: August 1, 1961.

Released: August 4, 1961.

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

1. Section 1.316 is amended by redesignating paragraphs (b), (c) and (d) as paragraphs (c), (d) and (e), and adding a new paragraph (b) as follows:

§ 1.316 Agreements between parties for amendment or dismissal of, or failure to prosecute broadcast applications.

* * * * *

(b)(1) Whenever two or more conflicting applications for construction permits for broadcast stations pending before the Commission involve a determination of fair, efficient and equitable distribution of service pursuant to section 307(b) of the Communications Act, and an agreement is entered into to procure the withdrawal (by amendment to specify a different community or by dismissal pursuant to § 1.312) of the only application or applications seeking the same facilities for one of the communities involved, all parties thereto shall file the joint request and affidavits specified in paragraph (a) of this section. If upon examination of the proposed agreement the Commission or the Chief Hearing Examiner (where he has jurisdiction under section 0.224(b)(10) of the Commission's Statement of Organization, Delegations of Authority and Other Information) finds that withdrawal of one of the applications would unduly impede achievement of a fair, efficient and

equitable distribution of radio service among the several States and communities, then the Commission or Chief Hearing Examiner shall order that further opportunity be afforded for other persons to apply for the facilities specified in the application or applications to be withdrawn before acting upon the pending request for approval of the agreement.

(2) Upon issuance of an order under subparagraph (1) of this paragraph, any party proposing to withdraw its application shall cause to be published a notice of such proposed withdrawal twice a week for the two weeks immediately following issuance of the order in a daily newspaper of general circulation published in the community in which it was proposed to locate the station, or, if there is no such daily newspaper published in the community, then in the daily newspaper having the greatest general circulation in the community.

(i) The notice shall set forth the name of the applicant; the location, frequency and power of the facilities proposed in the application; the location of the station or stations proposed in the applications with which it is in conflict; the fact that the applicant proposes to withdraw the application; and the date upon which the last day of publication shall take place.

(ii) Such notice shall additionally include a statement that new applications for a broadcast station on the same frequency, in the same community, with substantially the same engineering characteristics and proposing to serve substantially the same service area as the application sought to be withdrawn, timely filed pursuant to the Commission's rules, or filed, in any event, within 30 days from the last date of publication of the notice (notwithstanding any provisions of the rules normally requiring earlier filing of a competing application), will be entitled to comparative consideration with other pending mutually exclusive applications.

(iii) Within 5 days of the last day of publication of the notice, the applicant proposing to withdraw shall file a statement in triplicate with the Commission, setting forth the dates on which the notice was published, the text of the notice and the newspapers in which the notice was published.

(3) Where the Commission or Chief Hearing Examiner orders that further opportunity be afforded for other persons to apply for the facilities sought to be withdrawn, no application of any party to the agreement will be acted upon by the Commission less than 30 days from the last day of publication of the notice specified in subparagraph (2) of this paragraph. Any applications for a broadcast station on the same frequency in the same community, with substantially the same engineering characteristics and proposing to serve substantially the same service area as the application sought to be withdrawn, filed within the 30 day period following the last date of publication of the notice (notwithstanding any provisions of this Chapter normally requiring earlier filing of a competing application) or otherwise timely filed pursuant to the provisions of this chapter will be entitled to comparative consideration with other pending mutually exclusive applications. If the application of any party to which the new application may be in conflict has been designated for hearing, any such new application will be entitled to consolidation in the proceeding.

[F.R. Doc. 61-7530; Filed, Aug. 8, 1961; 8:50 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

SUBCHAPTER B—CARRIERS BY MOTOR VEHICLE

[Ex Parte No. MC-40]

PART 190—GENERAL

Qualifications and Maximum Hours of Service of Employees of Motor Carriers and Safety of Operation and Equipment

At a session of the Interstate Commerce Commission, Motor Carrier Board No. 2, held in Washington, D.C., on the 25th day of July A.D. 1961.

The matter of field offices designated for filing of reports under the Motor Carrier Safety Regulations prescribed by order of April 14, 1952, as amended by orders of March 25, 1953, and April 21, and October 28, 1958, being under consideration; and

It appearing that more efficient and expeditious handling of Commission business warrants modification of § 190.40(b) of the Code of Federal Regulations (49 CFR 190.40(b)) only to the extent of designating where motor carriers domiciled in the state of Chihuahua, Mexico, shall file accident and hours of service reports and good cause appearing therefor;

It further appearing that this modification concerns only the designation of a place where motor carriers located in the state of Chihuahua, Mexico, shall file with the Commission reports required by the Motor Carrier Safety Regulations, and is an agency procedure, and therefore, pursuant to section 4(a) of the Administrative Procedure Act (60 Stat. 237, 5 U.S.C. 1003), for good cause it is found that notice of proposed rule making is unnecessary;

It is ordered, That in paragraph (b) of § 190.40 of the Code of Federal Regulations (49 CFR 190.40(b)), the territory included in District No. 12, under the sub heading Mexico, be and it is hereby, amended to read "Those in all other Mexican states except the state of Chihuahua," and the territory included in District No. 13 be, and it is hereby, amended to read "state of Chihuahua." As so amended § 190.40(b) reads as follows:

§ 190.40 Accident and hours of service reports.

* * * * *

(b) *Reports by foreign carriers, where filed.* Motor carriers having their principal place of business outside the borders of the United States shall file the reports required by §§ 194.5, 194.7, 194.9, and 195.9 of this subchapter at district offices as follows:

	District
Canada:	
That part of Canada east of the Richelieu, St. Lawrence, and St. Maurice Rivers to La Tuque on the north and thence a straight line due north to the Canadian border	1
That part of Canada west of the Richelieu, St. Lawrence, and St. Maurice Rivers to La Tuque on the north and thence a straight line due north to the Canadian border; and east of Highways 19 and 8 from Port Burwell to Goderich, thence a straight lin running north through Tobermory and Sudbury and thence due north to the Canadian border	2
That part of Canada on the west of Highways 19 and 8 from Port Burwell to Goderich, thence a straight line running north through Tobermory and Sudbury and thence due north to the Canadian border; and on the east of Highway 11 from Nipigon to Macdiarmid and thence a straight line due north to the Canadian border	8
That part of Canada west of Highway 11 from Nipigon to Macdiarmid and thence a straight line due north to the Canadian border; and on and east of Highway 6 from Regway to Melfort and thence a straight line due north to the Canadian border	9
That part of Canada west of Highway 6 from Regway to Melfort and thence a straight line due north to the Canadian border, and all of the Province of Alberta	13
All of the Province of British Columbia	15
Mexico:	
Baja California and Sonora	16
Those in all other Mexican States except the State of Chihuahua	12
State of Chihuahua	13

(Sec. 204, 49 Stat. 546, as amended; 49 U.S.C. 304)

It is further ordered, That this order shall be effective August 15, 1961, and shall continue in effect until further order of the Commission.

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

By the Commission, Motor Carrier Board No. 2.

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

[F.R. Doc. 61-7523; Filed, Aug. 8, 1961; 8:49 a.m.]

Title 50—WILDLIFE AND FISHERIES

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

PART 32—HUNTING

Wheeler National Wildlife Refuge, Alabama

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

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

ALABAMA

WHEELER NATIONAL WILDLIFE REFUGE

Public hunting of upland game on the Wheeler National Wildlife Refuge, Alabama, is permitted only on the area designated by signs as open to hunting. This open area, comprising 10,500 acres or 60% of the total area of the refuge, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife. Hunting shall be subject to the following conditions:

(a) Species permitted to be taken: Rabbit, crow, fox.

(b) Open season: 8:00 a.m. to 5:00 p.m. (Standard Time), February 12, 1962 through February 17, 1962.

(c) Daily bag limits: Rabbits 6; crow, no limit; fox, no limit.

(d) Methods of hunting:

(1) Weapons: Shotguns only, with maximum capacity of three (3) shells.

(2) Dogs: The use of dogs is permitted.

(e) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

(2) A Federal permit is required to enter the public hunting area. Permits may be obtained from the Refuge Manager, Wheeler National Wildlife Refuge, Decatur, Alabama, starting February 5, 1962.

(3) The provisions of this special regulation are effective to February 18, 1962.

WALTER A. GRESH,
Regional Director, Bureau of Sport Fisheries and Wildlife.

[F.R. Doc. 61-7504; Filed, Aug. 8, 1961; 8:46 a.m.]

Proposed Rule Making

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 120]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition has been filed by Phoenix Gems, Inc., 1701 East Elwood Street, Phoenix, Arizona, proposing the establishment of an exemption from the requirement of a tolerance for residues of diatomaceous earth when used as a post harvest treatment for barley, buckwheat, corn, oats, rice, rye, sorghum grain (milo), and wheat.

The analytical method proposed in the petition for determining residues of diatomaceous earth is based on microscopic examination of the grain.

Dated: August 1, 1961.

[SEAL] ROBERT S. ROE,
Director, Bureau of Biological and Physical Sciences.

[F.R. Doc. 61-7515; Filed, Aug. 8, 1961; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

[7 CFR Part 319]

ENTRY INTO GUAM OF FRUITS AND VEGETABLES

Leafy Vegetables, Celery, Potatoes, and Mangos, from Philippine Islands

Notice is hereby given in accordance with section 4 of the Administrative Procedure Act (5 U.S.C. 1003) that, pursuant to the proviso in the Fruit and Vegetable Quarantine (7 CFR 319.56) and § 319.56-2 of the regulations supplemental to the said quarantine (7 CFR 319.56-2) under sections 5 and 9 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 159, 162), it is proposed to amend § 319.56a(a)(4) of administrative instructions appearing as 7 CFR 319.56a(a) to read as follows:

§ 319.56a Administrative instructions and interpretation relating to entry into Guam of fruits and vegetables under § 319.56.

(a) * * *

(4) Leafy vegetables, celery, potatoes, and mangoes, from the Philippine Islands.

(Sec. 9, 37 Stat. 318, 7 U.S.C. Interprets or applies sec. 5, 37 Stat. 316; 7 U.S.C. 159)

This amendment would allow the importation of mangoes into Guam from the Philippine Islands, a movement now prohibited. Mango-fruit-infesting insects known to exist in the Philippine Islands also occur in Guam. Such imports would be subject to treatment should economically important insects unknown in Guam be observed on the fruit.

All persons who desire to submit written data, views, or arguments in connection with this matter should file the same with the Director of the Plant Quarantine Division, Agricultural Research Service, U.S. Department of Agriculture, Washington 25, D.C., within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

Done at Washington, D.C., this 4th day of August 1961.

[SEAL] E. P. REAGAN,
Director, Plant Quarantine Division.

[F.R. Doc. 61-7527; Filed, Aug. 8, 1961; 8:50 a.m.]

Agricultural Stabilization and Conservation Service

[7 CFR Part 941]

[Docket No. AO-101-A24]

MILK IN CHICAGO, ILL., MARKETING AREA

Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Chicago, Illinois, on April 4 to April 7, 1961, pursuant to notice thereof issued March 13, 1961 (26 F.R. 2314).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Price and Production, Agricultural Stabilization and Conservation Service, on June 9, 1961 (26 F.R. 5318; F.R. Doc. 61-5499), filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

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

1. Classification and pricing of milk used for manufacturing purposes.

2. Changing the requirements for a shipping plant to qualify as a pool plant.

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

1. The utilization now designated as Class III, Class III(a) and Class IV should be included in one class (Class III) and priced at the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota as reported by the United States Department of Agriculture.

Under the present provisions of the order, Class IV includes all milk and milk products the butterfat from which is contained in butter and cheese, except cottage cheese. Class III(a) is milk and milk products the butterfat from which is used principally in condensed milk and skim milk, evaporated milk, whole milk powder, nonfat dry milk and malted milk. Class III includes all milk and milk products the butterfat from which is contained in any manufactured product not named in the other order classifications or excluded from the other classes under specified conditions.

A number of proposals were made to change the present pricing provisions relating to milk utilized in Class III, Class III(a) and Class IV. These included (besides the price for manufacturing grade milk in Minnesota and Wisconsin) adjusting the make allowance in the present Class IV price formula, and use of (1) the Midwest condensery price, (2) a separate pricing formula for American cheese, (3) prices paid dairy farmers for manufacturing grade milk at various types of manufacturing plants in Wisconsin, and (4) the prices paid dairy farmers for manufacturing grade milk at plants operated by Order 41 handlers.

A number of Chicago handlers operate facilities for handling both Grade A and ungraded milk. Thirty-two such handlers receive manufacturing grade milk at 47 locations where regulated and unregulated milk is received or processed into manufactured products on the same premises. During 1959, 988 million pounds of ungraded milk were received at 30 of these plants. The 30 plants also handled 1,080 million pounds of milk, skim milk and cream regulated by the order. This involved 48 million pounds of butterfat, representing 59 percent of the butterfat utilized in the Classes III, III(a) and IV.

Order 41 milk is commingled with the other milk and milk products and processed into many manufactured dairy products. Some plants specialize and produce only one product. Other plants have multiple operations and use the commingled milk in more than one product, which may or may not be in different classes. Handlers can and do shift the utilization of their milk from one classification to another over a period of time. The operators of flexible plants can do this within their own operations by changing the amount of milk used from one product to another, or by allocating the milk handled in a manner

which results in a different classification. In the latter instance there need not be any changes in the over-all production of various products in the plant but rather changes in the method of operating. Other handlers can shift milk classification by shipping milk to other plants engaged in processing different products.

In recent years there has been an increased use of milk in Class IV products. While the total order milk available for manufacturing uses has increased, the quantity used in Class III(a) has dropped sharply and the proportion used in Class III use has declined significantly.

The shifts in classification are related in part to changes in relationships between order class prices and the competitive prices paid to dairy farmers for manufacturing grade milk used in the same products. Several measures of these latter prices were presented; one of these is the midwestern condensery pay price, which is the Class III(a) price. Another is the average of prices paid farmers for manufacturing grade milk testing 3.5 percent butterfat delivered in cans to plants, ranging in number from 27 to 47, operated by Order 41 handlers.

During the earlier years there were times, 1953 and 1954, when the Class III(a) price was lower than or equal to the Class IV price. During six of the last nine years there was at least one month when the Class III(a) price was lower than the Class IV price. The number of such months, by years, were 3 in 1952, 12 in 1953, 3 in 1954, 4 in 1955, and 1 in 1957 and 1959. During the first four of these years, the proportion of Class III(a) milk remained fairly constant, with some increase in 1955. Since then, the proportion of Class III(a) milk has steadily declined. This has been accompanied by a widening disparity between the Class III(a) price and the Class IV price. While the annual average Class III(a) price was only six cents higher for 1955, this difference was 10 cents for 1956 and 1957, 13 cents for 1958, 14 cents for 1959, and 29 cents for 1960. Similarly, the amounts by which the prices paid by Chicago handlers for manufacturing grade milk exceeded the Class IV prices changed from 6 cents for 1955 to 7 cents for 1956, 8 cents for 1957, 12 cents for 1958, 15 cents for 1959, and 32 cents for 1960. Obviously, if a handler with Order 41 milk and ungraded milk were producing both Class III(a) and Class IV milk products, it would be to his advantage to find a way of having the Order 41 milk classified as Class IV milk rather than Class III(a) milk. A handler with excess milk would have an incentive to find a purchaser who would use the milk in Class IV products and would pay approximately the same price for the milk as a Class III(a) milk user.

The separate classification and pricing of various manufactured products has tended to favor the processors of some products in recent years. This is an unavoidable result of classifying and pricing milk for manufacturing purposes into separate classes according to products. The greater the disparity between individual class prices and the competitive level of manufacturing grade milk for the same uses, the more incentive there is to shift products into the lower priced class uses because of wider operating margins. As a result, producers' incomes are adversely affected through lower prices for their milk.

A separate classification and pricing formula for specific manufactured products or groups of products, such as the proposals pertaining to American cheese, would tend to assure handlers whose milk goes into these segregated uses, an operating margin, regardless of market fluctuations in the specific product prices in relationship to other manufactured dairy product prices. Supporters of a formula based upon yields, product prices and make allowances for pricing milk used in American cheese pointed out that during some months of 1960 the demand for cheese was strong and, consequently, prices were favorable relative to other dairy product prices. If the proposed classification and pricing for American cheese had been in effect during 1960, producers would have received more money from the use of milk in American cheese manufacture.

During each month of 1960, the proposed cheese formula price would have been higher than the Class IV price; these differences ranged from 1.1 cents in June to 43.9 cents in December. However, during 1960, prices which producers would have received under the proposed cheese formula were consistently lower than the prices paid to farmers for manufacturing grade milk. These differences, as reported by one proponent association, ranged from a low of 12 cents for January, February and March to 23 cents for August and averaged over 17 cents. This association paid a bulk tank premium of 10 cents per hundredweight on all Grade A milk, which represented approximately two-thirds of the milk received directly from farmers. A hauling subsidy of approximately 5 cents per hundredweight was paid on ungraded milk. At the end of the year an undisclosed amount of money was available for distribution to patrons.

Another proponent association testified that the average price it paid dairy farmers for ungraded milk during 1960 was $3.22 per hundredweight of 3.5 percent milk. This is 15 cents above the average monthly prices determined under the proposed cheese formula. This association paid a bulk tank premium amounting to 15.7 cents per hundredweight on all Grade A milk, which represented approximately 45 percent of total milk receipts from farmers. A hauling subsidy amounting to 2.5 cents per hundredweight was paid on all milk, and earnings of 12 cents per hundredweight were allocated to all member patrons.

The average monthly prices per hundredweight paid farmers for manufacturing grade milk delivered in cans to 14 plants operated by Chicago handlers and used primarily in cheese manufacture were consistently higher in 1960 than the proposed cheese formula price. These differences ranged from seven cents in September to 26 cents in May, June and July.

During eight months of 1959, the cheese formula would have resulted in prices ranging from two to 23 cents lower than the Class IV prices. In each month of 1959, the proposed cheese formula prices would have been lower than prices paid for manufacturing grade milk at the 14 plants operated by Chicago handlers by 14 to 26 cents. The proposed cheese price formula would guarantee handlers a substantial margin for milk used in American cheese, regardless of the relationship of cheese prices to other manufactured product prices. No incentive would be provided for handlers to seek the higher-valued outlets unless operating margins in other classes were more favorable. Thus, producers would not receive the highest use value for their milk. Further, the relatively lower order price for milk used in American cheese would attract additional unregulated milk supplies to the pool which would further disadvantage regular producers for the Chicago market.

The total milk used in the production of American cheese under the order, while substantial, has not been proportionately as large as milk used in some other products. The amount of reserve milk used in butter ranged from a low of 73 million pounds in 1955 to a high of 131 million pounds per month in 1958, 60 percent and 71 percent, respectively, of the total reserve supply classifications (Class III, III(a) and IV).

Separate classification and pricing for reserve milk used in individual products or groups of products tend to eliminate the incentive for handlers to seek the higher-valued uses for reserve milk. A degree of rigidity would be introduced by the various pricing formulas required to establish the different order prices, which would tend to adversely affect diversified product handlers and handlers specializing in different single product manufacture.

The consolidation of all reserve milk into one class would encourage handlers to utilize their excess milk in the higher-valued uses. At the present time order milk for manufacture tends to be used in the lowest-priced class. This is because many handlers under the order also receive ungraded as well as regulated milk and the competitive price situation demands that the ungraded and unregulated milk be used in manufacture of products in the higher priced uses. Otherwise, the price they could pay dairy farmers for ungraded milk would be lower than their competitors' prices. Regulated milk at the order price has no such competition.

One reserve class recognizes that prices for manufacturing grade milk tend to be reasonably uniform, regardless of the use made of the milk. Over 70 percent of the Chicago milk supply is produced in Wisconsin. Hundreds of plants in the area compete for milk supplies with the result that prices paid for milk in the several alternative uses tend to be equated in the long run period at one level representative of prices for all manufacturing grade milk in the aggregate.

The two methods now used to determine reserve milk prices under the order are the "midwest condensery price" and a "butter-powder formula".

The former is a measure of prices paid for manufacturing grade milk testing 3.5 percent butterfat at ten plant locations in Wisconsin and Michigan. The latter method assumes yield factors for butter and nonfat dry milk production which are multiplied by the respective current product prices. From the sum of these computations, a specified figure is deducted which is referred to as a "processing allowance".

There are five components of the present butter-powder price—two yield factors, two price series and the manufacturing or processing allowance. Each of these affects the price resulting from the formula's application. If a well operated plant were using all of its milk in the manufacture of butter and creamery by-products, the management could readily ascertain its average yields of butter, nonfat dry milk solids, and buttermilk powder per hundredweight of milk of average test. Figures would be available also on the average price received per pound of each product.

Under the current conditions existing, however, the problem is complicated by additional cost factors not susceptible of accurate appraisal or precise measurement.

The pooling requirements of the order require that some milk, skim milk, or cream be shipped from plants to the market during the year. Shipments from country plants vary from day-to-day and from plant to plant. Shipments affect, to some degree, the yields and prices of manufactured products produced from reserve milk. There is some question as to how entrainment losses should be taken into account in computing yields of butter and powder when part of the plant receipts are shipped to the market.

The fact that all milk received by a handler is not used in butter and powder production necessarily means that some allocation of costs must be made to various operations. Some handlers presented general data on the cost of utilizing 100 pounds of 3.5 percent milk in butter and powder. In most instances a single-cost figure was presented without an explanation of the method used or factors considered in arriving at this figure. The major proponents of the retention and expansion of the formula method of pricing presented a figure of 70.1 cents as the cost of processing a hundredweight of 3.5 percent milk into butter and powder. This figure represented the cost experience during 1960 of 11 cooperatives that handled more than 40 percent of the Class IV milk in the pool during the year. No explanation of the cost allocation method used, the variation in cost among plants, or the proportion of Class IV milk handled at these plants was offered.

The problem of securing specific data to properly determine the appropriate components of the formula is only one of the shortcomings of this method of pricing milk for manufacturing purposes under current conditions in the Chicago milkshed. Another is that formula prices, because they are tied directly to specific products, are not consistently aligned with prices for manufacturing grade milk.

Another shortcoming of the present Class IV formula is the lag in its adjustment to cost and technological changes. Changes in labor costs could be responsible for a needed adjustment in the formula. Changes in technology, which may reduce costs of assembling, processing, packaging or merchandising milk and milk products, would not be reflected in changes in formula prices until order amendments were made. Apparently technological changes have resulted in some significant cost reductions during the past ten years, since despite the increases in labor costs the cooperatives which presented the data stated their total costs per hunderdweight of milk were about five cents below the Class IV handling allowance. The shift from the use of drums to bags in packaging nonfat dry milk solids reduced costs of handling Class IV milk approximately seven cents per hundredweight. Although this change occurred some time ago, a corresponding change in the Order 41 Class IV price has not been made to date.

The use of the competitive pay price method of pricing milk is based upon the premise that in a highly competitive economy dairy concerns will tend to purchase milk at prices commensurate with the more efficient concerns' ability to pay for the product. As shifts occur in the relationship between finished product prices, one group of processors may be able to pay higher prices. The other processors must meet or approximate these prices or lose their supplies. If a dairy concern fails to make the necessary adjustments, it will in time be forced out of business. Increasing labor and other costs will tend to reduce prices paid for milk. On the other hand, the use of new assembling, processing, packaging and marketing techniques which reduce costs or increase product returns will tend to increase prices paid for milk. These upward or downward adjustments in costs would be automatically reflected in reserve milk prices by using the competitive pay prices method of pricing.

The major part of the Chicago milkshed is in Wisconsin, a highly competitive market for manufacturing grade milk. Prices to farmers in the area are sensitive to changes in product prices and costs. Opponents of a competitive pay price method of pricing reserve milk contended that these prices were maintained only by the use of compensating devices, including "test errors", and the use of abnormally high yields of product for milk received. Therefore, the reliability of prices received by dairy farmers delivering to these plants was questioned. The average of prices paid by Order 41 handlers for manufacturing grade milk, a price series discussed earlier, was higher than prices in other series with the exception of prices paid by condenseries. Prices paid by some of the handlers who voiced concern over the reliability of competitive pay prices were included in this series. Three cooperatives of the 11 supporting formula pricing introduced the prices paid their farmers for ungraded milk during 1960. The annual averages were $3.21, $3.215 and $3.22 per hundredweight of 3.5 percent milk, compared with a $3.18 average for the Order 41 handlers included in the series. All three of these associations paid some hauling subsidies and bulk tank premiums; further, they all had earnings to distribute or allocate to member patrons at the end of the year.

The other objection to the competitive pay price was that it would not assure handlers of reserve supplies of milk that they would "come out on a break-even basis". The reasons for not guaranteeing handlers an operating margin on any product they want to produce, regardless of the price relationships of the various dairy products, are set forth elsewhere in this discussion.

Proponents for retaining the butter-powder formula recommended an increase in the Class IV price of 5.6 cents per hundredweight. However, their data on yields, prices and costs were for 1960, and the net result of figures would be a 7.7 cent increase in the Class IV formula price. The average of the Class IV prices for 1960 was $2.86. Presumably the break-even point for butter-powder operations of these 11 cooperatives would have permitted them to pay around $2.94 for 1960. However, three of these proponent associations paid about 28 cents a hundredweight more for ungraded milk during that year, plus some premiums, hauling subsidies and patronage credits.

The Midwest condensery price is the competitive pay price series now used in the order. Currently, prices from only 10 plants are included in this series—three are located in Michigan and seven in Wisconsin. Originally, there were 18 plants or places reporting prices, but the number has gradually dwindled over the years to the point where consideration of another measure of manufacturing prices is deemed advisable.

The Midwest condensery price should continue, however, for the present as an alternative to the Minnesota-Wisconsin price for manufacturing grade milk for the purpose of determining the basic formula price under the order. The condensery pay price has been the effective basic price formula at most times during the past several years. This will effectuate the orderly transition to the Wisconsin and Minnesota price series herein recommended for such purpose as well as providing a method for pricing reserve milk in Class III.

The data used in compiling the series of prices paid by Order 41 handlers for ungraded milk were assembled by the market administrator after the prices were paid. Data for this series are not being assembled on a current basis. Using these prices as the basis for pricing reserve milk under the order would place handlers in a difficult position. Their price-making decisions with respect to their ungraded milk would affect not only these supplies but also their margins on handling of order reserve milk. If the resulting average price should fall below other measures of ungraded milk prices, these handlers would be subject to accusation that price manipulation had reduced returns to producers for the market.

Information on the prices paid at manufacturing plants in Wisconsin and Minnesota is assembled by the State-

Federal Crop Reporting Service. Plant operators report the total pounds of manufacturing grade milk received from farmers, the total butterfat content and total dollars paid to dairy farmers for such milk, f.o.b. plant. These prices are available on a current month basis and can be announced on or before the fifth day of the following month.

The Minnesota-Wisconsin series for manufacturing grade milk reflects price information in each of the two states weighted by the proportionate amount of manufacturing milk produced in each state. This series is based upon a large sample of plants located in the two large remaining areas of predominantly manufacturing grade milk in the country. Approximately 50 percent of the total manufacturing grade milk sold off farms in the U.S. is produced in these two states. In Minnesota, about 75 percent of the milk sold off farms is manufacturing grade milk, and in Wisconsin 65 percent is manufacturing grade. Competition for this milk is strong in both states. Consequently, no individual company, or group of companies, can have a significant influence upon the level of prices.

The average Class IV price in the six-year period 1955-60 was $2.94, by far the lowest of the prices quoted for milk for manufacturing purposes. The Midwest condensery pay price (Class III(a)) for the six years averaged $3.08, the same as the average paid by 30 Order 41 handlers for ungraded milk received at their plants from dairy farmers. The price for manufacturing grade milk f.o.b. plants in Wisconsin, as reported by the United States Department of Agriculture, and the Minnesota-Wisconsin price series, each averaged $3.03 for the six-year period.

During 1960 the average of each of these price series per hundredweight of 3.5 percent milk was: Class IV $2.86, Midwest condensery $3.15, 30 Order 41 plants for ungraded milk $3.18, manufacturing grade milk in Wisconsin $3.12 and the Minnesota-Wisconsin manufacturing grade milk price $3.10.

The spread in the highest and lowest prices in these price series was greater in 1960 than in the preceding 5 years. This was because of the abnormal price spread among the various price series in the last three months of 1960. Representative of the situation that prevailed during that period was the spread in December of 50 cents between the Midwest condensery price ($3.44) and the Class IV price ($2.94).

The average of the prices paid farmers in the various states for manufacturing grade milk, as reported by the United States Department of Agriculture, is at the weighted average butterfat test of milk received at these plants. Since Order 41 prices are announced on a 3.5 percent butterfat basis, it is necessary that the announced Minnesota-Wisconsin prices for manufacturing grade milk be adjusted to this basis. The Order 41 producer butterfat differential should be used in making this adjustment. This is an appropriate and representative measure of butterfat value in the area.

The order price for milk for manufacturing purposes applicable at each plant should not be based on the percentage of milk received at such plant which was used for manufacturing purposes.

A varying Class IV price, based upon the percentage of milk received at the plant which was used as Class IV milk, was proposed. The higher the percentage of receipts at the plant used in Class IV milk, the higher would be the Class IV price. As the percentage of receipts at the plant used in Class IV milk decreased, the Class IV price would decrease also. The point was made that a plant handling surplus milk incidental to a fluid milk operation has higher costs per hundredweight of milk handled than a plant engaged primarily in manufacturing operations. This is because most of the time the milk supply is used as fluid milk, but on certain days, and at certain times of the year, milk must be disposed of for manufacturing purposes. This type of operation, it was claimed, is more costly because of idle labor and equipment that must be maintained to handle the excess when it becomes necessary.

Handlers who are primarily fluid milk operators may purchase all of their supply directly from producers and handle their own daily and seasonal excess milk, or purchase all of their supply from other handlers—operators of county plants—who have the responsibility of handling the daily and seasonal reserves incidental to the fluid milk operation. For this service the fluid milk operator pays a plant charge for the supply he gets from the country plant. These charges vary depending upon the services performed. The lowest plant charges apply to a given volume of milk which the fluid milk operator takes every day. The charges are higher if he varies his volume from day-to-day or buys milk only on certain days during the week; and the highest plant charges apply to spot purchases, generally during the fall months, to supplement the fluid milk operator's regular supply.

Plant charges vary according to the type of plant delivering the milk and are lower at receiving stations with no manufacturing facilities. The milk supply in these plants moves to the market most of the time. Plant charges are considerably higher in plants equipped to manufacture the milk into various milk products. The milk from these plants generally moves to the market only during certain seasons of the year. The higher plant charges are made by manufacturing plants to compensate for idle labor facilities that must be maintained and available when the milk is left in the plant for manufacturing purposes. The way the fluid milk business operates makes it necessary for these manufacturing plants to manufacture all milk received on certain days of the week and part of their milk receipts on practically all days of the week. This in-and-out manufacturing operation is costly and accounts for the relatively high plant charge at manufacturing plants as compared with receiving station costs.

A fluid milk operator who buys his milk supply from receiving stations and stand-by manufacturing plants pays a plant charge to the operator of these facilities. This plant charge represents the costs of receiving milk and operating these facilities for handling the daily and seasonal reserve supplies not needed by the fluid milk operator. The plant charge he pays for this service is added to the Class I price to determine the cost of his fluid milk supply.

A fluid milk operator who buys milk from producers and handles his own daily and seasonal reserve supplies has additional costs which are not covered by the order prices for milk for manufacturing purposes. These costs must be added to the Class I price in order to determine the cost of his fluid milk supply. These costs tend to offset the costs his competitor has to add to his Class I price when he pays a plant charge to others for services performed by them.

2. July through February should replace August through October as the months in which a country plant must ship a specified percentage of its receipts from dairy farmers to pool plants to earn pool plant status for the months of seasonally low production.

As now provided in the order, a country plant may attain pool plant status during any single month by shipping at least 30 percent of the butterfat in, or 30 percent of the volume of, milk received from dairy farmers to pool plants bottling and distributing Class I or Class II milk in the marketing area. If a country plant ships at least 40 percent of its receipts from dairy farmers during August through October, while shipping at least 30 percent of its receipts during each of these three months, it is accorded pool plant status for the following nine months of November through July.

A producer association marketing the milk of its own plants and of a number of country plants under the order, proposed that the monthly shipping requirement percentages for country plants to become pool plants be changed from 30 percent for all months to 40 percent for each month of August through November and remain at 30 percent for each of the remaining eight months. Under another proposal offered it would extend the period during which a country plant shall ship a specified percentage of its receipts in order to be accorded pool plant status for the remaining months by replacing August through October with July through February and have the following shipping requirement percentages apply for each of these eight months: July, 25 percent; August through November, 40 percent each month; December, 30 percent; January and February, 15 percent each month. A country plant meeting these shipping standards would be accorded pool plant status for the following four months of March through June.

Immediately before and following the three-month qualifying period of last year handlers engaged in bottling and distributing operations in the Chicago area experienced considerable difficulty in obtaining sufficient milk from the country plants to meet their fluid milk requirements. Efforts on many occasions by the city plants and by proponent associations, who service many of the Chicago area distributing plants with

their fluid supplies, resulted in the supply plants' urging that the request for milk be taken elsewhere and that other sources of supply be explored. Although milk seemed to be available, some of the country plants appeared to be reluctant to release any of it for fluid use in the market. All these country plants have manufacturing facilities and it was claimed that they were adverse to shipping their milk to the market and were using the milk in their manufacturing operations.

Performance standards should not be so high that they force milk into the marketing area if such milk is not needed to supply fluid milk outlets. At the same time, an appropriate minimum standard is necessary to avoid the possibility that plants will refrain from supplying the market when such withholding might be beneficial to the plant itself but would result in disadvantage to the market.

Opposition to the proposed change in performance requirements for pool plant qualification indicated concern that it would force some plants and producers off the market, result in uneconomical shipments of milk to the market and reduce the blend price, and benefit nearby producers at the expense of those more distant. It was also contended that milk from distant zones was made available to the market when needed and that the obligation to service the market is one that initially should be met by the close-in plants. None of the plants referred to by these parties had experienced any back hauls in recent years and several of them shipped sufficient amounts of producer milk to the market each year as to create no problem for them to qualify as pool plants under the proposed performance standards.

Pool milk in Class I and Class II has been at least 50 percent of total producer receipts in January and February and well above this percentage in July, November and December. On the assumption that in these five months milk received at pool plants located within 100 miles from Chicago was needed to supply the Class I and Class II uses, then of the milk received at plants in the remaining zones, at least 28 percent in January and in February, 1960, 34 percent in July, 40 percent in November, 37 percent in December and 26 percent in January, 1961, would have been required to fulfill total Class I and Class II needs. The need for milk to supply Class I and Class II utilization from plants in zones 4–21 would be still higher if, as is likely, plants in the first three zones could not achieve full utilization in Class I and Class II of all milk received from producers. Plants located within 100 miles of Chicago are within the first three zones. If these computations included only plants located in the first two zones, the need for milk from the remaining zones would be considerably greater.

It might be econcmically more feasible to meet the needs of the market for Class I and Class II purposes from those farms and plants nearest the market. However, nearby plants have no greater obligation under the order to supply the market than those in the more distant zones. If milk is needed, it is the responsibility of all plants on the market, wherever located to meet that need. It is inappropriate to include in the pool, to receive the benefit of uniform prices, those plants which are not a regular or dependable part of the market supply. Plants in which the principal operation is the manufacture of milk products may be attracted to the pool primarily to participate in the higher utilization of the fluid milk market, without acceptance of responsibility for making supplies available to meet the Class I and Class II requirements of the market. Assurance of a regular and constant supply of milk for the market by the Chicago area pool plants is accentuated by the dating ordinance in effect in the City of Chicago.

A plant which may be considered an integral part of the market supply should be able to meet these requirements without difficulty under foreseeable circumstances. These standards, which are reasonable and will emphasize the responsibility of plants associated with the market, would require that a country plant, shipping at least the following percentages of its receipts of milk from dairy farmers to pool plants: 30 percent in July and December, 40 percent in each month of August through November, and 15 percent in January and February, will be allowed pool plant status for January and February and for the following months of March through June. Because September 1961 is the first month for which any change in the order would be effective, provision should be made for January through June 1962 pooling for country plants on the basis of shipments in the preceding short production months. Accordingly, a country plant which was a pool plant in August 1961 and continues to meet the specified shipping requirements under the order during September 1961 through February 1962 should be accorded pool plant status in each month of January through June 1962.

The provision that a country plant may qualify as a pool plant during any single month by shipping at least 30 percent of its receipts to a pool plant should not be changed. The revision recommended in this decision to require a country plant to meet shipping standards during an 8-month period to earn pool plant status at a shipping rate less than 30 percent during 6 months of the year provides a suitable standard for plants having a continuing association with the market. The testimony presented was focused primarily on this type of plant. It was not shown that the 30 percent shipping requirement for a plant to qualify in any individual month is inappropriate under present conditions in the market.

Proposals were offered which would qualify plants on a handler instead of on an individual plant basis. That is, a handler would qualify his plants collectively on the basis of the percentage that the aggregate shipments from them were of their aggregate receipts. The recommended decision did not provide for such unit qualification of supply plants. However, exceptions to the recommended decision submitted by handlers and cooperatives indicated that unit pooling of supply plants will tend to minimize uneconomic and unnecessary transportation and receiving costs which might be incurred by a handler to assure pool status for each of his supply plants on an individual basis. In view of this, provision should be made to permit unit qualification of plants supplying regulated distributing plants.

A proposal was made to require that milk shipped from a country plant to a city plant be used for Class I or Class II purposes. The need for such a provision in the order was not established. Neither was it shown that it would be administratively feasible under current conditions in the Chicago market. Accordingly, the proposal to require a specified utilization for milk shipped from a country plant to a city plant should be denied.

That portion of the pool plant provisions which grants relief from the effects of a labor dispute should not be changed. It was proposed that if, during the qualifying period, a handler notifies the market administrator that a plant is unable to meet the established performance requirements because of a labor dispute, the market administrator, upon verification of the claim, shall credit the plant with minimum compliance for every day such condition exists. As now provided in the order, when the inability of the plant to perform is because of a work stoppage due to a labor dispute between employer and employee, the receipts and utilization of milk at the plant during the work stoppage are not included in determining the percentage of milk or butterfat shipped.

Proponents contend the present provision is too restrictive in prescribing that a work stoppage must occur, in specifying the type of dispute upon which relief may be predicated, and in the granting of relief. Eliminating the requirements for work stoppage could offer opportunities for evasion of order obligations not present under the precise and specific language now used. The varieties of situations, any one of which might be termed a labor dispute, which could conceivably under the proposal affect a plant's ability to meet performance standards, are many. They could be of a direct and positive nature, or even indirect and remote, and could occur at places far distant from the plant itself or the market. Cases involving jurisdictional disputes between rival labor groups, disputes between haulers and their employees, organizational disputes, picket lines for any reason, and disputes in city plants to which the milk is shipped or in equipment factories are only a few of the many that might apply.

The change in type of relief which is requested is such as would enable a plant to attain pool plant status under the performance standards even though it had not shipped any milk to the market during the entire qualifying period. The plant would likewise have to be credited with full compliance, although it may not have shipped any milk during any of the preceding months when there had not been a labor dispute. Thus, a plant could be a pool plant for the entire year, sharing in the pool, without having serviced the market at any time, regardless of the market's needs. If this oc-

curred at other plants at the same time, it could become necessary to expand the market in order to replace the lost supply of milk that would continue to be pooled.

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

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

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

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

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

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the Chicago, Illinois Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Chicago, Illinois Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

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

Referendum order; determination of representative period; and designation of referendum agent. It is hereby directed that a referendum be conducted to determine whether the issuance of the attached order amending the order regulating the handling of milk in the Chicago, Illinois marketing area is approved or favored by the producers, as defined under the terms of the order, as hereby proposed to be amended, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The month of October 1960 is hereby determined to be the representative period for the conduct of such referendum.

Jesse L. Cook is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders (15 F.R. 5177), such referendum to be completed on or before the 30th day from the date this decision is issued.

Issued at Washington, D.C., August 4, 1961.

JAMES T. RALPH,
Assistant Secretary.

Order [1] Amending the Order Regulating the Handling of Milk in the Chicago, Illinois Marketing Area

§ 941.0 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 Chicago, Illinois, 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.

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

1. Replace § 941.16 with the following:

§ 941.16 Other source milk.

"Other source milk" means any milk or milk products (except those milk products covered by the Class III milk definition which are not reused in another product) received by handlers from sources other than (a) producers, (b) pool plants of other handlers, or (c) plants where milk is priced under a marketing agreement or order issued pursuant to the Act for any other milk marketing area.

§ 941.40 [Amendment]

2. In § 941.40(c) delete "Class III(a) milk", "Class IV milk", and "Class III(a) milk and Class IV milk", wherever they appear.

§ 941.41 [Amendment]

3. In § 941.41(a)(3)(ii) replace "Class II milk, Class III milk, Class III(a) milk, and Class IV milk" with "Class II milk and Class III milk".

4. Replace § 941.41 (c) and (d) with the following:

(c) Class III milk shall be all milk and milk products the butterfat from which is contained in:

(1) Condensed milk (sweetened or unsweetened) disposed of to commercial food processors located within the surplus milk manufacturing area, sweetened condensed milk in hermetically sealed cans, evaporated milk, whole milk powder, nonfat dry milk, malted milk, condensed skim milk, butter, cheese (except cottage cheese), inventory variations and products lost in transit by a handler;

(2) Any other product not included in Class I milk or Class II milk;

(3) Products disposed of in bulk to bakeries, soup companies and candy manufacturing establishments pursuant

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

to the exceptions in paragraphs (a) and (b)(1) of this section;

(4) Frozen cream, plastic cream, ice cream, and ice cream mix (liquid or powder) referred to in the exception in paragraph (b)(2) of this section;

(5) Actual shrinkage, but in an amount not to exceed one-half percent of the total pounds of butterfat received directly from producers plus 1½ percent of the total pounds of butterfat in bulk milk, skim milk, and cream in fluid form received at a regulated plant from all sources which were not disposed of in bulk to a regulated plant of another handler: *Provided,* That such shrinkage shall be allowed in this class only if records of utilization satisfactory to the market administrator are available.

§ 941.44 [Amendment]

5. In § 941.44(c)(3) replace "(d)(2), (e)(2), and (f)(7)" with "(d)(2) and (e)(7)".

6. Replace § 941.44 (e), (f), and (g) with the following:

(e) Determine the total pounds in Class III milk as follows:

(1) Multiply the actual weight of each of the several items of Class III milk (other than inventory variation) by its average butterfat test;

(2) Determine the difference in pounds of butterfat contained in inventories at the beginning and end of the delivery period;

(3) Add together the pounds of butterfat obtained in subparagraphs (1) and (2) of this paragraph;

(4) Add to the total pounds of butterfat computed pursuant to paragraphs (c)(2) and (d)(2) of this section to the total pounds of butterfat computed pursuant to subparagraph (3) of this paragraph;

(5) Subtract the total pounds of butterfat computed pursuant to subparagraph (4) of this paragraph from the total pounds of butterfat computed pursuant to paragraph (b) of this section, and the difference is the pounds of butterfat in actual shrinkage unless such difference is a minus quantity, in which case the butterfat shrinkage is zero for purposes of all computations required by this section;

(6) Determine the maximum number of pounds of butterfat shrinkage in Class III milk by multiplying by 1½ percent the pounds of butterfat in bulk milk, skim milk, or cream in fluid form received at a regulated plant from all sources which were not disposed of in bulk to other handlers, and adding such amount to the result obtained by multiplying ½ percent the pounds of butterfat received directly from producers: *Provided,* That the pounds determined pursuant to this subparagraph shall be zero if records of utilization satisfactory to the market administrator are not available;

(7) Add to the amount computed pursuant to subparagraph (3) of this paragraph the smaller of the amount determined pursuant to subparagraphs (5) and (6) of this paragraph;

(8) Divide the pounds of butterfat obtained in subparagraph (7) of this paragraph by 0.035; and

(f) Determine the pounds of overrun as follows: In the event the pounds of butterfat computed pursuant to paragraph (e)(4) of this section are greater than the pounds of butter computed pursuant to paragraph (b) of this section, subtract the smaller amount from the larger amount and divide the result by 0.035.

§ 941.45 [Amendment]

7. In § 941.45(e) delete "Class III(a) milk, or Class IV milk".

8. In § 941.45(j) replace "Class II, III, III(a) and IV" with "Class II and III".

9. Replace § 941.50 with the following:

§ 941.50 Basic formula price.

The basic formula price to be used in computing the prices for Class I and Class II milk for each delivery period shall be the higher of the prices, rounded to the nearest cent, as follows:

(a) The average of the prices per hundredweight reported to have been paid, or to be paid, for the delivery period next preceding, to farmers for milk containing 3.5 percent butterfat delivered at each of the following listed manufacturing plants or places for which prices are reported to the United States Department of Agriculture or to the market administrator:

Companies and Location

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

(b) The Class III price pursuant to § 941.52(c) for the delivery period next preceding.

§ 941.52 [Amendment]

10. Replace § 941.52 (c) and (d) with the following:

(c) *Class III milk.* The price per hundredweight for Class III milk shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the United States Department of Agriculture for the delivery period: *Provided,* That such reported price shall be adjusted to a 3.5 percent butterfat basis by the butterfat differential pursuant to § 941.82 and rounded to the nearest full cent.

§ 941.61 [Amendment]

11. In § 941.61(c)(1) delete ", Class III(a) and Class IV".

§ 941.64 [Amendment]

12. In § 941.64(c)(2) replace "Class II milk, Class III milk, Class III(a) milk, and Class IV milk" with "Class II milk and Class III milk".

§ 941.66 [Amendment]

13. In § 941.66(b) (2) and (3) replace "August, September, and October" with "July through February".

14. Replace § 941.66(b)(4) with the following:

(4) Any plant which during the period of July through February ships, or is credited (pursuant to subparagraph (2) of this paragraph) with shipments of at least 30 percent in July and December, 40 percent in each month of August through November, and 15 percent in January and February of the pounds of butterfat in, or at least the same percentages of the volume of milk received from dairy farmers at such plant as milk, skim milk, concentrated milk, condensed skim milk or cream in fluid form to (and is physically received in) plants which operate in the manner described in paragraph (a) of this section, irrespective of whether or not such plants receive milk from dairy farmers, shall be a pool plant beginning with March and continuing through June, unless the milk received by the plant does not continue to be qualified for use in Grade A Class I milk products in the marketing area, or the plant operator notifies the market administrator that the plant should be withdrawn from the pool; in the event such notification is given the plant will no longer be a pool plant starting with the beginning of the delivery period following receipt of the notification by the market administrator, except during any delivery period in which the pool plant requirements under this paragraph are fulfilled:

Provided, That a plant which ships (or is credited with shipments of) at least 30 percent in July and December and 40 percent in each month of August through November pursuant to this subparagraph (4) shall be a pool plant in each of the following months of January and February if it ships (or is credited with shipments of) at least 15 percent of the pounds of butterfat in or the volume of milk received from dairy farmers at such plants, in the forms and in the manner specified in this subparagraph (4) to the plants which operate in the manner described in paragraph (a) of this section.

15. Add a new § 941.66(b)(5) as follows:

(5) Two or more plants shall be considered a unit for the purpose of this paragraph (b) if the following conditions are met:

(i) The plants included in a unit are owned and operated by a handler or are under his control with respect to the marketing of milk, skim milk, and cream pursuant to a written contractual agreement submitted to the market administrator;

(ii) The handler establishing a unit notifies the market administrator in writing of the plants to be included therein prior to July 1 of each year (or within 30 days of the effective date of this subparagraph (5) for a unit to be operative from the effective date hereof until July 1, 1962) and no additional plants shall be added to the unit prior to July 1 of the following year; and

(iii) The notification pursuant to this subparagraph (5)(ii) shall list the plants in the order in which they shall be excluded from the unit if the minimum shipping requirements are not met, such exclusion to be made in sequence beginning with the first plant on the list and continuing until the remaining plants

as a unit have met the minimum requirements.

16. Add a new § 941.66(b)(6) as follows:

(6) Any plant which during the period of August 1961 through February 1962 ships, or is credited (pursuant to subparagraph (2) of this paragraph) with shipments of at least 30 percent in August and December, 40 percent in each month of September through November, and 15 percent in January and February of the pounds of butterfat in, or at least the same percentages of the volume of milk received from dairy farmers at such plant as milk, skim milk, concentrated milk, condensed skim milk or cream in fluid form to (and is physically received in) plants which operate in the manner described in paragraph (a) of this section, irrespective of whether or not such plants received milk from dairy farmers, shall be a pool plant beginning with March and continuing through June 1962, unless the milk received by the plant does not continue to be qualified for use in Grade A Class I milk products in the marketing area, or the plant operator notifies the market administrator that the plant should be withdrawn from the pool; in the event such notification is given the plant will no longer be a pool plant starting with the beginning of the delivery period following receipt of the notification by the market administrator, except during any delivery period in which the pool plant requirements under this paragraph are fulfilled: *Provided*, That a plant which ships (or is credited with shipments of) at least 30 percent in August and December and 40 percent in each month of September through November pursuant to this subparagraph (6) shall be a pool plant in each of the following months of January and February 1962 if it ships (or is credited with shipments of) at least 15 percent of the pounds of butterfat in or the volume of milk received from dairy farmers at such plants, in the forms and in the manner specified in this subparagraph (6) to the plants which operate in the manner described in paragraph (a) of this section.

[F.R. Doc. 61-7526; Filed, Aug. 8, 1961; 8:50 a.m.]

DEPARTMENT OF LABOR

Bureau of Labor-Management Reports

[29 CFR Part 406]

REPORTING BY LABOR RELATIONS CONSULTANTS AND OTHER PERSONS, CERTAIN AGREEMENTS WITH EMPLOYERS

Notice of Proposed Rule Making

Section 203(b) of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 433(b)) requires various reports to be filed by persons who arrange with employers to persuade employees in matters relating to their rights to organize, or advise employers concerning the activities of their employees and labor organizations in labor disputes. In order to prescribe forms for reporting and to otherwise implement this provision of the statute, and pursuant to authority in section 208 of the Act (29 U.S.C. 438), I hereby propose to revise 29 CFR, Part 406 to read as hereinbelow set out.

Any interested person may file a written statement of data, views or arguments in regard to this proposal with the Secretary of Labor, United States Department of Labor, Constitution Avenue and 14th Street NW., Washington 25, D.C., within 15 days after this notice is published in the FEDERAL REGISTER.

Copies of the forms and accompanying instructions referred to in this proposal are available upon request from the Bureau of Labor-Management Reports, at the above address.

PART 406—REPORTING BY LABOR RELATIONS CONSULTANTS AND OTHER PERSONS; CERTAIN AGREEMENTS WITH EMPLOYERS

Sec.

AUTHORITY: §§ 406.1 through 406.10 issued under sec. 208, 733 Stat. 529; 29 U.S.C. 438; Interpret or apply sec 203(b), 73 Stat. 527; 29 U.S.C. 433, and sec. 207(b), 73 Stat. 529; 29 U.S.C. 437.

§ 406.1 Definitions.

As used in this part, the term:

(a) "Corresponding principal officers" means any person or persons performing, or authorized to perform, principal executive functions corresponding to those of president and treasurer of any entity engaged in whole or in part in the performance of the activities described in section 203(b) of the Labor-Management Reporting and Disclosure Act of 1959 (73 Stat. 527; 29 U.S.C. 433).

(b)(1) "Fiscal year" means the calendar year or other period of 12 consecutive calendar months, on the basis of which financial accounts are kept by a person. Where a person designated a new fiscal year period prior to the expiration of a previously established fiscal year period, the resultant period of less than 12 consecutive calendar months, and thereafter the newly established fiscal year, shall in that order constitute the fiscal years.

(2) A person who is subject to section 203(b) of the Act for only a portion of his fiscal year because the date of enactment of the Act (September 14, 1959) occurred during such fiscal year or because such person otherwise first becomes subject to the Act during such fiscal year, may consider such portion as the entire fiscal year in making his report under this part.

(c) "Undertake" means not only the performing of activities, but also the agreeing to perform them or to have them performed.

(d) "A direct or indirect party to an agreement or arrangement" includes persons who have secured the services of another or of others in connection with an agreement or arrangement of the type referred to in § 406.2 as well as persons who have undertaken activities at the behest of another or of others with knowledge or reason to believe that they are undertaken as a result of an agreement or arrangement between an employer and any other person, except bona fide regular officers, supervisors or employees of their employer to the extent to which they undertook to perform services as such bona fide regular officers, supervisors or employees of their employer.

§ 406.2 Agreements and activities report.

(a) Every person who as a direct or indirect party to any agreement or arrangement with an employer undertakes, pursuant to such agreement or arrangement, any activities where an object thereof is, directly or indirectly, (1) to persuade employees to exercise or not to exercise, or persuade employees as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing; or, (2) to supply an employer with information concerning the activities of employees of a labor organization in connection with a labor dispute involving such employer, except information for use solely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding; shall, as prescribed by the regulations in this part, file a report with the Commissioner, Bureau of Labor-Management Reports, United States Department of Labor, Washington 25, D.C., and one copy thereof, on Form LM-20 entitled "Agreements and Activities Report (persons, including labor relations consultants and other individuals and organizations)" in the detail required by such form and the instructions accompanying such form and constituting a part thereof. The report shall be filed within 30 days after entering into an agreement or arrangement of the type described herein. If there is any change in the information reported (other than that required by Item C, 11, (c) of the Form), it must be filed on a report clearly marked "Amended Report" within 30 days of the change.

(b) The report shall be signed by the president and treasurer or corresponding principal officers of the reporting person. If the report is filed by an individual in his own behalf, it need only bear his signature.

§ 406.3 Receipts and disbursements report.

(a) Every person who, as a direct or indirect party to any agreement or arrangement, undertakes any activities of the type described in 29 CFR 406.2 pursuant to such agreement or arrange-

ment and who, as a result of such agreement or arrangement made or received any payment during his fiscal year, shall, as prescribed by the regulations in this part, file a report and one copy thereof, with the said Commissioner Bureau of Labor-Management Reports, on Forms LM–21 entitled receipts and Disbursements Report (persons, including labor relations consultants, other individuals and organizations)", and LM–21A entitled "Schedule of Receipts and Disbursements", in the detail required by such forms and the instructions accompanying such forms and constituting part thereof. The report shall be filed within 90 days after the end of such person's fiscal year during which payments were made or received as a result of such an agreement or arrangement.

(b) The report shall be signed by the president and treasurer or corresponding principal officers of the reporting person. If the report is filed by an individual in his own behalf, it need only bear his signature.

§ 406.4 Status report.

(a) Every person who, as a direct or indirect party to an agreement or arrangement of the type referred to in § 406.2, undertakes any activities of the type described therein pursuant to such agreement or arrangement and who made or received no payment as a result of any such agreement or arrangement during his fiscal year, shall, as prescribed by the regulations in this part, file a report, and one copy thereof, with the said Commissioner, Bureau of Labor-Management Reports, on Form LM–22 entitled "Status Report (persons, including labor relations consultants, other individuals and organizations)" in the detail required by such form and the instructions accompanying such form and constituting a part thereof. The report shall be filed within 90 days after the end of such person's fiscal year.

(b) The report shall be signed by the president and treasurer or corresponding principal officers of the reporting organization. If the report is filed by an individual in his own behalf, it need only bear his signature.

§ 406.5 Terminal report.

(a) Every person required to file a report pursuant to the provisions of this part who during his fiscal year loses his identity as a reporting entity through merger, consolidation, dissolution, or otherwise, shall within 30 days of the effective date thereof or of the effective date of this section, whichever is later, file a terminal report, and one copy thereof, with the said Commissioner, Bureau of Labor-Management Reports, on Form LM–21 together with Form LM–21 A or Form LM–22, as is appropriate, signed by the President and Treasurer or corresponding principal officers immediately prior to the time of the person's loss of reporting identity (or by the person himself if he is an individual), together with a statement of the effective date of termination or loss of reporting identity, and if the latter, the name and mailing address of the entity into which the person reporting has been merged, consolidated or otherwise absorbed.

(b) For purposes of the report referred to by paragraph (a) of this section, the period covered thereby shall be the portion of the reporting person's fiscal year ending on the effective date of the termination or loss of identity.

§ 406.6 Persons excepted from filing reports.

Nothing contained in this part shall be construed to require:

(a) Any person to file a report under this part unless he was a direct or indirect party to an agreement or arrangement of the kind described in § 406.2;

(b) Any person to file a report covering the services of such person by reason of his (1) giving or agreeing to give advice to an employer; or (2) representing or agreeing to represent an employer before any court, administrative agency, or tribunal of arbitration; or (3) engaging or agreeing to engage in collective bargaining on behalf of an employer with respect to wages, hours, or other terms or conditions of employment or the negotiation of an agreement or any question arising thereunder;

(c) Any regular officer, or employee of an employer to file a report in connection with services rendered as such regular officer, supervisor or employee to such employer;

(d) An attorney who is a member in good standing of the bar of any State, to include in any report required to be filed pursuant to the provisions of this part any information which was lawfully communicated to such attorney by any of his clients in the course of a legitimate attorney-client relationship.

§ 406.7 Relation of section 8(c) of the National Labor Relations Act to this part.

While nothing contained in section 203 of the Act shall be construed as an amendment to, or modification of the rights protected by, section 8(c) of the National Labor Relations Act, as amended (61 Stat. 142; 29 U.S.C. 158(c)), activities protected by such section of the said Act are not for that reason exempted from the reporting requirements of this Part and, if otherwise subject to such reporting requirements, are required to be reported. Consequently, information required to be included in Forms LM–20, 21, 21A and 22 must be reported regardless of whether that information relates to activities which are protected by section 8(c) of the National Labor Relations Act, as amended.

§ 406.8 Personal responsibility of signatories of reports.

Each individual required to file a report under this part shall be personally responsible for the filing of such report and for any statement contained therein which he knows to be false.

§ 406.9 Maintenance and retention of records.

Every person required to file any report under this part shall maintain records on the matters required to be reported which will provide in sufficient detail the necessary basic information and data from which the documents filed with the Bureau may be verified, explained or clarified, and checked for accuracy and completeness, and shall include vouchers, worksheets, receipts and applicable resolutions, and shall keep such records available for examination for a period of not less than five years after the filing of the documents based on the information which they contain.

§ 406.10 Publication of reports required by this part.

Inspection and examination of any report or other document filed as required by this part, and the furnishing by the Bureau of copies thereof to any person requesting them shall be governed by Part 407 of this chapter.

Signed at Washington, D.C., this 3d day of August 1961.

ARTHUR J. GOLDBERG,
Secretary of Labor.

[F.R. Doc. 61–7506; Filed, Aug. 8, 1961; 8:46 a.m.]

ATOMIC ENERGY COMMISSION

[10 CFR Part 20]

STANDARDS FOR PROTECTION AGAINST RADIATION

Statement of Considerations

The Commission's regulations in 10 CFR Part 20, "Standards for Protection Against Radiation," were amended effective January 1, 1961, to incorporate recent recommendations of the Federal Radiation Council and the National Committee on Radiation Protection. In addition, Appendix "B" to Part 20, entitled "Concentrations in Water and Air Above Natural Background," was substantially revised to reflect these recommendations.

A note to Appendix "B", paragraphs 2 and 3, establishes concentration limits for certain mixtures of radionuclides if either the identity or the concentration of any radionuclide in the mixture is not known but it is known that specified radionuclides are not present in the mixture. It has come to the attention of the Commission that the limits for mixtures specified in paragraphs 2 and 3 of the Note are not sufficiently comprehensive for all mixtures of radionuclides encountered in licensed operations. For example, in reactor air effluents where the radionuclides in the mixture may consist primarily of noble gases, the values specified in paragraphs 2 and 3 of the Appendix "B" Note may be unnecessarily restrictive. The following proposed amendment to the Appendix "B" Note would provide an additional standard for deriving a concentration limit for any mixture of radionuclides (1) where the identity of each radionuclide in the mixture is known but the concentration of each radionuclide in the mixture is not known, or (2) where the identity of each radionuclide in the mixture is not known but where it can be demonstrated by a physical assay or by the process of elimination that radionuclides other than those presently specified in the Note are not present.

The amendment also specifies for purposes of Appendix "B", Note, criteria for determining conditions under which radionuclides may be considered as not present in a mixture. These criteria are set forth in the new paragraph 5 to be added to the Appendix "B" Note. Under the amendment a licensee may demonstrate that a radionuclide is not present in a mixture by appropriate physical assay of the mixture or by the process of elimination when it is known, because of the nature of the licensed operations, that certain radionuclides are not present.

Notice is hereby given that adoption of the following amendment to 10 CFR Part 20, "Standards for Protection Against Radiation," is contemplated. All interested persons desiring to submit written comments and suggestions for consideration in connection with the proposed amendment should send them in triplicate to the Secretary, U.S. Atomic Energy Commission, Washington 25, D.C., within 60 days after publication of this notice in the FEDERAL REGISTER.

Part 20 is amended as follows:

1. Revise paragraph 3 of the Appendix "B" Note to read:

3. If any of the conditions specified below are met, the corresponding values specified below may be used in lieu of those specified in paragraph 2 above.

a. If the identity of each radionuclide in the mixture is known but the concentration of one or more of the radionuclides in the mixture is not known, the concentration limit for the mixture is the limit specified in Appendix "B" for the radionuclide in the mixture having the lowest concentration limit; or

b. If the identity of each radionuclide in the mixture is not known, but it is known that certain radionuclides specified in Appendix "B" are not present in the mixture, the concentration limit for the mixture is the lowest concentration limit specified in Appendix "B" for any radionuclide which is not known to be absent from the mixture; or

c. Element (atomic number) and isotope	Table I		Table II	
	Column 1 Air (μc/ml)	Column 2 Water (μc/ml)	Column 1 Air (μc/ml)	Column 2 Water (μc/ml)
If it is known that Sr 90, I 129, Pb 210, Po 210, At 211, Ra 223, Ra 224, Ra 226, Ac 227, Ra 228, Th 230, Pa 231, Th 232, and Th-nat are not present		9×10^{-5}		3×10^{-6}
If it is known that Sr 90, I 129, Pb 210, Po 210, Ra 223, Ra 226, Ra 228, Pa 231, and Th-nat are not present		6×10^{-5}		2×10^{-6}
If it is known that Sr 90, Pb 210, Ra 226 and Ra 228 are not present		2×10^{-5}		6×10^{-7}
If it is known that Ra 226 and Ra 228 are not present		3×10^{-6}		1×10^{-7}
If it is known that alpha-emitters and Sr 90, I 129, Pb 210, Ac 227, Ra 228, Pa 230, Pu 241 and Bk 249 are not present	3×10^{-9}		1×10^{-10}	
If it is known that alpha-emitters and Pb 210, Ac 227, Ra 228, and Pu 241 are not present	3×10^{-10}		1×10^{-11}	
If it is known that alpha-emitters and Ac 227 are not present	3×10^{-11}		1×10^{-12}	
If it is known that Ac 227, Th 230, Pa 231, Pu 238, Pu 239, Pu 240, Pu 242, and Cf 249 are not present	3×10^{-12}		1×10^{-13}	
If Pa 231, Pu 239, Pu 240, Pu 242 and Cf 249 are not present	2×10^{-12}		7×10^{-14}	

2. Add the following paragraph 5 to the Appendix "B" Note:

5. For purposes of this note, a radionuclide may be considered as not present in a mixture if (a) the ratio of the concentration of that radionuclide in the mixture (C_A) to the concentration limit for that radionuclide specified in Table II of Appendix "B" (MPC_A) does not exceed 1/10, (i.e. $\frac{C_A}{MPC_A} \leqq \frac{1}{10}$) and (b) the sum of such ratios for all the radionuclides considered as not present in the mixture does not exceed 1/4 i.e.

$$\frac{C_A}{MPC_A} + \frac{C_B}{MPC_B} + \cdots\cdots \leqq \tfrac{1}{4}).$$

Dated at Germantown, Md., this 3d day of August 1961.

For the Atomic Energy Commission.

WOODFORD B. MCCOOL,
Secretary.

[F.R. Doc. 61-7495; Filed, Aug. 8, 1961; 8:45 a.m.]

[10 CFR Part 40]

LICENSING OF SOURCE MATERIAL

Notice of Proposed Rule-Making

The principal proposed amendments set forth below are designed to (1) relieve persons exporting, to countries other than those listed in 10 CFR § 40.90, uranium in the form of aircraft counterweights installed in aircraft from the necessity of obtaining a specific license from the Atomic Energy Commission, (2) extend the present exemption from domestic licensing requirements for uranium aircraft counterweights to include storage, installation, removal, and incidental handling, and (3) exempt from domestic licensing requirements certain shipping casks made of or incorporating uranium as a shielding material.

The Commission regulation currently exempts from domestic licensing requirements uranium contained in counterweights installed in aircraft. The proposed amendment set forth below would extend this exemption to include not only the counterweights when installed in aircraft, but also exempt the storage and handling of such counterweights in connection with the installation or removal of the counterweights in or from aircraft.

It is highly unlikely that any individual would be exposed to a radiation dose in excess of one-tenth the occupational dose limits of 10 CFR Part 20. The radiation dose rate at the surface of the counterweight is about 130 mr/hr of beta-gamma radiation, of which the gamma component contributes only 2.7 mr/hr. Film badge data and handling time studies indicate that it is probable that the yearly dose to the hands would not exceed about 5 rems, from handling incident to storage, installation and removal of counterweights in aircraft. Ten percent of the Part 20 limit for exposure to the hands and forearms of individuals in a restricted area is 7.5 rem per year. The whole body dose is unlikely to exceed a small fraction of the dose limit for individuals in unrestricted areas.

Shipping casks made of uranium, or incorporating uranium as a shielding material, are frequently used to ship byproduct material. In addition to a byproduct material license, the receiver of such shipments also must have a source material license in order to receive the uranium in the shipping cask. This proposed amendment would exempt from the domestic source material licensing requirements such shipping casks made of or incorporating uranium as a shielding material, provided such casks meet the specifications for containers of radioactive materials prescribed by regulations of the Interstate Commerce Commission (49 CFR 78.250).

Notice is hereby given that the Commission proposes to adopt the following amendments to Part 40, CFR, "Licensing of Source Material." All interested persons who desire to submit written comments and suggestions for consideration in connection with the proposed amendments should send them to the Secretary, United States Atomic Energy Commission, Attention: Director, Division of Licensing and Regulation, Washington 25, D.C., within 30 days after publication of this notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is practicable to do so, but assurance of consideration cannot be given except to comments filed within the period specified.

a. Add the following new § 40.23(c):

(c) A general license designated AEC-GRO-SMC is hereby issued authorizing the export from the United States to any foreign country or destination, except countries or destinations listed in § 40.90, of uranium in the form of counterweights installed in aircraft, provided that such counterweights have been manufactured under a specific license issued by the Commission and have been impressed with a statement, clearly legible after plating, which states, "CAUTION-RADIOACTIVE MATERIAL-URANIUM."

b. Redesignate § 40.13(c)(5)(i) as § 40.13(c)(5) and amend it to read:

(5) Uranium contained in counterweights installed in aircraft and stored or handled in connection with installation or removal of such counterweights in or from aircraft; provided that such counterweights are manufactured in accordance with a specific license issued by the Commission and that each such counterweight has been impressed with a statement, clearly legible after plating, which states, "CAUTION-RADIOACTIVE MATERIAL-URANIUM," and that there is no removal or penetration of the plating on such counterweights.

c. Add the following new § 40.13(c)(6) to read:

(6) Uranium used as shielding constituting part of any shipping cask which is conspicuously and legibly impressed with the legend "CAUTION-RADIOACTIVE SHIELDING-URANIUM," and which meets the specifications for containers for radioactive materials prescribed by § 78.250, Specification 55, Part 78 of the regulations of the Interstate Commerce Commission (49 CFR 78.250).

d. Redesignate § 40.13(c)(5)(ii) as § 40.13(c)(7) and revise it to read as follows:

(7) The exemptions in this paragraph (c) do not authorize the manufacture of any of the products described.

Dated at Germantown, Md., this 3d day of August 1961.

For the Atomic Energy Commission.

WOODFORD B. MCCOOL,
Secretary.

[F.R. Doc. 61-7497; Filed, Aug. 8, 1961; 8:45 a.m.]

CIVIL SERVICE COMMISSION

[5 CFR Part 89]

FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Notice of Proposed Rule-Making

Notice is hereby given that under authority of the Act of September 28, 1959, as amended, 5 U.S.C. 3001 et seq., it is proposed to revise Part 89 of Title 5 of the Code of Federal Regulations to read as hereinafter set forth.

A preliminary draft of this revision was previously circulated to Federal agencies, employee organizations, health benefits carriers and others. As a result of their comments, the draft was further revised and expanded. The draft regulations are proposed to become effective November 1, 1961.

Interested persons may submit written comments, suggestions, or objections to the Bureau of Retirement and Insurance, United States Civil Service Commission, Washington 25, D.C., within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

Subpart A—Enrollment

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AUTHORITY: §§ 89.1 to 89.26 issued under sec. 10, 73 Stat. 715, 5 U.S.C. 3009.

Subpart A—Enrollment

§ 89.1 Definitions.

For the purposes of this part:

(a) Terms defined by section 2 of the Federal Employees Health Benefits Act of 1959 have the meanings there set forth.

(b) "Cancellation" means the act of filing a Health Benefits Registration Form terminating enrollment in a health benefits plan and electing not to be enrolled for the future by an enrolled employee or annuitant who is eligible to continue enrollment.

(c) "Change of enrollment" means the registration of an enrolled employee or annuitant to be enrolled for another plan or option, or for a different type of coverage (self only or self and family), from that for which then enrolled. It does not include changes in amount of Government contribution for female employees enrolled for self and family which are caused by the gain or loss of a nondependent husband.

(d) "Eligible" means eligible under the law and this part to be enrolled.

(e) "Employing office" means any office of an agency to which jurisdiction and responsibility for health benefits actions for the employee concerned have been delegated. For enrolled annuitants who are not also eligible employees, the office which has authority to approve payment of annuity or workmen's compensation for the annuitant concerned is the employing office.

(f) "Immediate annuity" means an annuity which begins to accrue not later than one month after the date enrollment under a health benefits plan would cease for an employee or member of family if he were not entitled to continue enrollment as an annuitant. Notwithstanding the foregoing, an annuity which commences on the birth of the posthumous child of an employee or annuitant is an immediate annuity.

(g) "Option" means a level of benefits. It does not include distinctions as to the members of the family covered.

(h) "Pay period" means the biweekly pay period established pursuant to the Federal Employees Pay Act of 1945 for the employees to whom that Act applies; the regular pay period for employees not covered by that Act; and the period for which a single installment of annuity is customarily paid for annuitants.

(i) "Register" means to file with the employing office a properly completed Health Benefits Registration Form, either electing to be enrolled in a health benefits plan or electing not to be enrolled. "Register to be enrolled" means to register an election to be enrolled. "Enrolled" means to be enrolled in a health benefits plan approved by the Commission under this part.

(j) "Regular tour of duty" means a work schedule, prescribed in advance to continue indefinitely or for at least six months, of a certain number of hours or other time units in a day, week, biweekly pay period, month, or year.

(k) Whenever, in this part, a period of time is stated as a number of days or a number of days from an event, the period shall be computed in calendar days, excluding the day of the event.

§ 89.2 Coverage.

(a) Each employee, other than those excluded by paragraph (b) of this section, is eligible to be enrolled in a health benefits plan at the time and under the conditions prescribed in this part.

(b) Employees in the following groups are not eligible:

(1) Employees serving under appointments limited to one year or less, except acting postmasters.

(2) Employees whose employment is of uncertain or purely temporary duration, or who are employed for brief periods at intervals, or who are expected to work less than six months in each year.

(3) Employees in the postal field service serving under temporary appointments pending establishment of a register.

(4) Employees having no regular tour of duty because appointed for irregular part-time, when-actually-employed, or other intermittent employment.

(5) Employees whose salary, pay, or compensation on an annual basis is $350 a year or less.

(6) Beneficiary or patient employees in Government hospitals or homes.

(7) Employees paid on a contract or fee basis.

(8) Employees paid on a piecework basis, except those whose work schedule provides for full-time service or part-time service with a regular tour of duty.

(c) Employees and annuitants enrolled under this part who move, without a break in service or after a separation of three days or less, to an employment in which they are excluded by paragraph (b) of this section shall continue to be enrolled so long as they are employed full-time, or part-time with a regular tour of duty, unless excluded by subparagraphs (4), (5), (6), (7), or (8) of paragraph (b) of this section.

(d) The Commission shall make final determinations of the applicability of this section to specific employees or groups of employees.

§ 89.3 Enrollment.

(a) *Initial enrollment.* Except as otherwise provided in this part, each employee who becomes eligible must register within 31 days after becoming eligible, except that a substitute in the postal field service must register within 31 days after completing six consecutive pay periods in which he was in pay status and in each of which he drew sufficient pay, after other deductions, to permit withholding of the amount necessary for his share of the cost of the health benefits plan he selects.

(b) *Belated enrollment.* Upon a determination by the employing office that an employee was unable, for cause beyond his control, to register to be enrolled or to change his enrollment within the time limits prescribed by this section,

the employing office shall accept his registration within 31 days after the employing office advises him that it has determined that he was unable, for cause beyond his control, to register within the time limits prescribed.

(c) *Re-registration.* An employee whose enrollment was terminated because of his completion of 365 days in a nonpay status, because he had a break in service of more than three days, or because he was furloughed by reason of reduction in force, must register within 31 days after his return to pay status.

(d) *Enrollment of cooperating employees.* An employee who serves in cooperation with non-Federal agencies and is paid in whole or in part from non-Federal funds may register to be enrolled within the period prescribed by the Commission for the group of which the employee is a member following approval by the Commission of arrangements providing (1) that the required withholdings and contributions will be made from Federally-controlled funds and timely deposited into the Employees Health Benefits Fund, or (2) that the cooperating non-Federal agency will, by written agreement with the Federal agency, make the required withholdings and contributions from non-Federal funds and will transmit them for timely deposit into the Employees Health Benefits Fund.

(e) *Open season.* Not less often than once every three years, the Commission will by regulation provide every employee an opportunity for enrollment and change of enrollment, on such terms and conditions as it may prescribe.

(f) *Change in family status.* (1) An enrolled employee or annuitant may register to change his enrollment from himself alone to himself and family, and an employee, if registered not to be enrolled, may register to be enrolled, at any time during the period beginning 31 days before a change in marital status and ending 60 days after the change in marital status. An enrolled employee or annuitant may change his enrollment from himself alone to himself and family within 60 days after any other change in family status.

(2) An employee or annuitant may at any time register to change his enrollment from self and family to self alone.

(3) An employee who is not enrolled, but is covered by Medicare or by enrollment, under this part, of a spouse, may register to be enrolled within 31 days after termination of Medicare or the spouse's enrollment, other than by death or cancellation, and within 60 days after termination, by death, of Medicare or the spouse's enrollment. An employee who is not enrolled, but is covered by Medicare or by the enrollment, under this part, of a parent, may register to be enrolled within 31 days after the termination of his coverage. An employee or annuitant who is covered by enrollment of another under this part may register to be enrolled within 31 days after a registration to change the covering enrollment under subparagraph (2) of this paragraph has been filed.

(g) *Termination by comprehensive medical plan or employee organization plan.* (1) An employee or annuitant who is enrolled in a comprehensive medical plan, and who moves outside the geographic area to which enrollment in that plan is limited, may, within 31 days after the move, register to be enrolled in another health benefits plan, but may not change his enrollment from himself alone to himself and family. If a comprehensive plan does not limit enrollment to a geographic area, but limits full services to a geographic area, an employee or annuitant enrolled in that plan who moves outside the full service area, or if already living outside the full service area, moves farther from the nearest office of the plan may, within 31 days after the move, register to be enrolled in another health benefits plan, but may change his enrollment from himself alone to himself and family.

(2) An employee or annuitant who is enrolled in a health benefits plan sponsored or underwritten by an employee organization and whose membership in the employee organization is terminated, may, if the plan terminates his enrollment, register, within 31 days after termination of his enrollment in the employee organization plan, to be enrolled in another health benefits plan, but may not change his enrollment from himself alone to himself and family.

(h) *Overseas posts of duty.* An employee who is transferred from a post of duty within the several States and the District of Columbia to a post of duty outside the several States and the District of Columbia, or the reverse, may register to be enrolled or change his enrollment with respect to whether his family is covered, the health benefits plan in which he is enrolled, which of the options he selects, or any combination of these, within the period beginning 31 days before the date he leaves the old post of duty and ending 31 days after he arrives at the new post of duty. An annuitant who is eligible to continue health benefits may register to change enrollment with respect to the health benefits plan, or option, in which enrolled within 60 days after retirement, or the death of the employee on whose service title to annuity is based, if the employee is stationed at a post of duty outside the several States and the District of Columbia at the time of his retirement or death, as the case may be.

(i) *Termination of plan.* An employee or annuitant who is enrolled in a health benefits plan and whose enrollment is terminated by the discontinuance of the plan in whole or in part may register to be enrolled in another plan within the time set by the Commission, but may not change his enrollment from himself alone to himself and family. This paragraph does not apply to termination of a contract at the end of a contract period immediately preceded by an open season.

(j) *Sole survivor.* When an employee or annuitant enrolled for himself and family dies, leaving a survivor annuitant who is entitled to continue the enrollment in a health benefits plan, and it is apparent from available records that the survivor annuitant is the sole survivor entitled to continue enrollment in the health benefits plan, the office of the retirement system which is acting as employing office shall change the enrollment from family to individual enrollment, effective on the commencing date of annuity for the survivor annuitant. Upon request of the survivor annuitant made within 31 days after the first installment of annuity is paid, this action shall be rescinded retroactive to the effective date of the action, with corresponding adjustment in withholdings and contributions.

(k) *Coverage of family enrollment.* An employee or annuitant who enrolls for self and family includes in his enrollment all members of his family who are eligible to be covered by his enrollment, but no person may be covered by two enrollments.

(l) *Enrollment by proxy.* In the discretion of the employing office, a representative of the employee or annuitant having a written authorization to do so may register for him.

§ 89.4 Effective date of enrollment.

(a) *Termination of plan.* The effective date of change of enrollment under § 89.3(i) is the first day of the first pay period after the employee's or annuitant's Health Benefits Registration Form is received by his employing office.

(b) *Sole survivor.* If a change in family status results in the enrolled employee having no surviving family member, the effective date of his change in enrollment under § 89.3(f) is the first day of the first pay period after the Health Benefits Registration Form is received by the employing office.

(c) *Generally.* The effective date of other enrollments or changes of enrollment is the first day of the first pay period which begins after the Health Benefits Registration Form is received by the employing office and which follows:

(1) A pay period during any part of which the employee, if not a substitute in the postal field service, or annuitant is in pay or annuity status, or

(2) If the employee is a substitute in the postal field service, the sixth consecutive pay period in which he was in pay status and in each of which he drew sufficient pay, after other deductions, to permit withholding the amount necessary for his share of the cost of the health benefits plan he selects.

§ 89.5 Continuation of enrollment.

(a) *Upon transfer.* Except as otherwise provided by this part, the registration of an employee or annuitant eligible to continue enrollment continues without change when he (1) moves from one employing office to another, without a break in service of more than three days, whether the personnel action is designated as a transfer or not, or (2) changes from one employing office to another by reason of reemployment, if he is an annuitant, or by reason of retirement under conditions making him eligible to continue enrollment. For the purposes of this part, an employee shall be considered to have enrolled at his first op-

portunity if he registered to be enrolled during the first of the periods set forth in § 89.3 in which he was eligible to register or was covered at that time by the enrollment of another employee.

(b) *Upon death.* The enrollment of a deceased employee or annuitant who is enrolled for self and family is transferred automatically to his eligible survivor annuitants. The enrollment will be considered to be that of the survivor annuitant from whose annuity all or the greatest portion of the withholding for health benefits is made. It covers members of the family of the deceased employee or annuitant. A remarried spouse is not a member of the family of the deceased employee or annuitant.

§ 89.6 Cancellation of enrollment.

An enrolled employee or annuitant may at any time register to cancel his enrollment by filing with his employing office a properly completed Health Benefits Registration Form. The cancellation becomes effective on the last day of the pay period following the pay period in which the Health Benefits Registration Form cancelling his enrollment is received by his employing office. He and the members of his family are not entitled to the temporary extension of coverage for conversion or to convert to an individual contract for health benefits.

§ 89.7 Termination and suspension of enrollment.

(a) *Of employees.* An employee's enrollment ceases, subject to the temporary extension of coverage for conversion, at midnight of the earliest of the following dates:

(1) The last day of the pay period in which he is (i) furloughed by reason of reduction in force, or (ii) separated from the service other than by retirement under conditions entitling him to continue his enrollment.

(2) The last day of the pay period in which his employment status changes so that he is excluded from enrollment.

(3) The last day of the pay period in which he dies, unless he leaves a member of the family entitled to continue enrollment as a survivor annuitant.

(4) The 365th day of continuous nonpay status.

(5) For substitutes in the postal field service whose enrollment is not terminated as otherwise provided in this section, the last day of the 13th consecutive pay period, exclusive of periods of approved leave without pay of six months or more, during which his pay was not sufficient to permit withholding of the amount necessary for his share of the cost of the health benefits plan in which he is enrolled.

(b) *On entering a uniformed service.* (1) Enrollment and coverage of an employee or annuitant who enters on active duty or active duty for training in one of the uniformed services (i) for a period of time which is not limited to 30 days or less, and (ii) under conditions which entitle him to reemployment in his civilian position, and the coverage of the members of his family, are suspended on the date of entry. His enrollment is reinstated without change when he returns to active duty in his civilian position. He may register to change his enrollment within 31 days after his return to active duty in his civilian position with reemployment rights. However, if he returns to active duty in a civilian position under conditions which do not entitle him to exercise his reemployment rights, he must register as provided in § 89.3(a) for new employees.

(2) An eligible employee who is covered by another employee's enrollment may, within 31 days before or after suspension, register to be enrolled. Enrollment made pursuant to this paragraph becomes effective in accordance with § 89.4, but not before the effective date of suspension, and terminates, without temporary extension of coverage, upon reinstatement of the suspended enrollment.

(c) *Of annuitants.* An annuitant's enrollment ceases, subject to the temporary extension of coverage for conversion, at midnight of the last day of the pay period in which he dies, unless he leaves a member of the family entitled to continue enrollment as a survivor annuitant, or, if his enrollment is not terminated by death, at midnight of the earlier of the following dates:

(1) The last day of the last pay period for which he is entitled to annuity, unless he is eligible for continued enrollment as an employee, in which case his enrollment continues without change;

(2) The last day of the pay period in which his title to compensation under the Federal Employees Compensation Act, as amended, terminates, or in which he is held by the Secretary of Labor to be able to return to duty, unless he is eligible for continued enrollment as an employee or as an annuitant under a retirement system for civilian employees, in which cases his enrollment continues without change.

(d) *Of members of the family.* The coverage of a member of the family of an enrolled employee or annuitant ceases, subject to the temporary extension of coverage for conversion, at midnight of the earlier of the following dates:

(1) The day on which he ceases to be a member of the family.

(2) The day the employee or annuitant ceases to be enrolled, unless the member is entitled, as a survivor annuitant, to continued enrollment.

§ 89.8 Temporary extension of coverage for conversion.

An employee or annuitant whose enrollment is terminated other than by cancellation, and a member of the family whose coverage is terminated other than by cancellation of the enrollment under which he is covered, is entitled to a 31-day extension of coverage for himself, or himself and family, as the case may be, without contributions by the enrolled person or the Government, during which he is entitled to exercise the right of conversion provided for by this part. The 31-day extension of coverage and the right of conversion for any person ends upon the effective date of a new enrollment under this part which covers the person.

Subpart B—Approval of Plans and Carriers

§ 89.11 Minimum standards for health benefits plans.

(a) To be qualified to be approved by the Commission, a health benefits plan must:

(1) Comply with the Federal Employees Health Benefits Act of 1959 and this part, as amended from time to time.

(2) Accept enrollment, in accordance with this part, and without regard to age, race, sex, health status, or hazardous nature of employment, of all eligible employees or annuitants except that plans which are sponsored or underwritten by employee organizations may not accept enrollment of persons who are not members of the organization, but may not limit membership in the organization on account of these prohibited factors. The enrollment of an employee or of an annuitant other than a survivor annuitant in a health benefits plan sponsored or underwritten by an employee organization may be terminated by the carrier on account of termination of membership in the organization. A comprehensive medical plan need not enroll employees and annuitants residing outside geographic areas specified by the plan and may terminate the enrollment of employees and annuitants who move outside the geographic areas.

(3) Provide for coverage of enrolled employees and annuitants and covered members of their families wherever they may be.

(4) Provide for conversion to a contract for health benefits regularly offered by the carrier, or an appropriate affiliate, for group conversion purposes, which must, at the option of the employee, annuitant, or member of the family, as the case may be, be guaranteed renewable, subject to such amendments as apply to all contracts of this class, except that it may be cancelled for fraud, over-insurance, or nonpayment of periodic charges. Conversion must be permitted within the time allowed by the temporary extensions of coverage provided under § 89.8 for each employee, annuitant, and member of family entitled to convert; but, if an employee is given written notice by his employing office of his privilege of conversion, conversion must be permitted at any time before (i) fifteen days after the date of the notice or (ii) seventy-five days after his enrollment is terminated, whichever is earlier; and if the Commission requests an extension of time for conversion because of delayed determination of ineligibility for immediate annuity, conversion must be permitted until the date specified by the Commission in its request for extension. The contract shall, upon conversion, become effective as of the day following the last day of the temporary extension, and the employee, annuitant, or member of the family, as the case may be, shall pay the entire cost thereof directly to the carrier. The non-group contract may not deny or delay an obstetrical or other benefit covered by the contract for a

person converting from a plan approved under this part, except to the extent that benefits are continued under the health benefits plan from which he converts.

(5) (i) Provide that any person who has been granted a temporary extension of coverage in accordance with § 89.9 and who, on the 31st day of the temporary extension, is confined in a hospital or other institution for care or treatment shall be granted continuation of the benefits of the plan during the continuance of the confinement but not beyond the 60th day following the end of the temporary extension.

(ii) Provide that any person whose enrollment has been changed from one plan to another, or from one option of a plan to the other option of that plan, and who is confined in a hospital or other institution on the last day of enrollment under the prior plan or option shall be granted a continuation of the benefits of the prior plan or option during the continuance of the confinement, but not beyond the 91st day following the last day of enrollment in the prior plan or option; and that the plan or option to which enrollment has been changed shall not pay benefits with respect to that person while that person is entitled to continuance of benefits under the prior plan or option.

(6) Provide that each employee and annuitant who enrolls in the plan receive a brochure, in a form to be approved by the Commission, summarizing the conditions of the plan, including, but not limited to, those concerning benefits, claims, and payment of claims, and an identification card or cards evidencing his enrollment.

(7) Provide a standard rate structure which contains, for each option, one standard individual rate, and one standard family rate, without geographical or other variations.

(8) Maintain statistical records regarding the plan, separately from those of any other activities or benefits conducted or offered by the carrier sponsoring or underwriting the plan.

(9) Provide for return to the Employees Health Benefits Fund, at the end of each contract period, of so much of the subscription charges and other income attributable to the plan as exceeds the sum incurred for benefit payments, premium and other taxes attributable to the plan, and other expenses; the risk charge or retention authorized by the Commission for the plan; and a special reserve which shall not exceed the latest three calendar months' subscription charges paid from the Fund, except with the express approval of the Commission. Amounts returned shall be credited to the contingency reserve for that plan. Amounts retained by the carrier as reserves for the plan must be accounted for separately from reserves maintained by the carrier for other plans. The special reserve shall be invested and income derived from investment of the special reserve, or an interest rate agreed upon in advance, shall be credited to the reserve. In the event the contract is terminated or approval of the plan is withdrawn, the special reserve shall be returned to the Employees Health Benefits Fund. However, contracts with group-practice plans shall be community-rated, and the carrier shall, instead of the foregoing provisions of this paragraph, agree to furnish such financial and accounting reports, and to follow such recording procedures, as shall be mutually agreed upon by the carrier and the Commission.

(b) To be qualified to be approved by the Commission, a health benefits plan must not:

(1) Deny any covered person a benefit provided by the plan for a service rendered on or after the effective date of coverage solely because of a pre-existing physical or mental condition, except that a plan may provide benefits for dentistry or cosmetic surgery, or both, limited to conditions arising after the effective date of coverage; or require a waiting period for any covered person for benefits which it provides, except that a plan may, with the approval of the Commission, limit benefits for services rendered to a person, other than a person changing from a discontinued health benefits plan or option to another, who, on the effective date of enrollment, is confined in a hospital or other institution, so long as the person is continuously confined therein. For the purposes of this subparagraph, "continuous confinement" means one or more periods of confinement without a break of 31 consecutive days between actual confinements, except that a carrier may, by agreement with the Commission, provide that a shorter break shall terminate a continuous confinement.

(2) Have more than two options.

(3) Have an initiation, service, enrollment, or other fee or charge in addition to the rate charged for the plan, except that, notwithstanding subparagraph (1) of this paragraph, comprehensive medical plans may impose an additional charge to be paid directly by the employee or annuitant for certain medical supplies and services, if the supplies and services on which additional charges are imposed are clearly set forth in advance and are applicable to all employees and annuitants. This subparagraph does not apply to charges for membership in employee organizations sponsoring or underwriting plans.

§ 89.12 Minimum standards for health benefits carriers.

A health benefits plan will not be approved by the Commission unless the carrier of the plan meets, in addition to the requirements of the Federal Employees Health Benefits Act of 1959, the following requirements:

(a) It must be lawfully engaged in the business of supplying health benefits.

(b) It must have, in the judgment of the Commission, the financial resources and experience in the field of health benefits to carry out its obligations under the plan.

(c) It must agree to keep such reasonable financial and statistical records and furnish such reasonable financial and statistical reports with respect to the plan as may be requested by the Commission.

(d) It must agree to permit representatives of the Commission and of the General Accounting Office to audit and examine its records and accounts which pertain, directly or indirectly, to the plan at such reasonable times and places as may be designated by the Commission or the General Accounting Office.

(e) It must agree not to advertise a plan approved under the Federal Employees Health Benefits Program, or its participation in the Program, to employees, or solicit enrollment of employees in a plan approved under the Program, other than in accordance with the instructions of the Commission.

(f) It must agree to accept, subject to adjustment for error or fraud, in payment of its charges for health benefits for all employees and annuitants enrolled in its plan, the enrollment charges received by the Employees Health Benefits Fund less the amounts set aside for the administrative and contingency reserves prescribed by this part. The Commission will pay over the amounts due each carrier at such times as are agreed upon by the carrier and the Commission.

(g) A carrier which is an employee organization must agree to continue coverage, without requirement of membership, of any eligible survivor annuitants of member employees and of annuitants.

§ 89.13 Application for approval of health benefits plans.

Application for approval of comprehensive medical plans may be made by letter to the United States Civil Service Commission, Washington 25, D.C. Approval of a plan will become effective on a date to be set by the Commission for the plan.

§ 89.14 Withdrawal of approval of health benefits plans.

(a) The Commissioners may, on application of a carrier or on their own motion, withdraw their approval of a health benefits plan.

(b) Before withdrawing approval of the plan, the Commissioners shall cause to be sent, by certified mail, a notice to the carrier stating that they intend to withdraw their approval, and giving the reasons therefor. The carrier is entitled to reply in writing within 15 days of its receipt of the notice, stating the reasons why approval should not be withdrawn.

(c) On receipt of the reply, or in the absence of a timely reply, the Commissioners shall set a time and place for hearing. The Commissioners shall conduct the hearing or designate a representative to do so. The carrier shall be given notice thereof, by certified mail, at least 15 days in advance of the hearing. The carrier is entitled to appear by representative and present oral and written evidence and argument in opposition to the proposed action.

(d) The Commissioners shall make their decision on the record and communicate it to the carrier by certified mail. The Commissioners may set a future effective date for withdrawal of their approval.

(e) The Commissioners may, in their discretion reinstate approval of a plan upon a finding that the reasons for withdrawing approval no longer exist.

Subpart C—Administrative Provisions

§ 89.21 Contributions.

(a) The Government contribution for all plans, except those for which another contribution is set by paragraph (b) of this section, for each enrolled employee who is paid biweekly is as follows:

For an employee enrolled for self alone	$1.30
For an employee enrolled for self and family	3.12
For a female employee enrolled for self and a family which includes a nondependent husband	1.82

(b) The biweekly Government contribution for each employee or annuitant enrolled in a plan whose total enrollment charge is less than twice the appropriate contribution listed in paragraph (a) of this section is 50 percent of the enrollment charge, except that the Government contribution for a female employee who is enrolled for herself and a family including a nondependent husband is 30 percent of the enrollment charge.

(c) The Government contribution for annuitants and for employees who are not paid biweekly is a percentage of that fixed by paragraphs (a) and (b) of this section proportionate to the length of the pay period, rounding fractions of a cent to the nearest cent.

(d) The Government contribution for employees whose annual salary is paid during a period shorter than 52 work weeks shall be determined on an annual basis and pro-rated over the number of installments of pay regularly paid during the year.

(e) The Government does not make a contribution for an employee or annuitant for periods for which withholding is not made.

§ 89.22 Withholdings.

(a) The witholdings required from enrolled survivor annuitants shall be taken from the annuity of the surviving spouse, if any. If that annuity is less than the withholding required, the annuity of the youngest child shall be withheld to the extent necessary, and, if necessary, the annuity of each next older child, in succession, until the witholding is satisfied.

(b) If the annuity of an annuitant or of all annuitants in a family is not sufficient to pay the withholdings for the plan in which the annuitants are enrolled, the employing office shall notify the annuitant of the plans available at a cost not in excess of the annuity. The annuitant may register to be enrolled in another plan whose cost is no greater than his annuity. If the annuitant does not, or cannot, elect a plan at a cost to him not in excess of the annuity, the enrollment of the annuitant shall cease, effective as of the end of the last period for which withholding was made. Each annuitant whose enrollment is so terminated is entitled to a 31-day extension of coverage for conversion.

(c) Whenever annuity or compensation are entirely waived or suspended, the annuitant's enrollment continues for not more than three months (not more than 12 weeks for annuitants whose compensation under the Federal Employees' Compensation Act is paid each four weeks). When the waiver or suspension expires, the withholding for the period of suspension or waiver during which enrollment was continued will be made. If the waiver or suspension continues beyond the period during which enrollment is continued by this paragraph, the annuitant's enrollment will be suspended, subject to the temporary extension of coverage for conversion, effective at the end of the period of continuation of enrollment provided by this paragraph. If suspension of annuity or compensation is because of employment, withholding will be currently made by the employing office, and enrollment will continue during employment. A suspended enrollment is automatically reinstated when payment of annuity or compensation is resumed.

(d) The Government does not withhold from an employee who is in nonpay status, or from an annuitant for periods for which he does not receive annuity.

§ 289.23 Reserves.

(a) The enrollment charge consists of the rate approved by the Commission for payment to the plan for each employee or annuitant enrolled, plus four percent, of which one part is for an administrative reserve and three parts are for a contingency reserve for the plan.

(b) The administrative reserve shall be credited with (1) the one one-hundred-and-fourth of the enrollment charge set aside for the administrative reserve, and (2) income from investment of the reserve. The administrative reserve is available for payment of administrative expenses of the Commission incurred under this part.

(c) The contingency reserve for each plan shall be credited with (1) the three one-hundred-and-fourths of the enrollment charge set aside for the contingency reserve from the enrollment charges for employees and annuitants enrolled for that plan, (2) income from investment of the reserve, and (3) all dividends, rate adjustments, or other refunds made by the plan.

§ 89.24 Certificates of dependency.

(a) When an employee or annuitant enrolls for a family which includes a dependent husband, the employing office shall require a certificate of a physician that the husband is incapable of self-support because of a physical or mental disability that can be expected to continue for more than one year. The certificate must include a statement of the name of the husband, the nature of his impairment, the period of time it has existed, and its probable future course and duration. The certificate must be signed by the physician and show his office address.

(b) When an employee or annuitant enrolls for a family which includes a child incapable of self-support who has reached the age of 19, the employing office shall require a certificate of the physician that the child is incapable of self-support because of a physical or mental incapacity which existed before the child became 19, and can be expected to continue for more than one year. The certificate must include a statement of the name of the child, the nature of his impairment, the period of time it has existed, and its probable future course and duration. The certificate must be signed by the physician and show his office address. When an employee or annuitant is enrolled for a family which includes a child under 19 who is incapable of self-support because of a physical or mental incapacity, the certificate must be filed with the employing office on or before the child's 19th birthday, except that the employing office may accept otherwise satisfactory evidence of incapacity not timely filed.

(c) A certificate of incapacity must be renewed upon the expiration of the minimum period of disability certified.

(d) Determinations of incapacity shall be made by the employing office.

§ 89.25 Employee appeals.

(a) An employee or annuitant may appeal a refusal of an employing office to permit him to register to enroll, or to change enrollment. The appeal shall be made in writing, within 30 days of the refusal, to the Bureau of Retirement and Insurance, United States Civil Service Commission, Washington 25, D.C.

(b) An employee or annuitant may appeal a refusal of the Bureau of Retirement and Insurance to permit him to register to enroll, or to change enrollment. The appeal shall be made in writing, within 90 days of the refusal, to the Board of Appeals and Review, United States Civil Service Commission, Washington 25, D.C.

(c) The employing office may make, and the Commission may order, prospective correction of administrative errors as to enrollment at any time.

(d) The Commission does not adjudicate individual claims for payment or service under health benefits plans, nor does it arbitrate or attempt to compromise disputes between an employee or annuitant and his carrier as to claims for payment or service.

§ 89.26 Legal actions.

Actions to compel enrollment of an employee or annuitant not excluded by § 89.2 should be brought against the employing office. Actions to recover on a claim for health benefits should be brought against the carrier of the health benefits plan. Actions to review the legality of the Commission's regulations or a decision made by the Commission should be brought against the United States Civil Service Commissioners, whose address is Eighth and F Streets NW., Washington 25, D.C.

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

[F.R. Doc. 61-7529; Filed, Aug. 8, 1961; 8:50 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 600]

[Airspace Docket No. 61-NY-39]

FEDERAL AIRWAYS

Alteration

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency (FAA) is considering an amendment to § 600.1546 of the regulations of the Administrator, the substance of which is stated below.

Intermediate altitude VOR Federal airway No. 1546 is designated in part from the Cofield, N.C., VOR as a 10-mile wide airway to the intersection of the Cofield VOR 046° and the Cape Charles, Va., VOR 200° True radials. The FAA is considering the redesignation of this segment of Victor 1546 as a 10-mile wide airway to the intersection of the Cofield VOR 101° and the Cape Charles VOR 188° True radials. This redesignation would provide a segment of intermediate altitude airway structure connecting with Oceanic control area extension 1181 to facilitate the transitioning of air traffic between the continental control area and the off-shore area. The reduced airway width from 16 to 10 miles would provide additional airspace for jet aircraft operating in the vicinity of NAS Oceana, Va.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Assistant Administrator, Eastern Region, Attn: Chief, Air Traffic Management Field Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on August 2, 1961.

J. R. BAILEY,
Assistant Chief,
Airspace Utilization Division.

[F.R. Doc. 61-7498; Filed, Aug. 8, 1961; 8:45 a.m.]

[14 CFR Part 600]

[Airspace Docket No. 61-NY-48]

FEDERAL AIRWAYS

Alteration

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency (FAA) is considering an amendment to § 600.1698 of the regulations of the Administrator, the substance of which is stated below.

Intermediate altitude VOR Federal airway No. 1698 is presently designated in part as a 16-mile wide airway from the Binghamton, N.Y., VOR to the Wilton, Conn., VOR. The FAA has under consideration alteration of this segment of airway by redesignating it from the Binghamton VOR via the Huguenot, N.Y., VOR to the Wilton VOR. The segment of Victor 1698 between Binghamton and Wilton is unusable for the reason that the Wilton VOR radial on which this segment is based may not be adjusted within tolerances. Additionally, this alteration would align Victor 1698 to overlie low altitude VOR Federal airway No. 252 between Binghamton and Huguenot and facilitate the transition of aircraft between the low and intermediate altitude airways systems.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Assistant Administrator, Eastern Region, Attn: Chief, Air Traffic Management Field Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on August 2, 1961.

J. R. BAILEY,
Assistant Chief,
Airspace Utilization Division.

[F.R. Doc. 61-7499; Filed, Aug. 8, 1961; 8:46 a.m.]

[14 CFR Parts 600, 601]

[Airspace Docket No. 61-NY-40]

FEDERAL AIRWAYS AND CONTROLLED AIRSPACE

Designation of Federal Airways and Associated Control Areas

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency is considering amendments to Parts 600 and 601 of the regulations of the Administrator, the substance of which is stated below.

The Federal Aviation Agency is considering the designation of low altitude VOR Federal airway No. 423 from the Ithaca, N.Y., VOR to the Syracuse, N.Y., VOR via the intersection of the Ithaca VOR 001° True radial and the enroute radial between the Watkins Glen, N.Y., and Syracuse VOR's. This would provide continuity in the low altitude airway structure and provide a more direct low altitude route for VOR equipped aircraft operating between Ithaca and Syracuse.

The control area associated with this proposed airway segment would extend from 700 feet above the surface to the base of the continental control area. Separate actions would be initiated to implement on an area basis Amendment 60-21 to Part 60 of the Civil Air Regulations.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Assistant Administrator, Eastern Region, Attn: Chief, Air Traffic Management Field Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be

changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on August 2, 1961.

J. R. BAILEY,
Assistant Chief,
Airspace Utilization Division.

[F.R. Doc. 61-7500; Filed, Aug. 8, 1961; 8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2, 4]

[Docket No. 14227; FCC 61-987]

AM, FM AND TV (AURAL) STL AND INTERCITY RELAY STATIONS

Combine Into Single Categories and Permit Multiplex Operation to Provide Program Circuits for More Than One Class of Broadcast Station Operated by the Same Licensee

1. Present Commission rules provide for the operation of STL stations (studio-transmitter link) by the licensees of standard, FM and television broadcast stations and intercity relay stations by the licensees of FM and television broadcast stations. STL stations are used to provide a program circuit by radio between the main studio or an auxiliary studio of a broadcast station, to its transmitter site, and intercity relay stations are used to transmit programs between stations for network operation. Certain frequencies between 942 and 952 Mc may be used for the transmission of aural program material and frequencies in the vicinity of 2,000, 7,000, and 13,000 Mc are available on an exclusive basis for the transmission of video program material. If desired, the accompanying aural program may be multiplexed on the video STL circuit.

2. When these rules were first adopted, FM broadcast STL and intercity relay stations were allocated frequencies in the band 940–952 Mc, AM (standard) broadcast STL stations were restricted to the upper portion of the 890–940 Mc band and TV broadcast (aural) STL and intercity relay stations were restricted to the lower portion of that band. A subsequent reallocation (Docket No. 12404) transferred aural STL and intercity relay operation to the band 942–952 Mc with provisions for existing AM and TV STL and TV intercity relay stations operating in the band 890–940 Mc to continue there on a non-interference basis to Government use of that band.

3. In taking a new look at the situation in the light of developments up to this time, we find that many licensees operate their FM and TV broadcast stations and sometimes the AM broadcast station at a common transmitter site and have their AM, FM, and TV studios at a common location. Thus we may have three separate radio circuits delivering program material from a common studio location to a common transmitter location. This is not only wasteful of spectrum but also adds to the installation and operating costs of the licensee. Where these two or three program circuits can be feasibly combined on a single radio circuit, a substantial saving in spectrum and cost would result. Improvements in multiplexing techniques appear to make it possible to transmit more than one aural program over a single radio circuit and within the bandwidths now assigned to STL and intercity relay stations, without serious degradation of the aural program quality. Although specific technical performance standards are not established for STL and intercity relay circuits, the rules governing the various classes of broadcast stations contain overall performance requirements for the entire system from the microphone input to the antenna output of the transmitter and the STL circuit cannot contribute too much degradation if these overall requirements are to be met.

4. Therefore, we invite comments on a proposal to amend Parts 2 and 4 of the Commission rules to do away with the present separate classifications of standard broadcast, FM broadcast and television broadcast (aural) STL stations and to combine them into a single category to be called Aural Broadcast STL stations. Such stations could be used to serve any one or all classes of broadcast stations operated by a single licensee at a common transmitter site. We also propose to amend the TV auxiliary rules to permit a TV (video) STL station to carry one or more aural program circuits to serve other classes of broadcast stations operated by the same licensee at the TV transmitter site. We also propose to combine the present FM and TV (aural) intercity relay stations into a single category called aural broadcast intercity relay stations and by adding provisions for standard broadcast intercity relay operations, make it available to standard, FM and television station licensees. We also propose to include specific provision for the transmission of operational communications directly related to the operation of the broadcast station and non-broadcast material which is to be transmitted by an FM broadcast station pursuant to a Subsidiary Communications Authorization. However, STL or intercity relay stations will not be authorized to be used solely for such non-broadcast or operational communications. In all cases where an STL is used, the periodic performance measurements which the broadcast station is required to make, shall be made with the STL circuit operating in the same manner as it operates during regular operation, i.e., if more than one aural channel is normally used, the measurements shall be made with all such channels in use. Other amendments are made to conform Part 2 and Subpart E and F of Part 4 of the rules.

5. Authority for the adoption of the Amendments proposed herein is contained in sections 4, and 303 of the Communitcations Act of 1934, as amended.

6. The proposed amendments are set forth below.

7. Pursuant to applicable procedures set out in § 1.213 of the Commission rules, interested persons may file comments on or before August 25, 1961, and reply comments on or before September 11, 1961. In reaching its decision on the rules and standards of general applicability which are proposed herein, the Commission will not be limited to consideration of comments of record, but will take into account all relevant information obtained in any manner from informed sources.

8. In accordance with the provisions of § 1.54 of the rules, an original and 14 copies of all written comments and statements shall be furnished to the Commission.

Adopted: July 26, 1961.

Released: August 4, 1961.

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

Parts 2 and 4 of the Commission rules are proposed to be amended in the following respects:

1. Section 2.1 is amended by deleting the definitions "FM broadcast STL station" and "FM intercity relay stations", and inserting the following new definitions in the appropriate alphabetical order:

§ 2.1 Definitions.

* * * * *

Aural broadcast STL station. A fixed station utilizing telephony for the transmission of aural program material between a studio and the transmitter of broadcasting stations other than international broadcasting stations, for simultaneous or delayed broadcast.

Aural broadcast intercity relay station. A fixed station utilizing telephony for the transmission of aural program material between broadcasting stations other than international broadcasting stations, for simultaneous or delayed broadcast.

2. In § 2.104(a)(5), the table of frequency allocations is amended by changing the entries in Column 9 for the band 942–952 Mc and footnote NG 14 is amended to read as follows:

§ 2.104 Frequency allocations.

(a) *Table of frequency allocations.* * * *

(5) • • •

Band (Mc)	Service	Class of station	Frequency (Mc)	Nature of [SERVICES stations
7	8	9	10	11
•	•	•	•	•
942-952 (NG13) (NG12) (NG101)	Fixed.....	a. Aural broadcast STL.	.....	
		b. International aeronautical fixed (Alaska, Hawaii and U.S. Possessions only).	.....	
		c. International fixed public (Alaska, Hawaii and U.S. Possessions only).	.....	

• • • • • •

NG14 Aural broadcast intercity relay stations may be authorized to use the band 942-952 Mc on the condition that harmful interference will not be caused to other classes of stations operating in accordance with the Table of Frequency Allocations.

3. The title of Subpart E of Part 4, is changed to read as follows:

Subpart E—Aural Broadcast STL and Intercity Relay Stations

4. Section 4.501 is amended to read as follows:

§ 4.501 Classes of stations.

(a) *Aural broadcast STL station.* A fixed station utilizing telephony for the transmission of aural program material between a studio and the transmitter of a broadcasting station other than an international broadcasting station, for simultaneous or delayed broadcast.

(b) *Aural broadcast intercity relay station.* A fixed station utilizing telephony for the transmission of aural program material between broadcasting stations other than international broadcasting stations, for simultaneous or delayed broadcast.

NOTE 1: The abbreviation "STL" is derived from "studio-transmitter link".

5. Section 4.502 is amended to read as follows:

§ 4.502 Frequency assignment.

(a) An aural broadcast STL or intercity relay station may be assigned one of the following frequencies:

Mc	*Mc*	*Mc*	*Mc*
942.5	945.0	947.5	950.0
943.0	945.5	948.0	950.5
943.5	946.0	948.5	951.0
944.0	946.5	949.0	951.5
944.5	947.0	949.5	

(b) The use of the frequencies listed in paragraph (a) of this section by aural broadcast intercity relay stations, is subject to the condition that no harmful interference is caused to other classes of stations operating in accordance with the Table of Frequency Allocations contained in § 2.104 of this chapter.

(c) Any aural broadcast STL or intercity relay station for which there was outstanding a valid construction permit or license on April 16, 1958, specifying operation on any frequency between 890 Mc and 942 Mc, may continue to be operated on such frequencies for the remainder of the term specified in such authorization and may upon appropriate application therefor, be granted a renewal of such license, subject to the condition that no harmful interference shall be caused to the radiolocation service operating in the band 890–942 Mc and subject to the further condition that the licensee must accept any interference which may be caused by the operation of radiolocation stations in the band 890–942 Mc and industrial, scientific, and medical (ISM) equipment in the band 890–940 Mc.

6. Section 4.531 is amended to read as follows:

§ 4.531 Permissible service.

(a) An aural broadcast STL station is authorized to transmit aural program material between the studio and transmitter location of a broadcasting station, except an international broadcasting station, for simultaneous or delayed broadcast.

(b) An aural broadcast intercity relay station is authorized to transmit aural program material between broadcasting stations except international broadcasting stations, for simultaneous or delayed broadcast.

(c) Multiplexing may be used to provide additional channels on an aural broadcast STL station for the transmission of aural programs destined for other classes of broadcasting stations operated by the licensee of the STL station at a common transmitter location. Such additional aural channels may also be used for the transmission of operational communications or in the case of an FM broadcast station, subsidiary communications which will be transmitted over the FM broadcast station pursuant to a valid Subsidiary Communications Authorization issued by the Commission. An aural broadcast STL station may not be used solely for the transmission of operational or subsidiary communications. Operational communications include cues, orders, and other communications related to the operation of the broadcasting station as well as special signals used for telemetry or the control of apparatus used in conjunction with the broadcasting operation.

(d) Multiplexing may be used to provide additional channels on an aural broadcast intercity relay station for the transmission of operational communications.

(e) In any case where multiplexing is employed on an aural broadcast STL station for the simultaneous transmission of more than one aural channel, the STL transmitter must be capable of transmitting the multiple channels within the channel on which the STL station is authorized to operate and with adequate technical quality so that each broadcast station utilizing the circuit can meet the technical performance standards stipulated in the rules governing that class of broadcasting station. If multiplex operation is employed during the regular operation of the STL station, the additional circuits shall be in operation at the time that the required periodic performance measurements are made of the overall broadcasting system from the studio microphone input circuit to the broadcast transmitter output circuit.

7. Section 4.532 is amended to read as follows:

§ 4.532 Licensing requirements.

(a) An aural broadcast STL or intercity relay station will be licensed only to the licensee of a broadcasting station other than an international broadcasting station.

(b) More than one aural broadcast STL or intercity relay station may be licensed to a single licensee upon a satisfactory showing that the additional stations are needed to provide different program circuits to more than one broadcast station, to provide program circuits from other studios, or to provide one or more intermediate relay stations over a path which cannot be covered with a single station due to terrain or distance.

(c) If more than one broadcast station or class of broadcast station is proposed to be served by a single STL or intercity relay station, this information shall be clearly set forth in the application for construction permit or license.

(d) Each aural broadcast STL or intercity relay station will be licensed at a specified transmitter location to communicate with a specified receiving location and the direction of the main radiation lobe of the transmitting antenna will be one of the terms of the license.

8. Section 4.533(b) is amended to read as follows:

§ 4.533 Remote control and unattended operation.

• • • • •

(b) In cases where intermediate relay stations are employed in aural broadcast STL or intercity relay systems, such intermediate relay stations may be

operated unattended if the following requirements are met:

(1) The transmitter shall be equipped with automatic circuits that will cause it to cease radiating at times when no signal is being received from the station which it is relaying.

(2) The transmitter shall be provided with adequate safeguards to prevent improper operation of the equipment.

(3) The transmitter installation shall be adequately protected against tampering by unauthorized persons.

(4) Whenever an intermediate relay station is in operation, appropriate observations shall be made at the receiving end of the STL or intercity relay circuits at intervals not exceeding one hour by a person holding a valid first or second class radiotelephone operator license, who shall take immedate steps to correct any condition of improper operation that may be observed.

(5) It shall be the responsibility of the licensee to insure that any repairs or adjustments that may be necessary are made by a person technically qualified to do so.

9. Section 4.535 is amended to read as follows:

§ 4.535 Emission and bandwidth.

(a) Aural broadcast STL and intercity relay stations normally will be authorized to employ frequency modulation only. The maximum frequency excursion of the carrier resulting from modulation, shall not exceed 200 kc/s above or below the assigned frequency.

(b) If multiplexing by means of one or more sub-carriers, is employed, the maximum sub-carrier frequency used shall be such that $2M + 2D$ does not exceed 500 kc/s, where M is the maximum modulating frequency in cycles per second and 2D equals the total carrier frequency excursion as the result of modulation, expressed in cycles per second.

(c) The channels assigned to aural broadcast STL and intercity relay stations are 500 kc/s in width, the assigned frequency being at the center of the channel. Emissions appearing outside the assigned channel shall be attenuated as follows:

(1) Any emission appearing on a frequency removed from the assigned frequency by between 250 and 500 kc/s kilocycles shall be attenuated at least 25 decibels below the level of the unmodulated carrier. Compliance with this specification will be deemed to show the occupied bandwidth to be 500 kc/s or less.

(2) Any emission appearing on a frequency removed from the assigned frequency by more than 500 kc/s and up to and including 750 kc/s shall be attenuated at least 35 decibels below the level of the unmodulated carrier.

(3) Any emission appearing on a frequency removed from the assigned frequency by more than 750 kc/s shall be attenuated at least $43 + 10 \log_{10}$ (Power, in watts) decibels below the level of the unmodulated carrier.

10. Section 4.551 is amended to read as follows:

§ 4.551 Equipment changes.

(a) Prior Commission approval, upon appropriate application (FCC Form 313) therefor, is required for any of the following changes:

(1) A change in the transmitter as a whole (except replacement with an identical transmitter), or a change in power output.

(2) A change of frequency assignment.

(3) A change in the location of the STL transmitter (except relocation of the equipment within the same building).

(4) Any change in the antenna system which will increase the height of the antenna above the natural formation or man-made structure upon which it is mounted, by more than 20 feet or will result in an overall height above ground of more than 170 feet (except where the antenna is mounted below the top of an existing structure which is more than 170 feet high).

(5) Any change in the direction of the main radiation lobe of the transmitting antenna.

(b) Other equipment changes not specifically referred to above may be made at the discretion of the licensee provided that the Engineer-in-charge of the radio district in which the station is located and the Commission in Washington, D.C., are promptly notified in writing upon the completion of such changes and provided that the changes are set forth in the next application for renewal of license. Where such changes include the installation of multiplex equipment to provide additional aural channels, the purpose for which these added channels will be used shall be stated.

§§ 4.533(a), 4.534, 4.536, 4.561, 4.562, 4.563 and 4.581 [Amendment]

11. The expression "Broadcast STL or FM intercity relay station" is changed to "Aural broadcast STL and intercity relay stations" in §§ 4.533(a), 4.536, 4.561, 4.562, 4.563 and 4.581.

12. Section 4.582 is amended to read as follows:

§ 4.582 Station identification.

(a) Each aural broadcast STL or intercity relay station shall transmit its call sign at the beginning and end of each period of operation, and during operation, at least once every hour, it shall either transmit its call sign or the call sign of the broadcast station with which it is associated. In cases when an unattended intercity relay system is operated as an "off-the-air" pickup and relay, the transmission of the call sign of the broadcast station which it is relaying will satisfy the hourly identification requirement.

(b) Station identification transmissions during operation need not be made when to make such transmission would interrupt a single consecutive speech, play, religious service, symphony concert, or other such productions. In such cases, the identification transmission shall be made at the first interruption of the entertainment continuity and at the conclusion thereof.

(c) Where more than one aural broadcast STL or intercity relay station is employed in an integrated relay system, the station at the point of origination may originate the transmission of the call signs of all of the stations in the relay system.

(d) Voice transmissions shall normally be employed for station identification. However, other methods of station identification may be permitted or required by the Commission.

13. Section 4.603(b) is amended to read as follows:

§ 4.603 Sound channels.

* * * * *

(b) The aural portion of television broadcast program material may be transmitted over an aural broadcast STL or intercity relay station licensed under the provisions of Subpart E of this part.

14. In § 4.631 the title and paragraphs (b) and (c) are amended to read as follows:

§ 4.631 Permissible service.

* * * * *

(b) A television broadcast STL station is authorized to transmit visual program material between the studio and transmitter location of a television broadcast station. Multiplexing equipment may be employed to add one or more aural channels to a television broadcast STL station. These aural channels may be used to carry the sound program associated with the visual program material, operational communications related to the operation of the associated television broadcast station, and aural program material destined for any class of aural broadcasting station operated by the licensee of the television broadcast station and located at the television broadcast transmitter site. Operational communications may include voice transmissions of cues and orders as well as special signals used to actuate apparatus associated with the broadcasting operation and for the purpose of telemetry. In any case where multiplexing is employed to add aural channels to a television broadcast STL station, the transmitter must be capable of conveying the additional channels within the authorized channel without appreciably degrading the technical quality of the visual program material, and with adequate technical quality so as to permit the associated broadcast station to meet the overall performance requirements stipulated in the rules governing the class of broadcast station using the circuit. If such multiple circuits are operated simultaneously during the regular operation of the stations, these channels shall be in operation at the time the required periodic performance measurements are made of the overall broadcasting system.

(c) A television intercity relay station is authorized to transmit visual program material between television broadcast stations for simultaneous or delayed broadcast by such stations. Multiplexing equipment may be employed to add one or more aural channels to a tele-

vision intercity relay station. Such aural channels may be employed to carry the sound program accompanying the visual program material and for the transmission of operational communications. When multiplexing is employed, care should be exercised to minimize impairment of the quality of the visual program material.

15. Section 4.637 is amended to read as follows:

§ 4.637 Emission and bandwidth.

(a) Television broadcast auxiliary stations operating on frequencies above 1000 Mc/s may be authorized to employ any type of emission suitable for the transmission of the visual and such accompanying aural signals as may be permitted under the rules of this subpart.

(b) The channels assigned to television broadcast auxiliary stations are designated by upper and lower frequency limits. Emissions outside of these frequency limits shall be attenuated as follows:

(1) Any emission appearing on a frequency above the upper channel limit or below the lower channel limit by between zero and 50 percent of the assigned channel width, shall be attenuated at least 25 decibels below the level of the unmodulated carrier. Compliance with this specification will be deemed to show that the occupied bandwidth is no greater than the assigned channel width.

(2) Any emission appearing on a frequency above the upper channel limit or below the lower channel limit by between 50 percent and 150 percent of the assigned channel width, shall be attenuated at least 35 decibels below the level of the unmodulated carrier.

(3) Any emission appearing on a frequency above the upper channel limit or below the lower channel limit by more than 150 percent of the assigned channel width, shall be attenuated at least $43 + 10 \log_{10}$ (Power, in watts) decibels below the level of the unmodulated carrier.

16. Section 4.651 is amended by adding a new paragraph (c) to read as follows:

§ 4.651 Equipment changes.

* * * * *

(c) Multiplexing equipment may be installed on any licensed television broadcast STL or intercity relay station without further authority of the Commission, provided that the Engineer-in-charge of the radio district in which the station is located and the Commission in Washington, D.C., are promptly notified in writing of such addition and the use which will be made of the additional aural circuits, and that the changes are shown in the next application for renewal of license for the station.

[F.R. Doc. 61-7531; Filed, Aug. 8, 1961; 8:51 a.m.]

[47 CFR Part 15]

[Docket No. 14178]

ELECTRONIC INDUSTRIES ASSOCIATION

Order Extending Time for Filing Comments

The Commission has before it for consideration a request from the Electronic Industries Association (EIA) to extend the time for filing comments in the above proceeding to September 29, 1961.

It appearing that the proposed rule affects many different segments of EIA's membership, and that additional time is required to coordinate comments of the several segments; and

It further appearing that the views of EIA and other interested parties will be useful to the Commission in its consideration of the proposal; that the extension requested may be granted without adversely affecting other interests or interfering with the orderly consideration of the proposal; and hence that the public interest will be served by granting the additional time requested;

It is ordered, This 3d day of August 1961, pursuant to section 0.322(b) of the Commission's Statement of Organization, Delegations of Authority, and Other Information, That the time for filing comments in this proceeding is extended to September 29, 1961, and the time for filing reply comments is extended to October 9, 1961.

Released: August 4, 1961.

FEDERAL COMMUNICATIONS COMMISSION

[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61-7532; Filed, Aug. 8, 1961; 8:51 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

[AA 643.3–M]

RAYON STAPLE FIBER FROM SPAIN

Determination of No Sales at Less Than Fair Value

AUGUST 2, 1961.

A complaint was received that rayon staple fiber from Spain was being sold in the United States at less than fair value within the meaning of the Antidumping Act of 1921.

I hereby determine that rayon staple fiber from Spain is not being, nor likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

Statement of reasons. There have been no importations of rayon staple fiber from Spain since June 1960. During the calendar year 1960 total importations of rayon staple fiber from Spain amounted to approximately 15,000 pounds. Although it appears from the information available that the price to the United States of this fiber sold and offered for sale was less than the price at which the fiber was sold for home consumption in Spain, the quantity involved during the period under consideration is considered to be not more than insignificant.

This determination and the statement of reasons therefor are published pursuant to section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)).

[SEAL] A. GILMORE FLUES,
Assistant Secretary of the Treasury.

[F.R. Doc. 61–7524; Filed, August 8, 1961; 8:49 a.m.]

[Treasury Department Order 191]

DESIGNATION OF DEPUTIES

1. In addition to their other assignments, the following are designated to serve, at the pleasure of the Secretary, as the respective deputies of the principals indicated:

Principal and Deputy

Under Secretary for Monetary Affairs—Assistant to the Secretary (Debt Management).

General Counsel—Senior Assistant General Counsel.

Assistant Secretary—Deputy to the Assistant Secretary.

Assistant Secretary (International Finance)—Deputy Assistant Secretary (International Finance).

Fiscal Assistant Secretary—Assistant to the Fiscal Assistant Secretary.

Administrative Assistant Secretary—Deputy Administrative Assistant Secretary.

2. Each deputy shall have authority to perform, during the absence of his principal, any function his principal is authorized to perform.

Dated: August 2, 1961.

[SEAL] DOUGLAS DILLON,
Secretary of the Treasury.

[F.R. Doc. 61–7525; Filed, August 8, 1961; 8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

MONTANA

Notice of Proposed Withdrawal and Reservation of Lands

AUGUST 1, 1961.

The Bureau of Reclamation, Department of the Interior has filed an application, Serial Number M–044786 for the withdrawal of the lands described below, from all forms of appropriation under the public land laws and general mining laws, including the mineral leasing laws. The applicant desires the land for the right-of-way of Canyon Ferry Reservoir as the existing reservoir inundates a portion of the lands.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 1245 North 29th Street, Billings, Montana.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

PRINCIPAL MERIDIAN MONTANA

T. 10 N., R. 1 W.
Sec. 35: NE¼NE¼

Containing 40 acres.

E. I. ROWLAND,
State Director.

[F.R. Doc. 61–7505; Filed, Aug. 8, 1961; 8:46 a.m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

[Docket No. 956]

[Agreement No. 3103–16]

JAPAN-ATLANTIC AND GULF FREIGHT CONFERENCE

Notice of Hearing

On July 31, 1961, the Federal Maritime Board entered the following order:

It appearing that there is currently in effect Japan-Atlantic and Gulf Freight Conference Agreement No. 3103, which was approved pursuant to section 15 of the Shipping Act, 1916, on June 25, 1934, and subsequent amendments which have been approved pursuant to said section, the last approved being on June 8, 1961. The agreement as amended to date covers the trade from Japan, Korea, and Okinawa, to United States Gulf ports and Atlantic Coast ports of North America; and

It further appearing that a modification (Agreement No. 3103–16), providing for the inclusion in the trading area "United States and Canadian ports of the St. Lawrence River and Great Lakes", has been filed for approval pursuant to section 15 of the Shipping Act, 1916; and

It further appearing that a method of calculating rates for cargoes moving to ports on the St. Lawrence and the Great Lakes differentially higher than rates to ports now served and limitations of transshipment of cargoes have been agreed to by the members of the Conference, to become effective on approval of said modification; and

It further appearing that Marchessini Lines, joint service of Compania Maritima San Basilio, S.A., and Sociedad Maritima San Nicholas, S.A., have filed a protest against approval of the said Agreement No. 3103–16, in which it is alleged (1) that the modification and the arrangements for port differentials and prohibitions against joint rates to be effectuated thereunder should be disapproved because the scheme will be unjustly discriminatory and unfair as between carriers, shippers and ports, will operate to the detriment of the commerce of the United States, and will be in violation of sections 16, and 17 of the Shipping Act, 1916, and section 205 of the Merchant Marine Act, 1936, and (2) that the modification and unfiled rate regulations should be disapproved, and requests that a hearing be had;

Now therefore it is ordered, That the request of Marchessini Lines for a hearing be, and the same is hereby granted to determine whether the modification and rate regulations described above should be disapproved; and

It is further ordered, That the Japan-Atlantic and Gulf Freight Conference and each of the members of said Conference, except Marchessini Lines, be and they are hereby made respondents in this proceeding; and

It is further ordered, That this order be published in the FEDERAL REGISTER and that a copy of such order be served upon each respondent herein; and

It is further ordered, That this proceeding be set for hearing before an examiner of the Board's Hearing Examiners Office at a place and date to be announced.

Notice is hereby given that the hearing in this proceeding will be held before

an examiner of the Board's Office of Hearing Examiners at a date and place hereafter to be announced. The hearing will be conducted in accordance with the Board's rules of practice and procedure, and an initial decision will be issued by the examiner.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Board promptly and file petitions for leave to intervene in accordance with Rule 5(n) (46 CFR 201.74) of said rules.

By order of the Federal Maritime Board.

Dated: August 7, 1961.

THOMAS LISI,
Secretary.

[F.R. Doc. 61-7601; Filed, Aug. 8, 1961; 8:54 a.m.]

STATES MARINE LINES, INC., ET AL.

Notice of Agreements Filed for Approval

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

Agreement Numbered 8682, between the carriers comprising the States Marine Lines joint service, Lykes Bros. Steamship Co., Inc., Waterman Steamship Corporation (American Flag Carriers), and Nippon Yusen Kaisha, Kawasaki Kisen Kaisha, Ltd., Mitsui Steamship Co., Ltd., Shinnihon Steamship Company, Ltd., Osaka Shosen Kaisha, Ltd., and Mitsubishi Kaiun Kaisha, Ltd. (Japanese Flag Carriers), all members of the Far East Conference (Agreement Numbered 17, as amended), covers an arrangement for the division of revenues on raw cotton loaded at U.S. Gulf ports for transportation to Japan.

Agreement Numbered 8681, between States Marine Lines, Inc., Lykes Bros. Steamship Co., Inc., and Waterman Steamship Corporation, which are also parties to Agreement Numbered 8682, described above, covers the understanding of said carriers that upon commencement of operations by States Marine and Waterman under their operating-differential subsidy contracts, presently under consideration, the participation of States Marine, Lykes and Waterman in the fifty per cent allocated to these American Flag carriers under Agreement Numbered 8682 shall be equitably adjusted consistent with the number of sailings authorized by the operating-differential subsidy contracts of the American Flag carriers.

Interested parties may inspect these agreements and obtain copies thereof at the Office of Regulations, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to either of these agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: August 7, 1961.

By order of the Federal Maritime Board.

THOMAS LISI,
Secretary.

[F.R. Doc. 61-7602; Filed, Aug. 8, 1961; 8:54 a.m.]

FEDERAL AVIATION AGENCY

[OE Docket No. 61-LA-22]

PROPOSED RADIO ANTENNA STRUCTURE

Determination of No Hazard to Air Navigation

The Federal Aviation Agency has circularized the following proposal to interested persons for aeronautical comment and has conducted a study to determine its effect upon the safe and efficient utilization of airspace: The Mountain States Telephone and Telegraph Co., Denver, Colorado, proposes to erect a radio antenna structure near Idaho Falls, Idaho, at latitude 43°32'33" north, longitude 111°53'05" west. The overall height of the structure would be 5,635 feet above mean sea level (80 feet above ground).

No objections were made in response to the circularization. The structure would be located approximately 9.2 miles east/northeast of Fanning Field Airport, Idaho Falls, Idaho, and would exceed the outer conical surface criteria of the Joint Industry/Government Tall Structures Committee, as applied to this airport, by 196 feet. The terrain at the proposed site exceeds the above criteria by 116 feet. However, the Agency study revealed that the penetration of JIGTSC criteria by the proposed structure would have no adverse effect upon aeronautical operations at this airport.

No other aeronautical operations, procedures or minimum flight altitudes would be affected by the proposed structure.

Therefore, pursuant to the authority delegated to me by the Administrator (§ 626.33; 26 F.R. 5292), it is concluded that the proposed structure, at the location and mean sea level elevation specified herein, would have no adverse effect upon aeronautical operations, procedures or minimum flight altitudes; and it is hereby determined that this structure would not be a hazard to air navigation.

This determination is effective as of the date of issuance and will become final 30 days thereafter, provided that no appeal herefrom under § 626.34 of this title (26 F.R. 5292) is granted. Unless otherwise revised or terminated a final determination hereunder will expire 18 months after its effective date or upon earlier abandonment of the construction proposal (§ 626.35; 26 F.R. 5292).

Issued in Washington, D.C., on July 31, 1961.

OSCAR W. HOLMES,
Chief,
Obstruction Evaluation Branch.

[F.R. Doc. 61-7496; Filed, Aug. 8, 1961; 8:45 a.m.]

[OE Docket No. 61-NY-21]

PROPOSED RADIO ANTENNA STRUCTURE

Determination of No Hazard to Air Navigation

The Federal Aviation Agency has circularized the following proposal to interested persons for aeronautical comment and has conducted a study to determine its effect upon the safe and efficient utilization of airspace: The Western Union Telegraph Co., New York, New York, proposes to construct a microwave radio antenna structure near Warwick, New York, at latitude 41°12'32" north, longitude 74°21'22" west. The overall height of the structure would be 1,773 feet above mean sea level (293 feet above ground).

No objections were made in response to the circularization.

The structure would be located approximately 2.3 miles northwest of the Greenwood Lake Sea Plane Base, West Milford, New Jersey, and would penetrate the horizontal surface criteria of the Joint Industry/Government Tall Structures Committee, as applied to this base, by 973 feet. The terrain at the proposed site exceeds this criteria by 680 feet. The Agency study revealed that the penetration of JIGTSC criteria by this structure would not adversely affect aeronautical operations at this base.

The structure would require an increase from 2,500 feet MSL to 2,800 feet MSL in the Instrument Flight Rules minimum en route altitude on the segment of VOR Federal airway No. 252 between the Huguenot, New York, VORTAC and the Paterson, New Jersey, Radio Beacon. However, this increase in minimum en route altitude would have no substantial adverse effect upon aeronautical operations as the primarily important "cardinal" altitude of 3000 feet MSL would be retained.

No other aeronautical operations, procedures or minimum flight altitudes would be affected by the proposed structure.

Therefore, pursuant to the authority delegated to me by the Administrator (§ 626.33; 26 F.R. 5292), it is concluded that the proposed structure, at the location and mean sea level elevation specified herein, would have no substantial adverse effect upon aeronautical operations, procedures or minimum flight altitudes; and it is hereby determined that this structure would not be a hazard to air navigation, provided that the structure be obstruction marked and lighted in accordance with applicable Federal Communications Commission rules.

This determination is effective as of the date of issuance and will become final 30 days thereafter, provided that no appeal herefrom under § 626.34 of this title (26 F.R. 5292) is granted. Unless otherwise revised or terminated a final determination hereunder will expire 18 months after its effective date or upon earlier abandonment of the construction proposal (§ 626.35; 26 F.R. 5292).

Issued in Washington, D.C., on July 31, 1961.

OSCAR W. HOLMES,
Chief,
Obstruction Evaluation Branch.

[F.R. Doc. 61-7497; Filed, Aug. 8, 1961; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

BURLINGTON BROADCASTING CO. ET AL.

Memorandum Opinion and Order Amending Issues

In re applications of William S. Halpern and Louis N. Seltzer, d/b as Burlington Broadcasting Company, Burlington, New Jersey, Docket No. 13931, File No. BP-12580; Burlington County Broadcasting Company, Mount Holly, New Jersey, Docket No. 13932, File No. BP-13871; John J. Farina, tr/as Mt. Holly-Burlington Broadcasting Company, Mount Holly, New Jersey, Docket No. 13933, File No. BP-13952; for construction permits.

1. The Commission has before it for consideration (a) a petition for review of adverse ruling of Hearing Examiner filed May 29, 1961, by John J. Farina, tr/as Mt. Holly-Burlington Broadcasting Company (Farina), Mount Holly, New Jersey; (b) an opposition filed June 9, 1961, by Burlington County Broadcasting Company, Mount Holly, New Jersey; (c) an opposition filed June 12, 1961, by William S. Halpern and Louis N. Seltzer, d/b as Burlington Broadcasting Company (Halpern and Seltzer), Burlington, New Jersey; (d) an opposition filed June 12, 1961, by the Broadcast Bureau; (e) a reply of Mt. Holly-Burlington Broadcasting Company filed June 16, 1961; (f) a petition to dismiss the application of Mt. Holly-Burlington Broadcasting Company filed May 29, 1961, by O'Keefe Broadcasting Company (WBCB) (O'Keefe), Levittown-Fairless Hills, Pennsylvania; (g) an opposition of Mt. Holly-Burlington Broadcasting Company filed June 12, 1961; (h) a reply of Broadcast Bureau filed June 12, 1961; and (i) a reply of O'Keefe Broadcasting Company filed June 20, 1961.

2. Based on the engineering exhibit of Halpern and Seltzer which indicated that Farina's proposed 25 mv/m contour would overlap the 25 mv/m contour of the authorized one kilowatt operation of Station WBCB, Levittown-Fairless Hills, Pennsylvania, Farina sought to reduce the radiation of signal in the critical direction by modifying his directional antenna design. On May 22, 1961, the Hearing Examiner denied the petition, stating that the proffered amendment would to a degree change the engineering design of Mt. Holly-Burlington; that in the event there is a violation of § 3.37 of the rules, Mt. Holly-Burlington could be conceivably disqualified unless the section is waived; and that there is nothing to indicate that the question now posed is something which petitioner could not have reasonably foreseen and corrected before its application was designated for hearing. Farina now petitions for review of the Examiner's ruling on the grounds that he relied on the showing made based on the ground conductivity map (Fig. M-3); that he is not required to take measurements in every direction in order to insure that no overlap problems are present; that he had absolutely no basis to have reasonably foreseen this problem; and that since Halpern and Seltzer have seen fit to raise the problem, he is merely seeking to simplify and expedite the proceeding by effecting a minimal amendment to its proposal in order to forestall the slightest possibility of any overlap. Farina contends that he submitted his petition for leave to amend diligently and that a permission to amend his proposal will neither require the addition of any new parties nor the enlargement of the issues.

3. Concomitant with the petition for review is a petition to dismiss the Farina application or, in the alternative, to enlarge the issues filed by O'Keefe Broadcasting Company, licensee of Station WBCB.[1] The request made in this petition by O'Keefe to dismiss the Farina application was withdrawn subsequent to the filing of the Broadcast Bureau's reply in which the Bureau proposed the addition of the issue adopted below. O'Keefe's request that an overlap issue be added remains for consideration.

4. It is clear that the applicant upon making an allocation study based on the ground conductivity map should have been aware that the two 25 mv/m contours with narrow separation might be shown to overlap if the measurements were made. We therefore do not agree with the petitioner that he had no basis to have reasonably foreseen this problem, as required by the provisions of § 1.311(b) of our rules as a prerequisite to the filing of this type of amendment after designation for hearing. We will affirm the Examiner's denial of the request for leave to amend. See Frederick County Broadcasters (Docket Nos. 13624-25; FCC 61-490).

5. As to the petition to dismiss or enlarge the issues, there are two sets of measurements, one contradicting the other as to the existence of overlap of 25 mv/m contours. We cannot at this point resolve the difference without additional information, and believe that this matter can be satisfactorily resolved only on the basis of a record made at an evidentiary hearing. Thus, we will enlarge the issues as urged by the Broadcast Bureau.

Accordingly it is ordered, That the petition of John J. Farina, tr/as Mt. Holly-Burlington Broadcasting Company for review of adverse ruling of Hearing Examiner filed May 29, 1961, is denied; and

It is further ordered, That the petition of O'Keefe Broadcasting Company to dismiss the application of Mt. Holly-Burlington Broadcasting Company, or, in the alternative, to enlarge the issues is granted only to the extent indicated below and is denied in all other respects; that the present issues Nos. 7, 8, 9 and 10 are renumbered Nos. 8, 9, 10 and 11, respectively; and that the issues are enlarged to include as Issue 7 the following: To determine whether the 25 mv/m contour of the station proposed by John J. Farina tr/as Mt. Holly-Burlington Broadcasting Company would overlap the 25 mv/m contour of Station WBCB at Levittown-Fairless Hills, Pennsylvania, in violation of § 3.37 of the Commission's rules and, if so, whether circumstances exist warranting a waiver of such section of the rules.

Adopted: July 26, 1961.

Released: August 4, 1961.

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

[F.R. Doc. 61-7533; Filed, Aug. 8, 1961; 8:51 a.m.]

[1] By Order released June 13, 1961 (FCC 61M-1024), Chief Hearing Examiner granted the petition of O'Keefe Broadcasting Company to be made a party to the proceeding with respect to the Farina application.

[Docket No. 14205]

HEYWARD J. GAINEY

Order to Show Cause

In the matter of Heyward J. Gainey, Route 2, Box 114-C, Kannapolis, North Carolina, docket No. 14205; order to show cause why there should not be revoked the license for Radio Station 5Q0036 in the Citizens Radio Service.

There being under consideration the matter of certain alleged violations of the Commission's rules in connection with the operation of the above-captioned station;

It appearing that pursuant to § 1.76 of the Commission's rules, written notice of violation of the Commission's rules was served upon the above-named licensee as follows:

Commission letter dated May 10, 1961, alleging that on April 2, 1961, subject radio station was observed in violation of § 19.61(g) of the Commission rules governing the Citizens Radio Service which requires that radio transmissions shall be addressed to specific persons or stations located within the direct groundwave coverage of the radio station and prohibits transmissions which depend primarily upon skywave reflection or which are designed to elicit a response from random or unknown stations, such as by use of the general call sign "CQ".

It further appearing that the above-named licensee, received said Official Notice but did not make satisfactory reply thereto, whereupon the Commission, by letter dated June 12, 1961, and sent by Certified Mail—Return Receipt Requested (Cert. No. 97095), brought this matter to the attention of the licensee and requested that such licensee respond to the Commission's letter within fifteen days from the date of its receipt stating the measures which had been taken, or were being taken, in order to bring the operation of the radio station into compliance with the Commission's rules, and warning the licensee that failure to respond to such letter might

result in the institution of proceedings for the revocation of the radio station license; and

It further appearing that receipt of the Commission's letter was acknowledged by the signature of the licensee's agent, on June 13, 1961, to a Post Office Department return receipt; and

It further appearing that although more than fifteen days have elapsed since the licensee's receipt of the Commission's letter, no response was made thereto; and

It further appearing that in view of the foregoing, the licensee has repeatedly violated § 1.76 of the Commission's rules;

It is ordered, This 3d day of August 1961, pursuant to section 312 (a) (4) and (c) of the Communications Act of 1934, as amended, and section 0.291(b) (8) of the Commission's Statement of Delegations of Authority, that the said licensee show cause why the license for the above-captioned Radio Station should not be revoked, and appear and give evidence in respect thereto at a hearing to be held at a time and place to be specified by subsequent order; and

It is further ordered, That the Acting Secretary send a copy of this Order by Certified Mail—Return Receipt Requested to the said licensee.

Released: August 4, 1961.

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

[F.R. Doc. 61-7534; Filed, Aug. 8, 1961; 8:51 a.m.]

[Docket No. 14207; FCC 61-955]

FRANKLIN BROADCASTING CO. AND TEDESCO, INC.

Order Designating Application for Hearing on Stated Issues

In re application of Franklin Broadcasting Company, Assignor, and Tedesco, Inc., Assignee, Docket No. 14207, File No. BAPL-232; for assignment of license and construction permit for Station WMIN, St. Paul, Minnesota.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 26th day of July 1961:

The Commission having under consideration the above-entitled application to assign the license and construction permit for Station WMIN, St. Paul, Minnesota, filed with the Commission on March 15, 1961; and

It appearing that the assignor and the assignee, and/or their corporate officers, directors, stockholders and subsidiary corporations have acquired and disposed of interests in numerous broadcast licenses and permits; and

It further appearing that in view of the pattern of conduct with respect to the buying, selling and exchanging of broadcast properties on the part of the aforementioned individuals, partners, corporations and/or corporate officers, directors and stockholders, the Commission is unable to find that a grant of the above-entitled application would serve the public interest, convenience and necessity; and that the application must, therefore, be designated for hearing;

It is ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-entitled application is designated for hearing at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, in light of (a) the facts in the above-captioned application and (b) the acquisitions and dispositions of interests in broadcast stations by the applicants, and/or their principals and subsidiaries, whether a grant of the above-captioned application would be consistent with the Commission's policy against "trafficking" in broadcast licenses and construction permits.

2. To determine on the basis of the evidence adduced with respect to the foregoing issue, whether a grant of the above-entitled application would serve the public interest, convenience and necessity.

It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.140 of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

It is further ordered, That the applicants herein shall, pursuant to § 311 (a) (2) of the Communications Act of 1934, as amended, and § 1.362(b) of the Commission rules, give notice of the hearing, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.362(c) of the rules.

Released: August 3, 1961.

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

[F.R. Doc. 61-7535; Filed, Aug. 8, 1961; 8:51 a.m.]

[Docket No. 14207; FCC 61M-1328]

FRANKLIN BROADCASTING CO. AND TEDESCO, INC.

Order Scheduling Hearing

In re application of Franklin Broadcasting Company, Assignor, and Tedesco, Inc., Assignee, Docket No. 14207, File No. BAPL-232; for assignment of license and construction permit for Station WMIN, St. Paul, Minnesota.

It is ordered, This 3d day of August 1961, that Millard F. French will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on September 27, 1961, in Washington, D.C.; *And it is further ordered,* That a prehearing conference in the proceeding will be convened by the presiding officer at 1:15 p.m., Tuesday, September 5, 1961.

Released: August 3, 1961.

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

[F.R. Doc. 61-7536; Filed, Aug. 8, 1961; 8:51 a.m.]

[Docket No. 14076 etc.; FCC 61-943]

KENT-RAVENNA BROADCASTING CO. ET AL.

Memorandum Opinion and Order Amending Issues

In re applications of Kent-Ravenna Broadcasting Co., Kent, Ohio, Docket No. 14076, File No. BP-13749; Speidel Broadcasting Corporation of Ohio, Kettering, Ohio, Docket No. 14079, File No. BP-13834; R. Roy Stoneburner, Paul W. Stoneburner and Vernon H. Baker, d/b as Greene County Radio, Xenia, Ohio, Docket No. 14083, File No. BP-13841; et al., etc., for construction permits.

1. The Commission has before it for consideration (1) the petition to enlarge issues, filed May 15, 1961, by Greene County Radio; and (2) the Broadcast Bureau's reply, filed June 19, 1961, supporting petitioner's request.

2. By Order released April 25, 1961 (FCC 61-533), the applications of Speidel Broadcasting Corporation of Ohio, and of Greene County Radio were designated for hearing in the above-entitled multiparty proceeding. Speidel is an applicant for a construction permit for a new Class II station at Kettering, Ohio, to operate on 1510 kilocycles daytime with a power of 10 kilowatts, utilizing a directional antenna. Greene County Radio is an applicant for a construction permit for a new Class II station at Xenia, Ohio, to operate on 1500 kilocycles, daytime only, with a power of 500 watts. Among the issues designated for hearing is the standard comparative issue directed to these two applications.

3. Petitioner submits that although Kettering acquired its city charter in 1955 and has a city government independent of Dayton, Ohio, its community, social and business interests are strongly tied to Dayton, and that it is part of the Dayton Urbanized Area established by the 1960 United States Census. Petitioner therefore requests that the issues in this proceeding be enlarged to determine whether Kettering is a separate community for purposes of 307(b) of the Act. The Bureau supports petitioner's request, and, in addition, proposes an issue to determine whether any of the existing Dayton stations are presently acting as a local transmission facility for Kettering.

4. The petitioner has alleged sufficient facts to warrant the inclusion of an issue to determine whether Kettering is a separate community. A companion issue will also be added to resolve the question raised by the Bureau.

Accordingly, it is ordered, This 26th day of July 1961, That the petition to enlarge issues, filed May 15, 1961, by Greene County Radio, is granted, and

It is further ordered. That present issues Nos. 15, 16, and 17 be renumbered as Nos. 17, 18, and 19, respectively, and that the following new issues be added:

15. To determine, in the light of its location and urban and industrial characteristics and other relevant factors, whether Kettering, Ohio, is a separate community with respect to Dayton. Ohio, for the purposes of section 307 (b) of the Communications Act of 1934, as amended.

16. To determine, in the event it is concluded that Kettering, Ohio is a separate community from Dayton, Ohio, for the purposes of section 307(b) of the Communications Act of 1934, as amended, the type and character of the programming service now available to Kettering, Ohio, from licensed standard broadcast stations in Dayton, Ohio, and whether the programming needs of Kettering, Ohio, are met by such programming.

Released: August 3, 1961.

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

[F.R. Doc. 61-7537; Filed, Aug. 8, 1961; 8:51 a.m.]

[Docket Nos. 13798-13801; FCC 61M-1322]

OKLAHOMA BROADCASTING CO. ET AL.

Order Scheduling Prehearing Conference

In re applications of R. B. Bell and Bernice Bell, d/b as Oklahoma Broadcasting Company, Sapulpa, Oklahoma, Docket No. 13798, File No. BP-12403; Ira E. Courtney, tr/as Courtney Broadcasting Co., Winfield, Kansas, Docket No. 13799, File No. BP-12407; Lloyd Clinton McKenney, tr/as Winfield Broadcasting Company, Winfield, Kansas, Docket No. 13800, File No. BP-12756; William E. Minshall and Melwyn E. Klar, d/b as Sapulpa Broadcasters, Sapulpa, Oklahoma, Docket No. 13801, File No. BP-12876; for construction permits.

The Hearing Examiner having under consideration the agreements reached by the parties in a prehearing conference on July 28, 1961 regarding further proceedings in this matter;

It is ordered, This 2d day of August, 1961, that the hearing presently scheduled for September 8, 1961, be, and the same is, hereby continued to October 11, 1961, and that the following dates shall govern proceedings preliminary thereto:

September 15, 1961—Preliminary engineering exhibits exchanged;
September 21, 1961—Informal engineering conference and exchange of all non-engineering exhibits, except those relating to the 307(b) issue;
September 26, 1961—Further prehearing conference; and
October 5, 1961—Notification of witnesses.

Released: August 2, 1961.

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

[F.R. Doc. 61-7538; Filed, Aug. 8, 1961; 8:51 a.m.]

[Docket No. 14215-14224; FCC 61-980]

PLAINS RADIO BROADCASTING CO.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Plains Radio Broadcasting Company; For additional time to construct radio station KRKY, Denver, Colorado, Docket No. 14215, File No. BMPH-6458; For additional time to construct radio station WFFM, Cincinnati, Ohio, Docket No. 14216, File No. BMPH-6459; For additional time to construct radio station KFMV, Minneapolis, Minnesota, Docket No. 14217, File No. BMPH-6460; For additional time to construct radio station KFMC, Portland, Oregon, Docket No. 14218, File No. BMPH-6461; For additional time to construct radio station KPRN, Seattle, Washington, Docket No. 14219, File No. BMPH-6463; For consent to assignment of construction permit for radio station KRKY, Denver, Colorado to United Communications, Inc., Docket No. 14220, File No. BAPH-222; For consent to assignment of construction permit for radio station WFFM, Cincinnati, Ohio to United Communications, Inc., Docket No. 14221, File No. BAPH-223; For consent to assignment of construction permit for radio station KFMV, Minneapolis, Minnesota to United Communications, Inc., Docket No. 14222, File No. BAPH-224; For consent to assignment of construction permit for radio station KFMC, Portland, Oregon to United Communications, Inc., Docket No. 14223, File No. BAPH-225; For consent to assignment of construction permit for radio station KPRN, Seattle, Washington to United Communications, Inc., Docket No. 14224, File No. BAPH-226.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 26th day of July 1961:

The Commission having under consideration the above-entitled applications for additional time to construct the proposed stations and for consent to the voluntary assignment of the construction permits for the proposed stations;

It appearing that with respect to the above-entitled applications for consent to assignment of construction permits, the Commission, on August 2, 1960, sent (pursuant to former section 309(b) of the Communications Act) a pre-hearing letter addressed jointly to Plains Radio Broadcasting Company and United Communications, Inc., which letter is available for public inspection and is incorporated herein by reference; and that replies to the above-mentioned letter were received from Plains Radio Broadcasting Company on August 12, 1960, and from United Communications, Inc., on September 6, 1960; and

It further appearing that the construction permits proposed to be assigned expired by their own terms on November 16, 1960, but that the above-entitled applications for additional time to construct the proposed stations were timely filed on October 17, 1960; and that Plains Radio Broadcasting Company incorporated by reference in such applications its reply to the Commission's letter of August 2, 1960, as well as the representations made by it in the above-entitled applications for consent to assignment of its construction permits; and

It further appearing that the permittee, in its applications and in its response to the Commission's 309(b) letter, indicated that at the time the construction permits were applied for, the availability of Mr. Jack D. Liston, a director of the permittee company and General Manager of its Amarillo, Texas, broadcast stations, was among the determining factors in the decision to seek the construction permits, that Mr. Liston subsequently resigned, and that, in view of his resignation, the permittee deemed it improvident to attempt construction and operation of the proposed stations; and

It further appearing that although Mr. Liston apparently resigned from the permittee company on February 16, 1960, and the applications for construction permits were not granted by the Commission until March 16, 1960, the permittee did not advise the Commission either of Mr. Liston's resignation or of its principal reliance upon him to construct and operate the proposed stations; and

It further appearing that the permittee has not alleged, either in its applications or in its reply to the Commission's prehearing letter, that it made any attempt before or after its applications were granted to take measures, in the light of Mr. Liston's resignation, which would enable it to construct and operate the proposed stations; and

It further appearing that examination of the Commission's records fails to indicate that a supplemental ownership report (Form 323) has been filed, as required by § 1.343(c) of the rules, to reflect Mr. Liston's resignation as a director of Plains Radio Broadcasting Company; and

It further appearing that the foregoing matters raise questions of good faith, diligence, and intention to construct the proposed stations on the part of Plains Radio Broadcasting Company, and that, therefore, the Commission is unable to determine, without hearing, that grant of the above-entitled applications for additional time to construct the proposed stations would be in the public interest; and

It further appearing that the proposed assignee has made no independent attempt to discover and fulfill the tastes, needs and desires of the communities

proposed to be served, but has retained Mr. Liston as a consultant and has indicated primary reliance upon the judgment of its consultant, and whatever efforts he made as a director of Plains Radio Broadcasting Company; that the original applications of Plains Radio do not indicate that an attempt was made to survey community or area needs; that the programing proposed by the proposed assignee is the same as that originally proposed; and that the programing proposed is identical for each of the five cities involved; and

It further appearing that the proposed selling price apparently includes the cost of preparing, filing and prosecuting an application for an FM broadcast station at Detroit, Michigan (File No. BPH–2824) which was subsequently dismissed at the request of Plains Radio Broadcasting Company; and

It further appearing that the foregoing matters raise questions with respect to the above-entitled applications for consent to assignment of construction permits, and that, therefore, the Commission is also unable to determine, without hearing, that a grant of such applications would be in the public interest.

It is ordered, That, pursuant to section 319(b) and to former 309(b) of the Communications Act of 1934, as amended, the above-entitled applications are designated for consolidated hearing at a time and place to be specified by subsequent Order, upon the following issues:

1. To determine why Plains Radio Broadcasting Company did not file a supplemental ownership report pursuant to § 1.343(c) of the Commission's rules reflecting Mr. Liston's resignation as a director of the company.

2. To determine whether Plains Radio Broadcasting Company, in continuing to prosecute its applications for construction permits for the above-described FM broadcast facilities after the resignation of Mr. Jack D. Liston as a director of its company on February 15, 1960, and by failing to advise the Commission of such resignation and of its primary reliance upon the services of Mr. Liston prior to Commission action on its applications on March 16, 1960, failed to exercise good faith and proper diligence in its dealings with the Commission.

3. To determine whether Plains Radio Broadcasting Company still intended to construct and operate the proposed stations at the time the Commission granted the applications for construction permits.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether the reasons advanced by Plains Radio Broadcasting Company in support of its requests for extension of completion date constitute a showing that failure to complete construction was due to causes not under its control, or constitute a showing of other matters sufficient to warrant an extension within the meaning of section 319(b) of the Communications Act of 1934, as amended, and § 1.323(a) of the Commission's rules.

5. To determine whether and to what extent the proposed assignee has made any attempt to ascertain and fulfill the programming needs and desires of the communities proposed to be served.

6. To determine whether the programming proposed by the proposed assignee will meet the needs and interests of the communities concerned.

7. To determine whether the reported selling price includes the cost of preparing, filing and prosecuting an application for a sixth FM broadcast station at Detroit, Michigan (File No. BPH–2824), dismissed April 15, 1960, and, if so, whether grant of the above-entitled assignment applications would be consistent with the Commission's policy against "trafficking" in construction permits.

8. To determine whether, on the basis of the evidence adduced with respect to the foregoing issues, grant of the above-entitled applications would serve the public interest, convenience and necessity.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.140 of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

Released: August 4, 1961.

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

[F.R. Doc. 61–7539; Filed, Aug. 8, 1961; 8:52 a.m.]

[Docket Nos. 14211, 14212; FCC 61–974]

PUTNAM BROADCASTING CORP. AND PORT CHESTER BROADCASTING CO.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Putnam Broadcasting Corporation, Brewster, New York, requests 1590 kc, 1 kw, DA–D, III, Docket No. 14211, File No. BP–13562; Nicholas J. Zaccagnino, tr/as Port Chester Broadcasting Co., Port Chester, New York, requests 1590 kc, 1 kw, DA–2. U. Docket No. 14212, File No. BP–14572; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D.C. on the 26th day of July 1961;

The Commission having under consideration the above-captioned and described applications;

It appearing that except as indicated by the issues specified below, each of the instant applicants is legally, technically, financially and otherwise qualified to construct and operate the instant proposals; and

It further appearing that the following matters are to be considered in connection with the aforementioned issues specified below:

1. Simultaneous operation of the instant proposals would result in mutually destructive interference.

2. A substantial question obtains as to whether adequate nighttime protection will be afforded by the proposal for Port Chester to the service areas of Stations WBRY, Waterbury, Connecticut, and WEEZ, Chester, Pennsylvania.

3. The proposal for Port Chester will cause daytime interference to the existing operations of Stations WERA, Plainfield, New Jersey, and WWRL, New York, New York.

It further appearing that in view of the foregoing, the Commission is unable to make the statutory finding that a grant of the subject applications would serve the public interest, convenience, and necessity, and is of the opinion that the applications must be designated for hearing in a consolidated proceeding on the issues set forth below:

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

1. To determine the areas and populations which would receive primary service from each of the instant applicants and the availability of other primary service to such areas and populations.

2. To determine the nature and extent of the interference, if any, that each of the instant proposals would cause to and receive from each other and the interference that each of the instant proposals would receive from all other existing standard broadcast stations, the areas and populations affected thereby, and the availability of other primary service to the areas and populations affected by interference from any of the instant proposals.

3. To determine whether the instant proposal of Port Chester Broadcasting Company would cause objectionable nighttime interference to Stations WBRY, Waterbury, Connecticut and WEEZ, Chester, Pennsylvania, or any other existing standard broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

4. To determine whether the instant proposal of Port Chester would cause objectionable daytime interference to Stations WERA, Plainfield, New Jersey, and WWRL, New York, New York, or any other existing standard broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

5. To determine whether the antenna system proposed by Port Chester Broadcasting Company can be adjusted and maintained as proposed, and whether a satisfactory proof-of-performance can be made in view of water areas involved, especially along bearings through null areas of the radiation pattern.

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

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

It is further ordered, That WBRY Broadcasting Corporation, WDRF, Inc., Tri-County Broadcasting Corporation and Long Island Broadcasting Corporation, Licensees of Stations WBRY, WEEZ, WERA and WWRL, respectively, are made parties to the proceeding.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and parties respondent herein, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.362(b) of the Commission's rules, give notice of the hearing, either individually or, if feasible, jointly, within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 1.362(c) of the rules.

It is further ordered, That, the issues in the above-captioned proceeding may be enlarged by the examiner, on his own motion or on petition properly filed by a party to the proceeding, and upon sufficient allegations of fact in support thereof, by the addition of the following issue: To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

Released: August 4, 1961.

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

[F.R. Doc. 61-7540; Filed, Aug. 8, 1961; 8:52 a.m.]

[Docket Nos. 13965-13967; FCC 61-944]

ROCKFORD BROADCASTERS, INC. (WROK) ET AL.

Memorandum Opinion and Order Amending Issues

In re applications of Rockford Broadcasters, Incorporated (WROK), Rockford, Illinois, Docket No. 13965, File No. BP-13422; Quincy Broadcasting Company (WGEM), Quincy, Illinois, Docket No. 13966, File No. BP-14225; Robert W. Sudbrink and Margareta S. Sudbrink d/b as McLean County Broadcasting Co., Normal, Illinois, Docket No. 13967 File No. BP-14401; for construction permits.

1. The Commission has before it for consideration (1) the petition to enlarge issues, filed June 20, 1961, by Carl H. Meyer (WCMY); (2) comment of Broadcast Bureau, filed June 29, 1961; and (3) statement with respect to petition to enlarge issues, filed July 3, 1961, by Rockford Broadcasters, Incorporated (WROK).

2. Carl H. Meyer is the licensee of Class III Station WCMY, Ottawa, Illinois, which operates on the frequency of 1430 kc with 500 watts power, non-directional, daytime only. Rockford Broadcasters, Incorporated, is the licensee of Class III Station WROK, 1440 kc, Rockford, Illinois, and in the subject proceeding is seeking authority to increase from 1 kw to 5 kw the daytime power of WROK. The Rockford (WROK) application was designated for hearing in the above-entitled proceeding by Commission Order (FCC 61-246), released February 28, 1961. The issues set forth in the Order do not include an issue as to the interference which the proposed operation of WROK would cause to WCMY or any other existing station, and Carl H. Meyer, licensee of Station WCMY, was not named as a party to the proceeding. Meyer's petition for leave to intervene was granted by Order of the Acting Chief Hearing Examiner (FCC 61M-1155), released July 5, 1961.

3. Petitioner submits field strength measurement data, taken on the WCMY signal, to show that existing WROK causes more than 3% interference to WCMY and that proposed WROK will cause interference totalling approximately 7% to WCMY. The showing thus made by it suffices to warrant the inclusion of an issue to consider the effect of the proposed operation of WROK on Station WCMY and the areas and populations it presently serves, and the issues in this proceeding will be enlarged to include such an issue.

Accordingly, it is ordered, This 26th day of July 1961, that the petition to enlarge issues, filed June 20, 1961, by Carl H. Meyer (WCMY) is granted; and

It is further ordered, That present issues Nos. 5 through 9 be renumbered 6 through 10, and that the following new issue be added:

5. To determine whether the instant proposal of Rockford Broadcasters, Incorporated, would cause objectionable interference to Station WCMY, Ottawa, Illinois, or any other existing standard broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

Released: August 3, 1961.

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

[F.R. Doc. 61-7541; Filed, Aug. 8, 1961; 8:52 a.m.]

[Docket No. 14209; FCC 61-968]

ROUNSAVILLE OF LOUISVILLE, INC. (WLOU)

Order Designating Application for Hearing on Stated Issues

In reapplication of Rounsaville of Louisville, Inc. (WLOU), Louisville, Kentucky, has 1350 kc, 5 kw, Day. Req. 1350 kc, 5 kw, DA-N, U, Class III-A, Docket No. 14209, File No. BP-13545; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D.C. on the 26th day of July 1961;

The Commission having under consideration the above-captioned and described application;

It appearing that except as indicated by the issues specified below, the instant applicant is legally, technically, financially, and otherwise qualified to construct and operate the instant proposal; and

It further appearing, that the applicant states that the present nighttime RSS limitation of Station WEZY, Cocoa, Florida is 15.92 mv/m and is made up of individual limitations from WSMB, New Orleans, Louisiana (11.78 mv/m) WAVY, Portsmouth, Virginia (7.93 mv/m) and WADC, Akron, Ohio (7.17 mv/m); that if the instant application of WLOU is granted, the nighttime RSS of WEZY will be decreased from 15.92 mv/m to 15.88 mv/m since the limitations from WAVY and WADC would be excluded by the "50% method" and the new RSS of WLOU would be composed only of the limitations from the instant proposal (10.65 mv/m) and WSMB; that only slight interference would be caused to the eastern part of the WEZY nighttime service area by the proposed WLOU operation; but that in accordance with the provisions of § 3.182(o)(4) of the Commission rules we find that the proposed nighttime limitation of 10.65 mv/m to WEZY must be included in the nighttime RSS of WEZY without excluding the limitations from Stations WAVY and WADC. As a result, the RSS of WEZY will be increased to approximately 19.0 mv/m.

It further appearing, that in view of the foregoing, the Commission is unable to make the statutory finding that a grant of the subject application would serve the public interest, convenience, and necessity, and is of the opinion that the application must be designated for hearing on the issues set forth below:

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the instant application is designated for hearing, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the proposed operation of Station WLOU and the availability of other primary service to such areas and populations.

2. To determine whether the instant proposal would cause objectionable

nighttime interference to Station WEZY, Cocoa, Florida, or any other existing standard broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether a grant of the instant application would serve the public interest, convenience and necessity.

It is further ordered, That WEZY, Inc., licensee of Station WEZY, Cocoa, Florida, is made a party to the proceeding.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicant and party respondent, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

It is further ordered, That the applicant herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.362(b) of the Commission's rules, give notice of the hearing, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.362(c) of the rules.

Released: August 3, 1961.

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

[F.R. Doc. 61-7542; Filed, Aug. 8, 1961; 8:52 a.m.]

[Docket No. 14209; FCC 61M-1329]

ROUNSAVILLE OF LOUISVILLE, INC. (WLOU)

Order Scheduling Hearing

In re application of Rounsaville of Louisville, Inc. (WLOU), Louisville, Kentucky, Docket No. 14209, File No. BP-13545; for construction permit.

It is ordered, This 3d day of August 1961, that Basil P. Cooper will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on October 9, 1961, in Washington, D.C.; *And it is further ordered,* That a prehearing conference in the proceeding will be convened by the presiding officer at 1:15 p.m., Thursday, September 7, 1961.

Released: August 3, 1961.

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

[F.R. Doc. 61-7543; Filed, Aug. 8, 1961; 8:52 a.m.]

[Docket Nos. 14213, 14214; FCC 61-977]

SEWARD BROADCASTING CO., INC., AND SALTVILLE BROADCASTING CORP.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of The Seward Broadcasting Company, Incorporated, Marion, Virginia, requests 1330 kc, 1 kw, Day, Class III, Docket No. 14213, File No. BP-13803; Saltville Broadcasting Corporation, Saltville, Virginia, requests 1330 kc, 1 kw, Day, Class III, Docket No. 14214, File No. BP-14611; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 26th day of July 1961;

The Commission having under consideration the above-captioned and described applications;

It appearing that each of the applicants is in all respects qualified to construct and operate its proposal, except as to the matters involved in the issues set forth below; and

It further appearing that the following matters are to be considered in connection with the aforementioned issues specified below:

1. The two applicants propose one-kilowatt, co-channel operations approximately 15 miles apart and are therefore mutually exclusive.

2. Mountain Empire Broadcasting Corporation, controlling stockholder in the Saltville application, is the licensee of Station WMEV (and WMEV-FM), in Marion, Virginia. Standard broadcast station WMEV operates on a frequency of 1010 kc, with a power of one kilowatt, daytime only. Extensive overlap would exist between the service contours of WMEV and the Saltville proposed operation. Accordingly, a substantial question exists as to whether or not a grant of the Saltville proposal would contravene the provisions of § 3.35(a) of the Commission's rules.

It further appearing that in view of the foregoing, the Commission is unable to make the statutory finding that a grant of the subject applications would serve the public interest, convenience, and necessity, and is of the opinion that the applications must be designated for hearing in a consolidated proceeding on the issues set forth below:

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

1. To determine the areas and populations which would receive primary service from each of the proposals and the availability of other primary service to such areas and populations.

2. To determine whether a grant of the instant proposal of Saltville Broadcasting Corporation would be in contravention of the provisions of § 3.35(a) of the Commission rules with respect to multiple ownership of standard broadcast stations.

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

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

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

It is further ordered, That the applicants herein shall, pursuant to § 311(a)(2) of the Communications Act of 1934, as amended, and § 1.362(b) of the Commission's rules, give notice of the hearing, either individually or, if feasible, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.362(c) of the rules.

It is further ordered, That, the issues in the above-captioned proceeding may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding, and upon sufficient allegations of fact in support thereof, by the addition of the following issue: To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

Released: August 4, 1961.

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

[F.R. Doc. 61-7544; Filed, Aug. 8, 1961; 8:52 a.m.]

[Docket No. 14208; FCC 61-961]

WMOZ, INC. (WMOZ)

Order Designating Applications for Consolidated Hearing on Stated Issues

In re application of WMOZ, Inc., Mobile, Alabama, Docket No. 14208, File No. BR-2797; For Renewal of License of Station WMOZ, Mobile, Alabama.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 26th day of July, 1961;

The Commission having under consideration (a) the above-captioned application for renewal of license; (b) a report of an inspection of Station WMOZ; and (c) the report of the Com-

mission's inquiry into the affairs of said station; and

It appearing that the above licensee has made certain written representations to the Commission in the above-captioned application for renewal of license with respect to its programming and its operations which representations, with other information before the Commission, raise questions as to whether the licensee of Station WMOZ has submitted false reports to the Commission with particular reference to the Annual Financial Report (Form 324); has submitted false and forged programming logs; has submitted false and misleading information in the renewal application particularly with respect to the policy of broadcasting news and public service programs; has interrupted the station's program service in a way and to a degree so as to cause a deterioration in said service contrary to the public interest; has failed to provide the opportunity for local self-expression consistent with operation in the public interest; has met in its past and will meet in its proposed over-all program service the needs and interests of the community it serves; has with reference to certain programs broadcast material allegedly vulgar, suggestive, and susceptible of indecent double meanings; has misrepresented facts to the Commission or was lacking in candor; has maintained adequate control or supervision of programming material broadcast over the station; and has engaged in activities bearing adversely on its character qualifications; and

It further appearing, that, after consideration of all of the foregoing, the Commission is unable to find that a grant of the above-captioned application would serve the public interest; that, therefore, said application must be designated for hearing; and that except as indicated by the issues specified below, the applicant is legally, technically and financially qualified to operate said station;

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the instant application is designated for hearing in Mobile, Alabama, at a time and location to be specified in a subsequent Order, upon the following issues:

1. To determine whether, in connection with the above-captioned application, the licensee submitted falsified and forged program logs and false and misleading information to the Commission;

2. To determine whether the licensee prepared and maintained its program logs for Station WMOZ in violation of the provisions of §§ 3.111–3.115, inclusive, of the Commission's rules;

3. To determine whether, during the past license term, the station's program logs were altered with the intent and purpose of deceiving the Commission;

4. To determine whether in its above-captioned renewal application and its Annual Financial Report for 1960 (Form 324) the licensee made misrepresentations to the Commission and/or was lacking in candor;

5. To determine whether the licensee permitted program material to be broadcast over Station WMOZ which was coarse, vulgar, suggestive and susceptible of indecent double meanings;

6. To determine, in light of the concentration and number of commercial spot announcements, whether during the past license period the station's program service was interrupted in a manner and to a degree so as to cause a deterioration in said service contrary to the public interest;

7. To determine whether, during the past license period, the applicant has provided opportunities for local self-expression consistent with operation in the public interest;

8. To determine whether the station's past and proposed overall program service was and is designed to meet the needs and interests of the community it serves;

9. To determine whether the licensee maintained adequate control or supervision of programming material broadcast over its station during the past license period;

10. To determine whether, in light of the evidence adduced with respect to the foregoing issues, the licensee possesses the requisite qualifications to be a licensee of the Commission;

11. To determine whether, in light of the evidence adduced with respect to the foregoing issues, a grant of the above-captioned application would serve the public interest, convenience or necessity;

It is further ordered, That, to avail itself of the opportunity to be heard, the applicant herein, pursuant to § 1.140 of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order;

It is further ordered, That, the applicant herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.362(b) of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.362(c) of the rules.

Released: August 4, 1961.

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

[F.R. Doc. 61-7545; Filed, Aug. 8, 1961; 8:52 a.m.]

[Docket No. 14228; FCC 61-988]

EDWIN H. ESTES

Order to Show Cause

In the matter of revocation of License of Edwin H. Estes for Standard Broadcast Station WPFA, Pensacola, Florida, Docket No. 14228.

The Commission having under consideration the character qualifications of Edwin H. Estes as the licensee of a broadcast station; and

It appearing that Edwin H. Estes is the individual licensee of Station WPFA, Pensacola, Florida, and the President and owner of 99 percent of the stock of WMOZ, Incorporated, licensee of Station WMOZ, Mobile, Alabama; and

It further appearing that the application for renewal of license for Station WMOZ was executed by Edwin H. Estes as President of WMOZ, Incorporated, and that on this day the Commission has designated for hearing the said application; and

It further appearing that the Commission's consideration of the application for renewal of license for Station WMOZ has raised serious questions as to the qualifications of Edwin H. Estes to be a licensee of the Commission, since it appears that (1) false and forged program logs for days of the required composite week were knowingly and wilfully submitted to the Commission with the WMOZ renewal application; (2) the Annual Financial Report (Form 324) for 1960 contained misrepresentations with respect to the gross revenue of the station; (3) the WMOZ renewal application contained false and misleading information particularly with respect to the broadcast of news and public service programs which were not in fact presented; and (4) Edwin H. Estes has engaged in activities bearing adversely on his character qualifications in that he compelled employees to violate Commission Rules under threat of dismissal; and

It further appearing that the application for renewal of license for Station WPFA for the period beginning February 1, 1961, was granted without hearing, but that such action would not have been taken if the information presently available as to the qualifications of Edwin H. Estes had been at hand at the time of grant; and

It further appearing that the evidence to be submitted in the hearing on the application for renewal of license for Station WMOZ would to a substantial degree be pertinent to the question as to the qualifications of Edwin H. Estes as licensee of Station WPFA:

It is ordered, This 26th day of July 1961, pursuant to the provisions of sections 312(a)(2) and 312(c) of the Communications Act of 1934, as amended, that Edwin H. Estes show cause why the license for Station WPFA, Pensacola, Florida, should not be revoked, and appear and give evidence in respect thereto at a hearing[1] to be held in Mo-

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[1] Section 1.77 of the Commission's rules provides that a licensee, in order to avail himself of the opportunity to be heard, shall, in person or by his attorney, file with the Commission, within thirty days after service of the Order to Show Cause, a written statement that he will appear at the hearing and present evidence on the matter specified in the Order. In the event that it would be impossible for respondent to appear for hearing in the proceeding if scheduled to be held in Mobile, Alabama, he should advise the Commission of the reasons for such inability within five days of the receipt of this Order. The right to a hearing is waived if the licensee (1) fails to file a timely written appearance, or (2) files with the Commission, within the time specified for a written appearance, a written statement expressly waiving the right to a hearing. When hearing is waived, the licensee, within the time specified for a written appearance, may sub-

bile, Alabama at a time and place to be specified in a subsequent order; and

It is further ordered, That the hearing on this Order to Show Cause be consolidated with the hearing on the application for renewal of license for Station WMOZ (Docket No. 14208); and

It is further ordered, That the Acting Secretary send a copy of this Order and the Order designating the WMOZ renewal application for hearing by Certified Mail—Return Receipt Requested to Edwin H. Estes.

Released: August 4, 1961.

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

[F.R. Doc. 61-7546; Filed, Aug. 8, 1961; 8:53 a.m.]

[Docket Nos. 6584, 14225; FCC 61-981]

KSTP, INC. (KOB) AND AMERICAN BROADCASTING - PARAMOUNT THEATRES, INC.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of: KSTP, Inc. (KOB), Albuquerque, New Mexico, Docket No. 6584, File No. BMP-1738, for Modification of Construction Permit; American Broadcasting-Paramount Theatres, Inc. (WABC & Aux.), New York, New York, has 770 kc, 50 kw, U, requests renewal of existing license, Docket No. 14225, File No. BR-167.

1. The Commission has before it for consideration (1) the above-captioned applications; (2) a "Petition to Consolidate Applications for Hearing", filed on September 19, 1960, by KSTP, Inc. (KSTP); (3) Oppositions to the above Petition, filed on September 20 and October 3, 1960, by American Broadcasting-Paramount Theatres, Inc. (WABC); and (4) a reply thereto, filed on October 13, 1960, by KSTP.

2. Since the complete background of the proceedings in Docket Nos. 6584 and 6585 has been set forth in detail in Appendix A of the Commission's decision of September 3, 1958 (In re Albuquerque Broadcasting Co., 16 RR 765, Pg. 883) it need not again be restated. However, for the purpose of better understanding the nature of the pleadings now before us, we will summarize what has transpired subsequent to the decision of September, 1958 and bring this portion of the history to date. The decision to which we refer above, concluded that Class I-A channel 770 kilocycles could best be utilized by the employment of two Class I stations thereon; and that both WABC and KOB would be permitted to operate on that frequency with 50 kilowatts of power, each employing a directional antenna designed to protect the other, with said directional antennas designed in accordance with the parameters specified in paragraph 22 of the findings of fact contained therein. Accordingly, KSTP was granted leave to amend its application for Albuquerque, New Mexico (File No. BMP-1738), and WABC was granted leave to file an application for authority to make changes in its existing operation, both applications to specify the type operation contemplated by the above decision. In addition, WABC was directed to file its application for renewal of license, which was to expire on June 1, 1960, no later than July 1, 1959. WABC's Petition for Reconsideration of this action was denied by the Commission on September 8, 1959. In re Albuquerque Broadcasting Co., 16 RR 895, and on May 27, 1960, the United States Court of Appeals for the District of Columbia Circuit, on an appeal taken by WABC, affirmed the Commission's Decision of September 3, 1958, American Broadcasting-Paramount Theatres v. F.C.C., 20 RR 2001. On March 11, 1959, the KSTP application for Albuquerque, New Mexico was amended in accordance with the decision of September, 1958, supra. WABC, however, filed an application for renewal of its license (File No. BR-167) requesting the continuance of its existing operation.

3. On February 24, 1960, KSTP filed an application requesting authority to construct a new standard broadcast station to operate on 770 kilocycles at New York City (File No. BP-13932). This proposal specifies the type operation contemplated by the Commission in its decision of September 3, 1958. On August 22, 1960, WABC and KSTP were advised, pursuant to the then existing notice provisions of section 309(b) of the Communications Act of 1934, as amended, that since their applications were mutually exclusive (both requesting the same facilities) both could not be granted and accordingly, it was necessary that they be designated for comparative hearing to determine which proposal, if either, would better serve the public interest, convenience and necessity. In reply to this letter, KSTP filed its "Petition to Consolidate Applications for Hearing."

4. In its petition, KSTP contends that its application for Albuquerque (File No. BMP-1738) should also be consolidated in the above proceeding; that the application of WABC, requesting renewal of its 50 kilowatt non-directional operation on 770 kilocycles, will result in "ruinous interference" to its proposed directional operation as a Class I station at Albuquerque and that in view thereof, the above three referenced applications should be consolidated for hearing with a single "307(b)" issue scheduled for consideration.

5. WABC, by oppositions filed on September 20 and October 3, 1960, contends that the course of action proposed by KSTP is contrary to the Commission's rules; to applicable precedent, and to the recent admonition of the Court of Appeals; that the holding of the United States Supreme Court in Ashbacker Radio Corp. v. F.C.C., 326 U.S. 327, should not be construed in a manner which compels the Commission to give a mutually exclusive applicant comparative consideration with an existing licensee seeking renewal of its license, if it can be found that but for the existence of said new application, the public interest, convenience and necessity would be served by its renewal; that, moreover, said comparative consideration need no longer be afforded in view of the deletion in 1952 of the language in section 307(d) of the Act which, in effect, stated that renewals be treated as original applications filed pursuant to section 308(a) and also in view of the language added thereto, in 1952, indicating that existing licensees, absent a serious breach of the public trust, should be granted renewals almost as of course; [1] that further, the Commission's decision of September 1958, makes clear that the KOB proceeding had not been terminated thereby; that it had only decided two Class I stations may be assigned on 770 kilocycles and tentatively arrived at the proposed pattern of dual operation by KOB and WABC on that channel; that the Court of Appeals, on May 27, 1960, in passing upon the Commission's decision of September 1958, also saw the necessity of further proceedings in this matter by stating that the position of ABC, as a network, should not be permanently prejudiced by forcing it to share a channel if other networks are given full use of clear channels and that failure by the Commission to give due consideration to WABC's claim for treatment comparable to that accorded other networks may be brought to the Court for review; that in view thereof, WABC argues, it has "cut-off protection" by reason of the unfinished aspects of the KOB proceeding and this fact necessarily precludes comparative consideration, at this time, of the KSTP application for its facilities; that

mit to the Commission a written statement denying or seeking to mitigate or justify the circumstances or conduct complained of in the Order to Show Cause. When a hearing is waived, the Chief Hearing Examiner will issue an order certifying the case to the Commission. The Commission will then determine on the basis of all the information available to it from any source, which may include statements filed by the respondent, recommendations from the Commission's staff, respondent's past violation record, etc. or such further proceeding as may be warranted, whether a revocation order and/or a cease and desist order should be issued or whether the matter should be dismissed.

[1] The language deleted by the 1952 amendment to section 307(d) of the Act is as follows:

"* * * but action of the Commission with reference to the granting of such application for the renewal of a license shall be limited to and governed by the same considerations and practice which affect the granting of original applications."

The pertinent language added to section 307 (d) of the Act by the 1952 amendment and to which petitioner refers above, is as follows:

"* * * In order to expedite action on applications for renewal of broadcasting station licenses and in order to avoid needless expense to applicants for such renewals, the Commission shall not require any such applicant to file any information which previously has been furnished to the Commission or which is not directly material to the considerations that affect the granting or denial of such application, but the Commission may require any new or additional facts it deems necessary to make its findings."

moreover, any consideration given the KSTP application requesting operation on 770 kilocycles at New York City, would violate the Commission's Order of August 9, 1946 (1 RR 53:905), which provides in substance that applications requesting operation on 770 kilocycles will be placed in the pending files until conclusion of the proceedings in Docket No. 6741 (Clear Channel proceeding).

6. KSTP's reply, filed on October 13, 1960, controverts, categorically, all of the above arguments asserted by WABC. In substance it replies that the 1952 amendments to the Communications Act did not affect an applicant's right to have its proposal considered comparatively with an application for renewal when it is mutually exclusive therewith; that no further proceedings remain in the KOB-WABC matter which provides "cut-off protection" to the WABC renewal application; and that the "admonition" of the Court of Appeals, to which WABC refers, cannot be construed to mean that the Commission must hear the claims of WABC with respect to its network position before any further action can be taken in accordance with the Commission's decision of September 1958. In view of the above, KSTP again requests that its applications for New York City and Albuquerque be consolidated for hearing with the renewal application of WABC.

7. In view of the doctrine expressed by the United States Supreme Court in Ashbacker Radio Corp. v. Federal Communications Commission (supra), we have consistently held that an application for renewal of a broadcast license must be designated for comparative hearing with any other mutually exclusive applications then pending before the Commission, In re Hearst Radio, Inc. (WBAL), 3 Pike & Fischer RR 731 (1947); Robert E. Bollinger, 13 Pike & Fischer RR 881 (1957); Wabash Valley Broadcasting Co. (WTHI–TV), 18 Pike & Fischer RR 562 (1959); Radio Voice of New Hampshire, Inc. (WMUR–TV), Order of May 1, 1957 (FCC 57–433); Oroville Broadcasters (KMOR), Order of November 5, 1958 (FCC 58–1041). WABC claims, however, that because of the 1952 amendments to the Communications Act, comparative consideration need no longer be afforded a mutually exclusive applicant in a license renewal hearing. (See Par. 5, supra.)[2] We do not agree that the 1952 amendments to the Act intended or accomplished such a result. Section 301 of the Communications Act provides that no license shall be construed to create any right beyond the terms, conditions and periods of the license; while section 304 requires that a prospective licensee sign a waiver of any claim to the use of a particular frequency because of the previous use of the same, before such license may be granted. Thus, it appears clear that the Act intends no person to have anything in the nature of a property right as a result of the grant of a license; that broadcast licenses are limited to a maximum of three years duration and may be revoked at any time for good cause shown; that before such license can be renewed, it must be determined, pursuant to section 307(d) of the Act, that the public interest, convenience and necessity would be served thereby and that if, after a hearing on such application for renewal, said finding cannot be made, the frequency presently occupied remains free for a new assignment to another licensee in the interest of the listening public. See Federal Communications Commission v. Sanders Brothers Radio Station, 309 U.S. 470, 9 RR 2008, p. 2011. To refuse, then, a mutually exclusive applicant at this stage of a proceeding, the opportunity to show that its proposal would better serve the public interest, would be a denial of the rights afforded such applicants by the Communications Act of 1934, as amended, as well as a violation of the Commission's duty to determine, as among all available applicants requesting the same facilities, whose proposal would best serve the public interest, convenience and necessity. To illustrate further the fallaciousness of the instant argument advanced by WABC, we observe that the Court of Appeals, in its decision of May 27, 1960, also recognizes this right afforded applicants for broadcast facilities, for therein, in discussing WABC's right to raise the claim regarding its network position vis a vis the other networks, the Court states:

> It may be that ABC can raise its claim in this regard by filing competitive applications when present licensees on other frequencies seek renewal or by seeking modification of existing licenses held by others. (See 20 RR p. 2005.)

8. Nor can we accept WABC's argument that its renewal application has "cut-off protection" by virtue of the fact that the decision of September 3, 1958, in Docket Nos. 6584 and 6585 (16 RR 765, supra), did not conclude the KOB matter. A similar contention was raised by WABC in its petition for rehearing, filed on October 6, 1958. Therein it was requested, inter alia, that the Commission modify its decision of September 3, 1958 to make it clear that the conclusions there reached are "tentative" only. In reply thereto, the Commission stated as follows:

> The conclusions set forth in the decision under review constitute our considered judgment. In the sense that any Commission decision or action may be modified when changed conditions and the public good require it, the instant decision is tentative. In the sense that the Commission at present contemplates no further evidentiary hearing on the decision reached herein, the decision is final. (16 RR 895, para. 12, September 8, 1959.)

In view of the foregoing language, no useful purpose would be served herein by further entertaining the claim that the September 3, 1958 decision in Docket Nos. 6584 and 6585 was not considered final.

9. Moreover, WABC's assertion that the Commission's Order of August 9, 1946 (1 RR 53:905), precludes consideration of the KSTP application for New York City at this time, is also without merit. This order, providing, in substance, that applications requesting operation on 1030 or 770 kilocycles, be placed in the pending files until resolution of the Clear Channel proceeding (Docket No. 6741), was instituted to insure the status quo of these frequencies, by precluding additional assignments thereon which would further aggravate the "anomalous situation" which then existed on 770 and 1030 kc, and thereby render more difficult a satisfactory solution of the matter. However, the KSTP application does not request an additional assignment on 770 kilocycles. Its application requests those facilities presently utilized by WABC; only one can be granted, and regardless of which may be favored in a hearing, the status quo with respect to the location and number of standard broadcast stations on 770 kc will be maintained. Thus, the order of August 9, 1946 is not applicable to the KSTP application requesting operation on 770 kilocycles in New York City.

10. WABC further contends that the "admonition" of the Court of Appeals in its opinion of May 27, 1960 also precludes the consolidation of the KSTP application with its renewal application. The Court in its opinion did concern itself with the possible adverse effects on ABC as a network, and it was stated therein that the Commission should "* * * give due consideration to ABC's claims for treatment comparable to that accorded other networks * * *" However, nowhere in its opinion did the Court indicate, as contended by WABC, that until it is afforded these opportunities, the present utilization of 770 kilocycles must remain unchanged. Rather, it upheld the Commission's decision of September 3, 1958, which concluded that the mandate of section 307(b) of the Act would best be served by permitting Station KOB, Albuquerque, to operate with 50 kilowatts, directional antenna, night and by the amendment of § 3.25(a) of the rules to provide that the Commission may authorize the operation of two Class I stations on 770 kilocycles.

11. Although WABC's pending application requests continuance of its nondirectional operation on 770 kilocycles,[3] the Commission's decision of September 3, 1958, concluded, as indicated supra, that the frequency 770 kilocycles would best be utilized by permitting WABC and KOB to operate with 50 kilowatts of power, unlimited time, each employing a directional antenna designed to protect the other. The findings of fact and the conclusions of law reached therein are final and conclusive on the question concerning what type opera-

[2] WABC further argues that since the Commission does not afford this opportunity to mutually exclusive applicants in transfer and assignment situations under section 310(b) of the Act, which section in turn makes reference to section 308, it need not afford these rights under the provisions of section 307(d) of the Act. This contention can be answered by the language of section 310(b) itself. Therein it is stated "* * * but in acting thereon the Commission may not consider whether the public interest, convenience and necessity might be served by the transfer, assignment, or disposal of the permit or license to a person other than the proposed transferee or assignee."

[3] Favorable consideration on the above renewal application of WABC would seriously prejudice a grant of the pending KOB proposal, since the WABC 0.25–10 percent skywave interfering contour would substantially reduce the nighttime coverage area of KOB's proposed operation.

tion on the frequency 770 kilocycles would best effectuate the mandate of section 307(b) of the Act; See In re Albuquerque Broadcasting Co., 16 RR 895, Para. 12, supra. However, the Commission feels, in view of the language contained in the opinion rendered by the United States Court of Appeals on May 27, 1960, that it would be appropriate at this time to reopen the record in Docket No. 6584 in order to consider any additional evidence to be presented by WABC with respect to its network position on the frequency 770 kilocycles and to determine in the light of such evidence whether the issue is such that it overrides the 307(b) determination previously rendered by the Commission in its decision of September 3, 1958. Therefore, we propose to consolidate WABC's application (File No. BR-167) for renewal of license for hearing with KSTP's amended application (File No. BMP-1738) for Albuquerque, New Mexico, and to reopen the record in that proceeding for such limited purpose, and for that purpose alone. No additional evidence will be permitted to be adduced under issue 1, infra, since, as stated above, our findings of fact and conclusions of law previously reached with respect to section 307(b) of the Act are final and conclusive. The purpose of including this issue and issue 3 is simply to permit the Commission to take appropriate action upon the above-captioned applications in the light of the additional evidence to be adduced pursuant to issue 2.

12. We do not deem it appropriate to consolidate KSTP's application (BP-13932) for New York City for hearing at this time, since after the hearing ordered herein has been completed a comparative hearing with WABC's application for renewal may prove to be unnecessary. We wish to make it absolutely clear, however, that our action herein in no way impairs KSTP's right to a comparative hearing with WABC, if WABC's renewal application is not denied after this hearing. Furthermore, the possibility exists that the Commission may deny WABC's renewal application, but, in its discretion, as a consequence of the evidence adduced pursuant to issue 2, below, find it in the public interest to afford WABC a final opportunity to file an application for authority to make changes in the operation of Station WABC in the manner specified in Paragraph 22 of our September, 1958 decision in this proceeding. Should these findings be made, and should WABC choose to file such an application, the comparative hearing would then be between KSTP's pending proposal for New York City and WABC's new application.[4] If the Commission's decision on the first two issues below indicates grant of the KOB application for modification of construction permit (BMP-1738), but such further proceedings are also found to be necessary, the KOB application will be granted, a construction permit will be issued to KOB immediately and operation will be authorized in regular course, inasmuch as those actions cannot be affected by the outcome of the subsequent proceedings.

In view of the foregoing: *It is ordered,* That the "Petition to Consolidate Applications for Hearing" filed by KSTP, Inc. is granted to the extent provided for below, and is denied in all other respects and that pursuant to the provisions of section 309(e) of the Communications Act of 1934, as amended, the above-captioned and described applications are designated for consolidated hearing on the following issues:

1. To determine in view of our findings and conclusions in Docket No. 6584 with respect to KOB's proposal and section 307(b) of the Communications Act of 1934, as amended, whether the public interest would be served by a grant of WABC's application (BR-167) for renewal of license for its present facilities, or the application of KSTP, Inc. (BMP-1738) for Albuquerque, New Mexico.

2. To determine whether the consideration of providing facilities to the ABC Network in New York on a basis which is fair and equitable in comparison with other radio networks should vary the conclusion with respect to issue 1, above.

3. To determine, in the light of our findings and conclusions in Docket No. 6584 and the evidence adduced pursuant to issue 2 above, which of the above-captioned and described applications should be granted.

It is further ordered, That the burden of proceeding with the introduction of evidence and the burden of proof as to issue "2" above shall be on the American Broadcasting-Paramount Theatres, Inc.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.140 of the Commission's rules, in person or by attorney, shall, within twenty (20) days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

It is further ordered, That further action on KSTP, Inc.'s application (BP-13932) for New York, New York, will be withheld pending a final decision in the hearing herein ordered.

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.362(b) of the Commission's rules, give notice of the hearing, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.362(c) of the Commission's rules.

Adopted: July 26, 1961.

Released: August 4, 1961.

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

[F.R. Doc. 61-7547; Filed, Aug. 8, 1961; 8:53 a.m.]

[4] It should be noted that KSTP's application (BP-12932) for New York City appeared on the "cut-off" list of July 6, 1961, with a "cut-off" date of August 14, 1961. Obviously, should the situation described above eventuate, the Commission will waive §1.354(c) to permit comparative consideration of WABC's application.

FEDERAL POWER COMMISSION

[Docket No. CP61-313]

CITY OF GRANBY, MO.

Notice of Application

AUGUST 2, 1961.

Take notice that on June 8, 1961, the City of Granby, Newton County, Missouri, (Applicant) filed in Docket No. CP61-313 an application pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Cities Service Gas Company (Cities Service) to establish physical connection of its facilities with certain facilities which Applicant proposes to construct, and to sell and deliver natural gas to Applicant for resale in said City and environs, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Cities Service's main transmission pipeline passes within approximately 6.5 miles north of the City of Granby. Applicant proposes to construct the necessary connecting line and appurtenances, and the distribution facilities in the city and environs at an estimated total cost of $280,000, which construction will be financed by the issuance of gas revenue bonds.

The estimated natural gas requirements of the City of Granby and environs, having a population of approximately 2,050, are as follows:

	Requirements in Mcf		
	1st year	2d year	3d year
Annual	50,580	59,652	68,724
Peak day	700	828	955

Service to Applicant by Cities Service would be within the total volumes of natural gas sales as limited by the Commission's order issued December 27, 1960, in Docket No. CP60-32.

On July 6, 1961, Cities Service filed with the Commission its verified letter advising that it will comply with the Commission's decision in the matter.

Protests or petitions to intervene in this proceeding 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 25, 1961.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61-7501; Filed, Aug. 8, 1961; 8:46 a.m.]

[Docket No. CP61-343]

KENTUCKY WEST VIRGINIA GAS CO.

Notice of Application and Date of Hearing

AUGUST 2, 1961.

Take notice that on June 28, 1961, Kentucky West Virginia Gas Company (Applicant), Second National Bank Building, Ashland, Kentucky, filed an application in Docket No. CP61-343, pur-

suant to section 7(b) of the Natural Gas Act, for permission and approval to abandon the sale of natural gas to Inland Gas Company (Inland) under Applicant's Rate Schedule X–4, all as more fully set forth in the aplication on file with the Commission and open to public inspection.

Applicant presently delivers gas to Inland under two rate schedules. Under Rate Schedule X–4, Applicant sells to Inland natural gas produced from wells in Magoffin County, Kentucky, which wells are not connected to Applicant's system but deliver directly from the field into the facilities of Inland. Under Rate Schedule X–2, Applicant delivers gas to Inland at other locations in Johnson, Knott and Floyd Counties, Kentucky, under a gas-for-gas exchange agreement. However, Applicant states that due to a decline in production from its wells dedicated to the X–2 exchange agreement, it has not been able to deliver to Inland equivalent volumes to those received by it from Inland. The application shows that as a result of this imbalance, Inland has had to suspend exchange deliveries on its part from time to time in order to enable Applicant to correct the deficiency.

Therefore, Applicant proposes herein to abandon the sale under Rate Schedule X–4 and instead to continue to deliver gas to Inland from the wells dedicated to the subject Rate Schedule as part of the X–2 exchange agreement. Thus, Applicant states, Inland would continue to receive, under Rate Schedule X–2, the same amount of gas now being delivered by Applicant under both Rate Schedules X–2 and X–4. Applicant states further that it would also benefit by receiving from Inland volumes of gas equivalent to that produced from the Magoffin County wells, which production is otherwise unavailable to Applicant without additional investment for connecting facilities.

Inland has agreed to the proposed abandonment.

No additional facilities will be required as the proposed re-arranged deliveries will be made through existing delivery points.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on September 7, 1961 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 application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before August 28, 1961. 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. 61–7502; Filed, Aug. 8, 1961; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 7–2176—7–2179]

FOXBORO CO. ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 3, 1961.

In the matter of applications of the Boston Stock Exchange for unlisted trading privileges in certain securities.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(2) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

Foxboro Company, File 7–2176
General Mills, Inc., File 7–2177
Ronson Corporation, File 7–2178
Spiegel, Incorporated, File 7–2179

Upon receipt of a request, on or before August 17, 1961 from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 61–7507; Filed, Aug. 8, 1961; 8:46 a.m.]

[File No. 1–4252]

UNITED INDUSTRIAL CORP. (DELAWARE)

Order Summarily Suspending Trading

AUGUST 3, 1961.

In the matter of trading on The American Stock Exchange, The Detroit Stock Exchange, The New York Stock Exchange, and The Pacific Coast Stock Exchange in Common Stock, $1 Par Value Series A Convertible Preferred Stock, $8.50 Par Value, Warrants to Purchase Common Stock of United Industrial Corporation (Delaware).

The Common Stock, $1 par value of United Industrial Corporation (Delaware) being listed and registered on the New York Stock Exchange and the Pacific Coast Stock Exchange, and admitted to unlisted trading privileges on the Detroit Stock Exchange; and

The Series A Convertible Preferred Stock $8.50 par value of United Industrial Corporation (Delaware) being listed and registered on the New York Stock Exchange and the Pacific Coast Stock Exchange; and

The Warrants to Purchase Common Stock of United Industrial Corporation (Delaware) being listed and registered on the American Stock Exchange and the Pacific Coast Stock Exchange; and

The Commission being of the opinion that the public interest requires the summary suspension of trading in each such security on such Exchanges and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion further that such suspensions are necessary in order to prevent fraudulent, deceptive or manipulative acts or practices, with the result that it will be unlawful under section 15(c)(2) of the Securities Exchange Act of 1934 and the Commission's Rule 15c2–2 thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of any of such securities, otherwise than on a national securities exchange;

It is ordered, Pursuant to section 19(a)(4) of the Securities Exchange Act of 1934 that trading in said securities on the American Stock Exchange, the New York Stock Exchange, the Detroit Stock Exchange and the Pacific Coast Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive or manipulative acts or practices, this order to be effective for a period of ten (10) days, August 4, 1961 to August 13, 1961, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 61–7508; Filed, Aug. 8, 1961; 8:46 a.m.]

FEDERAL RESERVE SYSTEM

MARINE CORP.

Order Granting Petition for Reconsideration

In the matter of the application of The Marine Corporation for prior approval of acquisition of voting shares of Wisconsin State Bank, Milwaukee, Wisconsin.

Whereas, the Board of Governors on June 29, 1961, entered an order denying the application of The Marine Corporation ("Marine") pursuant to the Bank Holding Company Act of 1956 for prior approval of the acquisition of stock of Wisconsin State Bank, Milwaukee, Wisconsin:

Whereas, on July 25, 1961, Marine filed with the Board a "Petition for Rehearing" in this matter, which petition, in the absence of any previous hearing, is herein regarded as a "Petition for Reconsideration";

Whereas, in connection with such petition, Marine has requested that the Board stay the effective date of its order of June 29, 1961, and, further, that counsel for Marine be granted the privilege of presenting oral argument before the Board;

It is hereby ordered, (1) That the Petition for Reconsideration is granted; (2) that Marine may present its views before the Board of Governors in a nonpublic proceeding at the Offices of the Board in Washington, D.C., on August 9, 1961, at 10 a.m.; and (3) that Marine's request that the Board stay the effective date of its order of June 29, 1961, is denied.

Dated at Washington, D.C., this 3d day of August 1961.

By order of the Board of Governors.

[SEAL] KENNETH A. KENYON,
Assistant Secretary.

[F.R. Doc. 61-7503; Filed, Aug. 8, 1961; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 171]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

AUGUST 4, 1961.

The following letter-notices of proposals to operate over deviation routes for operating convenience only with service at no 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 operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's deviation rules revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-2202 (Deviation No. 24), ROADWAY EXPRESS, INC., 147 Park Street, P.O. Box 471, Akron 9, Ohio, filed July 28, 1961. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From McKinney, Tex., over U.S. Highway 75 to Richardson, Tex., 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 a pertinent service route as follows: From McKinney, over Texas State Route 5, to Richardson, and return over the same route.

No. MC-29130 (Deviation No. 1), ROCK ISLAND MOTOR TRANSIT COMPANY, 919 Walnut Street, Des Moines, Iowa, filed July 31, 1961. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From the junction of Iowa Highway 150 and U.S. Highway 6 at Davenport, Iowa, over Iowa Highway 150 to junction U.S. Highway 30 near Stanwood, Iowa, thence over U.S. Highway 30 to junction U.S. Highway 218 near Cedar Rapids, Iowa, 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 pertinent service routes as follows: From Silvis, Ill., over Illinois Highway 92 to junction U.S. Highway 6, thence over U.S. Highway 6 to Omaha, Nebr.; From Iowa City, Iowa, over U.S. Highway 218 to Cedar Rapids, Iowa, and return over the same routes.

No. MC-31444 (Deviation No. 1), SCHREIBER TRUCKING COMPANY, INC., 1315-1399 Washington Blvd., Pittsburgh 6, Pa., filed July 31, 1961. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From Bel Air, Md., over U.S. Highway 1 to junction Pennsylvania Highway 52, thence over Pennsylvania Highway 52 to junction U.S. Highway 202, thence over U.S. Highway 202 to the Valley Forge, Pa., Interchange of the Pennsylvania Turnpike, thence over the Pennsylvania Turnpike and the Delaware River Turnpike Bridge to the New Jersey Turnpike, thence over the New Jersey Turnpike to junction U.S. Highway 1 near New Jersey Turnpike Interchange No. 15, 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 a pertinent service route as follows: From Baltimore, Md., over Maryland Highways 26 and 71 to Frederick, Md., thence over U.S. Highway 40 to Hancock, Md., thence over U.S. Highway 522 to Warfordsburg, Pa., thence over Pennsylvania Highway 126 to Breezewood, Pa., thence over U.S. Highway 30 to Chambersburg, Pa., thence over U.S. Highway 11 to Harrisburg, Pa., thence over U.S. Highway 22 to Newark, N.J., thence over U.S. Highway 1 to New York, N.Y., and return over the same route.

No. MC-39406 (Deviation No. 1), CENTRAL MOTOR LINES, INC., P.O. Box 1067, Charlotte 1, N.C., filed July 26, 1961. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From junction U.S. Highway 70 and Interstate Highway 40 near Hildebran, N.C., over Interstate Highway 40 to junction North Carolina Highway 226, thence over North Carolina Highway 226 to junction U.S. Highway 221, thence over U.S. Highway 221 to junction U.S. Highway 70 in Marion, N.C., 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 a pertinent service route as follows: From Hickory, N.C., over U.S. Highway 70 to Asheville, N.C., and return over the same route.

No. MC-67818 (Deviation No. 1), MICHIGAN EXPRESS, INC., 505 Monroe Avenue, N. W., Grand Rapids 5, Mich., filed August 2, 1961. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions over deviation routes as follows: (A) From Detroit, Mich., over Interstate Highway 94 to junction Indiana Highway 212 east of Michigan City, Indiana, and (B) From the junction of Interstate Highway 96 and U.S. Highway 16 at Detroit, over Interstate Highway 96 to junction Interstate Highway 196 at or near Grand Rapids, Mich., thence over Interstate Highway 196 to Muskegon, Mich., and return over the same routes, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: From Chicago, Ill., over U.S. Highway 12 to Marshall, Mich.; From Muskegon, over U.S. Highway 31 to junction Michigan Highway 104, thence over Michigan Highway 104 to junction U.S. Highway 16, thence over U.S. Highway 16 to Grand Rapids, thence over Michigan Highway 37 to Battle Creek, Mich., thence over U.S. Highway 12 to Ann Arbor, Mich., thence over Michigan Highway 17 to Detroit, and return over the same routes.

No. MC-80504 (Deviation No. 1), SHEIN'S EXPRESS, Calhoun and Beakes Streets, Trenton 8, N.J., filed July 26, 1961. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From Buffalo, N.Y., over the New York Thruway, to Suffern, N.Y., and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently au-

thorized to transport the same commodities over pertinent service routes as follows: From Buffalo over New York Highway 5 to Batavia, N.Y. (also from Buffalo over New York Highway 33 to Batavia), thence over New York Highway 5 to Syracuse, N.Y. (also from Batavia over New York Highway 33 to Rochester, N.Y., thence over New York Highway 31 to junction New York Highway 57, thence over New York Highway 57 to Syracuse; also from Rochester over New York Highway 96 to Waterloo, N.Y., thence over New York Highway 5 to Syracuse), thence over New York Highway 5 to Albany, N.Y., thence over U.S. Highway 9 to New York, N.Y.; From Buffalo to Albany as specified above, thence 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 junction New Jersey Highway 17, thence over New Jersey Highway 17 to Harrison, N.J., thence over city streets and connecting highways via Newark and Jersey City, N.J., and the Holland Tunnel to New York, and return over the same routes.

No. MC–107457 (Deviation No. 5), DANCE FREIGHT LINES, INC., 920 Dance Court, Cincinnnati 3, Ohio, filed August 2, 1961. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From the junction of U.S. Highway 70 and Interstate Highway 40, near Old Fort, S.C., over Interstate Highway 40 to Statesville, N.C., 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 a pertinent service route as follows: From Asheville, N.C., over U.S. Highway 70 to Statesville, and return over the same route.

By the Commission.

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

[F.R. Doc. 61–7520; Filed, Aug. 8, 1961; 8:49 a.m.]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

[Notice 392]

AUGUST 4, 1961.

The following publications are governed by the Interstate Commerce Commission's general rules of practice including special rules (49 CFR 1.241) governing notice of filing of applications by motor carrier of property or passengers or brokers under sections 206, 209, and 211 of the Interstate Commerce Act and certain other proceedings with respect thereto.

All hearings and pre-hearing conferences 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 623 (Sub-No. 46) (CORRECTION), filed May 25, 1961, published issue July 26, 1961, republished as corrected this issue. Applicant: H. MESSICK, INC., P.O. Box 214, Joplin, Mo. Applicant's attorney: Turner White, 808 Woodruss Building, Springfield, Mo. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Classes A, B and C explosives, blasting agents, blasting supplies and materials, materials used in the manufacture of said commodities* and *empty containers*, for the specified commodities, between Ishpeming, Mich., and Virginia, Minn., and points within 15 miles of each, on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Montana, North Dakota, South Dakota, Nebraska, Wisconsin, and Wyoming.

NOTE: The purpose of this republication is to add C to Classes A, and B explosives, which was inadvertently omitted.

HEARING: Remains as assigned, September 27, 1961, at the Park East Hotel, Kansas City, Mo., before Examiner Leo A. Riegel.

No. MC 2202 (Sub No. 213), filed June 5, 1961. Applicant: ROADWAY EXPRESS, INC., 147 Park Street, Akron, Ohio. Applicant's attorney: William O. Turney, 2001 Massachusetts Avenue NW., Washington 6, D.C. Authority sought to operates as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Painesville, Ohio and junction of Ohio Highway 44 and U.S. Highway 422; from Painesville over Ohio Highway 44 to the junction of Ohio Highway 44 and U.S. Highway 422, and return over the same route, serving no intermediate or off-route points, with service at the junction of Ohio Highway 44 and U.S. Highway 422 for the purpose of joinder only.

HEARING: November 2, 1961, at the New Post Office Building, Columbus, Ohio, before Joint Board No. 117.

No. MC 2202 (Sub No. 214), filed June 15, 1961. Applicant: ROADWAY EXPRESS, INC., 147 Park Street, Akron, 9, Ohio. Applicant's attorney: William O. Turney, 2001 Massachusetts Avenue NW., Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Cincinnati, Ohio and Junction Indiana Highway 13 and U.S. Highway 131 at the Indiana-Michigan State line; from Cincinnati over U.S. Highway 27 to Fort Wayne, thence over U.S. Highway 33 to junction of U.S. Highway 33 and Indiana Highway 13, thence over Indiana Highway 13 and U.S. Highway 131 at the Indiana-Michigan State line, and return over the same route serving no intermediate points, and with service at the junction of U.S. Highway 131 at the Indiana-Michigan State line for purposes of joinder only.

HEARING: November 1, 1961, at the New Post Office Building, Columbus, Ohio, before Joint Board No. 208.

No. MC 10761 (Sub-No. 108), filed July 17, 1961. Applicant: TRANS-AMERICAN FREIGHT LINES, INC., 1700 North Waterman Avenue, Detroit 9, Mich. Applicant's attorney: Howell Ellis, Room 1210–12 Fidelity Building, 111 Monument Circle, Indianapolis 4, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Loose aluminum scrap borings*, in bulk, from Flint, Mich., over Highway 78 to Battle Creek, Mich., thence over U.S. Highway 12 to Gary, Ind., thence over U.S. Highway 30 to Aurora, Ill., serving no intermediate points, and *refused and rejected shipments*, of the above specified commodities, on return.

HEARING: October 19, 1961, at the Midland Hotel, Chicago, Ill., before Joint Board No. 73.

No. MC 17379 (Sub No. 7), filed June 16, 1961. Applicant: M & M TRUCKING CO., 1103 East Poland Avenue, Bessemer, Pa. Applicant's attorney: Henry M. Wick, Jr., 1515 Park Building, Pittsburgh 22, Pa. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk and packages, from Bessemer, Pa., to points in Noble, Washington, Morgan, Athens, and Meigs Counties, Ohio, and *empty containers*, on return.

HEARING: November 3, 1961, at the New Post Office Building, Columbus, Ohio, before Joint Board No. 27.

No. MC 19778 (Sub-No. 44), filed July 3, 1961. Applicant: THE MILWAUKEE MOTOR TRANSPORTATION COMPANY, a Corporation, 516 West Jackson Boulevard, Chicago 6, Ill. Applicant's attorney: Robert F. Munsell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods as defined by the Commission), (1) between Portage, Wis. and Madison, Wis.; from Portage over U.S. Highway 16 to junction U.S. Highway 51, thence over U.S. Highway 51 to junction U.S. Highway 151, thence over U.S. Highway 151 to Madison, and return over the same route, serving all intermediate points which are stations on the rail lines of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company. (2) Between Milwaukee, Wis. and Green Bay, Wis.; from Milwaukee over Wisconsin Highway 57 to Green Bay, and return over the same route, serving all intermediate points which are stations on the rail lines of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, and the off-route points of Random Lake, Adell, Waldo and Hayton, Wis. RESTRICTIONS: The service to be performed shall be limited to

service which is auxiliary to, or supplemental of rail service of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, hereinafter called the Railroad. Carrier shall not serve any points not stations on the rail lines of the Railroad, except as otherwise authorized. That under the authority sought in (1) above, no shipment shall be transported by carrier between the following points, or through, or to, or from more than one of said points: Portage, La Crosse and Milwaukee, Wis. That under the authority sought in (2) above, no shipment shall be transported by carrier between any of the following points, or through, or to, or from more than one of said points: Milwaukee, Green Bay, Wis. and Channing, Mich. Such further specific conditions as the Commission, in the future, may find necessary to impose in order to restrict carrier's operations to service which is auxiliary to, or supplemental of, rail service of the Railroad.

NOTE: (1) Applicant states the purpose of this application is to remove the key point at Plymouth, Wis. and at Madison, Wis. Such key points have already been removed in the carrier's intrastate certificate and in order to effect certain economies, it is necessary that they be removed in the interstate certificates of the carriers. (2) Applicant further states it is a wholly-owned subsidiary of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company.

HEARING: October 23, 1961, at the Wisconsin Public Service Commission, Madison, Wisconsin, before Joint Board No. 96.

No. MC 19778 (Sub-No. 45), filed July 3, 1961. Applicant: THE MILWAUKEE MOTOR TRANSPORTATION COMPANY, a Corporation, 516 West Jackson Boulevard, Chicago 6, Ill. Applicant's attorney: Robert F. Munsell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods as defined by the Commission), (1) between New Lisbon, Wis. and Woodruff, Wis.; from New Lisbon over Wisconsin Highway 80 to its junction with Wisconsin Highway 54, thence over Wisconsin Highway 54 to junction Wisconsin Highway 34, thence over Wisconsin Highway 34 to its junction with U.S. Highway 51 near Knowlton, Wis., thence over U.S. Highway 51 to Woodruff, and return over the same route, serving all intermediate points which are stations on the Chicago, Milwaukee, St. Paul and Pacific Railroad, and the off-route points of Brokaw Heights, Otis, and Harshaw, Wis. (2) Between Wisconsin Rapids, Wis. and Knowlton, Wis.; from Wisconsin Rapids over Wisconsin Highway 54 to its junction with U.S. Highway 51 (at Plover, Wis.), thence over U.S. Highway 51 to Knowlton, Wis., and return over the same route, serving no intermediate points, as an alternate route for convenience only. (3) Between Wisconsin Dells, Wis. and Wisconsin Rapids, Wis.; from Wisconsin Dells over Wisconsin Highway 13 to Wisconsin Rapids, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only. RESTRICTIONS: The service to be performed shall be limited to service which is auxiliary to, or supplemental of rail service of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, hereinafter called the Railroad. Carrier shall not serve any points not stations on the rail lines of the Railroad, except as otherwise authorized. No shipments shall be transported by said carrier as a common carrier by motor vehicle over the routes proposed above or any presently authorized routes between any of the following points, or through, or to, or from more than one of said points: Milwaukee, Portage and La Crosse, Wis. Such further specific conditions as the Commission, in the future, may find it necessary to impose in order to restrict carrier's operations to service which is auxiliary to, or supplemental of, rail service of the Railroad.

NOTE: Applicant states the purpose of route (2) above is to by-pass a bridge restricted to 10 ton limit located on Wisconsin Highway 34 between Dancy and Knowlton, Wis. (2) Applicant states it is a wholly-owned subsidiary of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company.

HEARING: October 23, 1961, at the Wisconsin Public Service Commission, Madison, Wisconsin, before Joint Board No. 96.

No. MC 21571 (Sub-No. 24), filed July 27, 1961. Applicant: SCHERER FREIGHT LINES, INC., 424 West Madison Street, Ottawa, Ill. Applicant's attorney: Carl L. Steiner, 39 South LaSalle Street, Chicago 3, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, from points in LaSalle County, Ill., to points in Kentucky, Iowa, Minnesota, Missouri, Ohio, Indiana, and Wisconsin.

NOTE: Applicant holds contract authority under MC 115738, therefore, dual operations may be involved.

HEARING: October 5, 1961, at the Midland Hotel, Chicago, Ill., before Examiner Isadore Freidson.

No. MC 25798 (Sub-No. 47), filed July 1, 1961. Applicant: CLAY HYDER TRUCKING LINES, INC., Chimney Rock Highway, P.O. Box 1290, Hendersonville, N.C. Applicant's attorney: Thomas F. Kilroy, Suite 610, 1000 Connecticut Avenue NW., Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Citrus products*, not canned and not frozen, from Orlando, Fla., to points in South Carolina subject to the restriction that service at South Carolina points is limited to the delivery of part of a shipment, the ultimate destination of which is to an already authorized point in Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and the District of Columbia.

HEARING: September 12, 1961, at the U.S. Court Rooms, Columbia, S.C., before Joint Board No. 354.

No. MC 26739 (Sub-No. 28), (CORRECTION), filed May 3, 1961, published issue of July 26, 1961, and republished as corrected this issue. Applicant: CROUCH BROS., INC., Transport Building, St. Joseph, Mo. Applicant's attorney: Clarence D. Todd, 1825 Jefferson Place NW., Washington 6, D.C. Route (3) of the subject application as previously published in the FEDERAL REGISTER omitted reference to U.S. Highway 52 in the first portion of the route description in that section. Correctly stated, the portion referred to should read "from Chicago over U.S. Highway 66 to junction U.S. Highway 52, thence over U.S. Highway 52 to junction U.S. Highway 51 * * *"

HEARING: Remains as assigned September 25, 1961, at the Park East Hotel, Kansas City, Mo., before Examiner Raymond V. Sar.

No. MC 38170 (Sub No. 20), filed June 15, 1961. Applicant: WHITE STAR TRUCKING, INC., 1750 Southfield, Lincoln Park, Mich. Applicant's attorney: Wilhelmina Boersma, 2850 Penobscot Building, Detroit 26, Mich. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, and those requiring special equipment); between Detroit, Flint, Pontiac, Flat Rock, Monroe, Gibralter, and Willow Run, Mich., and points located on U.S. Highway 10 between Detroit and Pontiac, Mich.; those in that part of Wayne, Oakland, and Macomb Counties, Mich., within eight (8) miles of Detroit, Mich.; the site of plants of Packard Motor Car Company north of Utica, Mich. and of Chrysler Corporation north of Detroit, Mich., and west of Michigan Highway 53; the site of Ford Motor Company plant located at the northeast intersection of Mound Road and 17 Mile Road in Sterling Township, Macomb County, Mich.; the site of the Ford Motor Company plant located at the intersection of Michigan Highway 218 (Wixon Road) and unnumbered highway (West Lake Drive) north of U.S. Highway 16 in Novi Township, Oakland County, Mich.; and the site of Kelsey-Hayes Company plant located at the intersection of North Line Road and Huron River Drive, Romulus Township, Wayne County, Mich., on the one hand, and, on the other, points in that part of Ohio east and north of a line beginning at the Ohio-Michigan State Line and extending along U.S. Highway 25 to Findlay, Ohio; thence along U.S. Highway 68 to Williamstown, Ohio; thence along U.S. Highway 30N to Mansfield, Ohio and thence along U.S. Highway 30 to the Ohio-West Virginia State line, including points on the indicated portions of the highways specified.

NOTE: Applicant states it presently holds authority to provide service between all of the above points and territory over irregular routes in truckload quantities and also has authority to transport truckload and less than truckload shipments between numerous points in the described territory over its many regular routes. This application is being filed to enable applicant to provide in

addition to the above presently authorized service a less truckload service between all points in the territory it is authorized to serve, thus enabling applicant a complete service for all shippers in its presently authorized territory.

HEARING: October 18, 1961, at Room 214, Federal Building, Lansing, Michigan, before Joint Board No. 57.

No. MC 41347 (Sub-No. 3), filed July 10, 1961. Applicant: DE BACK CARTAGE COMPANY, INC., 4841 West Burnham Street, Milwaukee 19, Wis. Applicant's attorney: William C. Dineen, 746 Empire Building, 710 North Plankinton Avenue, Milwaukee 3, Wis. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bridge railings*, from Milwaukee, Wis., to points in Illinois, and *damaged and rejected shipments*, on return.

NOTE: Applicant states the proposed operation will be under a continuing contract with RTC Milwaukee Iron Works, Milwaukee, Wis.

HEARING: October 27, 1961, at the Wisconsin Public Service Commission, Madison, Wis., before Joint Board No. 13.

No. MC 42487 (Sub-No. 512), filed July 24, 1961. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. Applicant's attorney: Eugene T. Liipfert, 801 National Garage Building, 1616 H Street NW., Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brandy*, in bulk, in tank vehicles, from points in California to New Brunswick, N.J.

NOTE: Common control may be involved.

HEARING: September 29, 1961, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Francis A. Welch.

No. MC 58273 (Sub-No. 4), filed July 5, 1961. Applicant: GREEN BAY AND WESTERN RAILROAD COMPANY, a corporation, Station A, P.O. Box 1307, Green Bay, Wis. Applicant's attorney: John T. Porter, 708 First National Bank Building, Madison 3, Wis. Authority to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, between the Neenah-Menasha, Wis. station of the Soo Line Railroad, on the one hand, and, on the other, the Green Bay, New London and Black Creek, Wis. stations of applicant; (1) from Neenah-Menasha over U.S. Highway 41 to Green Bay, and return over the same route, serving no intermediate points; (2) from Neenah-Menasha over U.S. Highway 41 to junction Wisconsin Highway 76, thence over Wisconsin Highway 76 to its south junction with U.S. Highway 45, and thence over U.S. Highway 45 to New London, and return over the same route, serving no intermediate points; and (3) from Neenah-Menasha over U.S. Highway 41 to junction Wisconsin Highway 47, and thence over Wisconsin Highway 47 to Black Creek, and return over the same route serving no intermediate points.

NOTE: Applicant states service proposed is to be limited to interchange with Soo Line Railroad of traffic moving as Trailer-on-Flat-Car on rail bill of lading which originates or terminates at points which are stations of Green Bay and Western Railroad Company and Kewaunee, Green Bay and Western Railroad Company. Common control may be involved.

HEARING: October 27, 1961, at the Wisconsin Public Service Commission, Madison, Wis., before Joint Board No. 96.

No. MC 70451 (Sub No. 226), filed January 30, 1961. Applicant: WATSON BROS. TRANSPORTATION CO., INC., 1910 Harney Street, Omaha, Nebr. Applicant's attorney: Carl A. Steiner, 39 South La Salle Street, Chicago 3, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, including *Classes A and B explosives*, and *shipper-owned compressed gas trailers* (excluding articles, which because of size or weight require special equipment, and household goods as defined by the Commission), serving military missile testing and launching sites, and supply points therefor, located in Reno, Sumner, Cowley, Jefferson, Coffey, Kingman, Sedgwick, Butler, Jackson, Douglas, Osage, Lyon, Wabaunsee, Pottawatomie, Dickinson, Ellsworth, Ottawa, Marion, McPherson, Lincoln, Cloud and Rice Counties, Kans.; Saunders, Washington Gage, Saline, Seward, Otoe, Johnson, York, Butler and Cass Counties, Nebr.; and points in Harrison and Pottawatomie Counties, Iowa, as off-route points in connection with applicant's authorized regular-route operations.

HEARING: October 4, 1961, at the Hotel Pick-Kansan, Topeka, Kans., before Joint Board No. 139, or, if the Joint Board waives its right to participate, before Examiner Raymond V. Sar.

No. MC 72140 (Sub No. 43), filed June 23, 1961. Applicant: SHIPPERS DISPATCH, INC., 1216 West Sample Street, South Bend, Ind. Applicant's attorney: Ferdinand Born, 1017–19 Chamber of Commerce Building, Indianapolis 4, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, and those requiring special equipment), (1) Serving West Unity, Ohio, as an off-route point in connection with applicant's authorized regular route operations between Fort Wayne, Ind., and Detroit, Mich., as authorized in Certificate No. MC 72140; (2) Between West Unity, Ohio and junction U.S. Highways 20 and 127, over U.S. Highway 127, serving no intermediate points, but serving U.S. Highway 20 as a point of joinder only; and (3) Between West Unity, Ohio and junction Alternate U.S. Highway 20 and U.S. Highway 20, over Alternate U.S. Highway 20, serving no intermediate points, but serving U.S. Highway 20 as a point of joinder only.

NOTE: Applicant states it is authorized to serve between Elkhart, Ind., and Toledo, Ohio, over U.S. Highway 20, with no service to intermediate points, as authorized in Certificate No. MC 72140.

HEARING: October 30, 1961, at the New Post Office Building, Columbus, Ohio, before Joint Board No. 117.

No. MC 76032 (Sub No. 162), filed June 12, 1961. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver 23, Colo. Applicant's attorney: O. Russell Jones, Bokum Building, 142 West Palace Avenue, Santa Fe, N. Mex. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except Classes A and B explosives, heavy machinery, livestock, fresh fish, coal, ore, sand, gravel, and household goods as defined by the Commission), (1) between Chicago, Ill., and Kansas City, Mo., from Chicago over U.S. Highway 66 (Interstate Highway 55) to Springfield, Ill., thence over U.S. Highway 54 to junction U.S. Highway 40 at or near Kingdom City, Mo., thence over U.S. Highway 40 to Kansas City, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations between Chicago, Ill., and Kansas City, Mo.; and (2) between junction U.S. Highways 24 and 36 at or near Monroe City, Mo., and Kansas City, Mo., over U.S. Highway 24, serving no intermediate points, but serving junction U.S. Highways 24 and 36 for joinder purposes only, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations between Chicago, Ill., and Kansas City, Mo.

NOTE: Common control may be involved.

HEARING: September 26, 1961, at the Park East Hotel, Kansas City, Mo., before Examiner Leo A. Riegel.

No. MC 94430 (Sub No. 18), filed June 20, 1961. Applicant: WEISS TRUCKING COMPANY, INC., Mongo, Ind. Applicant's attorney: Herbert Baker, 50 West Broad Street, Columbus 15, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cement*, from points in Lucas County, Ohio to points in Rush, Fayette, Union, Johnson, and Shelby Counties, Ind.; and (2) *empty containers or other such incidental facilities* (not specified) used in transporting the commodity specified in this application, and *damaged, rejected, and refused shipments* of cement, from points in Rush, Fayette, Union, Johnson, and Shelby Counties, Ind., to points in Lucas County, Ohio.

HEARING: November 1, 1961, at the New Post Office Building, Columbus, Ohio, before Joint Board No. 60.

No. MC 97629 (Sub No. 4) (REASSIGNMENT OF HEARING DATE), filed March 3, 1961, published in the FEDERAL REGISTER, issue of July 26, 1961. Applicant: HILLER TRUCK LINES, INC., P.O. Box 1012, Jasper, Ala. Applicant's attorney: Maurice F. Bishop, 325-29 Frank Nelson Building, Birmingham 3, Ala. Notice of the filing of the subject application setting forth with particularity the authority sought was published in the FEDERAL REGISTER, issue of July 26, 1961, and assigned the application for hearing October 2, 1961. The application has been *reassigned for hearing on Sep-*

tember 11, 1961, and remains as assigned at the Federal Building, Jasper, Ala., before Examiner Dallas B. Russell.

No. MC 103993 (Sub No. 150), filed June 14, 1961. Applicant: MORGAN DRIVE-AWAY, INC., 500 Equity Building, Elkhart, Ind. Applicant's attorney: John E. Lesow, 3737 North Meridian Street, Indianapolis 8, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, in truckaway service, from points in Illinois (except Chicago, Galva, Dixon, Memence, and Aurora) to points in the United States (except Hawaii).

HEARING: September 21, 1961, at the Mark Twain Hotel, St. Louis, Mo., before Examiner Raymond V. Sar.

No. MC 105886 (Sub No. 4), filed June 16, 1961. Applicant: MARTIN TRUCKING, INC., East Poland Avenue, Bessemer, Pa. Applicant's attorney: Henry M. Wick, Jr., 1515 Park Building, Pittsburgh 22, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, in packages, from Bessemer, Pa., to points in that part of West Virginia on and north of U.S. Highway 33, and to points in Portage County, Ohio, and *empty containers*, on return.

HEARING: November 2, 1961, at the New Post Office Building, Columbus, Ohio, before Joint Board No. 59.

No. MC 107002 (Sub-No. 166), filed July 31, 1961. Applicant: W. M. CHAMBERS TRUCK LINE, INC., 920 Louisiana Boulevard, P.O. Box 547, Kenner, La. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gases*, in bulk, in tank vehicles, from terminals of the Dixie Pipe Line Company's Pipe Line in Alabama to points in Mississippi, Alabama, Florida, Georgia and Tennessee.

HEARING: September 11, 1961, at 680 West Peachtree St., N.W., Atlanta, Ga., before Examiner C. Evans Brooks.

No. MC 107107 (Sub-No. 177), filed July 27, 1961. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 65 Allapattah Station, Miami 42, Fla. Applicant's attorneys: Daniel B. Johnson *and* Frank B. Hand, Transportation Building, Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe and tubing*, (2) *fittings* therefore, and (3) *bonding cement*, in containers, from High Springs, Fla. to points in Delaware, New Jersey, New York, Pennsylvania, Maryland, Virginia, and the District of Columbia.

HEARING: October 3, 1961, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Harold P. Boss.

No. MC 107403 (Sub-No. 348), filed July 27, 1961. Applicant: E. BROOKE MATLACK, INC., 33rd and Arch Streets, Philadelphia 4, Pa. Applicant's attorneys: Shertz, Barnes and Shertz, Suite 601, 226 South 16th Street Philadelphia 2, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paving compounds*, in bulk, in tank vehicles, from Whippany, N.J., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE: Applicant holds contract authority under MC 117637 and Subs thereunder, therefore, dual operations may be involved.

HEARING: October 2, 1961, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Dallas B. Russell.

No. MC 107403 (Sub-No. 349), filed July 28, 1961. Applicant: E. BROOKE MATLACK, INC., 33d and Arch Streets, Philadelphia 4, Pa. Applicant's attorneys: Shertz, Barnes, and Shertz, Suite 601, 226 S. 16th Street, Philadelphia 2, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, (1) from points in Allegheny County, Pa., to points in Allegany and Garrett Counties, Md., Belmont, Carroll, Columbiana, Harrison, Jefferson, Mahoning, Monroe, Trumbull, and Washington Counties, Ohio and points in West Virginia, and (2) from Norristown, Pa., to points in Delaware (except Wilmington), Carolina, Cecil, Dorchester, Kent, Queen Annes, Somerset, Talbot, Wicomico and Worcester Counties, Md., and points in Accomack and Northampton Counties, Va.

NOTE: Common control may be involved.

HEARING: October 3, 1961, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Armin G. Clement.

No. MC 108106 (Sub-No. 10), filed July 26, 1961. Applicant: ARMELLINI EXPRESS LINES, a Corporation, Oak and Brewster Roads, Vineland, N.J. Applicant's attorney: Irving Abrams, 1776 Broadway, New York 19, N.Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Baskets, boxes, crates and hampers*, used in packing and shipping fruits and vegetables, (1) from Murfreesboro, N.C., to Fort Valley, Ga., points within 75 miles of Fort Valley, Ga., and points in Florida (except those within 50 miles of Delray Beach, Fla., including Delray Beach), and (2) from Portsmouth, Va., to Fort Valley, Ga., points within 75 miles of Fort Valley, Ga., and points in Florida, and *rejected, refused, returned and damaged shipments* of the above commodities, in connection with routes (1) and (2) above, on return.

HEARING: September 29, 1961, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Alfred B. Hurley.

No. MC 108449 (Sub-No. 126), filed July 28, 1961. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul 13, Minn. Applicant's attorney: Glenn W. Stephens, 121 West Doty Street, Madison 3, Wis. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bags, packages and blocks, palletized and unpalletized, from Duluth, Minn. and Superior, Wis., to points in Minnesota, North Dakota, South Dakota, Wisconsin, and the Upper Peninsula of Michigan, and *pallets* used in outbound movement and *rejected and returned shipments* of salt, on return.

HEARING: October 3, 1961, in Room 393, Federal Building and Court House, 110 South Fourth Street, Minneapolis, Minn., before Examiner Samuel C. Shoup.

No. MC 109708 (Sub-No. 13) (AMENDMENT), filed June 16, 1961, published issue of July 8, 1961, and republished this issue. Applicant: ERVIN J. KRAMER, doing business as MARYLAND TANK TRANSPORTATION CO., 4524 Reisterstown Road, Baltimore, Md. Applicant's attorney: Wilmer B. Hill, Transportation Building, Washington, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar and vinegar stock*, in bulk, in tank vehicles, from Timberville, Waynesboro, and Winchester, Va., and Martinsburg, W. Va., to points in Alabama, Florida and Georgia.

NOTE: The purpose of this amendment is to broaden the territory to be served.

HEARING: Remains as assigned, September 8, 1961, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Garland E. Taylor.

No. MC 110420 (Sub No. 283) (SECOND CORRECTION), filed May 4, 1961, published issue of July 6, 1961, republished as corrected this issue. Applicant: QUALITY CARRIERS, INC., Calumet Street, Burlington, Wis. Applicant's attorney: Paul F. Sullivan, Sundial House, 1821 Jefferson Place NW., Washington 6, D.C. Notice of the filing of the subject application was republished in the FEDERAL REGISTER, issue of July 26, 1961, to correct an omission and add a phrase "in bulk, in tank vehicles," to correctly describe the proposed operations. The hearing information appended to that publication indicated that the Hearing remains as assigned September 3, 1961, in error. The application is assigned for hearing on the *thirteenth day of September, 1961, at the Midland* Hotel, Chicago, Ill., before Examiner William N. Culbertson.

No. MC 110525 (Sub-No. 453), filed July 28, 1961. Applicant: CHEMICAL TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. Applicant's attorney: Leonard A. Jaskiewicz, Munsey Building, Washington 4, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals and cleaning compounds*, in bulk, from Fernald, Ohio, to points in Illinois, Indiana, Michigan, Wisconsin, St. Paul, Minn., and Vandalia, Mo., and *rejected shipments* of the above-specified commodities, on return.

NOTE: Applicant holds contract authority in MC 117507, therefore, dual operations may

be involved. Common control may be involved.

HEARING: October 4, 1961, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner James I. Carr.

No. MC 110698 (Sub-No. 159) (AMENDMENT), filed June 16, 1961, published issue of July 26, 1961, republished as amended this issue. Applicant: RYDER TANK LINE, INC., P.O. Box 457, Greensboro, N.C. Applicant's attorney: Frank B. Hand, Jr., Transportation Building, Washington, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Transformer oil*, in bulk, in tank vehicles, from Charleston, S.C., and points in New Jersey, Pennsylvania, and Texas to Rome, Ga.

NOTE: The purpose of this republication is to add Charleston, S.C., as an origin point.

HEARING: Remains as assigned, September 21, 1961, at 680 West Peachtree Street NW., Atlanta, Ga., before Examiner Dallas B. Russell.

No. MC 111310 (Sub-No. 1), filed July 3, 1961. Applicant: BEER TRANSIT, INC., RFD No. 1, Hartland, Wis. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cases of beer, containers of beer, keg beer*, and *empty beer containers*, and *kegs*, (1) between Menomonie, Wis. and Milwaukee and Hartland, Wis., (2) between Milwaukee and Hartland, Wis. and St. Paul, Minn., and (3) between Menomonie, and Tomah, Wis.

HEARING: October 25, 1961, at the Wisconsin Public Service Commission, Madison, Wis., before Joint Board No. 142.

No. MC 112030 (Sub No. 10), filed June 23, 1961. Applicant: PAUL W. WILLS, INC., 3107 South Telegraph, Taylor, Mich. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt* in bags and other containers, in dump equipment, when moving in mixed shipments with salt in bulk, from Detroit, Mich. to points in Ohio.

NOTE: Applicant states that it already has authority to transport salt in bulk from Detroit, Mich., to Ohio, and by this application seeks authority to handle packaged salt in mixed shipments with the bulk salt.

HEARING: October 17, 1961, at Room 214, Federal Building, Lansing, Mich., before Joint Board No. 57.

No. MC 112991 (Sub-No. 3), filed July 21, 1961. Applicant: MERRIFIELD TRANSPORT COMPANY, LIMITED, 458 Josephine Avenue, Windsor, Ontario, Canada. Applicant's attorney: Eugene C. Ewald, Guardian Building, Detroit 26, Mich. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between the site of the Kelsey-Hayes Company plant located at the intersection of Northline Road and Huron River Drive, Romulus Township, Wayne County, Mich., on the one hand, and, on the other, the boundary of the United States and Canada at Detroit, Mich.

HEARING: October 16, 1961, at 1:00 o'clock p.m., United States standard time (or 1:00 o'clock p.m., local daylight saving time, if that time is observed), in Room 214, Federal Building, Lansing, Mich., before Joint Board No. 163.

No. MC 113410 (Sub-No. 30), filed July 31, 1961. Applicant: DAHLEN TRANSPORT INC., 875 North Prior Avenue, St. Paul 4, Minn. Applicant's attorney: Leonard A. Jaskiewicz, Munsey Building, Washington 4, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from the pipeline terminals of the Mid-America Pipeline Co., located in Iowa (other than Sanborn and Iowa City) to points in Minnesota, South Dakota, Nebraska, and Wisconsin and *rejected shipments* of the above-specified commodity, on return.

NOTE: Common control may be involved.

HEARING: September 20, 1961, at the Old Federal Office Building, Room 401, Fifth and Court Avenues, Des Moines, Iowa, before Examiner Warren C. White.

No. MC 113855 (Sub-No. 56), filed July 31, 1961. Applicant: INTERNATIONAL TRANSPORT, INC., Highway 52 South, Rochester, Minn. Applicant's attorney: Franklin J. Van Osdel, First National Bank Building, Fargo, N. Dak. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement conduit pipe, with asbestos fibre*, and *fittings and bonding mortar* for cement conduit pipe, when transported with said pipe, from St. Louis, Mo. and points within 5 miles thereof, to points in Montana, Idaho and Wyoming.

HEARING: October 3, 1961, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner C. Evans Brooks.

No. MC 113855 (Sub-No. 57), filed July 31, 1961. Applicant: INTERNATIONAL TRANSPORT, INC., Highway 52 South, Rochester, Minn. Applicant's attorney: Franklin J. Van Osdel, First National Bank Building, Fargo, N. Dak. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Bartonville, Ill., and Crawfordsville, Ind., to points in Montana, Wyoming, and Idaho.

HEARING: October 5, 1961, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner William J. Cave.

No. MC 114004 (Sub-No. 39), filed August 2, 1961. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, Ark. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passengers automobile in haul-away service in initial movement, from points in Crittington County, Ark., to points in the United States, including Alaska, and *empty containers or other such incidental facilities* (not specified) used in transporting the above-described commodities, on return.

HEARING: September 14, 1961, at the Arkansas Commerce Commission, Justice Building, State Capitol, Little Rock, Ark., before Examiner Henry A. Cockrum.

No. MC 114123 (Sub-No. 24) (AMENDMENT), filed June 15, 1961, published issue July 26, 1961, and republished as amended, this issue. Applicant: HERMAN R. EWELL, INC., East Earl (Lancaster County), Pa. Applicant's attorney: Andrew Wilson Green, 222 North Third Street, Harrisburg, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid and invert sugar, corn syrup*, and *mixtures of liquid and invert sugar* and *corn syrup*, in bulk, in tank vehicles, from New York City, N.Y. (including Yonkers) and Bayonne, N.J., to the District of Columbia and Virginia.

NOTE: *Fresh milk and cream* (as exempt agricultural commodities), on return. Applicant is also authorized to conduct operations as a contract carrier in Permit No. MC 118661 and subs thereunder, therefore dual operations may be involved. Duplicating authority to be eliminated. As originally filed service was not proposed to Alexandria, Va.

HEARING: Remains as assigned September 7, 1961, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Abraham J. Essrick.

No. MC 114787 (Sub No. 1), filed June 29, 1959. Applicant: PACIFIC INLAND EXPRESS LTD., P.O. Box 2004, Vancouver, British Columbia, Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, including *commodities requiring special equipment*, but excluding commodities of unusual value, Class A and B explosives, household goods as defined by the Commission, and commodities in bulk, (A) Between Chicago, Ill., and Duluth, Minn., (1) from Chicago over U.S. Highway 14 to Madison, Wis., thence over U.S. Highway 12 to Eau Claire, Wis., thence over U.S. Highway 53 to Duluth, and (2) from Chicago over U.S. Highway 14 to Madison, thence over U.S. Highway 12 to Minneapolis-St. Paul, Minn., thence over U.S. Highway 61 to Duluth, and return over the same routes, serving no intermediate points; (B) Between Duluth, Minn., and the International Boundary line between the United States and Canada at or near Noyes, Minn., (1) from Duluth over U.S. Highway 2 to Crookston, Minn., thence over U.S. Highway 75 to port of entry on the International Boundary line between the United States and Canada at or near Noyes, (2) from Duluth over U.S. Highway 210 to Motley, Minn., thence over U.S. Highway 10 to Detroit Lakes, Minn., thence over U.S. Highway 59 to Erskine, Minn., thence over U.S. Highway 2 to Crookston, Minn., thence over U.S. Highway 75 to port of entry on the International Boundary line between the United States and Canada at or near Noyes, (3) from Duluth over U.S. Highway 210 to Motley, Minn., thence over U.S. Highway 10 to Moorhead, Minn., thence over U.S. Highway 75 to port of entry on the International Boundary line

between the United States and Canada at or near Noyes, and (4) from Duluth over U.S. Highway 210 to Motley, Minn., thence over U.S. Highway 10 to Fargo, N. Dak., thence over U.S. Highway 81 eastward to port of entry on the International Boundary line between the United States and Canada at or near Noyes, and return over the same routes, serving no intermediate points; and (C) Between Duluth, Minn., and the International Boundary line between the United States and Canada at or near Portal, N. Dak., (1) from Duluth over U.S. Highway 2 to Minot, N. Dak., thence over U.S. Highway 52 to port of entry on the International Boundary line between the United States and Canada at or near Portal, (2) from Duluth over U.S. Highway 2 to Grand Forks, N. Dak., thence over U.S. Highway 81 to junction North Dakota Highway 5, thence over North Dakota Highway 5 westwardly to junction U.S. Highway 52, thence over U.S. Highway 52 to port of entry on the International Boundary line between the United States and Canada at or near Portal, (3) from Duluth over U.S. Highway 210 to Motley, Minn., thence over U.S. Highway 10 to Jamestown, N. Dak., thence over U.S. Highway 52 to port of entry on the International Boundary line between the United States and Canada at or near Portal, and (4) from Duluth over U.S. Highway 210 to Motley, Minn., thence over U.S. Highway 10 to Detroit Lakes, Minn., thence over U.S. Highway 59 to Erskine, Minn., thence over U.S. Highway 2 to Minot, N. Dak., thence over U.S. Highway 52 to port of entry on the International Boundary line between the United States and Canada at or near Portal, and return over the same routes, serving no intermediate points.

NOTE: Applicant does not propose service to intermediate points on any of the above-described routes.

HEARING: October 23, 1961, at the Midland Hotel, Chicago, Ill., before Examiner James C. Cheseldine.

No. MC 117025 (Sub-No. 10), filed July 27, 1961. Applicant: LE ROY HILT, 3751 Sumner, Lincoln, Nebr. Applicant's attorney: J. Max Harding, I B M Building, 605 South 12th Street, P.O. Box 2041, Lincoln 8, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fats, lards, tallows, greases, oils, and blends thereof*, in bulk, in tank vehicles, (1) between points in Nebraska, South Dakota, North Dakota and Iowa, (2) from points in Nebraska, South Dakota, North Dakota and Iowa to Sioux City, Iowa, Omaha, Nebr., Nebraska City, Nebr. and Kansas City, Kans. and (3) from points in North Dakota, Iowa, and Mitchell, S. Dak., to Kansas City, Kans., and *rejected or contaminated shipments*, on return.

HEARING: September 12, 1961, at the Hotel Sheraton-Fontenelle, Omaha, Nebr., before Examiner Warren C. White.

No. MC 118831 (Sub-No. 17), filed July 31, 1961. Applicant: CENTRAL TRANSPORT, INCORPORATED, P.O. Box 5044, High Point, N.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, (1) from terminals of the Dixie Pipe Line Co. in South Carolina, to points in North Carolina, and (2) from terminals on the Dixie Pipe Line Co. in North Carolina, to points in North Carolina, South Carolina, and Virginia.

HEARING: September 11, 1961, at 680 West Peachtree Street NW., Atlanta, Ga., before Joint Board No. 196, or if the Joint Board waives its right to participate before Examiner C. Evans Brooks.

No. MC 119449 (Sub-No. 2), (REPUBLICATION), filed May 3, 1961, published FEDERAL REGISTER, issue of May 17, 1961, amended at hearing, republished as amended this issue. Applicant: ANTHONY H. SANTIAGO AND MARIO CECCHINI, doing business as BISON CITY CARTAGE CO., 500 Niagara Frontier Food Terminal, Buffalo 6, N.Y. Applicant's attorney: Thomas J. Runfola, 631 Niagara Street, Buffalo 1, N.Y. As originally filed applicant sought authority to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products* and *packing-house products*, from Buffalo, N.Y., to Oneida, New Haven, and Utica, N.Y., and *empty containers or other such incidental facilities* (not specified) used in transporting the above-specified commodities, on return. At the hearing held June 29, 1961, at Buffalo, N.Y., Hearing Examiner Harold P. Boss, presiding, the application was amended to change the destination point of New Haven, N.Y., to New Hartford, N.Y. A report and order served August 1, 1961, authorizes transportation as follows: "Over Irregular Routes, *Meats, meat products and meat byproducts*, and *dairy products* as described in sections A and B of appendix I of the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 61 M.C.C. 766, from Buffalo, N.Y., to New Hartford, Oneida, and Utica, N.Y.", and provides that the issuance of a certificate authorizing the above-described operations be withheld until the elapse of 30 days from the date of this republication in the FEDERAL REGISTER in order to allow anyone who may be adversely effected by the enlargement of the issues to petition for further hearing or other relief.

No. MC 119924 (Sub-No. 1), filed July 12, 1961. Applicant: EMERY RAHM, Colby, Wis. Applicant's attorney: Edward Solie, 715 First National Bank Building, 1 South Pinckney Street, Madison 3, Wis. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mill feeds, oil meal*, and *bran*, from Hastings and Red Wing, Minn., to points in Clark, Taylor, and Wood Counties, Wis.

HEARING: October 24, 1961, at the Wisconsin Public Service Commission, Madison, Wis., before Joint Board No. 142.

No. MC 123190 (Sub No. 30), filed June 8, 1961. Applicant: STILLPASS TRANSIT COMPANY, INC., 4967 Spring Grove Avenue, Cincinnati 32, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid caustic*, in bulk, in tank vehicles, from Wyandotte, Mich., to points in Ohio, and *rejected shipments* of liquid caustic, on return.

HEARING: October 31, 1961, at the New Post Office Building, Columbus, Ohio, before Joint Board No. 57.

No. MC 123192 (Sub-No. 1), filed July 7, 1961. Applicant: HAROLD SCHAK, Tyler, Minn. Applicant's representative: A. R. Fowler, 2288 University Avenue, St. Paul 14, Minn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed*, from Sioux City, Iowa to points in Lincoln County, Minn., on and south of Minnesota Highway 19, and to points in Shelburne and Coon Creek Townships in Lyon County, Minn.

HEARING: September 26, 1961, in Room 393, Federal Building and U.S. Court House, 110 South Fourth Street, Minneapolis, Minn., before Joint Broad No. 146.

No. MC 123676, filed May 22, 1961. Applicant: HORACE W. JOHNSON, RFD #1, Nevada, Mo. Applicant's attorney: Tom B. Kretsinger, Suite 1014–18 Temple Building, Kansas City 6, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed ingredients* and *chicken grits*, in bulk and in bags, from Houston, Sabine Pass, and Texas City, Tex., and New Orleans, Empire, and Holmewood, La., to points in New Mexico, Colorado, Wyoming, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, Minnesota, Iowa, Missouri, Arkansas, Mississippi, Alabama, Georgia, Tennessee, North Carolina, Virginia, Kentucky, Ohio, Indiana, Illinois, Wisconsin, and Michigan, and *exempt commodities*, on return.

HEARING: September 25, 1961, at the Park East Hotel, Kansas City, Mo., before Examiner Leo A. Riegel.

No. MC 123734, filed June 9, 1961. Applicant: MASON COAL SALES, INC., 446 Cambridge Road, Coshocton, Ohio. Applicant's attorney: James R. Stiverson, 50 West Broad Street, Columbus, 15, Ohio. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal;* from Linton Township, Coshocton County, Ohio, to Erie Township, Monroe County, Mich., and *empty containers or other such incidental facilities*, used in transporting the above-described commodity, on return.

NOTE: Applicant states the proposed operation will be under continuing contract with Mason & Sons Coal Co., Inc., Coshocton, Ohio.

HEARING: October 31, 1961, at the New Post Office Building, Columbus, Ohio, before Joint Board No. 57.

No. MC 123834, filed July 25, 1961. Applicant: J. T. NEWMAN, Meherrin, Va. Applicant's attorney: John C. Goddin, Insurance Building, 10 South Tenth Street, Richmond 19, Va. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wooden mattress and sofa frames*, from Blackstone, Va. to Washington, D.C., Baltimore, Md. and Philadelphia, Pa.

HEARING: October 2, 1961, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Warren C. White.

No. MC 123841, filed July 27, 1961. Applicant: DAVID TESONE, doing business as DAVID TESONE TRUCKING, Box 35, Wildwood, Pa. Applicant's attorney: H. Ray Pope, Jr., Clarion, Pa. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Coal and coke,* in dump vehicles and which may be unloaded by dumping, between points in Allegheny County, Pa., on the one hand, and, on the other, points in Ohio, and (2) *slag, limestone,* and *lime,* in dump vehicles and which may be unloaded by dumping, from points in Ohio to points in Allegheny County, Pa.

HEARING: October 2, 1961, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner James O'D. Moran.

MOTOR CARRIERS OF PASSENGERS

No. MC 123791, filed July 10, 1961. Applicant: MARQUARDT BUS SERVICE, INC., Highway C and Formart Road, P.O. Box 165, Cedarburg, Wis. Applicant's attorney: Ralph J. Jeka, 3905 West Vliet Street, Milwaukee 8, Wis. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Passengers and their baggage,* in the same vehicle, in charter operations, beginning and ending at points in Milwaukee, Ozaukee, Washington, Waukesha, Sheboygan, and Racine Counties, Wis., and extending to points in Illinois and the Upper Peninsula of Michigan.

HEARING: October 26, 1961, at the Wisconsin Public Service Commission, Madison, Wis., before Joint Board No. 162.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING IS REQUESTED

MOTOR CARRIERS OF PROPERTY

No. MC 504 (Sub-No. 42), filed July 27, 1961. Applicant: HARPER MOTOR LINES, INC., 213 Long Avenue, Elberton, Ga. Applicant's attorney: Reuben G. Crimm, 1375 Peachtree Street NE., Atlanta, Ga. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities,* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, (1) between Athens and Eatonton, Ga.; from Athens over Georgia Highway 15 to Watkinsville, thence over U.S. Highway 129–441 (Ga. Hwy. 24), to Eatonton, and return over the same route, serving all intermediate points from Athens to Madison (except with no right to serve Madison and points between Madison and Eatonton, (2) between Monroe and Bishop, Ga.; over Georgia Highways 186 and 83, and return over the same route, serving all intermediate points, and (3) between Good Hope and Madison, Ga.; over Georgia Highway 83, and return over the same route, serving all intermediate points (but without the right to serve Madison, except for the purpose of joinder with other authorized routes).

No. MC 730 (Sub-No. 196), filed July 28, 1961. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a Corporation, 1417 Clay Street, Oakland 4, Calif. Applicant's representative: Earl J. Brooks, P.I.E. Building, 14th and Clay Streets, P.O. Box 958, Oakland 4, Calif. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, livestock, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between junction U.S. Highways 40 and 287 east of Kit Carson, Colo., and junction U.S. Highways 50 and 287 west of Lamar, Colo.; from junction U.S. Highways 40 and 287 east of Kit Carson, south over U.S. Highway 287 to junction U.S. Highways 50 and 287, and return over the same route, serving no intermediate or off-route points, and with service at the termini points for the purpose of joinder with applicant's otherwise authorized regular-routes, as an alternate route for operating convenience only.

NOTES: Common control may be involved.

No. MC 3009 (Sub-No. 42), filed July 26, 1961. Applicant: WEST BROTHERS, INC., 706 East Pine Street, Hattiesburg, Miss. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities,* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious and contaminating to other lading), (1) Between Puckett and Prentiss, Miss., over Mississippi Highway 13, and return over the same route, serving all intermediate points, (2) between Georgetown and Magee, Miss., over Mississippi Highway 28, and return over the same route, serving all intermediate points, (3) between Columbia and Raleigh, Miss., over Mississippi Highway 35, and return over the same route, serving all intermediate points, (4) between Mt. Olive, Miss., and junction Mississippi Highway 532 and U.S. Highway 84, eight miles east of Collins, Miss., over Mississippi Highway 532, and return over the same route, serving all intermediate points, (5) between Bay Springs, Miss., and junction Mississippi Highway 37 and U.S. Highway 84, six miles east of Collins, Miss., over Mississippi Highways 531 and 37, and return over the same route, serving all intermediate points, (6) between Taylorsville and Raleigh, Miss., over Mississippi Highways 37 and 35, and return over the same route, serving all intermediate points, (7) between Magee, Miss., and junction Mississippi Highways 541 and 18, three miles east of Puckett over Mississippi Highway 541, and return over the same route, serving all intermediate points, (8) between Georgetown, Miss., and Mississippi-Louisiana State line over Mississippi Highway 27, and return over the same route, serving all intermediate points, (9) between Columbia, Miss., and junction Mississippi Highway 13 and U.S. Highway 49, nine miles north of Wiggins, Miss., over Mississippi Highway 13, and return over the same route, serving all intermediate points, (10) between Prentiss, Miss., and junction Mississippi Highway 42 and U.S. Highway 49, approximately ten miles north of Hattiesburg over Mississippi Highway 42, and return over the same route, serving all intermediate points, (11) between Columbia and Sumrall, Miss., over Mississippi Highway 44, and return over the same route, serving all intermediate points, (12) between Purvis and Seminary, Miss., over Mississippi Highway 589, and return over the same route, serving all intermediate points, (13) between Lyman and Poplarville, Miss., over Mississippi Highway 53, and return over the same route, serving all intermediate points, (14) between Biloxi and Saucier, Miss., over Mississippi Highway 67, and return over the same route, serving all intermediate points, (15) between Lucedale and Pascagoula, Miss., over Mississippi Highways 613 and 63, and return over the same route, serving all intermediate points, (16) between Biloxi and Beaumont, Miss., over Mississippi Highway 15, and return over the same route, serving all intermediate points, (17) between Wiggins and Ellisville, Miss., over Mississippi Highway 29, and return over the same route, serving all intermediate points, (18) between Lucedale, Miss., and junction Mississippi Highway 615 and U.S. Highway 45, three miles north of State Line, Miss., over Mississippi Highways 63 and 615, and return over the same route, serving all intermediate points, (10) between Leakesville and Richton, Miss., over Mississippi Highways 63 and 42, and return over the same route, serving all intermediate points, (20) between Waynesboro, Miss., and junction Mississippi Highway 42, eleven miles east of Richton, Miss., over Mississippi Highway 63, and return over the same route, serving all intermediate points, (21) between junction U.S. Highway 98 and Mississippi Highway 594 and Mississippi-Alabama State line over Mississippi Highway 594, and return over the same route, serving all intermediate points, (22) between Tylertown and Brookhaven, Miss., over Mississippi Highway 583, and return over the same route, serving all intermediate points, (23) between Picayune and Columbia, Miss., over Mississippi Highways 13 and 43, and return over the same route, serving all intermediate points, (24) between Florence, Miss., and junction Mississippi Highways 469 and 28, six miles east of Georgetown, Miss., over Mississippi Highway 469, and return over the same route, serving all intermediate points, (25) between junction of Mississippi Highways 53 and 603, nineteen miles south of Poplarville and junction Mississippi Highway 603 and U.S. Highway 90, approximately five miles west of Bay St. Louis, Miss., and return over the same route, serving all intermediate points, and (26) between junction Mississippi Highway 42 and U.S. Highway 45, one mile east of State line, Miss., and Mississippi Highways 42 and 63 approximately 21 miles north of Leakesville, Miss., over Mississippi Highway 42, and return over the same route, serving all

intermediate points, (27) between Seminary, Miss., and junction Mississippi Highway 590 and U.S. Highway 11, one mile south of Ellisville, Miss., over Mississippi Highway 590, and return over the same route, serving all intermediate points, (28) between Ellisville, and Seminary, Miss., over Mississippi Highways 588 and 535, and return over the same route, serving all intermediate points, (29) between junction Mississippi Highways 588 and 535, five miles northeast of Seminary, and junction Mississippi Highways 532 and 539, five miles east of Mt. Olive, Miss., over Mississippi Highway 539, and return over the same route, serving all intermediate points, (30) between Raleigh and Mendenhall, Miss., over Mississippi Highway 540 and U.S. Highway 49, and return over the same route, serving all intermediate points, (31) between Mobile, Ala., and Hurley, Miss., over Alabama Highway 56 and Mississippi Highway 614, and return over the same route, serving all intermediate points, (32) between Mobile, Ala., and Harleston, Miss., over Alabama Highway 70 to Mississippi-Alabama State line, thence over unnumbered road from Mississippi-Alabama State line to Harleston, and return over the same route, serving all intermediate points, (33) between junction Mississippi Highways 533 and 15, nine miles south of Bay Springs, Miss., and junction Mississippi Highways 29 and 588, one mile west of Ellisville, Miss., over Mississippi Highways 533 and 29, and return over the same route, serving all intermediate points, (34) between New Hebron, Miss., and junction Mississippi Highways 43 and 13, eleven miles south of Prentiss, Miss., over Mississippi Highway 43, and return over the same route, serving all intermediate points, and (35) (a) between Pachuta and Paulding, Miss., over Mississippi Highway 512, and return over the same route, serving all intermediate points; and (b) between junction Mississippi Highways 18 and 503, approximately 17 miles northeast of Bay Springs and junction Mississippi Highways 503 and 528, approximately three miles northwest of Heidelberg, over Mississippi Highway 503, and return over the same route, serving all intermediate points.

No. MC 23441 (Sub-No. 2), filed July 28, 1961. Applicant: LAY TRUCKING COMPANY, INC., 1312 Lake Street, La Porte, Ind. Applicant's representative: M. A. Wilson (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hay crushers and conditioners*, and *parts* for the implements named when moving in the same vehicle or in separate shipments; from La Porte, Ind., to points in Indiana, Michigan, Wisconsin, Iowa, Illinois, Missouri, Kentucky, Tennessee, Mississippi, Ohio and Pennsylvania. RESTRICTION: The transportation service sought herein is subject to the restriction that operations to points in Illinois, Iowa, Missouri, Mississippi, Kentucky, Tennessee, and Pennsylvania shall be limited to the transportation of shipments originating at La Porte, Ind.

No. MC 108358 (Sub-No. 7), filed July 28, 1961. Applicant: CONCRETE DELIVERY CO., INC., 7 North Steelawanna Avenue, Lackawanna, N.Y. Applicant's representative: Floyd B. Piper, Crosby Building, Franklin at Mohawk, Buffalo as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Town of Hamburg (Erie County), N.Y., to points in Cameron, Crawford, Elk, Erie, Forest, McKean, Mercer, Potter, Tioga, Venango and Warren Counties, Pa., and *returned, refused and rejected, shipments* of cement, on return.

NOTE: Applicant states the purpose of this application is to secure authority to transport cement to the entire destination area without restriction as to the type of containers or vehicles in which it is transported. No duplicating authority is sought.

No. MC 123224 (Sub-No. 1), filed August 1, 1961. Applicant: JOSEPH S. ROSENFELDT AND LEON ROSENFELDT, a Partnership, doing business as CARRIER CARTAGE COMPANY 1037 Magnolia Avenue, Camden, N.J. Applicant's representative: Harry C. Maxwell, 200 Penn Square Building, Juniper and Filbert Streets, Philadelphia 7, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is ordinarily dealt in by retail stores, premium redemption companies, and mail-order houses;* from Camden, N.J., to New York, N.Y., Washington, D.C., points in Fairfield, Hartford and New Haven Counties, Conn., Albany, Columbia, Dutchess, Fulton, Greene, Montgomery, Nassau, Orange, Putnam, Rensselaer, Rockland, Schenectady, Schoharie, Suffolk, Sullivan, Ulster and Westchester Counties, N.Y., and those in Delaware, Maryland, New Jersey and Pennsylvania. RESTRICTION: The service sought herein shall be limited to retail delivery service and that no service shall be rendered as the transportation of any shipment weighing in excess of 50 pounds; and for the purpose of this restriction, a package or group of packages from a single consignor to a single consignee at a single destination shall be considered a shipment.

NOTE: (1) Applicant states the above-described operation embraces authority now held by applicant. If the authority sought is granted, or any part of it, applicant requests concurrent cancellation of its presently held authority to the extent that there would be duplication. (2) Common control may be involved.

No. MC 123836, filed July 27, 1961. Applicant: FRANK WALDRAN AND EFFIE WALDRAN, a Partnership doing business as BEST BEER COMPANY, P.O. Box 809, 302 Ferris Street, Lawton, Okla. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Beer*, from the site of the Oklahoma Distributing Company warehouses located at Milwaukee, Wis., Kansas City, Mo., Omaha, Nebr., and Chicago, Belleville, and Peoria, Ill., to Ardmore, Lawton, Oklahoma City, and Shawnee, Okla., and (2) *empty beer bottles, empty beer cases* and *empty kegs returned to breweries*, on return.

MOTOR CARRIERS OF PASSENGERS

No. MC 29861 (Sub-No. 2), filed July 31, 1961. Applicant: GRAY COACH LINES, LIMITED, 1900 Yonge Street, Toronto 7, Ontario, Canada. Applicant's attorney: James E. Wilson, Perpetual Building, 1111 E Street NW., Washington 4, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in round-trip charter operations, beginning and ending at the International Boundary line between the United States and Canada and extending through the Ports of Entry in Minnesota, North Dakota, Montana, Idaho and Washington to points in the United States, not including Hawaii and Alaska.

NOTE: Applicant states the service to be performed will be restricted to movements originating in the Province of Ontario served by it.

No. MC 123835, filed July 26, 1961. Applicant: GARLAND L. GORDON, doing business as APPALACHIAN COACH COMPANY, 201 North Jefferson Street, Galax, Va., Applicant's attorney: Raymond H. Warns, Court Square Building, Charlottesville, Va. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, and *express, mail* and *newspapers*, in the same vehicle with passengers, between Shouns, and Johnson City, Tenn.; from Shouns, over U.S. Highway 421 to Mountain City, Tenn., thence over Tennessee Highway 67 to Elizabethton, Tenn., thence over Tennessee Highway 91 to Johnson City, and return over the same route, serving all intermediate points.

APPLICATION FOR BROKERAGE LICENSE

MOTOR CARRIER OF PASSENGERS

No. MC 12757, filed June 12, 1961. Applicant: SUGARBUSH VALLEY EXPRESS ASSOCIATES, No. 2 Washington Square Village, 16L, New York 12, N.Y. For a license (BMC 5) to engage in operations as a *broker* at New York, N.Y., in arranging for transportation in interstate or foreign commerce, by motor vehicle, of *passengers, skis and other such baggage of passengers*, both as individuals and groups, in charter operations, beginning and ending at New York, N.Y., and extending to ski areas at or near Warren and Waitsfield, Vt.

NOTICE OF FILING OF PETITION

No. MC 79695 (Sub-No. 5) and MC 79695 (Sub-No. 17), (PETITION FOR (1) WAIVER OF RULE 1.101(e); (2) REOPENING, (3) RECONSIDERATION, OR (4) CLARIFICATION AND/OR MODIFICATION), dated July 19, 1961. Petitioner: STEEL TRANSPORTATION COMPANY, INC., 4000 Cline Avenue, East Chicago, Ind. Petitioner's attorney: Robert W. Loser, 409 Chamber of Commerce Building, Indianapolis 4, Ind. Petitioner holds authority, as is here pertinent, as follows: (1) No. MC–79695 (Sub-No. 5), irregular routes, authorizing the transportation of, Iron and steel articles, which because of their size, shape or weight require specialized

handling or rigging or the use of special equipment and iron and steel articles which are integrally a part of a shipment requiring specialized handling or special equipment, from Chicago, Ill., points in the Chicago, Ill., Commercial Zone, 1 M.C.C. 673, and Chicago Heights, Ill., to Henderson, Louisville, Owensboro and Paducah, Ky., St. Louis, Mo., points in Iowa on and east of U.S. Highway 218 from Keokuk to Cedar Rapids and on and east of Iowa Highway 13 from Cedar Rapids to Marquette, points in Ohio on and west of U.S. Highway 23 from Toledo to Columbus, on and west of U.S. Highway 62 from Columbus to Washington Court House, and on and west of U.S. Highway 22 from Washington Court House to Cincinnati, Ohio, including points in the commercial zone of Cincinnati as defined in Cincinnati, Ohio, Commercial Zone, 26 M.C.C. 49, and points in Wisconsin in the counties of Columbia, Crawford, Dane, Dodge, Fond du Lac, Grant, Green, Iowa, Jefferson, Lafayette, Kenosha Ozaukee, Racine, Richland, Rock, Sauk, Sheboygan, Walworth, Washington, and Waukesha, except points in Kenosha and Racine Counties on and east of U.S. Highway 41, and return with returned or rejected shipments, and (2) Certificate No. MC 79695 (Sub-No. 17), irregular routes, authorizing the transportation of, Nonferrous metals, when moving in the same vehicle at the same time with iron and steel articles, which because of their size, shape or weight require specialized handling or rigging or the use of special equipment, and/or iron and steel articles which are integrally a part of a shipment requiring specialized handling or special equipment, from Chicago, Ill., to Cincinnati, Ohio, with no transportation for compensation on return except as otherwise authorized. Petitioner requests the Commission clarify and/or modify Certificate No. MC–79695 (Sub-No. 5) and Certificate No. MC–79695 (Sub No. 17), so as to read in the Sub No. 5 Certificate *"Iron and steel articles as described in Appendix V, Description in Motor Carrier Certificates, Ex Parte MC–45"* and with regard to Sub-No. 17 Certificate so that it reads: "nonferrous metals when moving in the same vehicle at the same time with *iron and steel articles as described in Appendix V,* Description in Motor Carrier Certificate, Ex Parte MC–45." Any person or persons desiring to oppose the relief sought, may, within 30 days from the date of this publication in the FEDERAL REGISTER, file a reply to this petition, or other appropriate pleading.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property of passengers under section 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240)

MOTOR CARRIERS OF PROPERTY

No. MC–F–7929. (POINT EXPRESS, INC.—CONTROL AND MERGER—PINSON TRANSFER CO., INC.), published in the August 2, 1961, issue of the FEDERAL REGISTER. Supplement filed July 28, 1961, to show joinder of HARLEY HARTLEY, VITUS HARTLEY, SR., WILLIAM P. FINNERAN, VITUS HARTLEY, JR., and WILLIAM H. HANKS, all of 3535 Seventh Avenue, Charleston, W. Va., as additional persons in control of POINT EXPRESS, INC.

No. MC–F 7931. Authority sought for control by LONG TRANSPORTATION COMPANY, 3755 Central Ave., Detroit, Mich., of BOAT HAULING CORPORATION, 25 Bryant Ave., East Milton 86, Mass., and for acquisition by W. E. LONG, 155 Lothrop, Grosse Pointe Farms, Mich., and STEVEN DARCEY, for the estate of FLORENCE L. McCALE, 46250 W. Nine Mile, Novi, Mich., of control of BOAT HAULING CORPORATION through the acquisition by LONG TRANSPORTATION COMPANY. Applicants' attorneys: Bowes & Millner, 1060 Broad St., Newark 2, N.J., and Barrett, Barrett and Barrett, 25 Bryant Ave., East Milton 86, Mich. Operating rights sought to be controlled: *Boats* and *boat accessories,* as a *common carrier* over irregular routes between points in Massachusetts, Maine, New Hampshire, Vermont, Rhode Island, Connecticut, New York, and New Jersey. LONG TRANSPORTATION COMPANY is authorized to operate as a *common carrier* in Illinois, Pennsylvania, Ohio, Indiana, Michigan, New York, New Jersey, and Connecticut. Application has been filed for temporary authority under section 210a(b).

No. MC–F 7932. Authority sought for control and merger by KRAMER BROS. FREIGHT LINES, INC., 4195 Central Ave., Detroit 10, Mich., of the operating rights and property of CONSOLIDATED FREIGHT COMPANY, 321 S. Franklin St., Saginaw, Mich., and for acquisition by EDWARD S. KRAMER, 4901 North Dixboro Road, Ann Arbor, Mich., of control of such rights and property through the transaction. Applicants' attorney: Roland Rice, 618 Perpetual Bldg., Washington 4, D.C. Operating rights sought to be controlled and merged: *General commodities,* excepting among others, household goods and commodities in bulk, as a *common carrier* over regular routes between Chicago, Ill., and Detroit, Mich.; between Chicago, Ill., and Saginaw, Mich.; between Edmore, Mich., and Rockford, Mich., between junction U.S. Highway 16 and Michigan Highway 91, and Belding, Mich., between Chicago, Ill., and junction U.S. Highway 112 and Michigan Highway 205, between Constantine, Mich., and Lansing, Mich., between Somerset, Mich., and Saginaw, Mich., between Battle Creek, Mich., and Flint, Mich., between Grand Haven, Mich., and Flint, Mich., between Saginaw, Mich., and Lansing, Mich., between Jackson, Mich., and Pontiac, Mich., between Bay City, Mich., and Midland, Mich., between Detroit, Mich., and Bay City, Mich., between junction Michigan Highway 24 and unnumbered highway east of Oakwood. Mich., and Ortonville, Mich., between Detroit, Mich., and Clare, Mich., between Goodrich, Mich., and Grand Blanc, Mich., between Davison, Mich., and Flint, Mich., between Saginaw, Mich., and Roscommon, Mich., between Detroit, Mich., and Trenton, Mich., serving certain intermediate and off-route points; between Chicago, Ill., and Joliet, Ill., between Niles, Mich., and Paw Paw, Mich., between Toledo, Ohio and Bay City, Mich., between Toledo, Ohio and Somerset, Mich., between Toledo, Ohio, and Detroit, Mich., between Wyandotte, Mich., and Pontiac, Mich., between Detroit, Mich., and Lansing, Mich., and between Detroit, Mich., and the Ford Willow Run Plant located approximately four miles east of Ypsilanti, Mich., serving no intermediate points, and over an alternate route for operating convenience only; *general commodities,* with exceptions as specified above, over regular and irregular routes between Lansing, Mich., and Akron and Kent, Ohio, serving certain intermediate and off-route points. KRAMER BROS. FREIGHT LINES, INC., is authorized to operate as a *common carrier* in Michigan, Illinois, Indiana, Ohio, Pennsylvania, New York, West Virginia, New Jersey, Delaware, Maryland and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F 7933. Authority sought for purchase by E. & L. TRANSPORT COMPANY, 14201 Prospect Ave., Dearborn, Mich., of a portion of the operating rights and certain property of DEALERS TRANSPORT COMPANY, 1368 Riverside Blvd., Memphis, Tenn., and for acquisition by TRANSCO, INC., and in turn by DONALD C. HAYDEN, both of 14201 Prospect Ave., Dearborn, Mich., of control of such rights and property through the purchase. Applicants' attorneys: George S. Dixon, 2150 Guardian Bldg., Detroit 26, Mich., and Charles H. Hudson, Jr., 206 Broadway National Bank Bldg., Nashville 3, Tenn. Operating rights sought to be transferred: *Automobiles, trucks* and *buses,* in initial movements, in driveaway and truckaway services, and *parts* and *accessories* thereof moving at the same time and with the vehicles of which they are a part and on which they are to be installed, as a *common carrier* over irregular routes from points in Lorain County, Ohio, to points in the United States; and *damaged* or *returned shipments* of the above-described commodities on return. Vendee is authorized to operate as a *common carrier* in all states and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F 7934. Authority sought for purchase by CONTINENTAL TRANSPORTATION LINES, INC., Continental Square, Graham St., McKees Rocks, Pa., of the operating rights and property of MARIANELLI MOTOR LINES, INC., Locust St., and Remington Ave., Scranton, Pa., and for acquisition by MILTON E. HARRIS and RUTH K. HARRIS, both of Continental Square, McKees Rocks, Pa., of control of such rights and property through the purchase. Applicants' attorney: Robert H. Shertz, 226 South 16th St., Philadelphia 2, Pa. Operating rights sought to be transferred: *Gen-*

eral commodities, excepting, among others, household goods and commodities in bulk, as a *common carrier* over irregular routes between Pittsburgh, Pa., and points in Pennsylvania within 35 miles of Pittsburgh, on the one hand, and, on the other, Scranton, Pa., and points in Pennsylvania within 35 miles of Scranton. Vendee is authorized to operate as a *common carrier* in Pennsylvania, Ohio, Maryland, West Virginia, New York, and New Jersey. Application has not been filed for temporary authority under section 210a(b).

No. MC–F 7935. Authority sought for purchase by PETTAPIECE CARTAGE & BUILDERS' SUPPLIES, LTD., 39 Oak St., West, Seacliffe Drive, Leamington, Ontario, Canada, of a portion of the operating rights of HOGUE FREIGHT LINES, INC., 4840 Wyoming Ave., Dearborn 2, Mich., and for acquisition by R. C. PETTAPIECE, 39 Oak St., West, Seacliffe Drive, Leamington, Ontario, Canada, and BENJAMIN C. BATTRAM, 25 Fader, Leamington, Ontario, Canada, of control of such rights through the purchase. Applicants' attorney: William B. Elmer, 1800 Buhl Bldg., Detroit 26, Mich. Operating rights sought to be transferred: *Sand,* as a *common carrier* over irregular routes, from points within the Lower Peninsula of Michigan, to the International Boundary Line between Detroit, Mich., and Windsor, Ontario, Canada. Vendee is authorized to operate as a *common carrier* in Ohio and Michigan. Application has not been filed for temporary authority under section 210a(b).

No. MC–F 7936. Authority sought for purchase by LIBERTY FAST FREIGHT CO., INC., Route 17, Rochelle Park, N.J., of the operating rights of GOLD STAR FREIGHT LINES, INC., 440 Tenth Ave., New York City, N.Y., and for acquisition by WILLIAM R. BREIDENTHALL, 780 Pine St., Emmaus, Pa., of control of such rights through the purchase. Applicants' attorneys: Arthur J Piken, 160–16 Jamaica Ave., Jamaica 32, N.Y., and Harry Ames, Jr., Transportation Bldg., Washington 6, D.C. Operating rights sought to be transferred: *General commodities,* excepting, among others, household goods and commodities in bulk, as a *common carrier* over irregular routes between points in the New York, N.Y. Commercial Zone, on the one hand, and, on the other, Philadelphia, Pa., and points in New Jersey. Vendee is authorized to operate as a *common carrier* in New York and New Jersey. Application has been filed for temporary authority under section 210a(b).

No. MC–F 7937. Authority sought for purchase by DIRECT TRANSIT LINES, INC., 200 Colrain Street, SW., Grand Rapids 8, Mich., of the operating rights and property of CLIFTON M. DENMAN, an individual, doing business as C. M. DENMAN, 2026 Lapeer Street, Port Huron, Mich., and for acquisition by BERT GLUPKER, LOUIS CAIN, BRUCE GLUPKER, all of 200 Colrain Street, W. W., Grand Rapids, Mich., DOROTHY PERKINS, 640 South Pine Street, Arlington Heights, Ill., and MARILYN DeVREE, 7666 Chickadee Drive, Jenison, Mich., of control of such rights and property through the purchase. Applicants' attorney: Robert A. Sullivan, 1800 Buhl Building, Detroit 26, Mich. Operating rights sought to be transferred: *Copper, brass and bronze products, equipment, materials,* and *supplies* used in, or incidental to, the manufacture of these products, and *office supplies and equipment,* as a *contract carrier* over irregular routes between Port Huron, Mich., on the one hand, and, on the other, points in Ohio, between Port Huron, Mich., on the one hand, and points in Indiana, and the CHICAGO, ILL. COMMERCIAL ZONE, on the other; *brass, bronze, copper and aluminum articles,* and *scrap, equipment, materials,* and *supplies,* used in, or incidental to the manufacture of such products, between St. Louis, Mo., and Port Huron, Mich., traversing Illinois, Indiana, and Ohio for operating convenience only; and, *plastic articles,* and *materials,* other than bulk liquids, used in the manufacture of plastic articles, between Port Huron, Mich., on the one hand, and, on the other, Chicago, Ill., St. Louis, Mo., and points in Indiana and Ohio, RESTRICTED to a transportation service to be performed under a continuing contract, or contracts, with Mueller Brass Company, Port Huron, Mich. Vendee is authorized to operate as a *common carrier* in Michigan, Illinois, Ohio, Indiana, Iowa, Wisconsin, Minnesota, Missouri, West Virginia, and Kentucky. Application has not been filed for temporary authority under section 210a(b).

No. MC–F 7938. Authority sought for control and merger by BLACK BALL FREIGHT SERVICE, Pier 53, Seattle, Wash., of the operating rights and property of SEXTON-CLARKE AUTO FREIGHT, INC., 1206 Sheldon Blvd., Bremerton, Wash., and for acquisition by R. J. ACHESON, Pier 53, Seattle, Wash., of control of such rights and property through the transaction. Applicants' attorney: William B. Adams, 624 Pacific Bldg., Portland 4, Oreg. Operating rights sought to be controlled and merged: *General commodities,* excepting, among others, household goods and commodities in bulk, as a *common carrier* over regular routes between Tacoma, Wash., and Bremerton, Wash., serving certain intermediate and off-route points without restriction, except the off-route points in Kitsap County, Wash., (except Bangor and Keyport, Wash., and points on Bainbridge Island, Wash.) restricted to the condition that those which lie north of Bremerton and north of Washington Highway 21 and the junction of Washington Highway 21 with unnumbered highway between Bremerton and Holly, Wash., through Crosby, Wash., and north of such unnumbered highway, shall not be tacked or combined with any authority now held or hereafter obtained authorizing service between Seattle and Bremerton, Wash.; between Seattle, Wash., and Bremerton, Wash., serving all intermediate and certain off-route points, and over an alternate route for operating convenience only. BLACK BALL FREIGHT SERVICE is authorized to operate as a *common carrier* in Washington. Application has been filed for temporary authority under section 210a(b).

No. MC–F 7939. Authority sought for purchase by AERO MAYFLOWER TRANSIT COMPANY, INC., 863 Mass. Ave., Indianapolis, Ind., of a portion of the operating rights of JOHN WALLS, an individual, doing business as NEW WAY TRANSFER, 2021 Forest Ave., Kansas City, Mo. Applicants' attorney: James L. Beattey, 130 East Washington St., 1021, Indianapolis, Ind. Operating rights sought to be transferred: *Uncrated new furniture and new store fixtures and equipment,* as a *common carrier* over irregular routes from Omaha, Nebr., Burlington, Iowa, and points in the *Chicago, Ill., Commercial Zone,* to Kansas City, Mo.-Kans., *damaged* or *rejected shipments* of the above-specified commodities, from the above-specified destination points to the above-designated origin points; *uncrated physicians', dentists' and hospital equipment,* between Kansas City, Mo.-Kans., and points within 25 miles thereof, on the one hand, and, on the other, Chicago, Ill., Detroit, Mich., Philadelphia, Pa., and points in Kansas, Nebraska, Iowa, Missouri, Wisconsin, Ohio and New York, *coin-operated vending machines,* uncrated, between Kansas City, Mo., on the one hand, and, on the other, points in Minnesota and those in all States east of a line beginning at Lake Superior and extending along the western boundary of Wisconsin to the Mississippi River and thence along the east bank of the Mississippi River to the Gulf of Mexico, *new and used store fixtures,* uncrated, between Kansas City, Mo., on the one hand, and, on the other, points in Alabama, Delaware, Florida, Georgia, Idaho, Louisiana, Maryland, Mississippi, Montana, Nevada, New Jersey, North Carolina, Oregon, South Carolina, Utah, Virginia, Washington, Wyoming, and the District of Columbia; *dentists' equipment,* uncrated, between Kansas City, Mo., on the one hand, and, on the other, points in Washington, Oregon, Idaho, Montana, Colorado, North Dakota, South Dakota, Oklahoma, Texas, Minnesota, Louisiana, California, and Utah, *school annuals,* uncrated and unboxed, from Kansas City, Mo., to points in Kansas, Oklahoma, and Texas; *furniture, pianos, electric organs and other musical instruments, home appliances, radios, carpets and rugs,* and *office and store fixtures and appliances,* all uncrated, except such of the named commodities as are included in the term household goods as defined by the Commission, between points in Missouri, on the one hand, and, on the other, points in Kansas; *new furniture, new household and office appliances, new store fixtures and appliances* and *new floor coverings,* uncrated, between points in the Kansas City, Mo.-Kansas City, Kans., commercial zone and points within 25 miles thereof, on the one hand, and, one the other, points in Arizona, California, Colorado, Kentucky, Minnesota, New Mexico, North Dakota, South Dakota, Tennessee, Texas and West Virginia, from points in the Kansas City, Mo.-Kansas City, Kans., commercial zone and points within 25 miles thereof, to points in Illinois, Indiana, Michigan, New

York, Ohio, Pennsylvania, and Wisconsin; *new floor coverings,* uncrated, between points in the Kansas City, Mo.-Kansas City, Kans., commercial zone and points within 25 miles thereof, on the one hand, and, on the other, points in Arkansas, Iowa, Nebraska, and Oklahoma; and *new furniture, new household and office appliances,* uncrated, and *new store fixtures and appliances,* uncrated, between points in the commercial zone described above, on the one hand, and, on the other, points in Missouri, Arkansas, Oklahoma, Kansas, Nebraska, and Iowa. Vendee is authorized to operate as a *common carrier* in all states 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. 61-7519; Filed, Aug. 8, 1961; 8:49 a.m.]

[Notice 529]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 4, 1961.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 63927. By order of July 31, 1961, The Transfer Board approved the transfer to Norman E. Pike, doing business as Pike's Express, Palmyra, N.J., of Certificate No. MC 181, issued December 7, 1943, to Walter E. Pike, doing business as Pike's Express, Palmyra, N.J., authorizing the transportation of: General commodities, with the usual exceptions including household goods and commodities in bulk, between Philadelphia, Pa., and Bordentown, N.J. John B. Mathews, Broad and Garfield, Palmyra, N.J., Attorney for applicants.

No. MC-FC 64064. By order of July 28, 1961, The Transfer Board approved the transfer to Stroud Brothers Trucking, Inc., Kilgore, Texas, of Certificates Nos. MC 108585 and MC 108585 Sub 3, issued December 19, 1956, and June 25, 1956, respectively, to J. C. Stroud and W. V. Stroud, doing business as Stroud Brothers, Joinerville, Texas, authorizing the transportation of: Machinery, equipment, materials and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking-up thereof; machinery and equipment used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of sulphur and its products, and materials and supplies (not including sulphur) used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of sulphur and its products, restricted to the transportation of shipments of materials and supplies moving to or from exploration, drilling, production, job, construction, plant sites or storage sites; and machinery, equipment, materials, and supplies used in, or in connection with, the drilling of water wells; between points in Arkansas, Kansas, Louisiana, Missouri, New Mexico, Oklahoma and Texas, as specified. Ewell H. Muse, Jr., 415 Perry Brooks Building, Austin, Tex., attorney for applicants.

No. MC-FC 64095. By order of July 31, 1961, The Transfer Board approved the transfer to Expressway Trucking, Inc., Long Island City, N.Y., of Certificate No. MC 76447, issued December 7, 1949, to Frank Alexander, doing business as MacCarthys Express, New York, N.Y., authorizing the transportation of: General commodities, with the usual exceptions including household goods and commodities in bulk, between New York, N.Y., on the one hand, and, on the other, points in Westchester County, N.Y. Arthur J. Piken, 160-16 Jamaica Ave., Jamaica 32, N.Y., attorney for applicants, and Charles H. Trayford, 220 East 42d Street, New York, N.Y., Representative for applicants.

No. MC-FC 64272. By order of July 31, 1961, The Transfer Board approved the transfer to Food Haulers, Inc., Elizabeth, N.J., of Permit No. MC 2179, issued September 25, 1947, to Meyer Satsky Trucking Co., a Corporation, Elberson, N.J., authorizing the transportation, over irregular routes, of such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and, in connection therewith, equipment, materials, and supplies used in the conduct of such business, between points in a described portion of New Jersey and in Richmond County, on Staten Island, N.Y., and between points in the above-specified territory, on the one hand, and, on the other, points in New York, Bronx, Kings, Queens, and Nassau Counties, N.Y., Paterson, Hawthorne, and Edgewater, N.J., and of fruits, vegetables, farm products, poultry, and sea food, in the respective seasons of their production, from points in a described portion of New Jersey to points in the above-specified territory. Bert Collins, 140 Cedar Street, New York 6, N.Y., Representative for applicants.

No. MC-FC 64320. By order of July 31, 1961, The Transfer Board approved the transfer to J. C. Stanley, doing business as New Hardware & Furniture Company, Clintwood, Va., of Certificate No. MC 119100, issued November 18, 1960, to J. C. Stanley and Theril Reedy, a partnership, doing business as New Hardware & Furniture Company, Clintwood, Va., authorizing the transportation of: Hardware, electrical appliances, and furniture, from Hazard, Ky., to Dungannon, Va., and points in Wise, Dickenson, Buchanan, and Russell Counties, Va.

No. MC-FC 64336. By order of July 31, 1961, The Transfer Board approved the transfer to Dominick Mazzaferro, doing business as Violette Trucking Co., New York, N.Y., of Certificate No. MC 117595, issued March 5, 1959, to Four L Furniture Transport, Inc., New York, N.Y., authorizing the transportation, over irregular routes, of uncrated new furniture, from New York, N.Y., to points in New Jersey, and New York within 80 miles of Columbus Circle, New York, N.Y. Morris Honig, 150 Broadway, New York 38, N.Y., Attorney for applicants.

No MC-FC 64340. By order of July 28, 1961, The Transfer Board approved the transfer to Kulp Service, Inc., Souderton, Pa., of Certificate No. MC 67393, issued April 6, 1949, to Andrew J. Moyer, doing business as Moyer's Express, Shamokin, Pa., authorizing the transportation of general commodities, including household goods and commodities in bulk, over irregular routes, between points in Pennsylvania within ten miles of Shamokin, including Shamokin. John W. Frame, 603 North Front Street, Harrisburg, Pa., Representative for applicants.

No. MC-FC 64347. By order of July 31, 1961, The Transfer Board approved the transfer to Donald Webster and Harold Jorgenson, a Partnership, doing business as D and J Transfer Company, Jackson, Minn., of Permit No. MC 114734, issued September 7, 1955, to Adam H. Loos, doing business as Loos Trucking, Sherburn, Minn., authorizing the transportation, over irregular routes, of fresh meats, in carcasses, or part carcasses, and in packages, from Spencer, Iowa, to Minneapolis, Minn., Decatur, Rockford, and Elgin, Ill., and Madison and Milwaukee, Wis. J. W. Flynn, Luedke Building, Fairmont, Minn., Attorney for applicants.

No. MC-FC 64351. By order of July 31, 1961, The Transfer Board approved the transfer to William R. Elden, Altoona, Pa., of Certificate No. MC 79847, issued June 7, 1941, to L. B. Park, Altoona, Pa., authorizing the transportation of household goods, over irregular routes, between points in nine specified counties in Pennsylvania, on the one hand, and, on the other, points in New York, New Jersey, Ohio, Missouri, Michigan, Illinois, Connecticut, Delaware, Massachusetts, Maryland, North Carolina, Indiana, West Virginia, South Carolina, Virginia, Wisconsin, and the District of Columbia. Alexander A. Notopoulos, 203 Central Trust Building, Attorney for applicants.

No. MC-FC 64366. By order of July 31, 1961, The Transfer Board approved the transfer to Monk's Express, Inc., Binghamton, N.Y., of Certificate No. MC 58738 Sub 1, issued April 4, 1950, to Cecil C. Knapp, doing business as Monk's Express, Binghamton, N.Y., authorizing

the transportation of general commodities, excluding household goods, commodities in bulk, and other specified commodiites, between Endicott, N.Y., and Homer, N.Y., and between Endicott, N.Y., and Binghamton, N.Y. David G. Stearns, 53 Front Street, Binghamton, N.Y., Attorney for applicants.

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

[F.R. Doc. 61-7521; Filed, Aug. 8, 1961; 8:49 a.m.]

[Ex Parte No. MC-37]

PETITION TO CLARIFY AND/OR DEFINE THE COMMERCIAL ZONE OF DETROIT, MICHIGAN, FOR PURPOSE OF SECTION 203(b)(8) OF THE INTERSTATE COMMERCE ACT

AUGUST 4, 1961.

Petitioners: FEDERAL EXPRESS, INC., DENVER CHICAGO TRUCKING COMPANY, INC., SAGINAW TRANSFER COMPANY, INC., JONES MOTOR CO., INC., CUSHMAN MOTOR DELIVERY CO., SHIPPERS DISPATCH, INC., KRAMER BROS. FREIGHT LINES, INC., YELLOW TRANSIT FREIGHT LINES, INC., MICHIGAN EXPRESS, INC., INTERSTATE MOTOR FREIGHT SYSTEM, EXPRESS FREIGHT LINES, INC., ASSOCIATED TRUCK LINES, INC., THE LIBERTY HIGHWAY CO., SUBURBAN MOTOR FREIGHT, INC., NORWALK TRUCK LINES, INC., THE NATIONAL TRANSIT CORPORATION, GREAT LAKES EXPRESS, ELLIS TRUCKING COMPANY, INC., INTER-CITY TRUCKING SERVICE, INC., JOHN WAHL CARTAGE, INC., BONDY CARTAGE LIMITED, COCHOIS INTERNATIONAL LTD., CONSOLIDATED TRUCK LINES LIMITED, DIRECT WINTERS TRANSPORT LIMITED, GREAT LAKES TRUCKING LTD., C. HINTON & CO., LIMITED, HUSBAND INTERNATIONAL TRANSPORT (ONTARIO) LIMITED, INTER-CITY TRUCK LINES LTD., INTERNATIONAL CARTAGE LIMITED, JONES TRANSPORT COMPANY LTD., KINGSWAY TRANSPORTS LTD., McKINLAY TRANSPORT LTD., MERRIFIELD TRANSPORT CO., LIMITED, MORRICE CARTAGE LTD., OGDEN & MOFFETT COMPANY, THE OVERLAND EXPRESS LIMITED, PARENT CARTAGE, THIBODEAU EXPRESS LIMITED, THE WINDSOR TRUCK & STORAGE CO., LTD. Petitioners' attorney: Rex Eames, 1800 Buhl Building, Detroit 26, Mich.

The subject petition, filed July 28, 1961, states: (1) that each of the thirty-nine Petitioners named above is a motor carrier operating in interstate commerce under appropriate authority issued by the Interstate Commerce Commission; that each of said Petitioners is authorized under its Certificate of Public Convenience and Necessity to serve Detroit, Mich., in connection with traffic moving in interstate and foreign commerce to and from other points in the United States or the International Boundary between the United States and Canada; and (2) that the purpose of this Petition is to clarify and/or define the Commercial Zone of the City of Detroit insofar as the inclusion or non-inclusion of the City of Windsor, Ontario, Canada, within such zone is concerned.

NOTE: The Detroit, Mich., Commercial Zone is defined specifically in 48 M.C.C. 95, 97.

Persons supporting or opposing changes in the present zone limit who desire to participate in future proceedings on this petition or be notified of any action taken thereon should notify the Commission and petitioners' attorney of their desire on or before 30 days from the date of this publication in the FEDERAL REGISTER.

By the Commission.

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

[F.R. Doc. 61-7522; Filed, Aug. 8, 1961; 8:49 a.m.]

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