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Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1—GENERAL RULES OF PRACTICE

Revision of Part

The general rules of practice before the Commission adopted July 31, 1942, as amended by numerous orders of the Commission are hereby reissued with all amendments which will be in effect on July 16, 1962. Continuing the format of the 1956 issue, certain special rules are included in this issue.

Editorial changes to correct inadvertent discrepancies have been made. Included among these are the following within the form for *Verification for Statements of Fact Filed Under Modified Procedure,* which is Form No. 6 of Appendix B:

(a) Following the expression "the foregoing statement," the word "and" has been deleted and a comma has been substituted in lieu thereof;

(b) The footnote reference has been corrected to read, "See § 1.50."

HAROLD D. McCOY,
Secretary.

JUNE 19, 1962.

PART 1—GENERAL RULES OF PRACTICE

AUTHORITY: §§ 1.1 to 1.243 issued under secs. 12, 17, 24 Stat. 383, as amended, 385, as amended, 49 Stat. 546, as amended, 548, as amended, sec. 304, 54 Stat. 933, sec. 403, 56 Stat. 285; 49 U. S. C. 12, 17, 304, 305, 904, 1003.

GENERAL INFORMATION

§ 1.1 Scope of rules.

The rules in this part govern procedure before the Interstate Commerce Commission in proceedings under the Interstate Commerce Act and related acts, unless otherwise directed by the Commission in any proceeding.

§ 1.2 Liberal construction.

The rules in this part shall be liberally construed to secure just, speedy, and inexpensive determination of the issues presented.

§ 1.3 Information; special instructions.

Information as to procedure under the rules in this part, and instructions supplementing these rules in special instances, will be furnished upon application to the Secretary of the Commission, Washington, D.C.

§ 1.4 Communications and pleadings generally.

(a) *How addressed.* All communications, including correspondence concerning matters referred to boards, should be addressed to the Commission unless otherwise specifically directed. All communications should clearly designate the docket number, if any, and short title. The person communicating shall state his address, the party he represents, and how response should be sent to him if not by first class mail.

(b) *Timely filing required.* Pleadings, requests, or other papers or documents required or permitted to be filed under this part must be received for filing at the Commission's offices at Washington, D. C., within the time limits, if any, for such filing. The date of receipt at the Commission and not the date of deposit in the mails is determinative.

(c) *Disposition of; when defective.* In any proceeding when upon inspection the Commission is of the opinion that a pleading, document, or paper tendered for filing does not comply with this part or, if it be an application, does not sufficiently set forth required material or is otherwise insufficient, the Commission may decline to accept the pleading, document, or paper for filing and may return it unfiled, or the Commission may accept it for filing and advise the person tendering it of the deficiency and require that the deficiency be corrected.

(d) *Objectionable matter.* The Commission may order any redundant, immaterial, impertinent, or scandalous matter stricken from any pleading, document, or paper filed with it.

§ 1.5 Definitions.

As used in this part:

(a) The terms "act" and "part" mean the Interstate Commerce Act and the several parts thereof, respectively. The term "act" also means, unless the context otherwise indicates, any other statute which the Commission administers in whole or in part.

NOTE: References to parts designated by Roman numerals refer to the Interstate Commerce Act. References to "this part," "the rules in this part or to parts designated by Arabic numerals," refer to this Code.

(b) The term "proceeding" shall include: (1) An informal or formal "complaint" alleging violation of any provision of the act or of any regulation or requirement made pursuant to a power granted by such act, including petitions on the special docket; (2) an "application" for (i) the granting of any right, privilege, authority, or relief under or from any provision of the act or of any regulation or requirement made pursuant to a power granted by such act, or (ii) the consideration of any submission required by law to be made to the Commission; and (3) an "investigation" instituted or requested to be instituted by the Commission, including, among other, matters on the valuation and investigation-and-suspension dockets.

(c) The term "complainant" means a person filing a complaint; "defendant" means a carrier or other person against whom complaint is filed; "applicant" means a person filing an application; "respondent" means a person designated in an investigation; "protestant" means a person opposed to a tentative valuation, to the granting of an application, or to any tariff or schedule becoming effective; "intervener" means a person permitted to intervene as provided in § 1.72 and "petitioner" means any other person seeking relief otherwise than by complaint or application.

(d) The term "pleading" means a complaint, answer, reply, application, protest, motion (other than motion orally made at hearing or argument), petition, document supplementing oral hearing as described in § 1.86 and all documents filed under modified and shortened procedure.

(e) The term "practitioner" means a person authorized by the Commission to appear before it in a representative capacity.

(f) The term "officer," except as a different meaning is indicated in §§ 1.17 (b), 1.57 to 1.66, inclusive, 1.71(a), and 1.78 (civil and corporate functionaries), includes: (1) a Commissioner, a board of employees (called an "employee board" in this part), an examiner, or special board composed of State representatives (called a "joint board" in this part), to which a proceeding (called "referred matter" in this part) is by order assigned or referred for hearing, consideration, or recommendation of an appropriate order thereon pursuant to provisions of law; [1] and (2) a Commissioner, an examiner, or other Commission employee before whom, without entry of an order of reference, a proceeding is assigned for hearing. The term "board" means either an employee board or a joint board as the context requires.

[1] Such as sections 17 and 205 of the Interstate Commerce Act.

(g) The term "proposed report" means an officer's written statement of the issues, the facts, and the findings the officer proposes that the Commission should make, with the reasons therefor, but with no recommended order. Such term also means, and shall include, a "recommended decision" and a "tentative decision" as these last two terms are used in the Administrative Procedure Act.

(h) The term "report and recommended order" means an officer's written statement in a referred matter of the issues, the facts, the findings, reasons for such findings, and a recommended order. Such term also means, and shall include, an "initial decision" as the latter term is used in the Administrative Procedure Act.

(i) The term "officer's report" or "board's report" means a proposed report or report and recommended order.

(j) The term "shortened procedure" means the procedure specified in § 1.44 and rules therein mentioned. Such rules provide, upon written consent of the parties, and upon the Commission's initiative or its approval of a request therefor made prior to hearing by any party, for the filing and serving of pleadings in proceedings with a view to avoiding an oral hearing.

(k) The term "modified procedure" means the procedure specified in §§ 1.45 to 1.54, inclusive, which rules provide for the filing and serving of pleadings in proceedings with a view to limiting the matters upon which subsequent oral evidence, if any, will be introduced.

§ 1.6 Use of gender and number.

Words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular; and words importing the masculine gender may be applied to females.

PRACTITIONERS

§ 1.7 Register of practitioners.

A register is maintained by the Commission in which are entered the names of all persons entitled to practice before the Commission. Corporations and firms will not be admitted or recognized.

§ 1.8 Practitioners' qualifications and classes.

The following classes of persons whom the Commission finds, upon consideration of their applications, to be of good moral character and to possess the requisite qualifications to represent others may be admitted to practice before the Commission:

(a) *Attorneys at law.* Attorneys at law who are admitted to practice before the highest court of any State or Territory or the District of Columbia.

(b) *Persons not attorneys.* Any person not an attorney at law who is a citizen or resident of the United States and who shall satisfy the Commission that he is possessed of the necessary legal and technical qualifications to enable him to render valuable service before the Commission, and that he is otherwise competent to advise and assist in the presentation of matters before the Commission.

§ 1.9 Applications for admission to practice.

An application under oath for admission to practice shall be addressed to the Commission, Washington, D.C., and must state the name, residence address, and business address of the applicant, and the time and place of his admission to the bar, or the nature of his qualifications. Such application shall also state whether the applicant has ever been suspended or disbarred as an attorney, or whether his right to practice has ever been revoked by any court, commission, or administrative agency, in any jurisdiction. Such application shall be accompanied by a certificate of the clerk of the court in which applicant is admitted to practice to the effect that he has been so admitted and is in good standing; or by a certificate signed by three or more practitioners as sponsors for the applicant, which certificate shall recite that applicant possesses all the requisite qualifications under this section, and the sponsors shall incorporate in their certificate a recommendation and motion that applicant be admitted to practice under this section.

§ 1.10 Additional certificates by practitioner's sponsors; hearing; abandonment of application.

The Commission in its discretion may call upon the practitioners making such certificate for a full statement of the nature and extent of their knowledge of the qualifications of the applicant. If upon consideration of the papers filed by the applicant and the statements submitted by his sponsors, or otherwise, the Commission is not satisfied as to the sufficiency of the applicant's qualifications under these rules, it will so notify him by registered mail, whereupon he may request a hearing for the purpose of showing his qualifications. If he presents such requests, the Commission will accord him a hearing. If he presents to the Commission no request for such hearing within 20 days after receiving the notification above referred to, his application shall be deemed to be withdrawn.

§ 1.11 Application fee.

An application filed after this section becomes effective must be accompanied by a fee of $10. Payment must be made either in cash or by New York draft, certified check, express or postal money order payable to the order of the Treasurer of the United States. The fee will be returned if applicant is not admitted to practice.

§ 1.12 Practitioner's oath.

No person shall be admitted to practice before the Commission until he shall have subscribed to an oath or affirmation that he will demean himself, as a practitioner before this Commission, uprightly, and accordingly to law; and that he will support the Constitution of the United States and laws of the United States and will conform to the rules and regulations of the Commission.

§ 1.13 Denial of admission, censure, suspension, or disbarment of practitioners.

The Commission may, in its discretion, deny admission, censure, suspend, or disbar any person who, it finds, does not possess the requisite qualifications to represent others, or is lacking in character, integrity, or proper professional conduct. Any person who has been admitted to practice may be suspended or disbarred only after he is afforded an opportunity to be heard. All persons, whether or not admitted to practice under § 1.9, must, in their representations before the Commission, conform to the code of ethics published by the Association of Interstate Commerce Commission Practitioners as of April 1, 1955, which code is reprinted in Appendix A to this part.

SPECIAL RULES RESPECTING BOARDS

§ 1.14 Special rules respecting boards.

(a) *Organization.* After a joint board has been created it shall select one of its members to act as chairman for all purposes concerning matters which may be referred to it. In the event the member so selected is absent from any meeting of the joint board the members attending shall select one of such members, except as provided in paragraph (b) of this section, temporarily to act as chairman.

(b) *Waiver by absence of a joint-board member.* The failure of a duly appointed member of a joint board to participate in any hearing after notice thereof on a matter referred to such joint board shall be considered to constitute, as to the matter referred, a waiver of action on the part of the State from which such member was appointed.

(c) *Procedural rulings in case of disagreement.* If the members of a board or a majority thereof in actual attendance at a hearing shall be unable to agree upon the disposition of a procedural question arising therein, the chairman (or acting chairman) of the board shall decide the question and rule or order accordingly.

(d) *Form of board's report; service.* For the sake of uniformity the board's report shall conform as nearly as may be practicable to the form of report issued by the Commission in similar cases. The board's report will be served by the Commission.

(e) *Termination of joint board jurisdiction; subsequent procedure.* The jurisdiction of a joint board over a referred matter shall be terminated in the event of: (1) service of a report as provided in paragraph (d) of this section; (2) submission of the board's conclusions without written report; (3) waiver of action in writing by appropriate authority of each State from which a member is entitled to be appointed; (4) failure of all members of the board to appear at the hearing; (5) failure of a majority of the board to agree; or (6) entry of order vacating the order of reference to the joint board. Except where a report is served as provided in paragraph (d) of this section, in which event the subsequent procedure will be as provided in § 1.96 and subsequent sections, a referred matter, after termination of joint-board jurisdiction, will be decided by the Commission or be made the subject of another officer's report on the record theretofore made or after such hearing or further hearing as may be required.

PLEADING SPECIFICATIONS GENERALLY

§ 1.15 Typographical specifications generally.

Except as otherwise provided respecting applications (§ 1.38(a)), exhibits (§ 1.84(a)), and informal complaints (§ 1.24(a)), all pleadings, documents, and papers to be filed under these rules shall be on opaque, unglazed, durable paper not exceeding 8½ by 11 inches. To permit binding in covers of uniform size, margins of at least 1½ and 1 inch, respectively, shall be allowed on the left and right margins. Binding shall be on the left margin. Reproduction may be by printing, printing by offset press, multigraphing, or mimeographing, or by any other process, provided the copies are clear and permanently legible. White-line blueprints which cannot be reproduced by photography are not acceptable. If directly typewritten, or if in facsimile reproduction of typewriting, the impression must be on one side of the paper and must be double-spaced, except that long quotations shall be single-spaced and indented. Nothing less in size than Elite type shall be used. If printed, adequate leading and nothing less than 10-point type shall be used, except that 8-point type may be employed in footnotes and in tabular matter where printing limitations so require. A pleading or brief in excess of 50 pages (except a pleading under modified or shortened procedure), including cover pages, indexes, and appendixes, must be printed. Printing by offset press will be accepted: *Provided,* That the type used is not reduced in size smaller than that required for typewritten documents and that where the pleading or brief exceeds 50 pages, the impression is on both sides of the paper. Failure to observe these specifications will result in rejection.

§ 1.16 Copies.

(a) *Generally.* The original and 14 copies of every pleading, document, or paper permitted or required to be filed under this part shall be furnished for the use of the Commission except as a different number is required under paragraph (b) of this section, or as otherwise provided respecting: answers (§ 1.35 (c)); applications (§§ 1.38(b) and 1.40 (c)); complaints, formal (§§ 1.26 and 1.37) and informal (§§ 1.24(a) and 1.25 (d)); depositions (§ 1.64); exhibits (§§ 1.84(c) and 1.86); modified and shortened procedure (§§ 1.44(c) and 1.52); petitions in intervention (§ 1.72 (d)); prepared statements (§ 1.77); protests in investigation-and-suspension proceedings (§ 1.42(c)); replies (§ 1.23 (b)); and matters respecting oral argument (§ 1.98); subpenas (§ 1.56(a)); time modification (§ 1.21(b)); transcript correction (§ 1.90(b)), and petitions for

rehearing, reargument, or reconsideration (§ 1.101(a)).

(b) *In bankruptcy proceedings.* Except as otherwise provided in an application form or instruction (§ 1.38) and respecting exhibits (§1.84 (c)), the original and 19 copies of every pleading, document, or paper filed in a proceeding arising under the Uniform Bankruptcy Act shall be furnished for the use of the Commission.

§ 1.17 Attestation and verification.

(a) *Practitioner's signature.* If a party is represented by a practitioner each pleading, document, or paper of such party shall be signed in ink by one such practitioner whose address shall be stated. The signature of a practitioner constitutes a certificate by him that he has read the pleading, document, or paper; that he is authorized to file it; that to the best of his knowledge, information, and belief there is good ground for it; that it is not interposed for delay; and that with respect to a complaint he files it with the distinct knowledge and specific consent of complainant. A pleading document, or paper thus signed need not be verified or accompanied by affidavit except as otherwise provided respecting applications (§ 1.38), modified and shortened procedure (§§ 1.44(c) and 1.50), and statements of claimed damages (§ 1.100).

(b) *When no practitioner's signature.* A pleading, document, or paper not signed by a practitioner must be signed in ink, the address of the signer shall be stated, and the facts alleged in a pleading must be verified under oath by the person in whose behalf it is filed. Signature and verification in such manner must be by at least one complainant if the pleading is a complaint. A pleading document, or paper filed on behalf of a corporation or other organization authorized to make complaint under the act, which is not signed by a practitioner must be signed in ink, and the facts alleged in a pleading must be verified by an executive officer of such corporation or organization.

§ 1.18 Affirmation in lieu of oath.

Whenever under this part an oath is required, an affirmation in judicial form will be accepted in lieu thereof.

§ 1.19 Pleadings part of record.

Recitals of material and relevant facts in a pleading filed prior to oral hearing in any proceeding, unless specifically denied in a counterpleading filed under these rules, shall constitute evidence and be a part of the record without special admission or incorporation therein, but if request is seasonably made, a competent witness must be made available for cross-examination on the evidence so included in the record. Pleadings may contain specific references to or quotation from the tariffs or schedules containing the several rates, fares, charges, schedules, classifications, regulations or practices alleged to be material.

§ 1.20 Amendments.

Leave to file amendments to any pleading will be allowed or denied as a matter of discretion.

§ 1.21 Time.

(a) *Computation.* In computing any period of time prescribed or allowed by this part, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is Saturday, Sunday or a legal holiday in the District of Columbia, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a holiday. A half holiday shall not be considered as a holiday.

(b) *Modification.* Except as to the maximum time periods provided by law or specified in this part respecting informal complaints seeking damages (§ 1.25), any time period prescribed or permitted in this part may, upon request and for good and sufficient cause, be modified by the Commission in its discretion. Requests for extension or modifications of time must be served upon all parties of record at the same time and by the same method of communication as service is made on the Commission. A request for postponement of date for filing briefs or other documents must be filed not less than 10 days before the date in question, except in extraordinary circumstances, and where such requests are filed less than 10 days before the due date the petitioning party shall state the reasons for his failure to make such request within the prescribed 10 days. The original only of the request and certificate of service need be filed with the Commission. If granted, the party making the request shall promptly so notify all parties to the proceeding and so certify to the Commission.

§ 1.22 Service; pleadings and papers to show.

(a) *Generally.* Except as otherwise provided in paragraph (b) of this section, or as otherwise provided respecting applications (§ 1.38(b)), formal complaints (§ 1.34), and informal complaints (§ 1.24(b)), every pleading, document, or paper must, when filed, or tendered to the Commission for filing, include a certificate showing simultaneous service thereof upon all parties to the proceeding. Such service shall be made by delivery in person, or by first-class or air mail, or by express, properly addressed with charges prepaid, one copy to each party. Service shall be effected upon the parties to the proceeding by the same means of communication and class of service that is employed in making delivery to the Commission: *Provided, however,* That when delivery is made to the Commission in person, and it is not feasible to serve the other parties in person, service shall be made upon parties 1000 or more miles distant from the party effecting service by air mail and upon parties less than 1000 miles distant by first-class or air mail. When any party is represented by a practitioner, service upon such practitioner will be deemed service upon the party.

(b) *Exceptions as to letter.* Copies of letters to the Commission relating to oral argument (§ 1.98) and subpenas (§ 1.56 (a)) need not be served upon other parties to the proceeding.

§ 1.23 Replies.

(a) *Time for filing.* Except that a reply to a reply is not permitted, and except as otherwise provided in paragraph (b) of this section and respecting answers (§ 1.35(c)), modified and shortened procedure (§§ 1.44(c) and 1.51), and briefs (§§ 1.92 and 1.93), an adverse party may file and serve a reply to any pleading permitted under the rules in this part within 20 days after filing at the Commission.

(b) *Replies to petitions under rule 101 and exceptions.* A reply to a petition filed under rule 101 seeking a change in a decision, order, or requirement may be filed and served within 20 days after the final date for filing such petitions, and a reply to exceptions filed under rule 96 may be filed and served within 20 days after the final date for filing such exceptions.

(c) *Copies.* The original of the reply should be accompanied by the same number of copies as required respecting the pleading to which the reply is responsive.

COMMENCEMENT OF PROCEEDINGS

§ 1.24 Informal complaints not seeking damages.

(a) *Form and content.* Informal complaint may be by letter or other writing, and will be serially numbered and filed as of the date of its receipt. No form of informal complaint is suggested, but in substance the letter or other writing (original and one copy shall be filed) must contain the essential elements of a formal complaint as specified in §§ 1.28 and 1.30. It may embrace supporting papers.

(b) *Correspondence handling.* If the informal complaint appears to be susceptible of informal adjustment, a copy or a statement of the substance thereof will be transmitted by the Commission to each person complained of in an endeavor to have it satisfied by correspondence and thus obviate the filing of a formal complaint.

(c) *Discontinuance without prejudice.* A proceeding thus instituted on the informal docket is without prejudice to complainant's right to file and prosecute a formal complaint, in which event the proceeding on the informal docket will be discontinued.

§ 1.25 Informal complaints seeking damages.

(a) *Actual filing required.* Notification to the Commission that an informal complaint may or will be filed later seeking damages is not a filing within the meaning of the statute except as provided in paragraph (e) of this section.

(b) *Content.* An informal complaint seeking damages, when permitted under the act, must be filed within the statutory period, and should contain such data as will serve to identify with reasonable definiteness the shipments or transportation services in respect of which damages are sought. Such complaint should state: (1) that complainant makes claim for damages, (2) the name of each individual claimant seeking damages, (3) the names of defendants against which claim is made, (4) the commodities, the rate applied, the

date when the charges were paid, by whom paid, and by whom borne, (5) the period of time within which or the specific dates upon which the shipments were made, and the dates when they were delivered or tendered for delivery, (6) the points of origin and destination, either specifically or, where they are numerous, by definite indication of a defined territorial or rate group of the points of origin and destination and, if known, the routes of movement, and (7) the nature and amount of the injury sustained by each claimant.

(c) *Statement of prior claim.* If a complaint filed under paragraph (b) or (e) of this section contains a claim on any shipment which has been the subject of a previous informal or formal complaint to the Commission, reference to such complaint must be given.

(d) *Copies.* The original of an informal complaint seeking damages must be accompanied by copies in sufficient number to enable the Commission to transmit one to each defendant named.

(e) *Special-docket proceedings.* Where the act provides for an award of damages for violation thereof and a carrier is willing to pay them, or to waive collection of undercharges, petition for appropriate authority should be filed by the carrier on the special docket in the form prescribed by the Commission. If the petition is granted an appropriate order will be entered. Such petition, when not filed in connection with an informal complaint pending before the Commission, must be filed within the statutory period and will be deemed the equivalent of an informal complaint and an answer thereto admitting the matters stated in the petition. If a carrier is unable to file such petition within the statutory period and the claim is not already protected from the operation of the statute by informal complaint, a statement setting forth the facts may be filed by the carrier within the statutory period. Such statement will be deemed the equivalent of an informal complaint filed on behalf of the shipper or consignee and sufficient to stay the operation of the statute.

(f) *Six months' rule.* If an informal complaint seeking damages cannot be disposed of informally, or is denied, or is withdrawn by complainant from further consideration, the parties affected will be so notified in writing by the Commission. The matter in such complaint will not be reconsidered unless, within six months after the date such notice is mailed, either a formal complaint as to such matter is filed, or it is informally resubmitted on an additional fact basis.

Such filing or resubmission will be deemed to relate back to the date of the original filing, but reference to that date and the Commission's file number must be made in such resubmission or in the formal complaint filed. If the matter is not so resubmitted, or included in a formal complaint, as provided in this section, complainant will be deemed to have abandoned the complaint and no complaint seeking damages based on the same cause of action will thereafter be placed on file or considered unless itself filed within the statutory period.

§ 1.26 Formal complaints; copies.

(a) *Generally.* The original of each formal complaint, amended or supplemental formal complaint, or cross complaint, must be accompanied by copies in sufficient number to enable the Commission to serve one upon each defendant, including each receiver or trustee, and retain six copies in addition to the original.

(b) *Provision for State authorities.* If complaint is made under part II, or respecting State-made rates (§ 1.30(b)), sufficient copies in addition to those required under paragraph (a) of this section shall be furnished to permit the Commission to supply one to the appropriate authority in each of the States included in the scope of the complaint.

§ 1.27 Formal complaints; joinder.

(a) *Causes of action.* Two or more grounds of complaint concerning the same principle, subject, or state of facts may be included in one complaint, but should separately be stated and numbered.

(b) *Complainants.* Two or more complainants may join in one complaint if their respective causes of action are against the same defendant or defendants and concern substantially the same alleged violation of the act and a like state of facts.

(c) *Defendants.* If complaint is made with respect to through transportation by continuous carriage or shipment, all persons subject to the act participating therein, and against which an order is sought, should be made defendants. If complaint is made of a classification or any provision thereof, ordinarily it will suffice to make defendants the persons operating one or more through routes between representative points of origin and destination.

(d) *Correct designation of parties.* The unabbreviated names of all parties complainant and defendant must be stated correctly.

§ 1.28 Formal complaints; allegations generally.

A formal complaint should be so drawn as fully and completely to advise the parties defendant and the Commission in what respects the provisions of the act have been or are violated or will be violated, and should set forth briefly and in plain language the facts claimed to constitute such violation. if two or more sections or subsections of the act or requirements established pursuant thereto are alleged to be violated, the facts claimed to constitute violation of one section, subsection, or requirement should be stated separately from those claimed to constitute a violation of another section, subsection, or requirement whenever that can be done by reference or otherwise without undue repetition.

§ 1.29 Formal complaints; when damages sought.

A formal complaint that includes a request for an award of damages should contain the information specified for an informal complaint seeking damages (§ 1.25, paragraphs (b) and (c)).

§ 1.30 Formal complaints; discrimination, preference, and prejudice.

(a) *Generally.* A complaint that alleges the act is violated because of an undue or unreasonable preference or advantage, undue or unreasonable prejudice or disadvantage, or unjust discrimination should specify clearly the particular elements stated in the act[1] as constituting such violation, and the facts which complainant relies upon to establish it.

(b) *State-made rates.* A complaint that brings in issue any rate, fare, charge, classification, regulation, or practice, made or imposed by authority of any State, upon the ground that it violates provisions of the act which prohibit undue or unreasonable advantage preference, or prejudice as between persons or localities in intrastate commerce and persons or localities in interstate or foreign commerce, or any undue, unreasonable or unjust discrimination against interstate or foreign commerce, should bring in issue the justness and reasonableness of the rate, fare, charge, classification, regulation, or practice applicable to the interstate or foreign commerce involved in such complaint. Such complaint should also bring in issue the question as to what should be the rate, fare, or charge, or the maximum or minimum, or maximum and minimum, thereafter to be charged, and the classification, regulation, or practice that should be established so as to remove any such advantage, preference, prejudice, or such unjust discrimination.

§ 1.31 Formal complaints; other specifications.

(a) *Tariff or schedule references.* The several rates, fares, charges, schedules, classifications, regulations, or practices on which complaint is made should be set out by specific reference to the tariffs or schedules in which they appear, whenever that is practicable.

(b) *States in which transportation occurs.* A formal complaint under part II should specifically name the States in and through which the transportation which gives rise to the complaint is performed.

(c) *Hearing place.* A formal complaint should be accompanied by a statement of the place at which hearing is desired.

§ 1.32 Formal complaints; prayers for relief.

(a) *Generally.* A formal complaint in which relief for the future is sought should contain a detailed statement of the relief desired. Relief in the alternative or of several different types may be demanded, but the issues raised in the formal complaint should not be broader than those to which complainant's evidence is to be directed at the hearing.

(b) *Specific prayer for damages.* Except under unusual circumstances, and for good cause shown, damages will not

[1] Special rate, rebate, drawback, or other device; and particular person, company, firm, corporation, association, port, port district, gateway, transit point, locality, region, district, territory, or description of traffic.

be awarded upon a complaint unless specifically prayed for, or upon a new complaint by or for the same complainant which is based upon any finding in the original proceeding.

§ 1.33 Amended and supplemental formal complaints.

An amended or supplemental complaint may be tendered for filing by a complainant against a defendant or defendants named in the original complaint, stating a cause of action alleged to have accrued within the statutory period immediately preceding the date of such tender, in favor of complainant and against the defendant or defendants.

§ 1.34 Service of formal and cross complaints.

The Commission will serve formal complaints. It will also serve supplemental, amended, and cross complaints when it has granted leave to file such pleadings. Such service will be made personally upon a carrier or freight forwarder or upon an agent thereof designated for purposes of service, or by mail addressed to the carrier or freight forwarder or to the agent thereof at the address filed. If no agent has been designated, service may be made by posting in the office of the Secretary of the Commission, and if the defendant be a carrier subject to part II of the act, by also posting in the office of the secretary or clerk of the motor-carrier regulatory board of the State wherein the motor carrier maintains headquarters. If the complaint involves only the lawfulness of rates, fares, charges, classifications, or practices, service in the manner indicated in the third sentence of this section may be made upon an attorney in fact of a carrier or freight forwarder who has filed a tariff or schedule in behalf of such carrier or freight forwarder, but such service will not be made upon a carrier subject to part I unless such carrier has failed to designate an agent for service in the city of Washington.

§ 1.35 Answers and cross complaints to formal complaints.

(a) *Generally.* An answer may simultaneously be responsive to a formal complaint and to any amendment or supplement thereof. It should be drawn so as fully and completely to advise the parties and the Commission of the nature of the defense, including, if a departure from the requirements of section 4(1) of the act is involved, the number of the particular application or order, if any, which protects such departure; and should admit or deny specifically and in detail each material allegation of the pleading answered. An answer may embrace a detailed statement of any counter-proposal which a defendant may desire to submit. Unless the issue is such that separate answers are required, answer for all defendants may be filed on their behalf by one defendant in one document, in which event the answer must show clearly the names of all defendants joining therein, and their concurrence.

(b) *Cross complaints.* A cross complaint alleging that other persons, parties to the proceeding, have violated the act or requirements established pursuant thereto, or seeking relief against them under the act, may be tendered for filing by a defendant with its answer.

(c) *Time for filing; copies.* Unless otherwise directed by the Commission, an answer to a complaint should be filed within 20 days after the day on which the complaint to which answer is filed was served. The original and six copies of an answer shall be filed with the Commission.

(d) *When issue joined.* If any defendant answers or fails to file and serve answer within the period specified in paragraph (c), issue thereby is joined as to such defendant.

§ 1.36 Motions to dismiss or to make more definite and certain.

(a) *As to complaint.* Defendant may file with his answer, or with his statement under modified or shortened procedure, a motion that the allegations in the complaint be made more definite and certain, such motion to point out the defects complained of and details desired. Defendant may also file with his answer a motion to dismiss a complaint because of lack of legal sufficiency appearing on face of such complaint.

(b) *As to answer.* No replication to the answer shall be filed, but any party may file, within 10 days after the filing of an answer, or, in the case of modified or shortened procedure, complainant may file with his statement in reply, a motion that the answer, or defendant's statement, as the case may be, be made more definite and certain, such motion to point out the defects complained of and the details desired.

§ 1.37 Satisfaction of complaint.

If a defendant satisfies a formal complaint, either before or after answering, a statement to that effect signed by the opposing parties must be filed (original only need be filed), setting forth when and how the complaint has been satisfied. This action should be taken as expeditiously as possible.

§ 1.38 Applications.

(a) *Forms and instructions.* An application filed with the Commission shall be prepared in accord with and contain the information called for in the form of application, if any, prescribed by the Commission, or any instructions which may have been issued by the Commission with respect to the filing of an application.

(b) *Copies; service.* Copies of an application shall be furnished in such number, and be filed and served in the manner and upon the persons specified in the form or instruction.

§ 1.39 Applications; notice.

Appropriate notice of the filing of an application will be given by the applicant or by the Commission to the States, to State authorities, or to other persons as may be required by the form or instruction or by the act.

§ 1.40 Protests against applications.

(a) *Content.* A protest against the granting of any application shall set forth specifically the grounds upon which it is made and contain a concise statement of the interest of protestant in the proceeding.

(b) *When filed.* Any protest shall be filed with the Commission promptly after the application is filed. If the proceeding be one respecting which the Commission has issued a notice advising the public of the filing of the application, the protest shall be filed within the time specified in such notice. Failure to file a protest shall not prejudice subsequent participation in the proceeding.

(c) *Copies; service.* A protest filed under this section shall be served upon applicant and, unless otherwise specified in the public notice, the original and six copies of the protest shall be filed with the Commission.

(d) *When rule disregarded.* An application may be set for hearing without awaiting the filing of a protest or of a reply thereto, and also may be disposed of without regard to the prior paragraphs of this section unless the act provides that the particular application may be granted only upon hearing.

§ 1.41 Valuation proceedings; protests.

A protest of a tentative valuation shall contain a concise statement of the essential elements of protest with particular reference to the matters in the tentative valuation concerning which protest is made and shall include a statement of the changes therein desired by protestant. When practicable each object of protest should be set up as a separate item in a separately numbered paragraph. Each item of protest against land values or areas must state the valuation section and zone on the Commission's maps in which the land is located. When protestant claims that property owned or used has been omitted, a full description of such property and its location must be included in the protest.

§ 1.42 Petitions for suspension of tariffs or schedules.

(a) *Content.* The protested tariff or schedule sought to be suspended should be identified by making reference to the name of the publishing carrier, freight forwarder, or agent, to the Interstate Commerce Commission number, and to the specific items or particular provisions protested. Reference should also be made to the tariff or schedule, and the specific provisions thereof, proposed to be superseded. The protest should state the grounds in support thereof, indicate in what respect the protested tariff or schedule is considered to be unlawful, and state what protestant offers by way of substitution. Such protests will be considered as addressed to the discretion of the Commission and no protest shall include a prayer that it also be considered a formal complaint. Should a protestant desire to proceed further against a tariff or schedule which is not suspended, or which has been suspended and the suspension vacated, a separate later formal complaint or petition should be filed.

(b) *When filed.* Protests against, and requests for suspension of, tariffs or schedules filed under the act will not be considered unless made in writing and filed with the Commission at Washington, D.C. Such protests and requests

for suspension shall reach the Commission at least 12 days before the effective dates of the tariffs, schedules, or parts thereof to which they refer, unless the protested publications were filed on less than 30-days notice under the authority of this Commission, in which event the protests should be filed not less than 5 days before such effective dates. In an emergency, telegraphic protests will be acceptable if received within the time limits herein specified, provided they also fully comply with paragraph (a) of this section and copies thereof are immediately telegraphed by protestants to the respondent carriers or their publishing agents. Six copies of such telegrams should immediately be mailed by the protestants to the Commission at Washington.

(c) *Copies; service.* Seven copies of each protest or reply filed under this section must be filed with the Commission and one copy of the protest simultaneously be served upon the publishing carrier, freight forwarder, or agent, and upon other persons known by protestant to be interested.

(d) *Reply to protest.* A reply to a protest filed under this section should be filed and served promptly.

§ 1.43 Service of investigation order; default where failure to comply.

An order instituting an investigation will be served by the Commission upon respondents. If within a time period stated in that order a respondent fails to comply with any requirement specified therein respondent shall be deemed in default and to have waived any further hearing. Thereafter the investigation may be decided without further proceedings.

SHORTENED AND MODIFIED PROCEDURE

§ 1.44 Shortened procedure.

(a) *Consent; notice.* In shortened procedure (see § 1.5(j)) the Commission will request all the parties thereto to advise the Commission within a time to be specified by it whether they consent to presentation under shortened procedure. Such advice should include, if the party is to be represented by a practitioner, the name and address of such practitioner. If all parties consent to the procedure, they will be advised that it will be followed.

(b) *Declination; hearing.* If any party declines to consent to shortened procedure, such declination shall not affect or prejudice the right or interest of such party. The proceeding will thereupon be conducted under modified procedure or be set for oral hearing as the Commission may direct. At the request of any party, received prior to service of an officer's report in a proceeding being conducted under shortened procedure, the Commission in its discretion may set the proceeding for oral hearing.

(c) *Other applicable rules.* The provisions for modified procedure in §§ 1.46 (a), 1.47, 1.48, 1.49, 1.50, 1.51, 1.52, and 1.54 shall also apply to shortened procedure. The time periods specified in § 1.51 shall begin to run from the date the Commission advises the parties that shortened procedure will be followed.

§ 1.45 Modified procedure; how initiated.

(a) *Petition on Commission's initiative.* Modified procedure (see § 1.5 (k)) will be ordered in a proceeding upon the Commission's initiative or upon its approval of a petition filed by any party that the modified procedure shall be observed.

(b) *Order directing modified procedure.* An order directing modified procedure will list the names and addresses of the persons who at that time are parties to the proceeding, and direct that they comply with the modified-procedure rules. As used in §§ 1.49, 1.51, and 1.53 (a) the term "complainant" shall comprehend the term "respondent" or "applicant," and the term "defendant" shall include the term "protestant," according as procedure under §§ 1.45 to 1.54, inclusive, may be ordered in a particular proceeding.

§ 1.46 Modified procedure; effect of order.

(a) *Relief from answer rule.* Issuance of an order directing modified procedure shall relieve defendant from the obligation of answering as provided in § 1.35.

(b) *Default where failure to comply.* If within any time period provided in the modified-procedure rules a party fails to file a pleading required by those rules, or otherwise fails to comply therewith, such party shall be deemed to be in default and to have waived any further hearing. Thereafter the proceeding may be disposed of without further notice to the defaulting party, and without other formal proceedings as to such party.

§ 1.47 Modified procedure; intervention.

Persons permitted to intervene under modified procedure shall file and serve pleadings in conformity with the provisions relating to the parties in whose behalf they intervene.

§ 1.48 Modified procedure; joint pleadings.

Parties having common interests shall arrange for joint preparation of pleadings filed under modified procedure.

§ 1.49 Modified procedure; content of pleadings.

(a) *Generally.* A statement filed under the modified procedure after that procedure has been directed shall state the facts and include the exhibits upon which the party relies. If no answer has been filed pursuant to the waiver provision of § 1.46, defendant's statement should admit or deny specifically and in detail each material allegation of the complaint. In addition defendant's statement and complainant's statement in reply shall specify those statements of fact of the opposite party to which exception is taken, and include a statement of the facts constituting the basis for such exception. Complainant's statement of reply shall be confined to rebuttal of the defendant's statement.

(b) *Exhibit identification.* In addition to being in compliance with § 1.84 (a) and (b), an exhibit which is part of any pleading filed under modified procedure shall serially be numbered and bear the notation, properly filled out, in the upper right-hand corner: "Complainant (Defendant) _____, Exhibit No. _____, Witness _____."

(c) *Damages.* If an award of damages is sought the paid freight bills or properly certified copies thereof should accompany the original of complainant's statement when there are not more than 10 shipments, but otherwise the documents should be retained.

§ 1.50 Modified procedure; verification.

The facts asserted in any pleading filed under modified procedure must be sworn to by persons having knowledge thereof, which latter fact must affirmatively appear in the affidavit. Except under unusual circumstances, such persons should be those who would appear as witnesses orally to substantiate the facts asserted should hearing become necessary. The original of any pleading filed under modified procedure must show the signature, capacity, and impression seal, if any, of the person administering the oath, and the date thereof.

§ 1.51 Modified procedure; when pleadings filed and served.

Within 20 days from the date of an order requiring modified procedure, complainant shall serve upon the other parties a statement of all the evidence upon which it relies. Within 30 days thereafter defendant shall serve its statement. Within 10 days thereafter complainant shall serve its statement in reply. No further reply may be made by any party except by permission of the Commission.

§ 1.52 Modified procedure; copies of pleadings.

The original and six copies of any statement made pursuant to § 1.51 shall be filed with the Commission. Subsequent pleadings are subject to § 1.54.

§ 1.53 Modified procedure; hearings.

(a) *Request for cross examination or other hearing.* If cross examination of any witness is desired the name of the witness and the subject matter of the desired cross examination shall, together with any other request for oral hearing, including the basis therefor, be stated at the end of defendant's statement or complainant's statement in reply as the case may be.

(b) *Hearing issues limited.* The order setting the proceeding for oral hearing, if hearing is deemed necessary, will specify the matters upon which the parties are not in agreement and respecting which oral evidence is to be introduced.

§ 1.54 Modified procedure; subsequent procedure.

Procedure subsequent to that provided in the modified-procedure rules shall be the same as that in proceedings not handled under modified procedure.

NOTICE OF HEARING; SUBPENAS; DEPOSITIONS

§ 1.55 Notice of hearing.

(a) *Assignment; service and posting of notice; requests for postponement.* In

those proceedings in which a hearing is to be held, the Commission will, by order or otherwise, assign a time and place for hearing. Notice of such hearing will be posted in the office of the Secretary of the Commission and will be served upon the parties and such other persons as may be entitled to receive notice under the act. A party should be prepared for hearing at its assigned time. Requests for postponement of dates thereof should be made sparingly, and will not be granted except for good and sufficient cause.

(b) *Change of assignment.* The Commission may confine the service of notice of a change of time or place assigned for hearing (other than by publication or posting), or of any adjourned, further, or supplemental hearing to those only who have indicated to the Commission a desire to be notified, at their own expense if telegraphic advice becomes necessary, of any such change.

§ 1.56 Subpenas.

(a) *Requests; particularity.* Unless directed by the Commission upon its own motion, a subpena to compel a witness to produce documentary evidence will be issued only upon petition showing general relevance and reasonable scope of the evidence sought, which petition must also specify with particularity the books, papers, or documents desired, and the facts expected to be proved thereby: *Provided, however,* That for good cause shown, in lieu of a petition, the request for such a subpena may be made orally upon the record to the officer presiding at the hearing. A request for issuance of a subpena other than to compel the production of documentary evidence may be made either by letter (original only need be filed with the Commission) or orally upon the record to the officer presiding at the hearing. A showing of general relevance and reasonable scope of the evidence sought may be required and the subpena will be issued or denied accordingly.

(b) *Issuance.* A subpena may be issued by the Commission or by the officer presiding at the hearing, but only under the signature of the Secretary or of a member of the Commission.

(c) *Service.* The original subpena shall be exhibited to the person served, shall be read to him if he is unable to read, and a copy thereof shall be delivered to him by the officer or person making service.

(d) *Return.* If service of subpena is made by a United States marshal or his deputy, such service shall be evidenced by his return thereon. If made by any other person, such person shall make affidavit thereof, stating the date, time, and manner of service; and return such affidavit on, or with, the original subpena in accordance with the form thereon. In case of failure to make service the reasons for the failure shall be stated on the original subpena. The written acceptance of service of a subpena by the person named therein shall be sufficient without other evidence of return. The original subpena, bearing or accompanied by the required return, affidavit, statement, or acceptance of service, shall be returned forthwith to the Secretary of the Commission, or, if so directed on the subpena, to the officer presiding at the hearing at which the person subpenaed is required to appear.

(e) *Witness fees.* A witness who is summoned and responds thereto is entitled to the same fee as is paid for like service in the courts of the United States. Such fee is to be paid by the party at whose instance the testimony is taken at the time the subpena is served, except that when the subpena is issued on behalf of the United States or an officer or agency thereof, fees and mileage need not be tendered at the time of service.

§ 1.57 Depositions; preliminary.

(a) *When permissible.* The Commission will either upon its own initiative, or for good cause shown by a party to a proceeding, issue an order to take a deposition.

(b) *Officer before whom taken.* Within the United States or within a territory or insular possession subject to the dominion of the United States, depositions shall be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held. Within a foreign country a deposition may be taken before an officer or person designated by the Commission, or agreed upon by the parties by stipulation in writing to be filed with the Commission.

(c) *When taken.* Unless under special circumstances and for good cause shown, no deposition shall be taken within 10 days prior to the assigned date of the hearing in such proceeding, and when the deposition is taken in a foreign country it shall not be taken within 30 days prior to such date of hearing.

(d) *Fees.* A witness whose deposition is taken pursuant to these rules and the officer taking same, unless he be employed by the Commission, shall be entitled to the same fee paid for like service in the courts of the United States, which fee shall be paid by the party at whose instance the deposition is taken.

§ 1.58 Depositions; petitions.

A petition requesting an order to take a deposition shall be filed with due regard to the time periods specified in § 1.57(c) and shall set forth the name and address of the witness, the place where, the time when, the name and office of the officer before whom, and the cause or reason why such deposition should be taken.

§ 1.59 Depositions; order; interrogatories.

(a) *Order.* If the petition requesting an order to take a deposition is granted which action may be taken without awaiting the possible filing of a reply, the Commission will serve upon the parties an order which will name the witness whose deposition is to be taken, and specify the time when, the place where, and the officer before whom the witness is to testify, but such time and place, and the officer before whom the deposition is to be taken, so specified in the Commission's order, may or may not be the same as set out in the petition.

(b) *Interrogatories.* In lieu of participating in the oral examination, parties served with the order for the taking of a deposition may promptly transmit written interrogatories to the officer, who shall propound them to the witness and record the answers verbatim, but it is not necessary that such interrogatories be served upon the party at whose instance the deposition is taken.

§ 1.60 Depositions; recordation of testimony.

The officer before whom the deposition is to be taken shall observe the provisions respecting appearances (§ 1.71 (a)), and typographical specifications (§ 1.15), put the witness on oath, and shall personally, or by some one acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed unless the parties agree otherwise to record the evidence.

§ 1.61 Depositions; objections.

All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections.

§ 1.62 Depositions; deponent's signature.

When the testimony is fully transcribed or otherwise recorded the deposition of each witness shall be submitted to him for examination and shall be read to or by him. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing, or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall state at the foot thereof the fact of the waiver or of the illness or absence of the witness, or the fact of the refusal to sign, together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed, unless, on a motion to suppress, the Commission finds that the reasons given for the refusal to sign are sufficient to require rejection of the deposition in whole or in part.

§ 1.63 Depositions; officer's attestation.

The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness, and that the officer is not of counsel or attorney for any of the parties, and that he is not interested in the event of the proceedings.

§ 1.64 Depositions; return to Commission.

The officer shall securely seal the deposition in an envelope endorsed with the title of the proceeding, and shall promptly send the original and one copy thereof, together with the original and one copy of all exhibits, by registered

mail to the Secretary of the Commission. The deposition must reach the Commission not later than 5 days before the date of the hearing at which it is to be offered as evidence.

§ 1.65 Depositions; notice of filing.

The party taking the deposition shall give prompt notice of its filing to all other parties.

§ 1.66 Depositions; copies.

Upon payment of reasonable charges therefor, the officer before whom the deposition is taken shall furnish a copy of it to any interested party or to the deponent.

§ 1.67 Depositions; inclusion in record.

At the oral hearing, if one is held, the deposition shall be offered in evidence by the party at whose instance it was taken. If not offered by such party, it may be offered in whole or in part by the adverse party. If only part of a deposition is offered in evidence by a party, an adverse party may require him to introduce all of it, which is relevant to the part introduced, and any party may introduce any other parts. Such deposition shall be admissible in evidence subject to such objections as to competency of the witness, or to the competency, relevancy, or materiality of the testimony as were noted at the time of taking of said deposition, or are made at the time it is offered in evidence.

HEARINGS

§ 1.68 Prehearing conferences.

(a) *Purposes.* Upon written notice by the Commission in any proceeding, or upon written or oral instruction of an officer, parties or their attorneys may be directed to appear before an officer at a specified time and place for a conference, prior to or during the course of a hearing, or in lieu of personally appearing to submit suggestions in writing, for the purpose of formulating issues and considering:

(1) The simplification of issues;

(2) The necessity or desirability of amending the pleadings either for the purpose of clarification, amplification, or limitation;

(3) The possibility of making admissions of certain averments of fact or stipulations concerning the use by either or both parties of matters of public record, such as annual reports and the like, to the end of avoiding the unnecessary introduction of proof;

(4) The procedure at the hearing;

(5) The limitation of the number of witnesses;

(6) The propriety of prior mutual exchange between or among the parties of prepared testimony and exhibits; and

(7) Such other matters as may aid in the simplification of the evidence and disposition of the proceeding.

(b) *Facts disclosed privileged.* Facts disclosed in the course of the prehearing conference are privileged and, except by agreement, shall not be used against participating parties either before the Commission or elsewhere unless fully substantiated by other evidence.

(c) *Recordation and order.* Action taken at the conference, including a recitation of the amendments allowed to the pleadings, the agreements made by the parties as to any of the matters considered and defining the issues, shall be recorded in an appropriate order, unless the parties enter upon a written stipulation as to such matters, or agree to a statement thereof made on the record by the officer.

(d) *Objection to the order; subsequent proceedings.* If an order is entered a reasonable time shall be allowed to the parties to present objections on the ground that it does not fully or correctly embody the agreements reached at such conference. Thereafter the terms of the said order or modification thereof, the written stipulation, or statement of the officer, as the case may be, shall determine the subsequent course of the proceedings, unless modified to prevent manifest injustice.

§ 1.69 Stipulations.

Apart from the procedure contemplated by the prehearing provisions (§ 1.68), and upon permission granted, the parties may in the discretion of the officer, by stipulation in writing filed with the Commission at any stage of the proceeding, or orally made at the hearing, agree upon any pertinent facts in the proceeding. It is desired that the facts be thus agreed upon so far as and whenever practicable.

§ 1.70 Authority of officers.

An officer may grant leave to amend or to file any pleadings, or to intervene, upon request tendered at the hearing, but in no event shall an officer grant such leave if thereby the issues would be so narrowed as to make a referred matter one which should properly be referred to a different officer. An officer shall have no power to decide any motion to dismiss the proceeding or other motion which involves final determination of the merits of the proceeding. The officer shall regulate the procedure in the hearing before him and take all measures necessary or proper for the efficient performance of the duties assigned him.

§ 1.71 Appearances; standard of conduct; absence from hearing.

(a) *Who may appear.* Any individual may appear for himself and any member of a partnership which is a party to any proceeding may appear for such partnership upon adequate identification. A bona fide officer or a full-time employee of a corporation, association, or of an individual may appear for such corporation, association, or individual by permission of the officer presiding at the hearing. A party also may be represented by a practitioner.

(b) *Appearances.* An appearance may be either general, that is, without reservation, or it may be special, that is, confined to a particular issue or question. When a practitioner enters an appearance at a hearing he will be expected to represent his client faithfully until the completion of the proceeding in which he has been retained, or until the completion of the part of the proceeding for which he has specially appeared. A practitioner who has entered his appearance at the hearing shall not be permitted to withdraw from the hearing, or wilfully to absent himself therefrom, except for good cause and, wherever practicable, only with the permission of the presiding officer. If a person desires to appear specially, he must expressly so state when he enters his appearance and at that time he shall also state the questions or issues to which he is confining his appearance; otherwise, his appearance will be considered as general.

(c) *Standard of conduct.* Contemptuous conduct by any person appearing at a hearing shall be ground for his exclusion by the presiding officer from the hearing.

(d) *Absence from hearing.* If a party or his representative shall, after entering an appearance, attempt to withdraw from the hearing in a manner other than that specified in paragraph (b) of this section, the Commission on its own motion, or on motion of any party to the proceeding, may take such action as, in the interest of justice and the protection of the lawful rights of all parties to the proceeding, the circumstances of the case may warrant, including the striking out of all or any part of any pleading of the offending party, and including the possible dismissal of the action or proceeding, or any part thereof, the entry of an order of default against that party, or the disciplining of the practitioner concerned.

§ 1.72 Intervention; petitions.

(a) *Content generally.* A petition for leave to intervene must set forth the grounds of the proposed intervention, the position and interest of the petitioner in the proceeding, and whether petitioner's position is in support of or opposition to the relief sought. If the proceeding be by formal complaint and affirmative relief is sought by petitioner, the petition should conform to the requirements for a formal complaint.

(b) *When filed.* A petition for leave to intervene in any proceeding should be filed prior to or at the time the proceeding is called for hearing, but not after except for good cause shown.

(c) *Broadening issues; filing.* If the petitioner seeks a broadening of the issues and shows that they would not thereby be unduly broadened, and in respect thereof seeks affirmative relief, the petition should be filed in season to permit service upon and answer by the parties in advance of the hearing.

(d) *Copies; service; replies.* When tendered at the hearing, sufficient copies of a petition for leave to intervene must be provided for distribution as motion papers to the parties represented at the hearing. If leave be granted at the hearing, one additional copy must be furnished for the use of the Commission. When a petition for leave to intervene is not tendered at the hearing, the original and two copies of the petition shall be submitted to the Commission together with a certificate that service in accordance with § 1.22 has been made by petitioner. Any reply in opposition to a petition for leave to intervene not tendered at the hearing must be filed within 20 days after service. In the discretion of the Commission leave to intervene

may be granted or denied before the expiration of the time allowed for replies.

(e) *Disposition.* Leave will not be granted except on averments reasonably pertinent to the issues already presented and which do not unduly broaden them. If leave is granted the petitioner thereby becomes an intervener and a party to the proceeding.

§ 1.73 Participation without intervention.

In an investigation proceeding, in a proceeding under paragraphs (18) to (20) inclusive of section 1, or sections 5 and 13a of Part I, in application proceedings under parts II, III, and IV, and in a proceeding of any one of the characters herein enumerated when heard on a consolidated record with a complaint proceeding, but in no other proceeding, an appearance may be entered at the hearing without filing a petition in intervention or other pleading, if no affirmative relief is sought, if there is full disclosure of the identity of the person or persons in whose behalf the appearance is to be entered, if the interest of such person in the proceeding and the position intended to be taken are stated fairly, and if the contentions will be reasonably pertinent to the issues already presented and any right to broaden them unduly is disclaimed. A person in whose behalf an appearance is entered in this manner becomes a party to the proceeding.

§ 1.74 Witness examination; order of procedure.

Witnesses will be orally examined under oath before the officer unless their testimony is taken by deposition or the facts are presented to the Commission in the manner provided under modified or shortened procedure. In formal-complaint, application, and investigation proceedings complainant, applicant, and respondent, respectively, shall open and close at the hearing, except at further hearings granted on petition the petitioner requesting further hearing shall open and close; and except, further, that parties other than the respondent shall open and close in investigations in which the burden of proof is not upon the respondent. Interveners shall follow the party in whose behalf the intervention is made. The foregoing order of presentation may be varied by the officer, who also shall designate the order of presentation in any other type of proceeding, of any other party to any proceeding, or of parties to several proceedings being heard upon a consolidated record.

§ 1.75 Evidence; admissibility generally.

Any evidence which would be admissible under the general statutes of the United States, or under the rules of evidence governing proceedings in matters not involving trial by jury in the courts of the United States, shall be admissible in hearings before the Commission. The rules of evidence shall be applied in any proceeding to the end that needful and proper evidence shall be conveniently, inexpensively, and speedily produced, while preserving the substantial rights of the parties.

§ 1.76 Evidence; cumulative restriction.

It shall be the duty of the officer before whom any proceeding is being heard to limit the number of witnesses whose testimony may be merely cumulative. And in order to enforce this section, the officer may require a clear statement on the record of the nature of the testimony to be given by any witness proffered.

§ 1.77 Evidence; prepared statements.

With the approval of the officer, a witness may read into the record, as his testimony, statements of fact or expressions of his opinion prepared by him, or written answers to interrogatories of counsel, or a prepared statement of a witness who is present at the hearing may be received as an exhibit, provided that the statement shall not include argument; that before any such statement is read, or admitted in evidence the witness shall deliver to the officer, the reporter, and to opposing counsel as may be directed by the officer, a copy of such statement or of such interrogatories and his written answers thereto; and that the admissibility of the evidence contained in such statement shall be subject to the same rules as if such testimony were produced in the usual manner, including the right of cross-examination of the witness. Such approval ordinarily will be denied when in the opinion of the officer the memory or demeanor of the witness may be of importance.

§ 1.78 Evidence; official records.

An official record or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied with a certificate that such officer has the custody. If the office in which the record is kept is within the United States or within a territory or insular possession subject to the dominion of the United States, the certificate may be made by a judge of a court of record of the district or political subdivision in which the record is kept, authenticated by the seal of the court, or may be made by any public officer having a seal of office and having official duties in the district or political subdivision in which the record is kept, authenticated by the seal of his office. If the office in which the record is kept is in a foreign state or country, the certificate may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the United States stationed in the foreign state or country in which the record is kept, and authenticated by the seal of his office. A written statement signed by an officer having the custody of an official record or by his deputy that after diligent search no record or entry of a specified tenor is found to exist in the records of his office, accompanied by a certificate as above provided, is admissible as evidence that the records of his office contain no such record or entry. This section does not prevent the proof of official records or of entry or lack of entry therein or official notice thereof by a method authorized by any applicable statute or by the rules of evidence.

§ 1.79 Evidence; entries in regular course of business.

Any writing or record, whether in the form of an entry in a book or otherwise, made as a memorandum or record of any act, transaction, occurrence, or event, will be admissible as evidence thereof if it shall appear that it was made in the regular course of business, and that it was the regular course of business to make such memorandum or record at the time such record was made, or within a reasonable time thereafter.

§ 1.80 Evidence; documents containing matter not material.

When material and relevant matter offered in evidence is in a document containing other matter not material or relevant, the offering party shall produce the document at the hearing, shall plainly designate the matter so offered, and shall accord to the officer and to participating counsel an opportunity to inspect it. Unless it is desired to read such matter into the record, and the officer so directs, true copies in proper form of the material and relevant matter taken from the document may be received as an exhibit, but other parties shall be afforded an opportunity to introduce in evidence, in like manner, other portions of such document if found to be material and relevant. The document itself will not be received.

§ 1.81 Evidence; documents in Commission's files.

(a) *In general.* If any matter contained in a report or other document, not a tariff or schedule, open to public inspection in the files of the Commission is offered in evidence such report or other document need not be produced, but in other respects the provisions of § 1.80 will apply.

(b) *Tariffs and schedules; official notice in investigation proceedings.* If any matter contained in a tariff or schedule on file with the Commission is offered in evidence, such tariff or schedule need not be produced or marked for identification, but the matter so offered shall be specified with particularity in such manner as to be readily identified and may be received in evidence subject to check by reference to the original tariff or schedule. Official notice will be taken without offer or production of that portion of any tariff or schedule which is the subject matter of an order of investigation and suspension.

§ 1.82 Evidence; records in other Commission proceedings.

If any portion of the record before the Commission in any proceeding other than the one on hearing is offered in evidence a true copy of such portion shall be presented for the record in the form of an exhibit unless:

(a) The party offering the same agrees to supply such copy later at his own expense, if and when required by the Commission; and

(b) The portion is specified with particularity in such manner as to be readily identified; and

(c) The parties represented at the hearing stipulate upon the record that such portion may be incorporated by reference, and that any other portion offered by any other party may be incorporated by like reference subject to paragraphs (a) and (b) of this section; and

(d) The officer directs such incorporation. Any such portion so offered, whether in the form of an exhibit or by reference, shall be subject to objection.

§ 1.83 Evidence; abstracts of documents.

When documents, such as freight bills or bills of lading, are numerous, the officer may refuse to receive in evidence other than a limited number of such documents said to be typical. Instead he may instruct, if the proffer be for the purpose of proving damage, that introduction be deferred until there is opportunity to comply with § 1.100. If the proffer be for other purpose the officer may require the party in orderly fashion to abstract the relevant data from the documents, affording other parties reasonable opportunity to examine both the documents and the abstract, and thereupon offer such abstract in evidence in exhibit form.

§ 1.84 Evidence; exhibits.

(a) *Generally.* Exhibits of a documentary character may have a maximum width of 22 inches by 12½ inches in height. Whenever practicable the sheets of each exhibit and the lines of each sheet should be numbered. If the exhibit consists of five or more sheets the first sheet or title-page should be confined to a brief statement of what the exhibit purports to show, with reference by sheet and line to illustrative or typical examples contained therein. The exhibit should bear an identifying number, letter, or short title which will readily distinguish it from other exhibits offered by the same party. It is desirable that, whenever practicable, rate comparisons and other evidence should be condensed into tables. Whenever practicable, especially in proceedings in which it is likely that many documents will be offered, all the documents produced by a single witness should be assembled and bound together, suitably arranged and indexed, so that they may be identified and offered as one exhibit. Exhibits should not be argumentative and should be limited to statements of fact, and be relevant and material to the issue, which can better be shown in that form than by oral testimony.

(b) *Reference to tariff authority, routes, and distances.* All exhibits showing rates, fares, charges, or other tariff or schedule provisions must, by appropriate Interstate Commerce Commission number reference, indicate the tariff or schedule authority therefor, and if distances are shown must also show the authority therefor and, by lines, highways, or waterways, and junction points, the routes over which the distances are computed; except that the routes over which the distances are computed need not be shown when such distances are specifically published in a tariff or schedule lawfully on file with the Commission, or definitely ascertainable from a tariff or schedule on file with the Commission showing rates prescribed by the Commission and based on short-line distances, or short-highway distances, provided the exhibit makes specific reference to such tariff or schedules as provided by this section.

(c) *Copies.* Unless the officer shall otherwise direct, the original and one copy of each exhibit of a documentary character shall be furnished for the use of the Commission—original to be delivered to the reporter, and the copy to the officer. If the hearing be before a board, a copy of the exhibit shall be furnished to each member of the board, unless the board otherwise directs. Unless the officer for cause directs otherwise, a reasonable number of copies shall be furnished to counsel in attendance at the hearing. Unless the officer shall otherwise direct, in proceedings under the Uniform Bankruptcy Act, the original and three copies of every exhibit of a documentary character shall be furnished for use of the Commission—original to be delivered to the reporter, and the three copies to the officer.

(d) *Interchange prior to hearing.* Whenever practicable, the parties should interchange copies of exhibits or other pertinent material or matter before or at the commencement of the hearing; and the Commission or presiding officer may so direct.

(e) *When excluded how treated.* In case an exhibit has been identified, objected to, and excluded, the officer will develop whether the party offering the exhibit withdraws the offer, and if so, permit the return of the exhibit to him. If the excluded exhibit is not withdrawn it should be given an exhibit number for identification and be incorporated in the record. Exhibit numbers once used for identification will not be duplicated thereafter.

§ 1.85 Record in referred matter unaffected by a second reference.

If for any reason an order referring a matter to a particular officer is vacated and the matter referred to a different officer, any testimony already taken in such proceeding shall be part of the record along with any testimony which thereafter may be taken.

§ 1.86 Evidence; filing of subsequent to hearing; copies.

Except as provided below or as expressly may be permitted in a particular instance, the Commission will not receive in evidence or consider as part of the record any documents, letters, or other writings submitted for consideration in connection with any proceeding after close of the hearing, and may return any such documents to the sender. Before the close of a hearing the officer may, at the request of a party or upon his own motion, or upon agreement of the parties, require that a party furnish additional documentary evidence supplementary to the existing record, within a stated period of time. Documentary evidence thus to be furnished will not be assigned an exhibit number at the hearing, but the document will be given an exhibit number at the time of filing and the parties accordingly advised. Unless otherwise directed by the officer, the original and one copy of such submission shall be filed with the Commission.

§ 1.87 Evidence; objections to.

Formal exception to a ruling of an officer at a hearing is unnecessary. It is sufficient that a party, at the time the ruling is made or sought, make known to the officer on the record the action which he desires the officer to take or his objection to the action of the officer and his grounds therefor. An objection not pressed in brief will be considered as waived. Where no brief is filed an objection will be considered as waived if not pressed in exceptions or reply to exceptions, if filed, or in a separate petition dealing only with that objection.

§ 1.88 Oral argument before officer.

If oral argument before the officer is desired, he should be so notified at or before the hearing and may arrange to hear the argument at the close of the testimony within such limits of time as he may determine, having regard to other assignments for hearing before him. Such argument will be transcribed and bound with the transcript of testimony, and will be available to the Commission for consideration in deciding the case. The making of such argument shall not preclude oral argument before the Commission and request therefor may be made as provided in § 1.98.

§ 1.89 Continuance for further hearing.

A continuance may be granted by the presiding officer if it is impossible to conclude a hearing within the time available, or for any reason a continuance is necessary or advisable, but a joint board shall not set a date and place for a continued hearing without first consulting the Commission. If consultation with the Commission is impracticable, the hearing shall be adjourned by the joint board to such time and place as the Commission subsequently shall determine.

§ 1.90 Transcript of record.

(a) *Filing.* After the close of the hearing the complete transcript of testimony taken and the exhibits shall be filed with the Commission.

(b) *Corrections.* A suggested correction in a transcript ordinarily will be considered only if offered not later than 20 days after the date each transcript is filed with the Commission. A copy of the letter (original only need be filed with the Commission) requesting the suggested corrections shall be served upon all parties of record and with 2 copies to the official reporter.

(c) *No free copies.* No free copies of transcript will be furnished to any party to any proceeding.

BRIEFS; REPORTS; ORAL ARGUMENT

§ 1.91 Briefs; content and arrangement.

(a) *Due date.* The due date of each brief must appear on its front cover or title page.

(b) *Table of contents; citations.* A brief of more than 20 pages shall contain on its front flyleaves a table of contents and points made with page refer-

ences, the table of contents to be supplemented by a list of citations, alphabetically arranged, with references to the pages where they appear.

(c) *Sketch or chart.* In proceedings wherein misrouting or undue prejudice or preference are alleged, the complainant should include as part of the brief a small sketch or chart adequately reflecting the situation.

(d) *Evidence abstract.* A brief filed after a hearing should contain an abstract of the evidence relied upon by the party filing it, preferably assembled by subjects, with reference to the pages of the record or exhibit where the evidence appears. The abstract should follow the statement of the case and precede the argument. In the event the party elects not to include a separate abstract in his brief, he should give specific reference to the portions of the record, whether transcript or otherwise, relied upon in support of the respective statements of fact made throughout the brief.

(e) *Requested findings.* Each brief should include such requests for specific findings, separately stated and numbered, as the party desires the Commission to make.

(f) *Exhibit reproduction.* Exhibits should not be reproduced in the brief, but may, if desired, be shown, within reasonable limits, in an appendix to the brief. Analyses of such exhibits should be included in the abstract of evidence under the subjects to which they pertain.

§ 1.92 Briefs; when officer's report is served.

In a proceeding which has been the subject of hearing, and in which an officer's report is to be prepared and served, which fact will be stated by the officer on the record, only one brief shall be filed by each party. The officer shall fix for all parties the same time within which to file briefs. Reply briefs are not permitted at this stage.

§ 1.93 Briefs; when officer's report is not served.

If no officer's report is to be prepared and served, which fact will be stated by the officer, in a proceeding which has been the subject of hearing the officer may, subject to variation for cause shown, fix times for filing and serving the respective briefs as follows: for the opening brief, 30 days from the close of hearing; for the brief of any opposing party, 15 days after the date fixed for the opening brief; for reply brief, 10 days after the date fixed for the brief of the opposing party; or he may fix the same time for filing and serving of briefs of all parties. Where the same time is fixed, within 15 days after expiration of the time so fixed reply briefs may be filed, and such briefs must be confined strictly to reply and contain no new matter: *Provided, however,* That no reply brief may be filed in an investigation-and-suspension proceeding.

§ 1.94 Briefs of interveners.

Briefs of interveners shall be filed and served within the time fixed for the brief of the party in whose behalf the intervention is made or as may be otherwise directed by the officer.

§ 1.95 Officer's report; when and how served.

After expiration of the time set for filing briefs, if the proceeding be one in which a hearing has been held, the officer's report will be prepared and served by mailing a copy to each party. An officer's report prepared in a proceeding in which a hearing has not been held will be served by mailing a copy to each party of record and to any other persons not parties to the proceeding who are believed to have an interest in the proceeding.

§ 1.96 Exceptions to officer's report.

(a) *Generally.* Exceptions to the officer's report with respect to statements of fact or matters of law must be specific and must be stated and numbered separately. If exception is taken to conclusions in the report, the points relied upon to support the exception must be stated and numbered separately. When exception is taken to a statement of fact contained in the report, reference also must be made to the page or part of the record relied upon to support the exception and a corrected statement must be incorporated.

(b) *When filed.* Within 30 days after service of the officer's report, any party may file and serve exceptions thereto and reasons in support thereof. Replies may be served and filed as provided in § 1.23. In any case the Commission may, in its discretion, upon notice to the parties reduce or extend the time for filing exceptions or replies.

(c) *Exceptions and request for hearing by person not party.* If the proceeding is one in which no oral hearing has been held, any person not a party to the proceeding, but having an interest therein, may file and serve upon applicant, or complainant, as the case may be, exceptions to the officer's report and reasons in support thereof. A request for hearing may be included therein but the exceptions need not include a request for hearing if none is deemed necessary.

§ 1.97 Effect of exceptions or absence thereof.

(a) *Upon report and recommended order.* The filing of exceptions to a recommended order operates to stay the effectiveness of the order and thereafter decision by the Commission will be made in due course. If no exception is filed to the recommended order and the Commission does not stay it, the recommended order becomes the order of the Commission upon expiration of the period for filing exceptions provided in § 1.96 (b), or of any postponement of such period, or postponement of the effective date of such order, and a notice stating that the recommended order has, giving the date, become the order of the Commission will be mailed to the parties by the Commission.

(b) *Upon proposed report.* A proposed report will not become the decision of the Commission through failure to file objections, but in the absence of exceptions or of ascertained error the officer's statement of the issues and of the facts ordinarily will be taken by the Commission as the basis of its decision.

§ 1.98 Oral argument before Commission.

(a) *Request; how made.* If no officer's report is to be served, request for oral argument before the Commission must be made at hearing or by letter (original only need be filed with the Commission) within 10 days after the hearing. If an officer's report is to be served, the request for oral argument must be included as part of the exceptions brief or reply thereto.

(b) *Request for time allotment.* If the petition is granted a notice will be served by the Commission upon the parties setting the date for the oral argument. At least 10 days before that date any party desiring to participate in the oral argument must make request by letter (original only need be filed with the Commission) for an allotment of time. Only those making request in this manner will be permitted to participate.

ORDER COMPLIANCE; DAMAGE STATEMENTS

§ 1.99 Compliance with Commission's orders.

When in consequence of proceedings under the act, the Commission has by its order directed a defendant or a respondent to do or desist from doing a particular thing, such defendant or respondent must notify the Commission on or before the date upon which such order becomes effective whether or not compliance has been made therewith. If a change in rates or schedules is required the notification must be given in addition to the filing of proper tariffs or schedules, and must specify the Interstate Commerce Commission numbers of the tariffs or schedules so filed.

§ 1.100 Statements of claimed damages based on Commission findings.

When the Commission finds that damages are due, but that the amount cannot be ascertained upon the record before it, the complainant should immediately prepare a statement showing details of the shipments on which damages are claimed, in accordance with the form No 5. (See Appendix B.) The statement should not include any shipment not covered by the Commission's findings, or any shipment on which complaint was not filed with the Commission within the statutory period. The filing of a statement will not stop the running of the statute of limitations as to shipments not covered by complaint or supplemental complaint. If the shipments moved over more than one route a separate statement should be prepared for each route, and separately numbered, except that shipments as to which the collecting carrier is in each instance the same may be listed in a single statement if grouped according to routes. The statement, together with the paid freight bills on the shipments, or true copies thereof, should then be forwarded to the carrier which collected the charges for verification and certification as to its accuracy. If the statement is not forwarded immediately to the collecting carrier for certification, a letter request

from defendants that forwarding be expedited will be considered to the end that steps be taken to have the statement forwarded immediately. All discrepancies, duplications, or other errors in the statements should be adjusted by the parties and correct agreed statements submitted to the Commission. The certificate must be signed in ink by a general accounting officer of the carrier and should cover all of the information shown in the statement. If the carrier which collected the charges is not a defendant in the case its certificate must be concurred in by like signature on behalf of a carrier defendant. Statements so prepared and certified shall be filed with the Commission whereupon it will consider entry of an order awarding damages.

REHEARING; REARGUMENT; OR RECONSIDERATION

§ 1.101 Petitions for rehearing, reargument, or reconsideration.

(a) *In general.* (1) A petition seeking any change in a decision, order, or requirement of the Commission should specify whether the prayer is for reconsideration, reargument, rehearing, further hearing, modification of effective date, vacation, suspension, or otherwise.

(2) *Administrative finality of division decisions.* All decisions, orders, or requirements of a division of the Commission in any proceeding shall be considered administratively final, except those involving issues of general transportation importance, those wherein the division reverses, changes, or modifies a prior decision by a hearing officer, and those wherein the initial decision is made by a division: *Provided, however,* That this subparagraph shall not preclude the seasonable filing of a petition for relief under paragraphs (b) and (c) of this section, to be considered and disposed of by the division or appellate division which made the decision, order, or requirement as to which relief is sought.

(3) *Limitations on petitions for review of division decisions.* Pursuant to authority granted in section 17(6) of the Interstate Commerce Act, the right to apply to the entire Commission for rehearing, reargument, or reconsideration of a decision, order, or requirement of a division of the Commission in any proceeding shall be limited and restricted to those proceedings in which the entire Commission, on its own motion, determines and announces that an issue of general transportation importance is involved. In proceedings in which no such announcement has been made, but in which a division reverses, changes, or modifies a prior decision by a hearing officer or where the initial decision is made by a division, a petition to the same division for rehearing, reargument, or reconsideration of its decision will be permitted and will be considered and disposed of by such division in an appellate capacity and with administrative finality.

(4) *Petitions seeking a finding that an issue of general transportation importance is involved; 3-page limitation; time for filing; no reply permitted.* In any proceeding which has involved the taking of evidence at oral hearing or by modified procedure in which the Commission has not noted the presence of an issue of general transportation importance, any party may, within 15 days after the service of a final decision, order, or requirement of a division or appellate division, as to which the filing of a petition for rehearing, reargument, or reconsideration is not permitted, file a petition requesting the Commission to find on its own motion that the proceeding is one involving an issue of general transportation importance. Any petition seeking such a finding shall not be considered an application for rehearing, reargument, or reconsideration within the meaning of section 17 of the act and shall not exceed 3 pages. No reply thereto may be filed and the ruling thereon will be final. Petitions seeking the relief specifically covered herein will not be entertained at any other stage of the proceeding.

(5) *Copies of petitions and replies.* In cases in which it has been determined and announced that an issue of general transportation importance is involved, there shall be furnished for the use of the Commission the original and 14 copies of each petition filed under this section and of replies to such petitions. A like number of copies shall be furnished of petitions seeking a finding that the proceeding involves an issue of general transportation importance. In all other cases, the original and 6 copies of such petitions and replies shall be furnished for the use of the Commission.

(b) *Rehearing or further hearing.* When in a petition filed under this section opportunity is sought to introduce evidence, the evidence to be adduced must be stated briefly, such evidence must not appear to be cumulative, and explanation must be given why such evidence was not previously adduced.

(c) *Modification of effective date.* A petition under this section seeking only modification of the effective date of a decision, order, or requirement, or in the period of notice, or other period or date prescribed therein, must be filed seasonably, except that, in case of unforeseen emergency satisfactorily shown by petitioner, such relief may be sought informally by telegram or otherwise, provided like notice is simultaneously communicated to all parties of record.

(d) *Reconsideration.* If relief under this section other than under paragraphs (b) and (c) is sought, the matters claimed to have been erroneously decided and the alleged errors or relief sought must be specified with the particularity respecting exceptions as outlined in § 1.96 (a), as should also any substitute finding or other substitute requirement desired by petitioner.

(e) *Time for filing.* Except for good cause shown, and upon leave granted, petitions under this section must be filed within 30 days after the date of service of a decision or order.

(f) *Successive petitions on same grounds, not entertained.* A successive petition under this section submitted by the same party or parties, and upon substantially the same grounds as a former petition, which has been considered and denied by the entire Commission will not be entertained.

(g) *Petitions for reconsideration of appellate division decisions on review of board decisions.* When an appellate division has denied a petition seeking a reversal, change, or modification of an original determination by a board of employees, any further petition for reconsideration by the same party or parties upon substantially the same grounds will not be entertained. If in the consideration of such a petition, however, by the appellate division, the previous determination of the board of employees has been reversed, changed, or modified, a further petition may be filed by any party to the proceeding adversely affected by the decision of the appellate division, within the time specified in paragraph (e) of this section, and the petition will be considered and disposed of by the same appellate division which passed upon the initial petition.

§ 1.102 Petitions not otherwise covered.

When the subject matter of any desired relief is not specifically covered by the rules in this part, a petition seeking such relief and stating the reasons therefor may be served and filed.

SPECIAL RULES OF PRACTICE

§ 1.200 Special rules of practice governing procedure in certain suspension and fourth-section matters.

(a) The proceedings of the Board of Suspension and the Fourth Section Board shall be informal. No transcription of such proceedings will be made. Subpoenas will not be issued and, except when applications or petitions are required to be attested, oaths will not be administered.

(b) Petitions for reconsideration of orders of the following may be filed by any interested person within 20 days after the date of the service of the order:

(1) Board of Suspension,

(2) Fourth Section Board,

(3) Appellate Division 2 reversing, changing, or modifying a previous determination of an employee board, and

(4) Division 2 suspending schedules or granting or denying fourth-section relief prior to hearing in proceedings not subject to a prior determination by an employee board.

Except as to said subparagraph (4) of this paragraph, respecting which an original and 14 copies are required, the original and six copies of every pleading, document or paper filed under this section shall be furnished for the use of the Commission. Any interested person may file and serve a reply to any petition for reconsideration permitted under this paragraph within 20 days after the filing of such petition with the Commission but if the facts stated in any such petition disclose a need for accelerated action, such action may be taken before expiration of the time allowed for reply. In all other respects, such petitions and replies thereto will be governed by the Commission's general rules of practice.

(c) When the Board of Suspension has declined to suspend a proposed tariff or schedule, or any part thereof, a petition

in writing by any protestant or protestants may be filed with the Commission for reconsideration by the designated appellate division provided it reaches the Commission at least two work-days prior to the effective date of the tariff or schedule in question. For the purposes of this section, a work-day shall be considered any day except Saturday, Sunday, or a legal holiday in the District of Columbia. (A legal holiday of less than one day shall be considered a work-day within the meaning of this section.) Petitions submitted under this section shall be filed with the Secretary of the Commission by 4:00 p. m., United States Standard Time (or by 4:00 p. m., Local Daylight Saving Time if that time is observed in the District of Columbia). Telegraphic notice or the equivalent thereof must be given by the petitioners to the respondent or respondents. As no replies to the petitions for reconsideration are contemplated under this rule, petitioners will be expected, except in unusual circumstances, to rely wholly on the information previously filed with the Board of Suspension. Written or telegraphic communication in intelligible form requesting reconsideration will be sufficient. Such request shall contain the following prefatory statement: "This matter requires expedited handling under the Commission's Special Rules of Practice." A petition not timely filed shall be rejected by the Secretary.

§ 1.225 Special rules of practice governing the procedure of the Temporary Authorities Board, the Transfer Board, Finance Boards [1] Nos. 1, 2, and 3, the Safety and Service Boards, the Motor Carrier Boards, the Special Permission Board, the Released Rates Board, and Operating Rights Boards [1] Nos. 1 and 2.

(a) The proceedings of the Temporary Authorities Board, the Transfer Board, Finance Boards Nos. 1, 2, and 3, the Safety and Service Boards, the Motor Carrier Boards, the Special Permission Board, the Released Rates Board, and Operating Rights Boards Nos. 1 and 2 shall be informal. No transcription of such proceedings will be made. Subpenas will not be issued and, except when applications or petitions are required to be attested, oaths will not be administered.

(b) A petition for reconsideration of an order of (1) the Temporary Authorities Board, the Transfer Board, a Safety and Service Board, a Motor Carrier Board, the Special Permission Board, the Released Rates Board, or Operating Rights Board No. 2 may be filed by any interested person, and (2) Operating Rights Board No. 1 and the Finance Boards may only be filed by a party to the proceeding. Such petition and reply thereto will be governed by the Commission's general rules of practice, except as otherwise provided in paragraphs (c), (d), and (e) of this section.

(c) The original and six copies of every pleading, document, or paper permitted or required to be filed under this section, shall be furnished for the use of the Commission.

(d) A petition seeking reconsideration of an order of the Temporary Authorities Board entered under section 210a(a) or of a Finance Board entered under sections 210a(b) or 311(b) of the Interstate Commerce Act must be filed within 20 days after the date of service of the order. Within 20 days after the filing of such petition with the Commission any interested person may file and serve a reply thereto.

(e) A petition seeking reconsideration of an affirmative order of the Transfer Board entered pursuant to the rules and regulations governing transfers of property brokers' licenses, Part 167 of this chapter, passenger brokers' licenses, Part 169 of this chapter, motor carrier operating rights, Part 179 of this chapter, water carrier operating rights, Part 306 of this chapter, and freight forwarder permits, Part 415 of this chapter, must be filed within 20 days following publication of a synopsis of such order in the FEDERAL REGISTER. In such a petition the matters claimed to have been erroneously decided and the alleged errors must be specified with particularity. If the petition contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted in affidavit form. Within 20 days after the final date for filing of such petitions with the Commission, any interested person may file and serve a reply thereto.

§ 1.240 Special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(2) and 210a(b) of the Interstate Commerce Act and certain other procedural matters with respect thereto.

(a) *Scope of special rules.* These special rules govern the filing and handling of (1) applications under section 5(2) of the Interstate Commerce Act respecting control, lease, and unification of operating rights and properties of motor carriers of property or passengers, and (2) applications for temporary authority respecting the transportation of property or passengers under section 210a (b) of the act. Except as otherwise herein provided, the general rules of practice shall apply. Amendments to applications which broaden the scope of proposed operations are deemed to be "applications" for the purpose of this part. Such amendments will not be allowed if tendered after an application has been assigned for oral hearing.

(b) *Notice to interested persons.* Notice of the filing of such applications to interested persons shall be given by the publication of a summary of the authority sought in the FEDERAL REGISTER. Such summaries will be prepared by the Commission. No other notice by applicants to interested persons is required, except that applicants are not relieved from the obligations to file copies of applications with Governors, State Boards, and District Directors of the Commission's Bureau of Motor Carriers as required by the instructions which are a part of the prescribed form of application.

(c) *Protests and requests for hearing.* (1) Protests to the granting of an application shall be filed with the Commission within 30 days after the date notice of the filing of the application is published in the FEDERAL REGISTER. Any interested person filing a protest to an application under section 5(2), or appearing at a hearing in opposition thereto, shall be entitled to participate in proceedings upon any application for temporary authority under section 210a(b) filed in the same docket.

(2) Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding unless an oral hearing is held.

(3) In addition to other requirements of § 1.40 of the general rules of practice, protests shall include a request for a public hearing, if one is desired, and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests containing general allegations may be rejected.

(4) Any request for an oral hearing shall be supported by an explanation as to why the evidence to be presented cannot reasonably be submitted in the form of affidavits. The Commission will determine whether or not assignment of the application for hearing is necessary or desirable.

(5) Any interested person, not a protestant, desiring to receive notice of the time and place of any hearing, prehearing conference, taking of depositions, or other proceedings shall notify the Commission by letter or telegram within 30 days from the date of publication of the notice of the filing of the application.

(6) Except when circumstances require immediate action, an application for approval under section 210a(b) of the act of the temporary operation of motor carrier properties sought to be acquired in an application under section 5(2) will not be disposed of sooner than 10 days from the date of publication of the notice of the filing of the application. If a protest is received prior to action being taken, it will be considered.

§ 1.241 Special rules governing notice of filing of applications by motor carriers of property or passengers and by brokers under sections 206, 209, and 211 of the Interstate Commerce Act and certain other procedural matters with respect thereto.

(a) *Scope of special rules.* These special rules govern the filing and handling of applications for certificates, permits, and licenses respecting the transportation of property or passengers under sections 206, 209, and 211 of the Interstate Commerce Act. Except as otherwise herein provided, the general rules of practice shall apply. Amendments to applications which broaden the scope of proposed operations will not be allowed if tendered after notice of the filing of an application has been published in the FEDERAL REGISTER.

(b) *Notice to interested persons.* (1) Notice to interested persons of the filing of such applications shall be given by publication in the FEDERAL REGISTER of a

[1] The general rules of practice apply to the procedure of all employee boards except to the extent specifically provided for in §§ 1.200 and 1.225.

summary, prepared by the Commission, of the authority sought.

(2) If an oral hearing or a prehearing conference is to be held, the date, hour, and place of the hearing or prehearing conference, together with the name of the examiner or number of the joint board before whom the matter is assigned, shall be made a part of the notice. Notice of a change in the time or place of hearing will be given as provided in paragraph (e) of this section, and may or may not be published in the FEDERAL REGISTER.

(3) If the Commission, acting upon request of an applicant for handling without oral hearing or upon its own motion, determines that an oral hearing is not necessary, that fact shall be made a part of the notice. Such a proceeding is hereinafter referred to as a "no oral hearing proceeding."

No other notice by applicants to interested persons of the filing of the applications is required, except that applicants are not relieved from the obligation to file copies of applications with Governors, State Boards, and District Directors of the Commission's Bureau of Motor Carriers, as required by the instructions which are a part of the prescribed form of application.

(c) *Protests to applications assigned for hearing.* (1) Any person opposed to an application assigned for oral hearing need not file a formal protest, but may become a party protestant at the oral hearing provided he has notified the applicant and the Commission of his intention to protest the application. Such notification shall be made by letter or telegram dispatched so as to reach applicant's representative (or applicant, if no practitioner representing him is named in the notice of filing) at least 10 days prior to the date of hearing. Two dated copies of such notification simultaneously shall be mailed to the Commission.

(2) No person who fails to notify the applicant of his intention to protest will be permitted to intervene in a proceeding except upon a showing of substantial reasons in a petition submitted in accordance with § 1.72.

(3) Any person opposed to an application assigned for prehearing conference may become a party protestant at the prehearing conference.

(4) Section 1.73 relating to participation without intervention is inapplicable to proceedings subject to this paragraph.

(d) *Handling of applications without oral hearing.* (1) An applicant who believes his application is susceptible of handling without oral hearing may request such handling when the application is filed. If such a request is made, the applicant shall submit with his application verified statements of the facts to which his witnesses would testify at an oral hearing if one were held. Applicant shall furnish copies of his verified statements to interested persons upon request from such interested persons.

(2) Protests to the granting of an application in a no oral hearing proceeding shall be filed with the Commission within 30 days after the date notice of the filing of the application is published in the FEDERAL REGISTER.

(3) Failure seasonably to file a protest in a no oral hearing proceeding will be construed as a waiver of opposition and participation in the proceeding except as hereinafter provided in paragraph (d)(6) of this section.

(4) A protest in a no oral hearing proceeding shall include a request for an oral hearing, if one is desired, and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests containing general allegations may be rejected.

(5) The Commission will determine whether an assignment for oral hearing should be made.

(6) If it is determined that an oral hearing should be assigned, notice thereof will be published in the FEDERAL REGISTER. Subsequent participation in such proceeding will be governed by the provisions of paragraph (c) of this section.

(7) If the Commission determines that assignment of an application for oral hearing is unnecessary, thereafter the procedure shall be in accordance with §§ 1.45(b), 1.46(b), 1.47–1.54, inclusive.

(e) *Notice of changes in time or place of hearing.* Those who file notice of opposition to an application and any person who requests notice of changes in the time or place of hearing will be informed of such changes if notice is given by mail. If telegraphic notice becomes necessary, notice of such changes will be given by telegram only to those who request telegraphic notice at their expense.

(f) *Drafting of recommended order and report by prevailing party.* Applications in which oral hearings are held and in which the hearing officer can announce his decision on the record after the close of the taking of testimony may be made the subject of a recommended order and report, prepared by the party or parties in whose favor the hearing officer decides, upon a form prepared by the Commission, within a period specified by the hearing officer. The hearing officer will make such changes as he considers appropriate in the draft prepared for him.

§ 1.242 Special rules governing notice of institution of proceedings under section 212(c) of the Interstate Commerce Act, and certain other procedural matters with respect thereto.

(a) *Scope of special rules.* These special rules govern the institution of proceedings upon the Commission's own initiative or upon application of the holder of motor contract-carrier authority issued on or before August 22, 1957, for the revocation of such outstanding motor contract-carrier authority and issuance in lieu thereof of a certificate of public convenience and necessity, under section 212(c) of the Interstate Commerce Act. Except as otherwise herein provided, the general rules of practice shall apply.

(b) *Notice to interested persons.* Notice to interested persons of institution of such proceedings shall be given by publication in the FEDERAL REGISTER of a summary, prepared by the Commission, of the authority in issue. No other notice to interested persons of the institution of the proceeding is required, except that applicants are not relieved from the obligation to file copies of their applications with Governors, State Boards, and District Directors of the Commission's Bureau of Motor Carriers, as required by the instructions which are part of the prescribed form of application.

(c) *Protests to issuance of a common carrier certificate*—(1) *Content.* A protest against the issuance of a certificate in lieu of contract carrier authority outstanding as of August 22, 1957, shall set forth with particularity the facts, matters, and things relied upon, and contain a concise statement of the interest of protestants in the proceeding. It shall not include issues or allegations phrased generally, but shall include a request for oral hearing if one is desired. Protests containing general allegations may be rejected.

(2) *When filed.* Any protest shall be filed with the Commission within 30 days after the date notice of the proceeding is published in the FEDERAL REGISTER.

(3) *Copies, service.* A protest filed under this section shall be served upon the carrier seeking conversion of its contract-carrier authority, and the original and six copies of the protest shall be filed with the Commission.

(4) *Failure to file protest.* Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding except in proceedings assigned for oral hearing.

(d) *Hearing*—(1) *Oral, determination.* The Commission will determine whether an assignment for oral hearing should be made, after notice to interested persons has been published in the FEDERAL REGISTER and the period for filing protests has expired.

(2) *Oral hearing, notice.* If it is determined that an oral hearing should be assigned, or if a pre-hearing conference is to be held, the date, hour, and place of the hearing or pre-hearing conference, together with the name of the examiner or number of the Joint Board before whom the matter is assigned, shall be served on all parties of record. Notice of a change in the time or place of hearing will be given as provided in paragraph (f) of this section.

(3) *Notice of intent to protest.* Any person opposed to a proceeding assigned for oral hearing who previously has not filed a formal protest may become a party protestant at the oral hearing provided he has notified the applicant or respondent and the Commission of his intention to protest. Such notification shall be made by letter or telegram dispatched so as to reach the representative of applicant or respondent (or applicant or respondent if no practitioner representing him is named in the notice) at least 10 days prior to the date of hearing. Two dated copies of such notification simultaneously shall be mailed to the Commission. No persons other than those who file a formal protest or those who notify the applicant or respondent of their intention to protest will be permitted to intervene in a proceeding except upon a showing of substantial

reasons in a petition submitted in accordance with § 1.72.

(e) *Modified procedure*—(1) *Uncontested proceedings.* Proceedings in which no protests are filed within 30 days after publication of notice in the FEDERAL REGISTER and which are not assigned for oral hearing will be determined on the basis of the verified statements contained in response to the questionaire filed by the carrier in connection with whose operations the proceeding is instituted.

(2) *Contested proceedings.* Proceedings in which protests are filed but which are not assigned for oral hearing will be handled in accordance with §§ 1.45(b), 1.46(b), and 1.47 to 1.54, inclusive.

(f) *Notice of changes in time or place of hearing.* Those who file protests or notice of intention to protest and any person who requests notice of changes in the time or place of hearing will be informed of such changes if notice is given by mail. If telegraphic notice becomes necessary, notice of such changes will be given by telegram only to those who request telegraphic notice at their expense.

§ 1.243 Special Rules governing notice of filing of applications by motor carriers of property under section 7(c) of the Transportation Act of 1958, by motor and water carriers of persons and property under sections 206(a)(4), 206(a)(5), 209(a)(4), 209(a)(5), 309(a) and 309(f), and by freight forwarders of property under sections 410(a)(2) and 410(a)(3) of the Interstate Commerce Act, as amended July 12, 1960, and certain other procedural matters with respect thereto.

(a) *Scope of special rules.* These special rules govern the filing and handling of "grandfather" and "interim" applications by motor carriers of property under section 7(c) of the Transportation Act of 1958, by motor and water carriers of persons and property under sections 206(a)(4), 206(a)(5), 209(a)(4), 209(a)(5), 309(a) and 309(f), and by freight forwarders of property under sections 410(a)(2), and 410(a)(3) of the Interstate Commerce Act, as amended July 12, 1960. Except as otherwise herein provided, the general rules of practice shall apply.

(b) *Notice to interested persons.* Notice of the filing of such applications to interested persons shall be given by the publication of a summary of the authority sought in the FEDERAL REGISTER. Such summaries will be prepared by the Commission. No other notice by applicants to interested persons is required, except that applicants are not relieved from the obligations to file copies of the applications with State Boards and the District Directors of the Commission's Bureau of Motor Carriers as required by the instructions which are a part of the prescribed form of application.

(c) *Protests.* (1) Protests to the granting of an application shall be filed with the Commission within 30 days after the date notice of the filing of the application is published in the FEDERAL REGISTER, except protests to the granting of an application involving operations from, to, or between points in Alaska or Hawaii shall be filed with the Commission within 75 days after the date notice of the filing of the application is published in the FEDERAL REGISTER.

(2) Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding.

(3) Protests should set forth specifically the grounds upon which they are made and contain a concise statement of the interest of the protestant in the proceeding. Protests containing general allegations may be rejected.

(4) A protest filed under these special rules shall be served upon applicant's representative (or applicant, if no practitioner representing him is named in the notice of filing published in the FEDERAL REGISTER). The original and six copies of the protest shall be filed with the Commission.

(5) Any interested person, not a protestant, desiring to receive notice of the time and place of any hearing, conference, or other proceedings shall notify the Commission by letter or telegram within 30 days from the date of the publication of the notice of the filing of the application in the FEDERAL REGISTER.

(d) *Notice of hearing, conference, or other proceedings.* Notice of the time and place of any hearing, conference, or other proceeding will be given to applicant's representative, applicant, protestants, and other interested parties by mailing to them the order or notice assigning the application for hearing, conference, or other proceeding.

(e) *Intervention.* Section 1.73 relating to participation without intervention is inapplicable to applications subject to this paragraph. No person who fails to file a protest as provided in this paragraph will be permitted to intervene in a proceeding except upon a showing of substantial reasons in a petition submitted in accordance with § 1.72.

(f) *Notice of changes in time or place of hearing, conference, or other proceeding.* The applicant's representative (or applicant if he has no representative), protestants, and those who request notice of changes in time or place of hearing, conference, or other proceeding will be informed of such changes if notice is given by mail. If telegraphic notice becomes necessary, notice of such changes will be given by telegram only to those who request telegraphic notice at their expense.

APPENDIX A—CODE OF ETHICS FOR PRACTITIONERS BEFORE THE INTERSTATE COMMERCE COMMISSION

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PREAMBLE

No rules of conduct can be framed which will particularize all the duties of the practitioner in the varying phases of litigation or in his relations to clients, adversaries, other practitioners, the Commission and the public. The following canons of ethics are adopted as a general guide for those admitted to practice before the Interstate Commerce Commission.

It will be remembered that the practitioners before the Commission include (a) lawyers, who have been regularly admitted to practice law, and (b) others having traffic or other technical experience qualifying them to aid the Commission in administration of the Interstate Commerce Act and related acts of Congress. The former are bound by a broad code of ethics and unwritten rules of professional conduct which apply to every activity of a lawyer; for the latter, no code of ethics has been written heretofore. The following canons do not release the lawyer from any of the duties or principles of professional conduct by which lawyers are bound. They apply alike to all practitioners before the Commission and the setting forth therein of particular duties or principles of conduct should not be construed as a denial of the existence of others equally imperative although not specifically mentioned. The word "Commission" as used herein includes Divisions of the Commission, and the representatives of the Commission, whether members, examiners, or other employees connected with the matter in hand.

CANONS OF ETHICS

1. *Standards of ethical conduct in courts of United States to be observed.* These canons are in furtherance of the purpose of the Commission's rules of practice which enjoin upon all persons appearing in proceedings before it to conform, as nearly as

may be, to the standards of ethical conduct required of practitioners before the courts of the United States; and such standards are taken as the basis for these specifications, modified in so far as the nature of the practice before the Commission requires.

2. *The duty of the practitioner to and his attitude towards the Commission.* It is the duty of the practitioner to maintain towards the Commission a respectful attitude, not for the sake of the temporary incumbent of the office, but for the maintenance of the importance of the functions he administers. In many respects the Commission functions as a Court, and practitioners should regard themselves as officers of that Court and strive to uphold its honor and dignity. The Commission, not being wholly free to defend itself is peculiarly entitled to receive the support of the practitioner against unjust criticism and clamor. Whenever there is proper ground for serious complaint of a member or employee of the Commission it is the right and duty of the practitioner to submit his grievances to the proper authorities. In such cases, but not otherwise, such charges should be encouraged and the person making them should be protected.

3. *Punctuality and expedition.* It is the duty of the practitioner not only to his client, but also to the Commission and to the public, to be punctual in attendance, and to be concise and direct in the trial and disposition of causes.

4. *Attempts to exert political influence on the Commission.* It is unethical for a practitioner to attempt to sway the judgment of the Commission by propaganda, or by enlisting the influence or intercession of members of the Congress or other public officers, or by threats of political or personal reprisal.

5. *Attempts to exert personal influence on the Commission.* Marked attention and unusual hospitality on the part of a practitioner to a Commissioner, examiner, or other representative of the Commission, uncalled for and unwarranted by the personal relations of the parties, subject both to misconstruction of motive and should be avoided. A self-respecting independence in the discharge of duty, without denial or diminution of the courtesy and respect due the official station is the only proper foundation for cordial personal and official relations between Commission and practitioners.

6. *The selection of Commissioners.* The nomination of Commissioners is a duty of the President, and confirmation, of the Senate. It is the duty of the practitioners in so far as they attempt to advise the appointing or confirming officers, to endeavor to prevent any consideration from outweighing fitness in the selection.

7. *The practitioner's duty in its last analysis.* No client, corporate or individual, however powerful, no cause, civil or political however important, is entitled to receive, and no practitioner should render, any service or advice involving disloyalty to the law or disrespect of its official ministers, or corruption of any person or persons exercising a public office or employment or private trust, or deception or betrayal of the public. In rendering any such improper service or advice the practitioner invites and merits stern and just condemnation. Correspondingly, he advances the honor of his calling and the best interests of his client when he renders service or gives advice tending to impress upon the client and his undertaking exact compliance with the strictest principles of moral law. He must also observe and advise his client to observe the statute law, although until a statute shall have been construed and interpreted by competent adjudication, he is free and is entitled to advise as to its validity and as to what he conscientiously believes to be its just meaning and extent. But above all he will find his highest honor in a deserved reputation for fidelity to private trust and to public duty, as an honest man and as a patriotic and loyal citizen.

8. *Private communications with the Commission.* In the disposition of contested proceedings brought under the Interstate Commerce Act the Commission exercises quasi-legislative powers, but it is nevertheless acting in a quasi-judicial capacity. It is required to administer the Act and to consider at all times the public interest beyond the mere interest of the particular litigants before it. To the extent that it acts in a quasi-judicial capacity, it is grossly improper for litigants, directly or through any counsel or representative, to communicate privately with a commissioner, examiner or other representative of the Commission about a pending cause, or to argue privately the merits thereof in the absence of their adversaries or without notice to them. Practitioners at all times should scrupulously refrain in their communications to and discussions with the Commission and its staff from going beyond ex parte representations that are clearly proper in view of the administrative work of the Commission.

9. *Adverse influences and conflicting interests.* It is the duty of a practitioner at the time of retainer to disclose to the client all the circumstances of his relations to the parties, and any interest in or connection with the controversy, which might influence the client in the selection of the person to represent or assist him.

It is unethical to represent conflicting interests, except by express consent of all concerned given after a full disclosure of the facts. Within the meaning of this canon a practitioner represents conflicting interests when, in behalf of one client, it is his duty to contend for that which duty to another client requires him to oppose.

The obligation to represent the client with undivided fidelity and not to divulge his secrets or confidences forbids also the subsequent acceptance of retainers or employment from others in matters adversely affecting any interest of the client with respect to which confidence has been reposed.

10. *Joint association of practitioners and conflicts of opinion.* A client's proffer of the assistance of additional practitioner should not be regarded as evidence of want of confidence, but the matter should be left to the determination of the client. A practitioner should decline association as colleague if it is objectionable to the practitioner first retained, but if the client should relieve the practitioner first retained, another may come into the case.

When practitioners jointly associated in a cause cannot agree as to any matter vital to the interest of the client, the conflict of opinion should be frankly stated to him for his final determination. His decision should be accepted by them unless the nature of the difference makes it impracticable for the practitioner whose judgment has been overruled to cooperate effectively. In this event it is his duty to ask the client to relieve him.

Efforts, direct or indirect, in any way to encroach upon the business of another practitioner are unworthy of those who should be brethren, but, nevertheless, it is the right of any practitioner, without fear or favor, to give proper advice to those seeking relief against an unfaithful or neglectful practitioner, generally after communication with the practitioner of whom the complaint is made.

11. *Withdrawal from employment.* The right of a practitioner to withdraw from employment, once assumed, arises only from good cause. Even the desire or consent of the client is not always sufficient. The practitioner representing him should not throw up the unfinished task to the detriment of his client except for reasons of honor or self-respect. If the client insists upon an unjust or immoral course in the conduct of his case, or if he persists over the practitioner's remonstrance in presenting frivolous defenses, or if he deliberately disregards an agreement or obligation as to fees or expenses, the practitioner may be warranted in withdrawing on due notice to the client, allowing him time to employ another. So also when a practitioner discovers that his client has no case and the client is determined to continue it; or even if he finds himself incapable of conducting the case effectively. Sundry other instances may arise in which withdrawal is to be justified. Upon withdrawing from a case after a retainer has been paid, he should refund such part of the retainer as has not been clearly earned.

12. *Advising upon the merits of a client's cause.* A practitioner should endeavor to obtain full knowledge of his client's cause before advising thereon, and he is bound to give a candid opinion of the merits and probable result of pending or contemplated litigation. He should beware of bold and confident assurances to clients, especially where employment may depend upon such assurance. Whenever the controversy will admit of fair adjustment, the client should be advised to avoid or to end the litigation.

13. *Negotiations with opposing party.* A practitioner should not in any way communicate upon the subject of controversy with a party represented by another practitioner except upon express agreement with the practitioner representing such party; much less should he undertake to negotiate or compromise the matter with him, but should deal only with the practitioner who represents the other party. It is incumbent upon the practitioner most particularly to avoid everything that may tend to mislead a party not represented by a practitioner, and he should not undertake to advise him as to the law.

14. *Fixing the amount of the fee.* In fixing fees, practitioners should avoid charges which overestimate their advice and services, as well as those which undervalue them. A client's ability to pay cannot justify a charge in excess of the value of the service, although his poverty may require a less charge, or even none at all.

15. *Compensation, commission and rebates.* A practitioner should accept no compensation, commissions, rebates, or other advantages from parties to the proceeding other than his client without the knowledge and consent of his client after full disclosure.

16. *Contingent fees.* Contingent fees should be such only as are sanctioned by law. In no case, except a charity case, should they be entirely contingent upon success.

17. *Division of fees.* No division of fees for services is proper, except with a member of the bar or with another practitioner, based upon a division of service or responsibility. It is unethical for a practitioner to retain laymen to solicit his employment in pending or prospective cases, and reward them by a division of fees, and such a practice cannot be too severely condemned.

18. *Suing clients for fees.* Controversies with clients concerning compensation are to be avoided in so far as compatible with self-respect and with the right to receive reasonable recompense for services; and lawsuits against clients should be resorted to only to prevent injustice, imposition or fraud.

19. *Acquiring interest in litigation.* The practitioner shall not purchase or otherwise acquire any pecuniary interest in the subject matter of the litigation which he is conducting.

20. *Expenses.* A practitioner may not properly agree with a client that the practitioner shall pay or bear the expenses of litigation. He may in good faith advance expenses as a matter of convenience but subject to reimbursement by the client.

21. *Witnesses.* A practitioner shall not undertake that the compensation of a witness shall be contingent upon the success of the cause in which he is called. If the

ascertainment of truth requires that a practitioner should seek information from one connected with or reputed to be biased in favor of an adverse party, he is not thereby deterred from seeking to ascertain the truth from such person in the interest of his client.

22. *Dealing with trust property.* Money of the client or other trust property coming into the possession of the practitioner should be reported promptly, and, except with the client's knowledge and consent, should not be commingled with the practitioner's private property or be used by him.

23. *How far a practitioner may go in supporting a client's cause.* Nothing will operate more certainly to create or foster popular prejudice against practitioners as a class, and deprive them of that full measure of public esteem and confidence which belongs to the proper discharge of their duties than does the false claim, often set up by the unscrupulous in defense of questionable transactions, that it is the duty of the practitioner to do whatever may enable him to succeed in winning his client's cause.

The practitioner owes "entire devotion to the interest of the client, warm zeal in the maintenance and defense of his rights, and the exertion of his utmost learning and ability," to the end that nothing be taken or be withheld from him, save by the rules of law, legally applied. No fear of the disfavor of the Commission or public unpopularity should restrain him from full discharge of his duty. The client is entitled to the benefit of any and every remedy and defense that is authorized by the law of the land, and he may expect his counsel to assert every such remedy or defense. But it is to be steadfastly borne in mind that this great trust is to be performed within and not without the bounds of the law. Admission to the privilege of appearing before the Commission as representing another does not permit, much less does it demand of him for any client, violation of law or any manner of fraud or chicane. He must obey his own conscience and not that of his client.

24. *Restraining clients from improprieties.* A practitioner should use his best efforts to restrain and to prevent his clients from doing those things which he himself ought not to do, particularly with reference to their conduct towards the Commission, other practitioners, witnesses and suitors. If a client persists in such wrong-doing the practitioner should terminate their relations.

25. *Ill-feeling and personalities between advocates.* Clients, not their representatives, are the litigants. Whatever may be the ill-feeling existing between clients, it should not be allowed to influence practitioners in their conduct and demeanor toward each other or toward suitors in the case. All personalities between practitioners should be scrupulously avoided. In the trial of a cause it is indecent to allude to the personal history or the personal peculiarities and idiosyncrasies of practitioners on the other side. Personal colloquies between practitioners which cause delay and promote unseemly wrangling should also be carefully avoided. Their statements should be addressed to the Commission.

26. *Treatment of witnesses and litigants.* A practitioner should always treat adverse witnesses and suitors with fairness and due consideration, and he should never minister to the malevolence or prejudice of a client in the trial or conduct of a cause. The client cannot be made the keeper of the practitioner's conscience in such matters. He has no right to demand that the practitioner representing him shall abuse the opposing party or indulge in offensive personalities. Improper speech is not excusable on the ground that it is what the client would say if speaking in his own behalf.

27. (None.)

28. *Discussion of pending litigation in public press.* Attempts to influence the action and attitude of the members and examiners of the Commission through propaganda, or through colored or distorted articles, in the public press, are more apt to react against than in favor of the parties resorting to such measures. On the other hand, it is not against the public interest or unfair to the Commission that the facts of pending litigation shall be made known to the public through the press in a fair and unbiased manner and in dispassionate terms. Practitioners should themselves avoid, and should counsel their clients against, giving to the public press any press notices or statements of a nature intended to inflame the public mind, to stir up possible hostility toward the Commission, or to influence the Commission's course and judgment as to pending or anticipated litigation. When the circumstances of a particular case appear to justify a statement to the public through the press, it is unethical to make it anonymously.

29. *Candor and fairness.* The conduct of practitioners before the Commission and with other practitioners should be characterized by candor and fairness. The non-technical character and liberality of the Commission's practice call for scrupulous observance of the principles of fair dealing and just consideration for the rights of others.

It is not candid or fair for a practitioner knowingly to misstate or misquote the contents of a paper, the testimony of a witness, the language or the argument of an opposing practitioner, or the language or effect of a decision or a text book; or, with knowledge of its invalidity to cite as authority a decision which has been overruled or otherwise impaired as a precedent or a statute which has been repealed; or in argument to assert as a fact that which has not been proved, or to mislead his opponent by concealing or withholding positions in his opening argument upon which his side then intends to rely.

It is dishonorable to deal other than candidly with the facts in taking the statements of witnesses, in drawing affidavits and other documents, and in the presentation of causes.

A practitioner should not offer evidence, which he knows the Commission should reject, in order to get the same before the Commission by argument for its admissibility, or arguments upon any point not properly calling for determination. He should not introduce into an argument remarks or statements intended to influence the by-standers.

These and all kindred practices are unethical and unworthy of a practitioner.

30. *Right of practitioner to control the incidents of the trial.* As to incidental matters pending the trial, not affecting the merits of the cause or working substantial prejudice to the rights of the client, such as forcing the opposing practitioner to trial when he is under affliction or bereavement, forcing the trial on a particular day to the injury of the opposing practitioner when no harm will result from trial at a different time, agreeing to extensions of time and the like, the practitioner and not the client, must be allowed to judge. In such matters no client has a right to demand that his practitioner shall be illiberal or do anything therein repugnant to the practitioner's sense of honor and propriety.

31. *Taking technical advantage of opposing practitioner; agreements with him.* A practitioner should not ignore known customs or practice of the Commission, even when the law permits, without giving timely notice to the opposing practitioner. In so far as possible, important agreements affecting the rights of clients should be reduced to writing; but it is dishonorable to avoid performance of an agreement fairly made because it is not reduced to writing.

32. *Advertising, direct or indirect.* The most worthy and effective advertisement possible is the establishment of a well-merited reputation for capacity and fidelity to trust. This cannot be forced, but must be the outcome of character and conduct. The publication or circulation of ordinary simple business cards, being a matter of personal taste or local custom, and sometimes of convenience, is not improper. But solicitation of employment by circulars or advertisements, or by personal communications or interviews, not warranted by personal relations, is unethical. It is equally unethical to procure business by indirection through touters of any kind. Indirect advertisement for employment by furnishing or inspiring newspaper comments concerning causes in which the practitioner has been or is engaged, or concerning the manner of their conduct, the magnitude of the interests involved, the importance of the practitioner's positions, and all other like self-laudation, lower the tone of the calling and are intolerable.

33. *Professional card.* The simple professional card mentioned in Canon 32 may with propriety contain only a statement of the practitioner's name (and those of his associates), occupation, address, telephone number, and special branch or branches of practice. Such cards may be inserted in reputable lists and may give authorized references, or name clients with their permission.

34. *Stirring up litigation, directly or through agents.* It is unethical for a practitioner to volunteer advice that a proceeding be brought before the Commission, except in rare cases where ties of blood, relationship or trust make it his duty to do so. Stirring up strife and litigation is not only unethical but it is indictable at common law. It is disreputable for a practitioner to hunt up defects or other causes of action and disclose them in order to be employed to bring complaint, or to breed litigation by seeking out those having claims for damages or any other grounds of action in order to secure them as clients. or to employ agents or runners for like purposes, or to pay or reward, directly or indirectly, those who bring or influence the bringing of such cases to his office to seek his services. No complaint should be brought before the Commission by a practitioner except with the distinct knowledge and specific consent of the client in the particular case. A duty to the public and to the Association devolves upon every member having knowledge of such practices upon the part of any practitioner, immediately to inform thereof to the end that the offender may be disciplined or disbarred.

35. *Justifiable and unjustifiable litigation.* The practitioner must decline to conduct a cause or to make a defense when convinced that it is intended merely to harass or to injure the opposing party, or to work oppression or wrong. But otherwise it is his right, and having accepted retainer, it becomes his duty, to insist upon the judgment of the Commission as to the merits of his client's claim. His appearance should be deemed equivalent to an assertion upon his honor that in his opinion his client's case is one proper for determination.

36. *Responsibility for litigation.* No practitioner is obliged to act either as adviser or advocate for every person who may seek to become his client. He has the right to decline employment. Every practitioner upon his own responsibility must decide what employment he will accept, what causes he will bring before the Commission for complainants, or contest for defendants or respondents. The responsibility for advising as to questionable transactions, for bringing questionable proceedings, for urging questionable defenses is his alone. He cannot escape it by urging as excuses that he is only following his client's instructions, or that he is under a stated retainer or in the regular employment of his client.

37. *Discovery of imposition and deception.* When a practitioner discovers that some

fraud or deception has been practiced, which has unjustly imposed upon the Commission or a party, he should endeavor to rectify it; first by advising his client to forego any advantage thus unjustly gained and, if his client refuses, by promptly informing the injured person or his counsel (practitioner), so that appropriate steps may be taken.

38. *Upholding the honor of the calling.* Practitioners should expose without fear or favor before the proper tribunals corrupt or dishonest conduct and should accept without hesitation employment against a practitioner who has wronged his client. The practitioner upon the trial of a cause in which perjury has been committed owes it to the Commission and to the public to bring the matter to the knowledge of the prosecuting authorities. The practitioner should aid in guarding the bar of the Commission against admission thereto of candidates unfit or unqualified because deficient in either moral character or education. A practitioner should propose no person for admission to practice before the Commission unless from personal knowledge or upon reasonable inquiry he sincerely believes and is able to vouch that such person possesses the qualifications prescribed in the Commission's rules of practice. He should strive at all times to uphold the honor and maintain the dignity of his calling and to improve not only the law but the administration of justice.

39. *Intermediaries.* The services of a practitioner should not be controlled or exploited by any lay agency, personal or corporate, which intervenes between client and practitioner. His responsibility and qualifications are individual. He should avoid all relations which direct the performance of his duties in the interest of such intermediaries. His relation to the client should be personal, and the responsibility should be direct to the client.

He may accept employment from any organization such as an association, club or trade organization, authorized by law to be a party to proceedings before the Commission, to render services in such proceedings in any matter in which the organization, as an entity, is interested. This employment should only include the rendering of such services to the members of the organization in respect to their individual affairs as are consistent with the free and untrammeled performance of his duties to the Commission.

Nothing in this canon shall be construed as conflicting with canon 17.

40. *Retirement from public employment.* A practitioner, having once held public office or having been in the public employ, should not after his retirement, accept employment as an advocate or adviser in the same proceeding or as to the same, or substantially the same, facts as were involved in any specific question which he investigated or passed upon in a judicial or quasi-judicial capacity while in such office or employ, whether the same or different parties are concerned.

41. *Confidences of a client.* The duty to preserve his client's confidences in the course of his employment outlasts the practitioner's employment, and extends as well to his employees. None of them should accept employment which involves the disclosure or use of these confidences, either for the private advantage of the practitioner or his employees or to the disadvantage of the client, without knowledge and consent of the client even though there are other available sources of such information. A practitioner should not continue employment when he discovers that this obligation prevents the performance of his full duty to his former or to his new client.

If a practitioner is falsely accused by his client, he is not precluded from disclosing the truth in respect to the false accusation. The announced intention of a client to commit a crime is not included within the confidences which a practitioner is bound to respect. He may properly make such disclosures as to prevent the act or protect those against whom it is threatened.

42. *Partnerships-names.* Partnerships among practitioners for the practice of their calling are very common and are not to be condemned. The rules of the Commission provide that corporations or firms will not be recognized. Practitioners before the Commission should therefore appear individually and not as members of partnerships. In the formation of partnerships care should be taken not to violate any law locally applicable; care should also be taken to avoid any misleading name or representation which would create a false impression as to the position or privileges of a member not locally admitted, or who is not duly authorized to practice, and as such amenable to discipline. No person should be held out as a practitioner or member who is not so admitted. No practitioner who is not admitted to practice in the courts should be held out in a way which will give the impression that he is so admitted. No false or assumed or trade name should be used to disguise the practitioner or his partnership. The continued use of the name of a deceased or former partner is or may be permissible by local custom, but care should be taken that no imposition or deception is practiced through this use. If a member of the firm becomes a Commissioner, or an Examiner or other employee of the Commission his name should not be retained in the firm name, as such retention may give color to the impression that an improper relation or influence is continued or possessed by the firm.

This canon does not inhibit the association of a practitioner with a mercantile, manufacturing, or other commercial institution, in the capacity of its representative or adviser.

43. *Titles.* No member of the Association not admitted to the bar shall use the title "Attorney" or "Counsel" but should use the title "Traffic Manager," "Practitioner before the Interstate Commerce Commission," "Registered Practitioner," or other appropriate title or designation.

APPENDIX B—APPROVED FORMS

TABLE OF CONTENTS

[These forms may be used in cases to which they are applicable, with such alterations as the circumstances may render necessary. Before using such forms the pertinent rules, particularly those referred to in the footnotes, should carefully be studied.]

No. 1. COMPLAINT[1]

Before the Interstate Commerce Commission

COMPLAINT

V.

[Insert without abbreviation the names of complainant and defendant (including each of the receivers, operating trustees, or other legal representatives of defendant), and whether a corporation, firm, or partnership, specifying the individual names of the parties composing the partnership; and the postoffice address of any motor-carrier defendant.]

The Complaint of the above-named complainant respectfully shows:

I. That [complainant should here state nature and place of business, also whether a corporation, firm, or partnership, and if a firm or partnership, the individual names of the parties composing the same.]

II. That the defendant above named is [here state whether: (a) carrier by railroad, express, motor vehicle (common or contract), water (common or contract), a freight forwarder, or otherwise; (b) the transportation is of property or passengers, or both; and (c) the transportation involves a freight forwarder or more than one type of carrier, specifying particulars] between points in the State of_____ and points in the State of_____ [a complaint under part II should specifically name the States in and through which the transportation which gives rise to the complaint is performed] and as such defendant is subject to the provisions of the Interstate Commerce Act.

III. That [state in this and subsequent paragraphs to be numbered IV, V, etc., the matter or matters intended to be complained of, naming every rate, fare, charge, classification, regulation, or practice the lawfulness of which is challenged, and also, if practicable, the points between which the rates, etc., complained of are applied. Where it is impracticable to designate each point, describe clearly the rate territory or rate group involved. Whenever practicable tariff or schedule reference should be given.]

[Where unlawful discrimination, preference, or prejudice is alleged the particular elements specified in the act as constituting such violation (see sections 2, 3, 4, 13, 216, 217, 218, 305, and 406) and the facts upon which complainant relies to establish the violation should be stated clearly. Where any provision of the act other than those just mentioned, or any requirement established pursuant to the act, is alleged to be violated, the pertinent statutory provision, or established requirement, together with the facts which are alleged to constitute the violation, should be stated. If two or more subsections of the act or requirements established pursuant thereto are alleged to be violated, the facts claimed to constitute violation of one subsection, or requirement, should be stated separately from those claimed to constitute a violation of another subsection, or requirement, wherever that can be done by reference or otherwise without undue repetition.]

X. That by reason of the facts stated in the foregoing paragraphs complainant has been subjected to the payment of rates [fares or charges, etc.] for transportation which were when exacted and still are (1) unjust and unreasonable in violation of section _____ of the Interstate Commerce Act, and (2) unjustly discriminatory in violation of section_____, and (3) unduly preferential or prejudicial in violation of section_____, and (4) in violation of the long-and-short haul [or aggregate of intermediate rates] provision of section 4 thereof. [Use one or more of the allegations numbered (1), (2), (3), (4), or other appropriate allegation according to the nature of the complaint.] That [if recovery of damages is sought] complainant has been injured thereby to his damage in the sum of $_____.

Wherefore complainant prays that defendant be required to answer the charges herein; that after due hearing and investigation an order be made commanding said defendant [and each of them] to cease and desist from the aforesaid violations of said act, and establish and put in force and apply in future to the transportation of_____ between the origin and destination points named in paragraph_____hereof, in lieu of the rates [fares, or charges, etc.], named in said paragraph, such other rates [fares, or charges, etc.], as the Commission may deem reasonable and just [and also, if recovery of damages is sought, pay to complainant by

[1] See §§ 1.26 to 1.33, inclusive.

way of reparation for the unlawful charges hereinbefore alleged the sum of $ _____, or such other sum as, in view of the evidence to be adduced herein, the Commission shall determine that complainant is entitled to an award of damages under the provisions of said act for violation thereof], and that such other and further order or orders be made as the Commission may consider proper in the premises.

Dated at _____, 19____.

_____
(Complainant's signature [2])

_____
(Office and post-office address)

_____
(Signature of practitioner)

_____
(Post-office address)

VERIFICATION [3]

STATE of _____ }
County of _____ } *ss:*

_____, being duly sworn, deposes and says: that he is the complainant (or, one of the complainants; or, is the (insert title of the affiant if complainant is a corporation) of the _____ company, complainant) in the above-entitled proceeding; that he has read the foregoing complaint, and knows the contents thereof; that the same are true as stated, except as to matters and things if any, stated on information and belief, and that as to those matters and things, he believes them to be true.

_____

Subscribed in my presence, and sworn to before me, by the affiant above named, this _____ day of _____, 19____.

[USE AN L. S. IMPRESSION SEAL]

_____
[Title of Officer]

Commission expires _____

No. 2. ANSWER [4]

Before the Interstate Commerce Commission

ANSWER

Docket No. _____

_____

v.

_____

The above-named defendant, for answer to the complaint in this proceeding, respectively states:

I. [Here set forth appropriate and responsive admissions, denials, and averments, specifically answering the complaint paragraph by paragraph.]

Wherefore defendant prays that _____

Dated _____, 19____.

_____
[Name of defendant]

By [5] _____

_____
[Title of officer]

_____
[Office and post-office address]

_____
[Signature of practitioner]

_____
[Post-office address]

No. 3. CERTIFICATE OF SERVICE [6]

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding, by (here state the precise manner of making service, which must be consistent with the provisions of Rule 22).

Dated at _____, this ____ day of _____, 19__.

(Signature) _____

No. 4. PETITION FOR LEAVE TO INTERVENE [7]

Before the Interstate Commerce Commission

PETITION

_____ }
v. } Docket No. _____
_____ }
[or state other title]

Comes now your petitioner, _____, and respectfully represents that he has an interest in the matters in controversy in the above-entitled proceeding and desires to intervene in and become a party to said proceeding, and for grounds of the proposed intervention says:

I. That [petitioner should here state nature and place of business, and whether a corporation, firm, or partnership, etc., as in form No. 1].

II. [Petitioner should here set out specifically his position and interest in the proceeding.]

III. [If affirmative relief is sought see paragraphs III and X and prayer in form No. 1]

Wherefore said _____ prays leave to intervene and be treated as a party hereto with the right to have notice of and appear at the taking of testimony, produce and cross examine witnesses, and be heard in person or by counsel upon brief and at the oral argument, if oral argument is granted.

[If affirmative relief is sought insert appropriate prayer here.]

Dated at _____, 19____.

[See forms Nos. 1 and 3 as to subscription, verification, and certificate of service.]

No. 5. FORM OF REPARATION STATEMENT UNDER § 1.100

Claim of _____ under decision of the Interstate Commerce Commission in Docket No. _____

Date of shipment	Date of delivery or tender of delivery	Date charges were paid	Car [1] initials	Car [2] number	Origin [3]	Destination	Route	Commodity	Weight	As charged		Should be		Reparation on basis of the Commission's decision	Charges paid by [3]
										Rate	Amount	Rate	Amount		

Claimant hereby certifies that this statement includes claims only on shipments covered by the findings in the docket above described and contains no claim for reparation previously filed with the Commission by or on behalf of claimant or, so far as claimant knows, by or on behalf of any other person, in any other proceedings, except as follows: (Here indicate any exceptions, and explanation thereof).

_____,
Claimant

By _____,
Practitioner

_____
Address

_____
Date

Total amount of reparation $_____

The undersigned hereby certifies that this statement has been checked against the records of this company and found correct.

Date _____ Concurred [4] in: _____ Company _____ Company, Defendant Collecting Carrier, Defendant.[4]

By _____, Auditor. By _____, Auditor.

[1] Substitute "Vessel" if water carrier involved. [2] Substitute "Voyage No." if water carrier involved.
[3] Here insert name of person paying charges in the first instance, and state whether as consignor, consignee, or in what other capacity.
[4] If not a defendant, strike out word "defendant."
[5] For concurring certificate in case collecting carrier is not a defendant.

No. 6. VERIFICATION FOR STATEMENTS OF FACT FILED UNDER MODIFIED PROCEDURE [8]

STATE OF _____,
County of _____, *ss:*

_____ being duly sworn, deposes and says that he has read the foregoing statement, knows the contents thereof, and that the same are true as stated.

(Signed) _____

Subscribed and sworn to before me this _____ day of _____.

Notary Public of _____.
My Commission expires _____.

[7] See § 1.72.
[8] See § 1.50.

[F.R. Doc. 62-7569; Filed, July 31, 1962; 8:54 a.m.]

[1] See footnote to Verification.
[2] Signature and verification by complainant unnecessary if complaint is signed by a practitioner. See § 1.17.
[3] See §§ 1.35 to 1.37, inclusive.
[4] See § 1.17.
[5] See § 1.22.

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Department of Commerce

Effective upon publication in the FEDERAL REGISTER, subparagraph (2) of paragraph (j) of § 6.112 is amended as set out below.

§ 6.112 **Department of Commerce.**

* * * * *

(j) *Office of the Assistant Secretary for International Affairs.* * * *

(2) Not to exceed 40 positions of Managers and Deputy Managers of International Trade Fairs and Exhibit Programs in foreign countries when the duties require a considerable portion of the employee's time to be spent in foreign countries.

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

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

[F.R. Doc. 62-7567; Filed, July 31, 1962; 8:53 a.m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Department of Defense

Effective upon publication in the FEDERAL REGISTER, paragraph (b) (1) is added to § 6.204 as set out below.

§ 6.204 **Department of Defense.**

* * * * *

(b) *Defense Supply Agency.*

(1) Until July 1, 1963, three positions of Intergroup Relations Specialist above GS-12.

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

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

[F.R. Doc. 62-7565; Filed, July 31, 1962; 8:52 a.m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Department of Agriculture

Effective upon publication in the FEDERAL REGISTER, subparagraph (5) of paragraph (e) of § 6.311 is revoked.

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

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

[F.R. Doc. 62-7566; Filed, July 31, 1962; 8:53 a.m.]

Title 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER C—EXPORT PROGRAMS

[Announcement CN-EX-15, Amdt. 1]

PART 482—COTTON

Subpart—1962-63 Cotton Export Program—Payment-in-Kind Regulations

MISCELLANEOUS AMENDMENTS

In order to provide that cotton purchased under Announcement CN-EX-16, 1962-63 Cotton Export Program—Sales, may be exported under this subpart and that Cotton Export Payment Certificates earned under this subpart may be used in payment for upland cotton purchased under any CCC sales announcements providing for acceptance of such certificates, the 1962-63 Cotton Export Program—Payment-In-Kind Regulations (Announcement CN-EX-15) dated April 4, 1962, (27 F.R. 3309) are hereby amended as follows:

1. Paragraph (f) of § 482.503 is amended, effective as to all export sales and consignments registered under this subpart on or after June 26, 1962, to read as follows:

§ 482.503 **General conditions of eligibility.**

* * * * *

(f) Cotton exported pursuant to any program wherein the CCC sales price reflects an export allowance (except for cotton purchased under an announcement allowing for payment under this subpart), cotton which is sold by CCC under conditions specifically excluding such cotton from exportation under this subpart, cotton exported pursuant to a CCC barter contract, cotton exported under an export sale financed under Title I or IV of Public Law 480, 83d Congress (unless the applicable purchase authorization specifically provides that such cotton shall be eligible for a payment under this subpart), and cotton shipped as offset cotton in connection with Proclamation 2544 of the President of the United States shall not be eligible for a payment under this subpart.

2. Paragraph (c) of § 482.511 is amended, effective as to all Cotton Export Payment Certificates issued under this subpart, to read as follows:

§ 482.511 **Cotton Export Payment Certificates.**

* * * * *

(c) *Redemption.* The certificate will be redeemable by CCC at face value (1) in payment for upland cotton purchased under CCC sales announcements providing for acceptance of such certificate, (2) in repayment of upland cotton loans which are outstanding under CCC cotton loan programs, or (3) for cash, if it has not been used to obtain cotton under subparagraph (1) or (2) of this paragraph and if it is presented to the New Orleans office for payment not earlier than 60 days after issuance and not later than the expiration date of the certificate. CCC will offer to execute agreements with commercial banks under which such banks may present certificates to the New Orleans office through Federal Reserve banks or branch banks for cash redemption, and certificate holders may arrange with the commercial banks which execute such agreements with CCC to have their certificates presented for cash redemption through banking channels.

(Sec. 4, 5, 62 Stat. 1070, as amended; sec. 203, 70 Stat. 188; 15 U.S.C. 714b, 714c, 7 U.S.C. 1853)

Signed at Washington, D.C., on July 26, 1962.

RAYMOND A. IOANES,
Vice President,
Commodity Credit Corporation.

[F.R. Doc. 62-7550; Filed, July 31, 1962; 8:49 a.m.]

Title 7—AGRICULTURE

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

PART 990—CENTRAL CALIFORNIA GRAPES FOR CRUSHING

Setaside; Storage of High Proof in Same Container

Notice was published in the July 10, 1962, issue of the FEDERAL REGISTER (27 F.R. 6500) that there was under consideration a proposal recommended by the Grape Crush Administrative Committee to amend § 990.154 of the Subpart—Administrative Rules and Regulations (27 F.R. 3158) by the addition of a new paragraph (d) pertaining to the handler storage, and withdrawal therefrom, of setaside high proof from grapes for crushing of one crop year in the same container with other high proof, whether or not such other high proof has been set aside pursuant to § 990.54, from grapes for crushing of any other crop year(s). Said subpart is effective under the provisions of the marketing agreement and Order No. 990 (7 CFR Part 990), regulating the handling of Central California grapes for crushing. This marketing order program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

Said notice afforded interested persons a 15-day period to submit written data, views, or arguments pertaining to the proposal. No such comments were submitted and such time has expired.

After consideration of all relevant matters presented, including information and recommendations submitted by the Committee, and other available information, it is hereby found that to amend § 990.154, as hereinafter set forth, will tend to effectuate the declared policy of the act.

Therefore, it is hereby ordered, That § 990.154 be amended by adding a new paragraph (d) to read as follows:

§ 990.154 **Setaside.**

* * * * *

(d) *Storage of high proof in the same container*—(1) *Simultaneous storage.* No handler shall store setaside high proof from grapes for crushing of any crop year in the same container with other high proof, whether or not set aside pursuant to § 990.54, from grapes for crushing of any other crop year(s) except in accordance with the requirements of § 990.54 and the following: Such handler (i) stores in such container only marketable high proof of not less than 185 degrees proof or only high proof within the lesser range of alcohol at which setaside storage is permitted by the Committee pursuant to § 990.54;

(ii) stores all high proof in such container to preserve the quality of the setaside high proof and maintain its condition as required by § 990.54; (iii) attaches near the outlet of such container a tank card furnished by the Committee and showing currently the number of proof gallons, by crop year, of the setaside high proof being held in such container for the account of the Committee; and (iv) makes no withdrawal from such container below the handler's then effective aggregate setaside therein.

(2) *Substitution.* Pursuant to § 990.54, each handler holding setaside high proof may substitute therefor only products of the same crop year eligible for setaside. If such setaside high proof of a particular crop year is in the same container with other high proof, the handler may, upon the setting aside of the requisite proof gallons of eligible product(s) of that crop year, withdraw the applicable proof gallon quantity of high proof. No substitution may be made except upon prior notice to the Committee.

(3) *Disposition.* Whenever setaside high proof in simultaneous storage is included in a disposition of the Committee, pursuant to § 990.62, the withdrawal gallonage shall be deemed to be from the setaside of the crop year specified by the Committee in its disposition action.

It is hereby further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1003(c)) in that: (1) Handlers are producing high proof from grapes for crushing received during the 1962–63 crop year which began July 1, 1962; (2) handlers must plan their operations and provide for storage of such high proof as well as high proof set aside during the 1961–62 crop year; and (3) this clarifying and enabling action will reduce the need for storage space for high proof and thereby benefit handlers and the industry.

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

Dated: July 27, 1962, to become effective upon publication in the FEDERAL REGISTER.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 62-7547; Filed, July 31, 1962; 8:48 a.m.]

PART 993—HANDLING OF DRIED PRUNES PRODUCED IN CALIFORNIA

Establishment of More Restrictive Grade Regulation for Application When Estimated Season Average Price to Producers Does Not Exceed Parity

Notice was published in the July 17, 1962, issue of the FEDERAL REGISTER (27 F.R. 6754) that consideration was being given to a proposal to establish more restrictive grade regulation for application to handlers' receipts of natural condition prunes and their shipments or other final dispositions of natural condition or processed prunes whenever the estimated season average price to producers does not exceed the parity level specified in section 2(1) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The regulation was recommended by the Prune Administrative Committee, and is in accordance with the provisions of the marketing agreement, as amended, and Order No. 993, as amended (7 CFR Part 993), regulating the handling of dried prunes produced in California, effective under the said act. The notice afforded interested persons the opportunity to submit written data, views, or arguments on the proposal. None were received.

Based on information submitted by the Prune Administrative Committee, and other available supply and demand information, it is estimated that the season average price to producers for prunes for the 1962–63 crop year will not be in excess of the estimated average parity price for prunes for such crop year. The more restrictive grade regulation hereinafter set forth will, upon becoming effective, be operative for the 1962–63 crop year beginning August 1, 1962, and for any other crop year for which the estimated season average price to producers for prunes does not exceed the estimated average parity price for that crop year.

After consideration of all relevant matters presented in the notice, the recommendation of the Prune Administrative Committee, and other available information, it is concluded that establishment of more restrictive grade regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act.

Therefore, more restrictive grade regulation is hereby established as follows:

§ 993.601 More restrictive grade regulation.

(a) *Incoming and outgoing regulation.* Whenever the estimated season average price to producers for prunes does not exceed the parity level specified in section 2(1) of the act, the minimum standards which handlers' receipts of natural condition prunes are required to meet pursuant to § 993.49(a) shall be the standards specified in § 993.49(a) and § 993.97I, and the minimum standards which handlers' shipments or other final dispositions of prunes are required to meet pursuant to § 993.50(a) shall be the applicable standards set forth in § 993.97 *Exhibit A; minimum standards,* except that the following combined tolerance allowance for certain defects shall apply in lieu of the tolerance allowance prescribed in paragraph I C(5) of § 993.97 and also in lieu of that prescribed in paragraph II C(6) of § 993.97:

The combined tolerance allowance for off-color, inferior meat condition, end cracks, fermentation, skin or flesh damage, scab, burned, mold, imbedded dirt, insect infestation, and decay shall not exceed fifteen percent (15%), except that the first eight percent (8%) of end cracks shall be given one-half value and any additional percentage of end cracks shall be given full value.

(b) *Above parity situations.* Whenever the estimated season average price to producers for prunes exceeds the parity level specified in section 2(1) of the act, the minimum standards set forth in § 993.97 shall apply in their entirety.

It is hereby determined that good cause exists for not postponing the effective time hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1003(c)) in that: (1) This action is being taken as soon as practicable after reasonably reliable information for the 1962–63 crop year became available; (2) it is necessary that the more restrictive grade regulation established herein become effective promptly so it may apply from the beginning (August 1, 1962) of the 1962–63 crop year or as soon thereafter as possible and thus improve consumer and manufacturer acceptance of prunes and returns to producers; and (3) handlers have been notified of the proposed regulation and should require no additional time to prepare for compliance with the regulation.

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

Dated July 27, 1962, to become effective upon publication in the FEDERAL REGISTER.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 62-7548; Filed, July 31, 1962; 8:48 a.m.]

Chapter X—Agricultural Stabilization and Conservation Service (Marketing Agreements and Orders), Department of Agriculture

MILK IN CERTAIN MARKETING AREAS

Orders Amending Orders

[Milk Order No. 5]

PART 1005—MILK IN TRI-STATE MARKETING AREA

§ 1005.0 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 Tri-State marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in this marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued July 6, 1962, and the final decision containing all amendment provisions of this order has been issued. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in § 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

(3) The issuance of the order amending the order is approved or favored by at least three-fourths of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Tri-State 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. In § 1005.22(j), subparagraph (1) is revised to read as follows:

§ 1005.22 Duties.

* * * * *

(j) * * *

(1) On or before the 5th day of each month, the Class I price and the Class I butterfat differential for the month and the Class II and Class III prices and the Class II and Class III butterfat differentials for the preceding month, as computed pursuant to §§ 1005.50 through 10005.55; and

2. Section 1005.50 is revised to read as follows:

§ 1005.50 Basic formula price.

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

3. The introductory text of § 1005.51 is revised to read as follows:

§ 1005.51 Class I milk prices.

Subject to the provisions of §§ 1005.54 through 1005.57, the minimum price per hundredweight on a 3.5 percent butterfat content basis to be paid by each handler for producer milk classified as Class I milk for the month, shall be the basic formula price for the preceding month determined pursuant to § 1005.50 adjusted as follows:

4. Paragraph (b) of § 1005.53 is revised to read as follows:

§ 1005.53 Class III milk prices.

* * * * *

(b) For each month except April, May, June and July, the price for Class III milk shall be the price (rounded to the nearest one-tenth cent) computed pursuant to subparagraph (1) or subparagraph (2) of this paragraph, whichever is higher:

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

Present Operator and Location

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

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

(i) From the average price per pound of butter for the month as described in § 1005.50, subtract three cents, add 20 percent thereof, and then multiply by 3.5; and

(ii) From the average of the carlot prices per pound of nonfat dry milk for human consumption, spray and roller process, f.o.b. manufacturing plants in the Chicago area, as published by the Department of Agriculture for the period from the 26th day of the previous month through the 25th day of the current month, deduct 5.5 cents, multiply by 8.5, and then multiply by 0.965.

5. Section 1005.54 is amended by revising paragraph (a) and paragraph (b) to read as follows:

§ 1005.54 Butterfat differentials to handlers.

* * * * *

(a) *Class I milk.* Add 1.0 cent to the butterfat differential for Class II and Class III milk for the preceding month computed pursuant to paragraph (b) of this section;

(b) *Class II and Class III milk.* Subtract 3.0 cents from the average price per pound of butter for the month as described in § 1005.50 and multiply by 0.119.

[Milk Order No. 11]

PART 1011—MILK IN APPALACHIAN MARKETING AREA

§ 1011.0 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 procedures 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 Appalachian marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in this marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued July 6, 1962, and the final decision containing all amendment provisions of this order has been issued. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

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

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Appalachian 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. Section 1011.50 is revised to read as follows:

§ 1011.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent.

2. In § 1011.51 paragraphs (a) and (b) (1) and (2) are revised to read as follows:

§ 1011.51 Class price.

* * * * *

(a) *Class I milk price.* The Class I milk price shall be the basic formula price for the preceding month, plus $1.67 during the months of March through July; and $2.11 during all other months.

(b) * * *

(1) The average of the basic (or field) prices reported to have been paid or to be paid per hundredweight for milk of 4.0 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department on or before the 6th day after the end of the month, less five times the butterfat differential for the month computed pursuant to § 1011.52(b):

Company and Location

Borden Co., Lewisburg, Tenn.
Borden Co., Chester, S.C.
Carnation Co., Galax, Va.
Carnation Co., Murfreesboro, Tenn.
Carnation Co., Statesville, N.C.
Franklin Milk, Co., Jonesboro, Tenn.
Kraft Foods Co., Independence, Va.
Kraft Foods Co., Greeneville, Tenn.
Pet Milk Co., Greeneville, Tenn.
Pet Milk Co., Abingdon, Va.

(2) Add the amounts obtained pursuant to subdivisions (i) and (ii) of this subparagraph, subtract 75 cents and subtract five times the butterfat differential for the month computed pursuant to § 1011.52(b).

(i) Multiply the Chicago butter price by 4.8;

(ii) Multiply by 8.2 the weighted average of carlot prices per pound for spray process nonfat dry milk for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month, by the Department.

§§ 1011.52, 1011.71, 1011.72, 1011.91 [Amendment]

3. In §§ 1011.52, 1011.71, 1011.72 and 1011.91, "4.0" is changed to "3.5" wherever it appears.

[Milk Order No. 65]

PART 1065—MILK IN NEBRASKA-WESTERN IOWA MARKETING AREA

§ 1065.0 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 Nebraska-Western Iowa marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in this marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued July 6, 1962, and the final decision containing all amendment provisions of this order has been issued. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective

August 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

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

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Nebraska-Western Iowa 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. Section 1065.50 is revised to read as follows:

§ 1065.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent.

[Milk Order No. 66]

PART 1066—MILK IN SIOUX CITY, IOWA, MARKETING AREA

§ 1066.0 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 Sioux City, Iowa, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in this marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued July 6, 1962, and the final decision containing all amendment provisions of this order has been issued. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

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

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Sioux City, Iowa, 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. Section 1066.50 is revised to read as follows:

§ 1066.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the United States Department of Agriculture for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent.

2. In § 1066.51 the introductory text of paragraph (a) is revised to read as follows:

§ 1066.51 Class prices.

* * * * *

(a) *Class I milk.* The price per hundredweight of Class I milk containing 3.5 percent butterfat shall be the basic formula price for the preceding delivery period, plus $1.40.

* * * * *

[Milk Order No. 71]

PART 1071—MILK IN NEOSHO VALLEY MARKETING AREA

§ 1071.0 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 Neosho Valley marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in this marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued July 6, 1962, and the final decision containing all amendment provisions of this order has been issued. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

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

Order relative to handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the Neosho Valley 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. Section 1071.50 is revised to read as follows:

§ 1071.50 Basic formula price.

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

2. In § 1071.51, paragraph (a) and the introductory text of paragraph (b) are revised to read as follows:

§ 1071.51 Class prices.

* * * * *

(a) *Class I milk.* The price for Class I milk shall be the basic formula price for the preceding delivery period plus the following amounts per hundredweight: $1.00 during the delivery periods April through June, and $1.45 during the delivery periods of July through March: *Provided,* That for each of the delivery periods of September through December, such price shall not be less than that for the preceding delivery period, and that for each of the delivery periods of April through June such price shall be not more than that for the preceding delivery period: *And provided further,* That the price so determined shall be further adjusted by subtracting any amount by which such price exceeds the higher of, or adding any amount by which such price is less than the lower of the following:

(1) The price for Class I milk of 3.5 percent butterfat content established for the same month or delivery period pursuant to Part 1106 of this chapter regulating the handling of milk in the Oklahoma Metropolitan marketing area less 33 cents; or

(2) The price for Class I milk of 3.5 percent butterfat content established for the same month or delivery period under Part 1067 of this chapter regulating the handling of milk in the Ozarks marketing area, plus 15 cents.

(b) *Class II milk.* The price per hundredweight for Class II milk shall be the higher of the price computed pursuant to subparagraphs (1) and (2) of this paragraph, less 5 times the butterfat differential for the respective month computed pursuant to § 1071.52(b).

§§ 1071.52, 1071.71, 1071.72, 1071.91 [Amendment]

3. In §§ 1071.52, 1071.71, 1071.72, and 1071.91, "4.0" is changed to "3.5" wherever it appears.

[Milk Order No. 72]

PART 1072—MILK IN SIOUX FALLS-MITCHELL, S. DAK., MARKETING AREA

§ 1072.0 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 Sioux Falls-Mitchell, South Dakota, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in this marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued July 6, 1962, and the final decision containing all amendment provisions of this order has been issued. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

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

Order relative to handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the Sioux Falls-Mitchell, South Dakota, 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. A new § 1072.50 is added to read as follows:

§ 1072.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department of Agriculture for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent.

2. Section 1072.50 is redesignated as § 1072.51 and paragraph (a) therein is revised to read as follows:

§ 1072.51 Class prices.

* * * * *

(a) *Class I milk price.* The Class I milk price shall be the basic formula price for the preceding month plus $1.30.

§ 1072.51 [Redesignation]

3. Section 1072.51 is redesignated as § 1072.52 and the reference "§ 1072.50" therein is revised to "§1072.51".

§ 1072.52 [Redesignation]

4. Section 1072.52 is redesignated as § 1072.53.

§ 1072.55 [Amendment]

5. In § 1072.55 the reference "1072.51" is revised to "1072.52".

[Milk Order No. 73]

PART 1073—MILK IN WICHITA, KANSAS, MARKETING AREA

§ 1073.0 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 Wichita, Kansas, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in this marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued July 6, 1962, and the final decision containing all amendment provisions of this order has been issued. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

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

Order relative to handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the Wichita, Kansas, 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. Section 1073.50 is revised to read as follows:

§ 1073.50 Basic formula price.

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

2. In § 1073.51, the introductory texts of paragraph (a) and of paragraph (c) are revised to read as follows:

§ 1073.51 Class prices.

* * * * *

(a) *Class I milk.* The price per hundredweight shall be the basic formula price for the preceding month plus $1.57 during all months of the year, plus or minus a supply-demand adjustment computed as follows: *Provided*, That the Class I price so computed shall not be less than the Class I price for milk containing 3.5 percent butterfat for the same period pursuant to Federal Order No. 64 (Greater Kansas City) during each month of the period August through March and plus ten cents for each of the months of April through July, nor more than the Kansas City Class I price (3.5 percent butterfat content) plus fifty cents during each of the months of the period August through March and plus sixty cents for each of the months of April through July.

* * * * *

(c) *Class III milk.* The price per hundredweight shall be the higher of the prices computed pursuant to subparagraphs (1) and (2) of this paragraph, less three times the butterfat differential for the respective month computed pursuant to § 1073.52(c).

§§ 1073.52, 1073.71, 1073.80, 1073.81 [Amendment]

3. In §§ 1073.52, 1073.71, 1073.80 and 1073.81, "3.8" is changed to "3.5" wherever it appears.

[Milk Order No. 74]

PART 1074—MILK IN SOUTHWEST KANSAS MARKETING AREA

§ 1074.0 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 Southwest Kansas marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in this marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued July 6, 1962, and the final decision containing all amendment provisions of this order has been issued. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

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

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Southwest Kansas 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. Section 1074.50 is revised to read as follows:

§ 1074.50 Basic formula price.

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

2. In § 1074.51 the introductory text of paragraph (a), that part of paragraph (a) following subdivision (iii) of subparagraph (3) and paragraph (b) are revised to read as follows:

§ 1074.51 Class prices.

* * * * *

(a) *Class I milk.* The price per hundredweight shall be the basic formula price for the preceding month plus $1.65 during all months of the year plus or minus a supply-demand adjustment, computed as follows:

* * * * *

The price so determined shall be further adjusted by subtracting any amount by which such price exceeds the higher of, or adding any amount by which such price is less than the lower of, the price for Class I milk of 3.5 percent butterfat content established for the same month or delivery period pursuant to Part 1073 of this chapter regulating the handling of milk in the Wichita, Kansas, marketing area or the price of Class I milk of 3.5 percent butterfat content established for the same month or delivery period pursuant to Part 1132 of this chapter regulating the handling of milk in the Texas Panhandle marketing area during the months of March, April, May and June and 25 cents less than such price computed for the Texas Panhandle marketing area in all other months.

(b) *Class II milk.* The price per hundredweight shall be the average price reported by the Department for the current month for milk for manufacturing purposes, f.o.b. plant, United States, adjusted to a 3.8 percent butterfat basis by direct ratio, less three times the butterfat differential for the respective month computed pursuant to § 1074.52 (b).

§§ 1074.52, 1074.71, 1074.81 [Amendment]

3. In §§ 1074.52, 1074.71, and 1074.81, "3.8" is changed to "3.5" wherever it appears.

[Milk Order No. 75]

PART 1075—MILK IN THE BLACK HILLS, SOUTH DAKOTA, MARKETING AREA

§ 1075.0 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 Black Hills, South Dakota, 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 mini-

mum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in this marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued July 6, 1962, and the final decision containing all amendment provisions of this order has been issued. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

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

Order relative to handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the Black Hills, South Dakota, 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. Section 1075.50 is revised to read as follows:

§ 1075.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent.

2. Paragraph (b) of § 1075.51 is revised to read as follows:

§ 1075.51 Class prices.

* * * * * *

(b) *The Class II milk price.* The Class II milk price shall be the sum of the amounts computed pursuant to subparagraphs (1) and (2) of this paragraph:

(1) Subtract 6.5 cents from the Chicago butter price for the month and multiply the remainder by 4.2.

(2) From the simple average, as computed by the market administrator, of the arithmetical average of the carlot prices per pound of nonfat dry milk solids, spray and roller process for human consumption delivered at Chicago as reported for the month by the Department, subtract 6.5 cents and multiply the remainder by 7.913: *Provided,* That if the Department does not publish the above stated price for nonfat dry milk solids there shall be used in lieu thereof the price for nonfat dry milk solids, spray and roller process for human consumption, f.o.b. manufacturing plants in the Chicago area as published by the Department for the period from the 26th day of the preceding month through the 25th day of the current month.

[Milk Order No. 76]

PART 1076—MILK IN EASTERN SOUTH DAKOTA MARKETING AREA

§ 1076.0 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 Eastern South Dakota marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in this marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued July 6, 1962, and the final decision containing all amendment provisions of this order has been issued. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

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

Order relative to handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the Eastern South Dakota 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. Section 1076.50 is revised to read as follows:

§ 1076.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent.

[Milk Order No. 90]

PART 1090—MILK IN CHATTANOOGA, TENNESSEE, MARKETING AREA

§ 1090.0 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 Chattanooga, Tennessee, 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 sufficent quantity of pure and wholesome milk, and be in the public interest; and

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in this marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued July 6, 1962, and the final decision containing all amendment provisions of this order has been issued. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

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

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Chattanooga, Tennessee, 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. Section 1090.50 is revised to read as follows:

§ 1090.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department of Agriculture for the month, adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent.

2. In § 1090.51, the introductory text and paragraph (b) are revised to read as follows:

§ 1090.51 Class prices.

Subject to the provisions of §§ 1090.52 and 1090.53, the minimum prices per hundredweight of milk containing 3.5 percent butterfat, to be paid by each handler for milk received at his pool plant from producers during the month, shall be as follows:

* * * * *

(b) *Class II milk price.* For the months of February through August, the Class II milk price shall be the price computed pursuant to subparagraph (1) of this paragraph, and for all other months, the higher of the prices computed pursuant to subparagraphs (1) and (2) of this paragraph, adjusted in each case to a 3.5 percent butterfat basis by subtracting five times the butterfat differential for the month computed pursuant to § 1090.52(b) and rounding to the nearest cent.

(1) The average of the basic or field prices reported to have been paid or to be paid per hundredweight for milk of 4.0 percent butterfat content received from dairy farmers during the month at the following plants or places, for which prices have been reported to the market administrator or to the Department of Agriculture on or before the 6th day after the end of the month:

Company and Location

Kraft Foods Co., Fayetteville, Tenn.
Pet Milk Co., Greeneville, Tenn.
Carnation Co., Murfreesboro, Tenn.
Borden Co., Lewisburg, Tenn.

(2) The price per hundredweight computed as follows: Multiply the Chicago butter price by 4.8 and add to such sum 3¾ cents for each full one-half cent that the arithmetical average of carlot prices per pound of nonfat dry milk solids, spray and roller process, for human consumption, f.o.b. Chicago area manufacturing plants, for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department of Agriculture, is above 5 cents.

3. Paragraph (b) of § 1090.52 is revised to read as follows:

§ 1090.52 Butterfat differentials to handlers.

* * * * *

(b) *Class II milk price.* Multiply the Chicago butter price for the month by 0.115: *Provided,* That for the months of February through August, such butterfat differential shall not exceed the result obtained by dividing the price computed pursuant to subparagraph (1) of § 1090.51(b) by 40, and for all other months, by dividing the higher of the prices computed pursuant to subparagraphs (1) and (2) of § 1090.51(b) by 40.

§§ 1090.52, 1090.71, 1090.72, 1090.73 [Amendment]

4. In §§ 1090.52, 1090.71, 1090.72 and 1090.73, "4.0" is changed to "3.5" wherever it appears.

[Milk Order No. 96]

PART 1096—MILK IN NORTHERN LOUISIANA MARKETING AREA

§ 1096.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and de-

terminations 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 Northern Louisiana marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in this marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued July 6, 1962, and the final decision containing all amendment provisions of this order has been issued. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011).

(c) *Determination.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

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

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Northern Louisiana 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. Section 1096.50 is revised to read as follows:

§ 1096.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent.

2. Section 1096.51 is revised to read as follows:

§ 1096.51 Class prices.

Subject to the provisions of §§ 1096.52 and 1096.53, the minimum prices per hundredweight to be paid by each handler for milk received from producers during the month shall be as follows:

(a) *Class I milk price.* For the months of June 1962 through August 1963 the Class I milk price shall be the basic formula price for the preceding month plus $2.27.

(b) *Class II milk price.* The Class II milk price shall be computed by adding together the plus values of subparagraphs (1) and (2) of this paragraph, subtracting five times the butterfat differential computed pursuant to § 1096.52 (b), rounding to the nearest one-tenth cent and, during the months of March through June, deducting 5 cents.

(1) From the Chicago butter price, subtract 3 cents, add 20 percent thereof, and multiply by 4.0;

(2) From the simple average as computed by the market administrator of the weighted average of carlot prices per pound for nonfat dry milk, spray and roller process, respectively, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department, deduct 5.5 cents and multiply by 8.16.

§§ 1096.52, 1096.71, 1096.72, 1096.73, 1096.74 [Amendment]

3. In §§ 1096.52, 1096.71, 1096.72, 1096.73, and 1096.74, "4.0" is changed to "3.5" wherever it appears.

[Milk Order No. 98]

PART 1098—MILK IN NASHVILLE, TENNESSEE, MARKETING AREA

§ 1098.0 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 Nashville, Tennessee, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in this marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued July 6, 1962, and the final decision containing all amendment provisions of this order has been issued. The changes effected by this order will not require extensive preparation or sub-

stantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

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

Order relative to handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the Nashville, Tennessee, 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. Section 1098.50 is revised to read as follows:

§ 1098.50 Basic formula price.

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

2. In § 1098.51 the introductory text of paragraph (a); and paragraph (b) are revised to read as follows:

§ 1098.51 Class prices.

* * * * *

(a) *Class I milk price.* The Class I milk price shall be the basic formula price for the preceding month, plus $1.53 during the months of August through January, plus $1.23 during all other months and plus or minus a supply-demand adjustment calculated for each month as follows:

* * * * *

(b) *Class II milk price.* The Class II milk price shall be the price determined pursuant to subparagraph (1) of this paragraph not to exceed the highest of the prices computed pursuant to subparagraphs (2), (3), and (4) of this paragraph, and adjusted to a 3.5 percent butterfat basis by subtracting five times the butterfat differential for the month computed pursuant to § 1098.52(b), and rounding to the nearest cent.

(1) To the average of the basic (or field) prices reported to have been paid or to be paid per hundredweight for milk of 4.0 percent butterfat content received from farmers during the month at the following milk plants for which prices have been reported to the market administrator or to the Department on or before the 6th day after the end of the month:

Present Operator and Location

Carnation Co., Murfreesboro, Tenn.
Kraft Foods Co., Gallatin, Tenn.
Kraft Foods Co., Pulaski, Tenn.
Borden Co., Fayetteville, Tenn.
Borden Co., Lewisburg, Tenn.
Borden Co., Carthage, Tenn.
Summer County Cooperative Creamery, Gallatin, Tenn.
Swift and Co., Lawrenceburg, Tenn.
Wilson and Co., Murfreesboro, Tenn.

Add 25 cents during the months of February through August and add 35 cents during all other months.

(2) To the average of the basic (or field) prices reported to have been paid or to be paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the month at the following milk plants for which prices have been reported to the market administrator or to the Department on or before the 5th day after the end of the month:

Present Operator and Location

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

Add an amount computed by multiplying the butterfat differential computed pursuant to § 1098.52(a) by 5.

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

(i) Multiply by 4 the average price per pound of butter as described in § 1098.50 and add 20 percent thereof;

(ii) From the simple average, as computed by the market administrator, of the weighted averages of the carlot prices per pound for nonfat dry milk, spray and roller process, respectively, for human consumption, f.o.b. manufacturing plants in the Chicago area for the period from the 26th day of the immediately preceding month through the 25th day of the current month, as published by the Department, subtract 5 cents and multiply by 7.5.

(4) The price per hundredweight computed as follows:

(i) Multiply by 6 the average price per pound of butter as described in § 1098.50;

(ii) Add 2.4 times the average of the weekly prevailing price per pound of "Twins" during the month on the Wisconsin Cheese Exchange: *Provided,* That if the price of "Twins" is not quoted on such Exchange, the weekly prevailing price per pound of "Cheddars" shall be used; and

(iii) Divide by 7, add 30 percent thereof, and then multiply by 4.

§§ 1098.52, 1098.71, 1098.72, 1098.83 [Amendment]

3. In §§ 1098.52, 1098.71, 1098.72 and 1098.83, "4.0" is changed to "3.5" wherever it appears.

[Milk Order No. 101]

PART 1101—MILK IN KNOXVILLE, TENNESSEE, MARKETING AREA

§ 1101.0 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 Knoxville, Tennessee, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued July 6, 1962, and the final decision containing all amendment provisions of this order has been issued. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

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

Order relative to handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the Knoxville, Tennessee, 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. Section 1101.50 is revised to read as follows:

§ 1101.50 Basic formula price.

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

2. Paragraph (b) of § 1101.51 is revised to read as follows:

§ 1101.51 Class prices.

* * * * *

(b) *Class II milk price.* The price for Class II milk shall be the price determined pursuant to subparagraph (1) of this paragraph not to exceed the highest of the prices computed pursuant to subparagraphs (2), (3) and (4) of this paragraph, and adjusted to a 3.5 percent butterfat basis by subtracting five times the butterfat differential for the month computed pursuant to § 1101.52(b) and rounding to the nearest cent.

(1) To the arithmetical average of the basic (or field) prices reported to have been paid or to be paid per hundredweight for milk of 4.0 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture, on or before the 6th day after the end of the month:

Company and Location

Pet Milk Co., Bowling Green, Ky.
Pet Milk Co., Greeneville, Tenn.
Pet Milk Co., Abingdon, Va.
Carnation Co., Murfreesboro, Tenn.
Carnation Co., Statesville, N.C.
Carnation Co., Galax, Va.
Borden Co., Lewisburg, Tenn.
Borden Co., Chester, S.C.
Kraft Foods Co., Greeneville, Tenn.

Add 10 cents in the months of February through August and add 25 cents in all other months.

(2) To the arithmetical average of the basic (or field) prices reported to have been paid or to be paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture on or before the 6th day after the end of the month:

Company and Location

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

Add an amount computed by multiplying the butterfat differential pursuant to § 1101.85(a) by 5.

(3) The price per hundredweight computed as follows:

(i) Multiply by 6 the average price per pound of butter as described in § 1101.50;

(ii) Add an amount equal to 2.4 times the arithmetical average of the weekly prevailing price per pound of "Twins" during the month on the Wisconsin Cheese Exchange: *Provided,* That if the price of "Twins" is not quoted on such Exchange the weekly prevailing price per pound of "Cheddars" shall be used; and

(iii) Divide by 7, add 30 percent thereof, and then multiply by 4.

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

(i) Multiply by 4 the average price per pound of butter as described in § 1101.50 and add 20 percent thereof;

(ii) From the arithmetical average of carlot prices per pound of nonfat dry milk solids, spray and roller process, for human consumption, f.o.b. Chicago area manufacturing plants, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department of Agriculture, subtract 5 cents and multiply by 7.5.

3. Paragraph (b) of § 1101.52 is revised to read as follows:

§ 1101.52 Butterfat differentials to handlers.

* * * * *

(b) *Class II milk.* Multiply the average price per pound of butter for the month as described in § 1101.50 by 0.115: *Provided,* That such butterfat differential shall not exceed the result obtained by dividing the price computed pursuant to subparagraph (1) of § 1101.51(b) by 40; nor exceed the result obtained by dividing the highest of the prices, computed pursuant to subparagraphs (2), (3) and (4) of § 1101.51(b), by 40.

§§ 1101.52, 1101.71, 1101.72, 1101.85 [Amendment]

4. In §§ 1101.52, 1101.71, 1101.72 and 1101.85, "4.0" is changed to "3.5" wherever it appears.

[Milk Order No. 102]

PART 1102—MILK IN FORT SMITH, ARKANSAS, MARKETING AREA

§ 1102.0 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 Fort Smith, Arkansas, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

wholesome milk, and be in the public interest; and

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued July 6, 1962, and the final decision containing all amendment provisions of this order has been issued. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

(3) The issuance of the order amending the order is approved or favored by at least three-fourths of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Fort Smith, Arkansas, 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. Section 1102.50 is revised to read as follows:

§ 1102.50 Basic formula price.

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

2. Section 1102.51 is revised to read as follows:

§ 1102.51 Class prices.

Subject to the provisions of § 1102.52 the minimum prices per hundredweight to be paid by each handler for milk received at his plant from producers during the month shall be as follows:

(a) *Class I milk.* The price for Class I milk shall be the basic formula price for the preceding month plus $1.45 for the months of April, May and June, and plus $1.85 for all other months: *Provided,* That for each of the months of October, November, and December, such price shall not be less than that for the preceding month, and that for each of the months of April, May and June, such price shall not be more than that for the preceding month.

(b) *Class II milk.* The price for Class II milk shall be the average of the basic or field prices reported to have been paid or to be paid for ungraded milk of 4.0 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department, less five times the butterfat differential for the respective month computed pursuant to § 1102.52(b):

Present Operator and Location

Pet Milk Co., Siloam Springs, Ark.
Sugar Creek Creamery, Russellville, Ark.
Ozark Creamery, Ozark, Ark.

§§ 1102.52, 1102.71, 1102.72, 1102.81 [Amendment]

3. In §§ 1102.52, 1102.71, 1102.72 and 1102.81, "4.0" is changed to "3.5" wherever it appears.

[Milk Order No. 103]

PART 1103—MILK IN CENTRAL MISSISSIPPI MARKETING AREA

§ 1103.0 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 Central Mississippi marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued July 6, 1962, and the final decision containing all amendment provisions of this order has been issued. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

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

Order relative to handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the Central Mississippi 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. Section 1103.50 is revised to read as follows:

§ 1103.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department of Agriculture for the month, adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent.

2. Section 1103.51 is revised to read as follows:

§ 1103.51 Class prices.

Subject to the provisions of §§ 1103.52 and 1103.53, the minimum prices per hundredweight for the month shall be as follows:

(a) *Class I milk price.* The Class I milk price shall be the basic formula price for the preceding month plus $2.16.

(b) *Class II milk price.* The Class II milk price shall be the average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 4.0 percent butterfat content received from farmers during the month at the plants or places listed below for which prices have been reported to the market administrator or to the Department of Agriculture subject to the adjustments provided in subparagraphs (1) and (2) of this paragraph;

Present Operator and Location

McClendon Cheese Co., Newton, Miss.
Borden Co., Starkville, Miss.
Carnation Co., Tupelo, Miss.
Pet Milk Co., Kosciusko, Miss.

(1) Subtract five times the butterfat differential computed pursuant to § 1103.52(b); and

(2) Add 10 cents during each of the months of March through June and 20 cents during all other months.

§§ 1103.52, 1103.7', 1103.72, 1103.91 [Amendment]

3. In §§ 1103.52, 1103.71, 1103.72, and 1103.91, "4.0" is changed to "3.5" wherever it appears.

[Milk Order No. 105]

PART 1105—MILK IN MISSISSIPPI DELTA MARKETING AREA

§ 1105.0 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 Mississippi Delta marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued July 6, 1962, and the final decision containing all amendment provisions of this order has been issued. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

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

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Mississippi Delta 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. Section 1105.50 is revised to read as follows:

§ 1105.50 Class prices.

Subject to the provisions of §§ 1105.51 and 1105.52, the minimum prices per hundredweight for the month shall be as follows:

(a) *Class I milk price.* The Class I milk price shall be the Class I milk price established pursuant to § 1103.51(a) of this chapter regulating the handling of milk in the Central Mississippi marketing area less 16 cents.

(b) *Class II milk price.* The Class II milk price shall be the average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 4.0 percent butterfat content received from dairy farmers during the month at the plants or places listed below for which prices have been reported to the market administrator or to the Department of Agriculture, subject to the adjustment provided in subparagraph (1) and (2) of this paragraph;

Present Operator and Location

Kraft Cheese Co., Houston, Miss.
Borden Co., Starkville, Miss.
Carnation Co., Tupelo, Miss.
Pet Milk Co., Kosciusko, Miss.

(1) Subtract five times the butterfat differential computed pursuant to § 1105.51(b); and

(2) Add 10 cents during each month of February through August and 20 cents during all other months.

§§ 1105.51, 1105.71, 1105.72, 1105.73, 1105.74, 1105.75 [Amendment]

2. In §§ 1105.51, 1105.71, 1105.72, 1105.73, 1105.74, and 1105.75 "4.0" is changed to "3.5" wherever it appears.

[Milk Order No. 106]

PART 1106—MILK IN THE OKLAHOMA METROPOLITAN MARKETING AREA

§ 1106.0 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 Oklahoma Metropolitan marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued July 6, 1962, and the final decision containing all amendment provisions of this order has been issued. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

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

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Oklahoma Metropolitan 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. Section 1106.50 is revised to read as follows:

§ 1106.50 Basic formula price.

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

2. In § 1106.51, the introductory text of paragraph (a) is revised to read as follows:

(a) *Class I milk.* The basic formula price for the preceding month plus $1.48 during the months of April, May and June and plus $1.88 during all other months: *Provided,* That for each of the months of September, October, November and December, such price shall not be less than that for the preceding month, and that for each of the months of April, May and June such price shall not be more than that for the preceding month. To this price add or subtract a "supply-demand adjustment" of not more than 50 cents, computed as follows:

[Milk Order No. 107]

PART 1107—MILK IN MISSISSIPPI GULF COAST MARKETING AREA

§ 1107.0 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 Mississippi Gulf Coast marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued July 6, 1962, and the final decision containing all amendment provisions of this order has been issued. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means

pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

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

Order relative to handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the Mississippi Gulf Coast 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. Section 1107.50 is revised to read as follows:

§ 1107.50 Class prices.

Subject to the provisions of §§ 1107.51 and 1107.52, the minimum prices per hundredweight for the month shall be as follows:

(a) *Class I milk price.* The Class I milk price shall be the Class I milk price established pursuant to § 1103.51(a) of this chapter regulating the handling of milk in the Central Mississippi marketing area plus 10 cents.

(b) *Class II milk price.* The Class II milk price shall be the average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 4.0 percent butterfat content received from dairy farmers during the month at the plants or places listed below for which prices have been reported to the market administrator or to the Department of Agriculture, subject to the adjustments provided in subparagraphs (1) and (2) of this paragraph:

Present Operator and Location

McClendon Cheese Co., Newton, Miss.
Borden Co., Starkville, Miss.
Carnation Co., Tupelo, Miss.
Pet Milk Co., Kosciusko, Miss.

(1) Subtract five times the butterfat differential computed pursuant to § 1107.51(b); and

(2) Add 10 cents during each of the months of March through July and 20 cents during all other months.

§§ 1107.51, 1107.71, 1107.72, 1107.80, 1107.81 [Amendment]

2. In §§ 1107.51, 1107.71, 1107.72, 1107.80 and 1107.81 "4.0" is changed to "3.5" wherever it appears.

[Milk Order No. 120]

PART 1120—MILK IN LUBBOCK-PLAINVIEW, TEXAS, MARKETING AREA

§ 1120.0 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 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 Lubbock-Plainview, Texas, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued July 6, 1962, and the final decision containing all amendment provisions of this order has been issued. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

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

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Lubbock-Plainview, Texas, 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. In § 1120.50 the introductory text of paragraph (b) is revised as follows:

§ 1120.50 Class prices.

* * * * *

(b) *Class II price.* The Class II milk price shall be computed by adding together the plus values of subparagraphs (1) and (2) of this paragraph, subtracting five times the butterfat differential computed to § 1120.51(b), rounding to the nearest full cent and, during the months of March through June, deducting 13 cents.

§§ 1120.51, 1120.71, 1120.72, 1120.73, 1120.74 [Amendment]

2. In §§ 1120.51, 1120.71, 1120.72, 1120.73 and 1120.74, "4.0" is changed to "3.5" wherever it appears.

[Milk Order No. 126]

PART 1126—MILK IN NORTH TEXAS MARKETING AREA

§ 1126.0 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 North Texas marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

(2) The parity prices of milk, as determined pursuant to section 2 of the

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued July 6, 1962, and the final decision containing all amendment provisions of this order has been issued. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

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

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the North Texas 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. Section 1126.50 is revised to read as follows:

§ 1126.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis by a butterfat differential, rounded to the nearest one-tenth cent, computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent.

2. In § 1126.51 paragraph (b) is revised to read as follows:

§ 1126.51 Class prices.

* * * * *

(b) *Class II milk price.* The Class II milk price shall be the higher of the prices computed pursuant to subparagraphs (1) and (2) of this paragraph for the months of July through March and for all other months the higher of the price computed pursuant to subparagraph (1), less 14 cents, and the price computed pursuant to subparagraph (2) of this paragraph, all adjusted to a 3.5 percent butterfat basis by subtracting five times the butterfat differential computed pursuant to § 1126.52(b):

(1) The price per hundredweight, rounded to the nearest one-tenth cent, computed by adding together the plus values computed pursuant to subdivisions (i) and (ii) of this subparagraph:

(i) From the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the Department during the month, subtract 3 cents, add 20 percent thereof, and multiply by 4.0;

(ii) From the simple average as computed by the market administrator of the weighted averages of carlot prices per pound for nonfat dry milk, spray and roller process, respectively, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department, deduct 5.5 cents, multiply by 8.5 and then multiply by 0.96.

(2) The price per hundredweight, rounded to the nearest one-tenth cent, computed by multiplying by 8.4 the average of the daily prices paid per pound of cheese at Wisconsin Primary markets ("Cheddars" f.o.b. Wisconsin assembling points, cars or truckloads) as reported by the Department for the month.

§§ 1126.52, 1126.55, 1126.71, 1126.72, 1126.73, 1126.91 [Amendment]

3. In §§ 1126.52, 1126.55, 1126.71, 1126.72, 1126.73, and 1126.91, "4.0" is changed to "3.5" wherever it appears.

[Milk Order No. 127]

PART 1127—MILK IN THE SAN ANTONIO, TEXAS, MARKETING AREA

§ 1127.0 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 San Antonio, Texas, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued July 6, 1962, and the final decision containing all amendment provisions of this order has been issued. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations spec-

ified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

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

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the San Antonio, Texas, 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. In § 1127.52, the introductory text of subparagraph (1) of paragraph (a) and paragraph (b) are revised to read as follows:

§ 1127.52 Class II and Class II–A milk.

(a) *Class II milk.* * * *

(1) The sum of the amounts computed pursuant to subdivisions (i) and (ii) of this subparagraph, adjusted to a 3.5 percent butterfat basis by subtracting five times the butterfat differential computed pursuant to § 1127.53(b) and rounding to the nearest full cent:

* * * * *

(b) *Class II-A milk.* The minimum price per hundredweight to be paid by each handler for milk received at his plant from producers and classified as Class II-A milk shall be computed by multiplying by 8.4 the average of the daily prices paid per pound of cheese at Wisconsin Primary markets ("Cheddars" f.o.b. Wisconsin assembling points, cars or truckloads) as reported by the Department for the month involved, adjusted to a 3.5 percent butterfat basis by subtracting five times the butterfat differential computed pursuant to § 1127.53(b), and rounding to the nearest full cent.

§§ 1127.53, 1127.71, 1127.81 [Amendment]

2. In §§ 1127.53, 1127.71, and 1127.81, "4.0" is changed to "3.5" wherever it appears.

[Milk Order No. 128]

PART 1128—MILK IN CENTRAL WEST TEXAS MARKETING AREA

§ 1128.0 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 Central West Texas marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued July 6, 1962, and the final decision containing all amendment provisions of this order has been issued. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

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

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Central West Texas 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. In § 1128.51 the introductory text of paragraph (a) and paragraph (b) are revised to read as follows:

§ 1128.51 Class II and Class II–A milk.

(a) *Class II milk.* Subject to the provisions of § 1128.52, the minimum price per hundredweight to be paid by each handler for milk received at his plant from producers and classified as Class II milk shall be computed by adding together the plus values of subparagraphs (1) and (2) of this paragraph and subtracting five times the butterfat differential computed pursuant to § 1128.52 (b):

* * * * *

(b) *Class II-A milk.* Subject to the provisions of § 1128.52, the minimum price per hundredweight to be paid by each handler for milk received at his plant from producers and classified as Class II-A milk shall be computed by multiplying by 8.4 the average of the daily prices paid per pound of cheese at Wisconsin Primary markets ("Cheddars" f.o.b. Wisconsin assembling points, cars or truckloads) as reported by the Department for the month involved and subtracting five times the butterfat differential computed pursuant to § 1128.52(b).

§§ 1128.52, 1128.71, 1128.72, 1128.73, 1128.92 [Amendment]

2. In §§ 1128.52, 1128.71, 1127.72, 1128.73 and 1128.92, "4.00" is changed to "3.5" wherever it appears.

[Milk Order No. 129]

PART 1129—MILK IN AUSTIN-WACO, TEXAS, MARKETING AREA

§ 1129.0 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 Austin-Waco, Texas, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued July 6, 1962, and the final decision containing all amendment provisions of this order has been issued. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

(3) The issuance of the order amending the order is approved or favored by at least three-fourths of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Austin-Waco, Texas, 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. In § 1129.51 the introductory text of paragraph (a) and paragraph (b) are revised to read as follows:

§ 1129.51 Class II milk.

* * * * *

(a) The sum of the plus values of subparagraphs (1) and (2) of this paragraph, less five times the butterfat differential computed pursuant to § 1129.52(b):

* * * * *

(b) The price per hundredweight computed by multiplying by 8.4 the average of the daily prices paid per pound of cheese at Wisconsin Primary markets ("Cheddars" f.o.b. Wisconsin assembling points, cars or truckloads) as reported by the Department for the month, and subtracting five times the butterfat differential computed pursuant to § 1129.52(b).

§§ 1129.52, 1129.71, 1129.72, 1129.91 [Amendment]

2. In §§ 1129.52, 1129.71, 1129.72 and 1129.91, "4.0" is changed to "3.5" wherever it appears.

[Milk Order No. 130]

PART 1130—MILK IN CORPUS CHRISTI, TEXAS, MARKETING AREA

§ 1130.0 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.SC. 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 Corpus Christi, Texas, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued July 6, 1962, and the final decision containing all amendment provisions of this order has been issued. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

(3) The issuance of the order amending the order is approved or favored by at least three-fourths of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Corpus Christi, Texas, 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. In § 1130.50 the introductory text of subparagraph (1) of paragraph (b) and paragraph (c) are revised to read as follows:

§ 1130.50 Class prices.

* * * * *

(b) *Class II milk price.* * * *

(1) The sum of the plus values of subdivisions (i) and (ii) of this subparagraph, less five times the butterfat differential computed pursuant to § 1130.52(b):

* * * * *

(c) *Class II–A milk price.* The minimum price per hundredweight to be paid by each handler for milk received at his plant from producers and classified as Class II–A milk shall be computed by multiplying by 8.4 the average of the daily prices paid per pound of cheese at Wisconsin Primary markets ("Cheddars" f.o.b. Wisconsin assembling points, cars or truckloads) as reported by the Department for the month and subtracting five times the butter fat differential computed pursuant to § 1130.52(b).

§§ 1130.52, 1130.71, 1130.72, 1130.81 [Amendment]

2. In §§ 1130.52, 1130.71, 1130.72 and 1130.81, "4.0" is changed to "3.5" wherever it appears.

[Milk Order No. 132]

PART 1132—MILK IN TEXAS PANHANDLE MARKETING AREA

§ 1132.0 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 Texas Panhandle marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued July 6, 1962, and the final decision containing all amendment provisions of this order has been issued. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

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

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Texas Panhandle 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. Section 1132.50 is revised to read as follows:

§ 1132.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent.

2. In § 1132.51, paragraph (b) is revised to read as follows:

§ 1132.51 Class prices.

* * * * *

(b) *Class II milk price.* The Class II milk price shall be computed by adding together the plus value of subparagraphs (1) and (2) of this paragraph, subtracting five times the butterfat differential computed pursuant to § 1132.52(b), rounding to the nearest full cent and, during the months of March through June, deducting 13 cents.

(1) Subtract 3 cents from the Chicago butter price and multiply the remainder by 4.8;

(2) From the simple average as computed by the market administrator of the weighted averages of carlot prices per pound for nonfat dry milk, spray and roller process, respectively, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department, deduct 5.5 cents, and multiply by 8.16.

§§ 1132.52, 1132.55, 1132.71, 1132.72, 1132.73, 1132.81 [Amendment]

3. In §§ 1132.52, 1132.55, 1132.71, 1132.72, 1132.73 and 1132.81, "4.0" is changed to "3.5" wherever it appears.

[Milk Order No. 134]

PART 1134—MILK IN WESTERN COLORADO MARKETING AREA

§ 1134.0 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 Western Colorado market-

ing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued July 6, 1962, and the final decision containing all amendment provisions of this order has been issued. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

(3) The issuance of the order amending the order is approved or favored by at least three-fourths of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore, ordered, that on and after the effective date hereof, the handling of milk in the Western Colorado 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. Section 1134.50 is revised to read as follows:

§ 1134.50 Basic formula price.

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

2. Section 1134.51(b) is revised to read as follows:

§ 1134.51 Class prices.

* * * * *

(b) *Class II milk.* The Class II price shall be the higher of the prices computed pursuant to subparagraphs (1) and (2) of this paragraph for the current month rounded to the nearest one-tenth cent:

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

Present Operator and Location

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

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

(i) From the butter price specified in § 1134.50 for the month subtract 3 cents, add 20 percent thereof, and multiply by 3.5.

(ii) From the simple average, as computed by the market administrator, of the weighted averages of carlot prices per pound of nonfat dry milk, spray and roller process, respectively, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department, deduct 5.5 cents, multiply by 8.5, and then multiply by 0.965.

[Milk Order No. 135]

PART 1135—MILK IN COLORADO SPRINGS-PUEBLO MARKETING AREA

§ 1135.0 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 Colorado Springs-Pueblo marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued July 6, 1962, and the final decision containing all amendment provisions of this order has been issued. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined

that good cause exists for making this order amending the order effective August 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

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

Order relative to handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the Colorado Springs-Pueblo 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. Section 1135.50 is revised to read as follows:

§ 1135.50 Basic formula price.

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

2. Paragraph (b) § 1135.51 is revised to read as follows:

§ 1135.51 Class prices.

* * * * *

(b) *Class II milk.* During the months of March through July, the price per hundredweight specified in subparagraph (1) of this paragraph, and during all other months such price plus 10 cents: *Provided,* That in no event shall such price exceed the higher of the prices computed pursuant to subparagraphs (1) and (2):

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

(i) From the butter price specified in § 1135.50 for the month, subtract 3 cents, add 20 percent thereof, and multiply by 3.5.

(ii) From the simple average, as computed by the market administrator, of the weighted averages of carlot prices per pound of nonfat dry milk, spray and roller process, respectively, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department, deduct 5.5 cents, multiply by 8.5, and then multiply by 0.965.

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

Present Operator and Location

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

§ 1135.53 [Amendment]

3. In § 1135.53 (a) and (b) "§ 1135.50 (b) (1)" is revised to "§ 1135.50".

[Milk Order No. 137]

PART 1137—MILK IN EASTERN COLORADO MARKETING AREA

§ 1137.0 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 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 Eastern Colorado marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued July 6, 1962, and the final decision containing all amendment provisions of this order has been issued. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1962, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

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

Order relative to handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the Eastern Colorado 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. Revise § 1137.50 to read as follows:

§ 1137.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for

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

2. Paragraph (b) of § 1137.51 is revised to read as follows:

§ 1137.51 Class prices.

* * * * *

(b) *Class II milk.* During the months of March through July, the price per hundredweight specified in subparagraph (1) of this paragraph, and during all other months such price plus 10 cents: *Provided,* That in no event shall such price exceed the higher of the prices computed pursuant to subparagraphs (1) and (2):

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

(i) From the butter price specified in § 1137.50 for the month subtract 3 cents, add 20 percent thereof, and multiply by 3.5.

(ii) From the simple average, as computed by the market administrator, of the weighted averages of carlot prices per pound of nonfat dry milk, spray and roller process, respectively, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department, deduct 5.5 cents, multiply by 8.5 and then multiply by 0.965.

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

Present Operator and Location

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

§ 1137.53 [Amendment]

3. In § 1137.53 (a) and (b) "§ 1137.50 (b) (1)" is revised to "§ 1137.50".

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

Effective date: August 1, 1962.

Signed at Washington, D.C., on July 27, 1962.

JOHN P. DUNCAN, Jr.,
Assistant Secretary.

[F.R. Doc. 62–7573; Filed, July 31, 1962; 8:55 a.m.]

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS

Motions to Reopen or Reconsider

The following amendment to Chapter I of Title 8 of the Code of Federal Regulations is hereby prescribed:

Section 103.5 is amended, by adding a sentence immediately preceding the last sentence thereof, so that the section reads as follows:

§ 103.5 Reopening or reconsideration.

Except as otherwise provided in Part 242 of this chapter, a proceeding authorized under this chapter may be reopened or the decision made therein reconsidered for proper cause upon motion made by the party affected and granted by the officer who has jurisdiction over the proceeding or who made the decision. When the alien is the moving party, a motion to reopen or a motion to reconsider shall be filed in duplicate, accompanied by a supporting brief, if any, and the appropriate fee specified by and remitted in accordance with the provisions of § 103.7, with the district director in whose district the proceeding was conducted for transmittal to the officer having jurisdiction. When an officer of the Service is the moving party, a copy of the motion shall be served on the alien or other party in interest and the motion, together with proof of service, shall be filed directly with the officer having jurisdiction. The party opposing the motion shall have 10 days from the date of service thereof within which he may submit a brief, which period may be extended. If the officer who originally decided the case is unavailable, the motion may be referred to another officer. A motion to reopen shall state the new facts to be proved at the reopened hearing and shall be supported by affidavits or other evidentiary material. A motion to reconsider shall state the reasons for reconsideration and shall be supported by such precedent decisions as are pertinent. Motions to reopen or reconsider shall state whether the validity of the order has been or is the subject of any judicial proceeding and, if so, the nature and date thereof, the court in which such proceeding took place or is pending, and its result or status. Rulings upon motions to reopen or motions to reconsider shall be by written decision.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

This order shall become effective on the date of its publication in the FEDERAL REGISTER. Compliance with the provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the rule prescribed by the order relates to agency procedure.

Dated: July 27, 1962.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[F.R. Doc. 62–7563; Filed, July 31, 1962; 8:52 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter III—Federal Aviation Agency

SUBCHAPTER C—AIRCRAFT REGULATIONS

[Reg. Docket No. 1314, Amdt. 470]

PART 507—AIRWORTHINESS DIRECTIVES

Pratt & Whitney Aircraft JT3C–12 Turbojet Engines

There have been failures of the eighth stage compressor rotor disc in Pratt & Whitney Aircraft JT3C–12 turbojet engines. As this condition is likely to occur in other such engines, an airworthiness directive is being issued to require inspection of the discs and replacement of any which are cracked. A service life of the discs also is established.

As a situation exists which demands immediate action in the interest of safety, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective upon publication in the FEDERAL REGISTER.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), § 507.10(a) of Part 507 (14 CFR Part 507), is hereby amended by adding the following new airworthiness directive:

PRATT & WHITNEY. Applies to all JT3C–12 turbojet engines.

Compliance required as indicated.

To preclude fatigue cracking in the rear face of the P/N 359708 eighth stage compressor rotor disc, accomplish the following:

(a) For discs previously inspected by the procedure described in paragraph (c), reinspect in accordance with paragraph (c) every 90 hours' time in service from the last inspection.

(b) For discs not previously inspected by the procedure described in paragraph (c), inspect in accordance with paragraph (c) as follows:

(1) Inspect discs with 1,000 or more hours' time in service within the next 90 hours' time in service and every 90 hours' time in service thereafter.

(2) Inspect discs with less than 1,000 hours' time in service prior to the accumulation of 1,090 hours' time in service and every 90 hours' time in service thereafter.

(c) Incorporate an inspection hole and plug in the compressor case and eighth stage stator shroud in accordance with Pratt & Whitney Aircraft letter dated June 21, 1962, and its attached sketch number L–53852. Using an American Cystoscope Markers, Inc. Model B–175–AS–15 or FAA approved equivalent viewing instrument inserted through this hole, inspect each eighth stage compressor rotor disc rear blade dovetail area and the entire circumferential area of the eighth stage disc spacer for possible cracks. If any

crack indications are found, remove the engine prior to further flight and disassemble for confirmation of the indications. Replace cracked discs.

(d) Remove all eighth stage compressor rotor discs P/N 359708 from further service after 3,200 hours' time in service.

(e) Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA Eastern Region, may adjust the repetitive inspection intervals specified in this Airworthiness Directive to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for such operator.

(Pratt & Whitney Aircraft telegraphic message dated June 13, 1962, to Eastern Air Lines and Pratt & Whitney Aircraft letter dated June 21, 1962, and attached sketch L-53852 to Eastern Air Lines covers the same subject.)

This amendment shall become effective August 1, 1962.

(Sec. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on July 26, 1962.

G. S. MOORE,
Acting Director,
Flight Standards Service.

[F.R. Doc. 62-7530; Filed, July 31, 1962; 8:45 a.m.]

[Reg. Docket No. 1316, Amdt. 471]

PART 507—AIRWORTHINESS DIRECTIVES

Fairchild F-27 Series Aircraft

Amendment 295, 26 F.R. 5035, requires inspection of the elevators on Fairchild F-27 Series aircraft. Aircraft with Modification No. 1 are required to be inspected each 75 hours' time in service and those with Modification No. 2, each 150 hours' time in service. A reevaluation based on inspection records since the issuance of Amendment 295, has substantiated an increase in the inspection intervals for Modification No. 1 and elimination of the special repetitive inspections for Modification No. 2. Accordingly, Amendment 295 is being superseded by a new directive.

Since this amendment relaxes a requirement and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective upon publication in the FEDERAL REGISTER.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), § 507.10(a) of Part 507 (14 CFR Part 507), is hereby amended by adding the following new airworthiness directive:

FAIRCHILD. Applies to all F-27 Series aircraft.

Compliance required prior to the accumulation of 4,000 hours' time in service of the elevators and thereafter at intervals not exceeding 700 hours' time in service from the last inspection.

(a) On elevators incorporating Modification No. 1 in accordance with Fairchild Drawing 27-220001-91, -101, -111, -131, -141, -151, -181, -191, -231, or -241, accomplish the following:

(1) Remove the bottom cover at the outboard hinge, Station 156.65. Using a mirror and light, inspect the structure on the forward side of the middle spar in the area of the outboard hinge bracket for cracks in the spar web, cracks in the upper and lower flange radii of the spar, and cracks in the two adjacent ribs at their attachment to the forward side of the middle spar.

(2) Remove the plugs or buttons from the three holes in the bottom skin adjacent to the outboard hinge. Using a borescope or equivalent, inspect for cracks in the middle spar, cracks in the two ribs adjacent to the hinge at their attachment to the aft side of the middle spar, and for cracks in the channel aft of the hinge.

(b) Replace cracked parts with new parts or repair in accordance with FAA Engineering approved methods.

NOTE: Inspections on elevators with Modification No. 2 in accordance with Fairchild Drawing 27-220001-251, -261, -271, or -281 are not required.

(c) Upon request of an operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA Eastern Region, may adjust the repetitive inspection intervals specified in this Airworthiness Directive to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for such operator.

(Fairchild Service Bulletin No. 27-21 revised May 26, 1962, covers this subject.)

This supersedes Amendment 295, 26 F.R. 5035 (AD 61-12-3).

This amendment shall become effective August 1, 1962.

(Sec. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on July 26, 1962.

G. S. MOORE,
Acting Director,
Flight Standards Service.

[F.R. Doc. 62-7531; Filed, July 31, 1962; 8:45 a.m.]

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket No. 62-EA-41]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

Alteration

The purpose of these amendments to Part 600 and § 600.1685 of the regulations of the Administrator is to redesignate that segment of Intermediate altitude VOR Federal airway No. 1685 from the intersection of the Salisbury, Md., VOR 340° and the Baltimore, Md., VORTAC 097° True radials to the Salisbury VOR as Intermediate altitude VOR Federal airway No. 1757.

The above action is being taken to eliminate misunderstanding created by the existence of multiple transition points between Victor 1685 and Intermediate altitude VOR Federal airway No. 1505. As presently designated Victor 1685 forms junctions with Victor 1505 at the New Castle, Del., VORTAC and the intersection of the Kenton, Del., VORTAC 220° and the Salisbury VOR 340° True radials. In the absence of specific flight plan information it becomes necessary to solicit additional information to determine the exact point of transition between these two airways. This creates an additional workload in the processing of flight plans at both manual and electronic computer equipped facilities. This action, in effect, will result in the reidentification of a segment of an existing airway, and does not involve designation of any additional airspace.

Since these amendments are minor in nature and impose no additional burden on any person, notice and public procedure hereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes on aeronautical charts, these amendments will become effective more than 30 days after publication.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) the following actions are taken:

§ 600.1685 [Amendment]

1. Section 600.1685 (26 F.R. 1091) is amended as follows:

In the caption "Salisbury, Md." is deleted and "Price, Md." is substituted therefor.

In the text "From the Salisbury, Md., VOR; 10 mile wide airway to the INT of the Salisbury VOR 340° and the Baltimore, Md., VOR 097° radials; thence via the New Castle, Del., VOR;" is deleted and "From the INT of the Salisbury, Md., VOR 340° and the Baltimore, Md., VOR 097° radials via the New Castle, Del., VOR;" is substituted therefor.

2. Part 600 (14 CFR Part 600) is amended by adding:

§ 600.1757 VOR Federal airway No. 1757 (Salisbury, Md., to Price, Md.).

From the Salisbury, Md., VOR 10-mile wide airway to the INT of the Salisbury VOR 340° and the Baltimore, Md., VOR 097° radials.

These amendments shall become effective 0001 e.s.t., September 20, 1962.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on July 25, 1962.

W. THOMAS DEASON,
Assistant Chief,
Airspace Utilization Division.

[F.R. Doc. 62-7536; Filed, July 31, 1962; 8:46 a.m.]

[Airspace Docket No. 62-EA-50]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

Alteration

The purpose of this amendment to § 600.6093 of the regulations of the Administrator is to realign VOR Federal airway No. 93 from the Chester, Mass., VOR via the intersection of the Chester VOR 040° and the Keene, N.H., VOR 231° radials; to the Keene VOR. This will improve air navigation and aeronautical charting by locating the changeover point between navigation facilities associated with this airway segment at the Colrain Intersection (INT of the Keene VOR 231° and the Gardner, Mass., VORTAC 284° radials). At present, this

change-over point is located 3 miles southwest of the Colrain Intersection. The control areas associated with this airway segment are so designated that they will automatically conform to the altered airway. The vertical extent of these control areas will remain as designated pending review of the adjacent airspace. Separate actions will be initiated to implement on an area basis Amendment 60–21 to Part 60 of the Civil Air Regulations.

Since this change is minor in nature and imposes no additional burden on any person, compliance with section 4 of the Administrative Procedure Act is unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) the following action is taken:

In the text of § 600.6093 (14 CFR 600.6093) "INT of the Albany, N.Y., VORTAC 099°" is deleted and "INT of the Chester VOR 040°" is substituted therefor.

This action will become effective 0001 e.s.t., September 20, 1962.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on July 25, 1962.

W. THOMAS DEASON,
Assistant Chief,
Airspace Utilization Division.

[F.R. Doc. 62–7537; Filed, July 31, 1962; 8:47 a.m.]

[Airspace Docket No. 62–WE–31]

PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Designation of Transition Area

On May 17, 1962, a notice of proposed rule making was published in the FEDERAL REGISTER (27 F.R. 4703) stating that the Federal Aviation Agency proposed to designate a transition area at Tobe, Colo.

No adverse comments were received regarding the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated in the notice, Part 601 (14 CFR Part 601) is amended by adding the following section:

§ 601.10057 Tobe, Colo., transition area.

That airspace extending upward from 1,200 feet above the surface within 7 miles NE and 10 miles SW of the Tobe, Colo., VORTAC 327° and 147° radials extending from 9 miles SE to 20 miles NW of the VORTAC.

This amendment shall become effective 0001 e.s.t., September 20, 1962.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on July 25, 1962.

W. THOMAS DEASON,
Assistant Chief,
Airspace Utilization Division.

[F.R. Doc. 62–7534; Filed, July 31, 1962; 8:46 a.m.]

[Airspace Docket No. 62–KC–6]

PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Designation of Transition Area

On May 17, 1962, a notice of proposed rule making was published in the FEDERAL REGISTER (27 F.R. 4703) stating that the Federal Aviation Agency proposed to designate a transition area at Escanaba, Mich.

No adverse comments were received regarding the proposed amendment. However, the Air Transport Association recommended the designation of a part-time control zone at Escanaba in addition to the transition area, and Mr. I. W. Stephenson of Menominee, Mich., suggested that an airway be designated from Green Bay, Wis., to Escanaba coincident with the establishment of the transition area at Escanaba. The Federal Aviation Agency will explore the feasibility of these suggestions and, if warranted, initiate appropriate rule-making action.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated in the notice, Part 601 (14 CFR Part 601) is amended by adding the following section:

§ 601.10056 Escanaba, Mich., transition area.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Escanaba Municipal Airport (latitude 45°43'25" N., Longitude 37°05'40" W.), and within 2 miles either side of the 265° bearing from the Escanaba Municipal Airport extending from the 5-mile radius area to 8 miles W. of the airport; and that airspace extending upward from 1,200 feet above the surface within 5 miles N .and 8 miles S. of the 085° and 265° bearings from the Escanaba Municipal Airport extending from 7 miles E. to 14 miles W. of the airport.

This amendment shall become effective 0001 e.s.t., September 20, 1962.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on July 25, 1962.

W. THOMAS DEASON,
Assistant Chief,
Airspace Utilization Division.

[F.R. Doc. 62–7535; Filed, July 31, 1962; 8:46 a.m.]

[Airspace Docket No. 62–SO–44]

PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Alteration of Control Zone

The purpose of this amendment to § 601.2148 of the regulations of the Adminstrator is to alter the description of the Jackson, Miss., control zone.

The Federal Aviation Agency will convert the Jackson radio range to a radio beacon with transcribed weather broadcast facilities on or about August 20, 1962. The action taken herein reflects the conversion of this facility.

Since this amendment is editorial in nature, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary, and it may be made effective August 20, 1962.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 12582), § 601.2148 (14 CFR 601.2148) is amended to read:

§ 601.2148 Jackson, Miss., control zone.

Within a 5-mile radius of the Hawkins Airport (latitude 32°20'01" N., longitude 90°13'19" W.), Jackson, Miss.; within 2 miles either side of the 002° bearing from the Jackson RBN extending from the 5-mile radius zone to 12 miles N. of the RBN; and within 2 miles either side of the Jackson VORTAC 195° radial extending from the 5-mile radius zone to the VORTAC.

This amendment shall become effective 0001 e.s.t., August 20, 1962.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C. on July 25, 1962.

W. THOMAS DEASON,
Assistant Chief,
Airspace Utilization Division.

[F.R. Doc. 62–7538; Filed, July 31, 1962; 8:47 a.m.]

[Airspace Docket No. 62–WA–80]

PART 602—DESIGNATION OF JET ROUTES, JET ADIVSORY AREAS AND HIGH ALTITUDE NAVIGATIONAL AIDS

Alteration of Jet Advisory Area

The purpose of this amendment to § 602.300 of the regulations of the Administrator is to alter the portion of the Miami, Fla., terminal jet advisory area as described in paragraph (d).

The Miami terminal jet advisory area (d) is presently designated from the Miami VORTAC via the Marathon, Fla.,

RBN; thence via Control Area Extension 1234 to the boundary of the continental control area. In Airspace Docket No. 61-FW-20 (27 F.R. 3881), which was effective June 28, 1962, Control Area Extension 1234 was revoked. Therefore, action is taken herein to redescribe this portion of the Miami terminal jet advisory area from the Miami VORTAC via the Marathon RBN; thence via the 219° True bearing from the Marathon RBN to the boundary of the continental control area.

Since the change effected by this amendment is minor in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and it may be made effective immediately.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 12582), § 602.300 *Terminal jet advisory areas* (14 CFR 602.300) is amended as follows:

Under Miami, Fla., jet advisory area—Radar (d), "Control Area Extension 1234" is deleted and "Marathon RBN 219° bearing" is substituted therefor.

This amendment shall become effective upon the date of publication in the FEDERAL REGISTER.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on July 25, 1962.

W. THOMAS DEASON,
Assistant Chief,
Airspace Utilization Division.

[F.R. Doc. 62-7539; Filed, July 31, 1962; 8:47 a.m.]

[Airspace Docket No. 62-WA-77]

PART 608—SPECIAL USE AIRSPACE

Correction

In Federal Register Document 62-7209, published at page 7321 of the issue dated Thursday, July 26, 1962, the entry for "R-3602", under § 608.36, was inadvertently omitted. The entry reads as follows:

§ 608.36 Kansas.

R-3602 Manhattan, Kans.

Boundaries. Beginning at latitude 39°13'00" N., longitude 96°49'42" W.; thence to latitude 39°13'00" N., longitude 96°42'35" W.; thence to latitude 39°12'17" N., longitude 96°40'55" W.; thence to latitude 39°10'43" N., longitude 96°40'55" W.; thence to latitude 39°09'23" N., longitude 96°43'00" W.; thence to latitude 39°06'20" N., longitude 96°43'00" W.; thence to latitude 39°04'24" N., longitude 96°47'30" W.; thence to latitude 39°04'24" N., longitude 96°52'22" W.; thence to latitude 39°07'54" N., longitude 96°49'42" W.; thence to the point of beginning.

Designated altitudes. Surface to 29,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Agency, Kansas City ARTC Center.

Using agency. Commanding General, Fort Riley, Kans.

Amendments: On publ. (8-10-61) 26 F.R. 7194 (Rewritten); 1-11-62 26 F.R. 11860 (Rewritten);

Title 24—HOUSING AND HOUSING CREDIT

Chapter II—Federal Housing Administration, Housing and Home Finance Agency

SUBCHAPTER A—GENERAL

PART 200—INTRODUCTION

Subpart D—Delegations of Basic Authority and Functions

In § 200.68 paragraph (f) is revoked as follows:

§ 200.68 Assistant Commissioner for Administration and Deputy.

* * * * *

(f) [Revoked].

Section 200.71 is amended by adding paragraph (j) as follows:

§ 200.71 Director of the General Services Division and Deputy.

* * * * *

(j) To act for the Commissioner in approving the settlement of tort claims for and against the Commissioner and the execution of releases or other instruments required in connection therewith.

(Sec. 2, 48 Stat. 1246, as amended; Sec. 211, 52 Stat. 23, as amended; Sec. 607, 55 Stat. 61, as amended; Sec. 712, 62 Stat. 1281, as amended; Sec. 907, 65 Stat. 301, as amended; Sec. 807, 69 Stat. 651, as amended; 12 U.S.C. 1703, 1715b, 1742, 1747k, 1748f, 1750f).

Issued at Washington, D.C., July 27, 1962.

NEAL J. HARDY,
Federal Housing Commissioner.

[F.R. Doc. 62-7561; Filed, July 31, 1962; 8:51 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 203—BRIDGE REGULATIONS

Bayou Des Cannes and Contraband Bayou, La.

Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U.S.C. 499), § 203.245 is hereby amended with respect to paragraph (j) by revoking subparagraphs (15) and (23), concerning Bayou Des Cannes and Contraband Bayou in Louisiana, effective upon publication in the FEDERAL REGISTER, since the drawbridges have been replaced by fixed bridges, as follows:

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

* * * * *

(j) *Waterways discharging into Gulf of Mexico west of the Mississippi River.*

* * * * *

(15) [Revoked]

* * * * *

(23) [Revoked]

* * * * *

[Regs., July 19, 1962, 285/111-ENGCW-ON]
(Sec. 5, 28 Stat. 362; 33 U.S.C. 499)

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

[F.R. Doc. 62-7528; Filed, July 31, 1962; 8:45 a.m.]

Title 41—PUBLIC CONTRACTS

Chapter 5—General Services Administration

MISCELLANEOUS AMENDMENTS TO CHAPTER

Chapter 5 of Title 41 is amended as follows:

PART 5-1—GENERAL

Subpart 5-1.6—Debarred and Ineligible Bidders

Sections 5-1.602(b)(1), 5-1.603, 5-1.604, 5-1.606-55, 5-1.606-58 are revised to read as follows:

§ 5-1.602 Establishment and maintenance of a list of firms or individuals debarred or ineligible.

* * * * *

(b) * * *

(1) Publication of the GSA Debarred Bidders List shall be based, in the case of GSA administrative debarments on determinations made by the service performing the debarment, or confirmation of such determination by the Administrator (or his designee), and, in the case of statutory debarments, on appropriate notification by the Comptroller General, the Secretary of Labor or other debarring agency, or in the case of ineligibility due to violations of the nondiscrimination provisions of contracts, on appropriate notification by the Executive Vice Chairman, President's Committee on Equal Employment Opportunity.

§ 5-1.603 Bases for debarment and ineligible list entry.

All firms and individuals within the categories specified in § 1-1.603, and those which the Executive Vice Chairman of the President's Committee on Equal Employment Opportunity has declared ineligible (see Subpart 5-53.7), shall be placed on the GSA Debarred Bidders List by the Compliance Division as soon as official information is received of debarment or ineligibility. Administrative debarments under § 1-1.603(d) are subject to determinations by GSA under § 5-1.606, pursuant to § 1-1.605.

§ 5-1.604 Treatment to be accorded firms or individuals in debarred or ineligible status.

* * * * *

(d) Bids shall not be invited, nor proposals solicited from firms or individuals which have been found ineligible by the President's Committee on Equal Employment Opportunity because of violations

of the nondiscrimination provisions of Government contracts.

§ 5–1.606–55 Institution of debarment proceedings.

If a Commissioner decides to institute debarment proceedings, he shall send a letter by certified mail (return receipt requested) to the firm or individual proposed for debarment. The letter shall summarize the facts on which the debarment is predicated, specify a reasonable and definite period for the debarment, and advise that, unless a request for a hearing is received within 15 days from the date of receipt of such letter, the debarment will become effective when the 15-day period has elapsed. When debarment action is based on debarment by another agency, the firm or individual shall be so notified. However, no hearing is required in such cases, pursuant to § 1–1.605(b) (4) and (6). The Compliance Division shall be notified of this action.

§ 5–1.606–58 Inquiries from debarred or ineligible bidders.

Inquiries presented by debarred or ineligible bidders shall be referred, without comment, to the Office of General Counsel.

PART 5–12—LABOR

Subpart 5–12.50—Nondiscrimination in Employment

Subpart 5–12.50 is added, to read as follows:

Sec.

AUTHORITY: §§ 5–12.5001 to 5–12.5006 issued under sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 5–12.5001 General.

This subpart contains instructions relative to the use of the nondiscrimination in employment provisions prescribed by Executive Order No. 10925 of March 6, 1961, to exemptions therefrom, and to the responsibility of bidders and prospective contractors in connection with such provisions. The nondiscrimination in employment provisions are set forth in § 1–7.101–18 and reproduced for convenience as GSA Form 1714, Nondiscrimination in Employment. For administration of the nondiscrimination provisions see Subpart 5–53.7.

§ 5–12.5002 Definitions.

The following definitions, as prescribed by the President's Committee on Equal Employment Opportunity, shall be applicable to this Subpart 5–12.50.

(a) "Committee" means the President's Committee on Equal Employment Opportunity.

(b) "Chairman" means the Chairman of the Committee.

(c) "Vice Chairman" means the Vice Chairman of the Committee.

(d) "Executive Vice Chairman" means the Executive Vice Chairman of the Committee.

(e) "Executive Order" or "Order" means Executive Order No. 10925 of March 6, 1961 (26 F.R. 1977).

(f) "Provisions" means the Nondiscrimination in Employment provisions prescribed by section 301 of Executive Order No. 10925 of March 6, 1961 (26 F.R. 1977).

(g) "United States" as used herein shall include the Commonwealth of Puerto Rico, the Panama Canal Zone, and the possessions of the United States.

(h) "Standard commercial supplies" means an article:

(1) Which in the normal course of business is customarily maintained in stock by the manufacturer or any dealer, distributor, or other commercial dealer for the marketing of such article; or

(2) Which is manufactured and sold by two or more persons for general commercial or industrial use or which is identical in every material respect with an article so manufactured and sold.

§ 5–12.5003 Use of the provisions.

(a) Except as provided in this § 5–12.5003 every contract or contract modification shall include the provisions set forth in § 1–7.101–18. Notwithstanding the inclusion in any contract of such provisions, the contractor or subcontractor shall be exempt from compliance therewith if the contract or subcontract is exempt under this § 5–12.5003. Contractors and first-tier subcontractors shall be required to include paragraphs (a) through (f) of the provisions in its subcontracts or purchase orders; however, subcontractors below the first-tier shall not be required to comply with this requirement except upon special instructions of the GSA Nondiscrimination Officer or the Executive Vice Chairman. Where forms contain provisions differing from that in § 1–7.101–18, contracting officials shall include an appropriate statement in the invitation for bids, or request for proposals, to delete such provisions and make applicable the GSA Form 1714 prior to awarding, or entering into the contract.

(b) GSA Form 1714 may be included by reference on any invitation for bids or request for proposals or other purchasing instrument. Each purchasing activity shall provide for availability of sufficient copies to satisfy requests for copies from prospective contractors and subcontractors.

(c) Until such time as U.S. Government bill of lading forms are appropriately revised to include the nondiscrimination provisions prescribed by the Order, the following words shall be incorporated by means of typewriter, rubber stamp, or other similar impression, in all bill of lading forms before issuance:

EQUAL EMPLOYMENT OPPORTUNITY

Condition 9 hereof is revised as follows: The contract clauses in Sec. 301 of Executive Order No. 10925 (26 F.R. 1977) are incorporated herein, but carriers are exempted from paragraphs 3–7 thereof unless otherwise specifically ordered (26 F.R. 6586, Sec. 60–1.3(b)(4)).

§ 5–12.5003–1 Exemption from use of the provisions.

The use of the provisions are not required when the Executive Vice Chairman determines that it is in the national interest to exempt a contracting agency from inclusion of the provisions in a specific contract, subcontract, or purchase order. Exemptions may also be granted to groups or categories of contracts of the same type where it is impracticable to act upon each request individuallly, or group exemptions will contribute to convenience in the administration of the Order. Requests for exemptions shall be submitted, with a complete justification to the GSA Nondiscrimination Officer for appropriate transmission to the Executive Vice Chairman. Exemptions may be requested for any specific contract, subcontract, or purchase order or for groups or categories of contracts of the same type where it is impracticable to act upon each request individually, or group exemption will contribute to convenience in the administration of the Order.

§ 5–12.5003–2 Exemptions from the requirements of the provisions.

The following are exempt from the requirements of the provisions:

(a) Contracts, subcontracts, purchase orders, and other transactions not exceeding $10,000, other than Government bills of lading.

(b) Contracts, subcontracts, purchase orders, and other transactions when work is to be or has been performed outside the United States and no recruitment of workers within the limits of the United States is involved. The provisions shall, nevertheless, be applicable to the extent that work pursuant to such contracts is done within the limits of the United States.

(c) Contracts, subcontracts, and purchase orders not exceeding $100,000 for standard commercial supplies or raw materials are exempt from the requirements of the provisions except that the Executive Vice Chairman may from time to time by order provide that specified articles or raw materials shall be subject to the Order and the rules and regulations promulgated pursuant thereto, when he finds that the inclusion thereof is necessary or appropriate to achieve the purposes of the Order. Contracting officers shall not procure, or approve the procurement of, supplies in less than usual quantities in order to avoid application of the Order to any transaction which would normally be subject to its provisions.

§ 5–12.5003–3 Exemptions from certain requirements of the provisions.

When acting pursuant to Government bills of lading carriers are exempt from complying with paragraphs (a) through (g) of the provisions set forth in § 1–7.101–18 unless otherwise specifically or-

dered by the Executive Vice Chairman or the GSA Nondiscrimination Officer.

§ 5–12.5004 Bidders representation relating to previous Government contracts.

Except where a prospective contract would be exempt from the provisions under § 5–12.5003, bidders or prospective contractors shall be required as a part of their bid or negotiation of a contract to state, for themselves and for each of their subcontractors, whether they have participated in any previous Government contract subject to the nondiscrimination provisions. This may be accomplished by the inclusion in the invitation for bids or request for proposals of a representation to be completed by the bidder or offeror substantially as follows:

I ☐ have, ☐ have not, participated in a previous contract subject to the provisions of section 301 of Executive Order No. 10925 of March 6, 1961 (Nondiscrimination in Employment provisions). I have attached identical representations signed by each of my proposed subcontractors.

§ 5–12.5005 Certificates of merit.

§ 5–12.5005–1 General.

(a) The Committee acting through the Chairman or Vice Chairman may award United States Government Certificates of Merit to employers or employee organizations which are or may hereafter be engaged in work under Government contracts, if the Committee is satisfied that the following conform to the purposes and provisions of the Order:

(1) Personnel and employment practices of the employer; or

(2) The personnel, training, apprenticeship, membership, grievance and representation, upgrading, and other practices and policies of the employee organization.

(b) Holders of the United States Government Certificates of Merit are entitled to exemption from submitting compliance reports.

(c) Holders of the Certificate of Merit seeking exemption from reporting in connection with a contract or subcontract are required to identify their Certificate by number or otherwise.

§ 5–12.5005–2 Recommendation for Certificate of Merit.

Requests or recommendations for Certificate of Merit shall be forwarded to the GSA Nondiscrimination Officer for consideration and appropriate action.

§ 5–12.5005–3 Suspension or revocation of Certificate of Merit.

Contracting officers shall be notified by the GSA Nondiscrimination Officer of the suspension or revocation of a Certificate of Merit. After receipt of notification of such suspension or revocation, the firm or individual shall be treated in the same manner as other nonholders of the Certificate for the suspension period, or permanently upon revocation.

§ 5–12.5006 Award considerations.

In determining the responsibility of a prospective contractor, in accordance with §§ 1–1.310 and 5–1.310, the contracting officer shall consider whether the prospective contractor will be able to, and will, conform to the requirements of the nondiscrimination provisions when applicable. The contracting officer shall make appropriate inquiry concerning the prospective contractor's employment policies and practices, and shall request an investigation by the Compliance Division of any adverse information regarding such policies and practices coming to his knowledge as a result of Government contracts previously or currently held by the prospective contractor, or from other sources. The contracting officer may, prior to award of a contract, require a prospective contractor to submit names of its proposed subcontractors and other information regarding employment policies and practices of such subcontractors. The contracting officer or his authorized representative shall, in doubtful cases, endeavor by conference, conciliation, mediation, or persuasion to induce the prospective contractor to undertake full compliance, but shall deny an award of the contract on the ground that the prospective contractor is not a responsible bidder or offeror if he is satisfied that the prospective contractor cannot, or will not, comply with the nondiscrimination provisions. When such action is taken by the contracting officer, the matter shall be handled in the manner prescribed in §§ 1–1.310 and 5–1.310.

PART 5–16—PROCUREMENT FORMS

Subpart 5–16.8—Miscellaneous Forms

Subpart 5–16.8 is added to read as follows:

Sec.

AUTHORITY: §§ 5–16.850 to 5–16.860 issued under sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 5–16.850 Report on GSA procurement from small business.

GSA Form 1734, Report on GSA Procurement from Small Business, is prescribed for use in accordance with § 5–1.5007.

§ 5–16.851 Request for release of classified information to U.S. industry.

GSA Form 1720, Request for Release of Classified Information to U.S. Industry, is prescribed for use in accordance with § 5–53.202.

§ 5–16.852 Security requirements check list.

DD Form 254, Security Requirements Check List, is prescribed for use in accordance with § 5–53.203.

§ 5–16.853 Identical bid report for procurement.

Form DJ 1500, Identical Bid Report for Procurement, is prescribed for use in accordance with § 5–1.5009.

§ 5–16.854 Notice of award of contract.

Standard Form 99, Notice of Award of Contract, is prescribed for use in accordance with § 5–12.603.

§ 5–16.855 Department of Labor form letter (Walsh-Healey Public Contracts Act).

Form PC–12, a Department of Labor form letter is prescribed for use in accordance with § 5–12.603.

§ 5–16.856 Department of Labor poster (Walsh-Healey Public Contracts Act).

Form PC–13, a Department of Labor poster is prescribed for use in accordance with § 5–12.603.

§ 5–16.857 Nondiscrimination in employment.

GSA Form 1714, Nondiscrimination in Employment, is prescribed for use in accordance with § 5–12.5003.

§ 5–16.858 Notice to Labor Unions or Other Organizations of Workers.

Standard Form 38, Notice to Labor Unions or Other Organizations of Workers, is prescribed for use in accordance with § 5–53.709.

§ 5–16.859 Compliance Report (Nondiscrimination Provisions of U.S. Government Contracts).

Standard Form 40, Compliance Report (Nondiscrimination Provisions of U.S. Government Contracts) is prescribed for use in accordance with § 5–53.702.

§ 5–16.860 Certificate of Submission of Current Compliance Report (Nondiscrimination Provisions of U.S. Government Contracts).

Standard Form 40–A, Certificate of Submission of Current Compliance Report (Nondiscrimination Provisions of U.S. Government Contracts) is prescribed for use in accordance with § 5–53.702.

PART 5–53—CONTRACT ADMINISTRATION

Subpart 5–53.5—Termination

Section 5–53.501–5 is revised to read as follows:

§ 5–53.501–5 Notice of intent to terminate for default.

(a) When the contract so requires or when urgent action to terminate for default is not required and, in any event, the contractor has not been excused from the specific failure to perform, the contractor shall be furnished a preliminary notice in writing advising that termina-

tion action will be taken after the expiration of 10 days (or longer period as authorized by the contracting officer) unless the contractor has cured the failure within that period of time. The preliminary notice shall be specific with respect to the contract number and date, the contract provision under which action is contemplated, the failure which will cause termination action unless corrected, and the length of time for corrective action. If the need for performance is urgent, and the specific failure to perform has not been excused, the contracting officer may take immediate termination action without issuance of a preliminary notice unless the notice is required by the terms of the contract (e.g., paragraph 11(a)(ii), Standard Form 32, General Provisions (Supply Contract) requires such a notice).

(b) No contract shall be terminated for failure to comply with the nondiscrimination provisions of a contract, either in whole or in part, until the expiration of 10 days from the date of receipt of notice of such proposed termination to the contractor or subcontractor involved, affording him an opportunity to comply with the provisions of the Executive order. A longer period may be fixed by the contracting officer with the approval of both the GSA Nondiscrimination Officer and the Executive Vice Chairman of the Committee.

Subpart 5–53.7—Equal Employment Opportunity in Government Contracts

Subpart 5–53.7 is added, to read as follows:

Sec.

AUTHORITY: §§ 5–53.701 to 5–53.709–5 issued under sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 5–53.701 General.

Contracting officers or their authorized representatives shall use all reasonable means in the administration of contracts to promote adherence to the requirements of Executive Order No. 10925 of March 6, 1961, and the rules and regulations of the President's Committee on Equal Employment Opportunity where applicable to such contracts.

(a) Compliance reviews shall be made as prescribed in §§ 5–53.703 and 5–53.704 to ascertain the extent to which the Executive order is being implemented to provide equal employment opportunity for all qualified persons in accordance with the national policy. When violations are found, such means as conference, persuasion, mediation, and conciliation should be used in an effort to effect compliance. When appropriate, discussions of the employment practices of contractors or subcontractors should be held with management, employees, minority groups, and interested civic groups. Compliance reviews are not intended to interfere with the responsibilities of employers to determine the competence and qualifications of employees and applicants for employment. Compliance reviews shall be made by the contracting officer or his authorized representatives, such as the GSA Nondiscrimination Officer, a representative of the Compliance Division, a representative of the Quality Control Division, FSS, or others.

(b) If it is found that a contractor has a contract with other Government agencies, the contracting agency having the predominant interest shall normally conduct the compliance review. That agency having the largest aggregate dollar value of contracts at the time of filing of the most recent compliance report shall be deemed to have the predominant interest.

(c) The definitions contained in § 5–12.5002 shall apply to this Subpart 5–53.7.

§ 5–53.702 Compliance reports.

Standard Form 40, Compliance Report (Nondiscrimination Provisions of U.S. Government Contracts) and Standard Form 40–A, Certificate of Submission of Current Compliance Report (Nondiscrimination Provisions of U.S. Government Contracts), shall be required of contractors and subcontractors subject to the Order in accordance with the detailed instructions contained in Standard Form 40. Procuring activities shall take such action as will preclude the unnecessary duplicate submission of the Report and the Certificate.

§ 5–53.703 Routine compliance review.

(a) A routine compliance review is a general review of the practices of a contractor or subcontractor to ascertain compliance with the requirements of the Executive order. A routine compliance review shall be considered a normal part of contract administration. This type of review shall include a verification that posters and notices are appropriately placed and the nondiscrimination provisions are included in subcontracts, when applicable. In addition, where the contractor or subcontractor has solicited or advertised for employees, the review shall determine whether such solicitation or advertisement meets the following standards:

(1) States expressly that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin;

(2) Includes an appropriate insignia prescribed by the Committee;

(3) Is grouped with other advertisements under a caption which clearly states that all employers in the group assure all qualified applicants equal consideration for employment without regard to race, creed, color, or national origin; or

(4) Uses in clearly distinguishable type the phrase "an equal opportunity employer."

(b) Routine compliance reviews shall be made of all contracts subject to the provisions except wherein another agency has the predominant interest (see § 5–53.701(b)). Only in exceptional circumstances should the Compliance Division be requested to make a routine compliance review. The results of a routine compliance review shall be documented by memorandum or other appropriate method and shall become a part of the procurement file. If, however, a violation of the requirements set forth in this § 5–53.703 is found, and action has not been taken by the contractor to correct such violation, a written finding shall be forwarded to the GSA Nondiscrimination Officer by the contracting officer. If, based on the findings, the GSA Nondiscrimination Officer determines that a special compliance review, in accordance with § 5–53.704, is warranted, he shall request the Compliance Division to make such review. (However, where inability or unwillingness to display posters and notices is involved, see § 5–53.709–5.)

§ 5–53.704 Special compliance review.

(a) A special compliance review consists of a comprehensive review of the employment practices of a contractor or subcontractor to determine compliance with the requirements of the Executive order. When GSA is the predominant interest contracting agency, special compliance reviews shall be conducted from time to time, when special circumstances (including complaints) warrant, or when so requested by the Executive Vice Chairman. Special compliance reviews shall be conducted by the Compliance Division. Three copies of the results of such reviews shall be furnished to the GSA Nondiscrimination Officer who shall forward one copy to the Executive Vice Chairman and one copy to the contracting officer with appropriate recommendations. The Compliance Division shall evaluate the information gained from special compliance reviews to determine if there is justification for inclusion of a contractor or subcontractor on the Review List of Bidders and, if such justification exists, the matter shall be handled in accordance with § 5–1.310–50(c).

(b) The books, records, and accounts of a contractor or subcontractor may be examined as provided in the contract provisions for the purpose of ascertaining compliance with the rules, regulations, and orders of the Committee, and

the examination shall be limited as follows:

(1) Examinations shall be performed during normal business hours of the contractor or subcontractor.

(2) Examinations shall be limited to books, records, and accounts pertinent to compliance with the Executive order, and the rules, regulations, and orders promulgated pursuant thereto by the Committee, the Executive Vice Chairman, the Secretary of Labor, and this Subpart 5–53.7.

(3) Information obtained by such examination shall be used only in connection with the administration of the Executive order.

(c) Upon receipt of findings and recommendations resulting from a special compliance review, the contracting officer shall determine the action to be taken under the contract terms. Such action may consist of termination of the contract in accordance with § 5–53.501–5(b), proposing ineligibility (in such cases the contractor or subcontractor shall be given an opportunity for a hearing in accordance with §§ 5–53.707 and 5–53.708), referral to the Department of Justice in accordance with § 5–53.706, or a determination that there has been adequate compliance and no further action is necessary. No ineligibility or other sanctions may be imposed against a contractor or subcontractor (except termination in accordance with § 5–53.501–5 (b)) without prior approval of the Committee.

§ 5–53.705 Complaints.

§ 5–53.705–1 Receipt of complaints.

Any employee of any contractor or subcontractor or applicant for employment with such contractor or subcontractor who believes himself to be aggrieved under the nondiscrimination provisions of the contract or subcontract may, by himself or by an authorized representative, file in writing a complaint of alleged discrimination. Complaints received in GSA shall be forwarded to the GSA Nondiscrimination Officer for appropriate action. When a complaint is received by the GSA Nondiscrimination Officer, one copy thereof shall be forwarded to the Executive Vice Chairman within 10 days of receipt and, if the GSA Nondiscrimination Officer finds GSA to be the predominant interest contracting agency, one copy to the Compliance Division for investigation. The Compliance Division shall proceed with the investigation without further notification from the GSA Nondiscrimination Officer or the Committee.

§ 5–53.705–2 Contents of complaints.

(a) The complaint must be signed by the complainant and should contain the following information:

(1) The name, address, and telephone number of the complainant;

(2) The name and address of the contractor or subcontractor committing the alleged discrimination;

(3) A description of the acts considered to be discriminatory;

(4) Any other pertinent information which will assist in the investigation and resolution of the complaint; and

(5) A statement by the complainant that he may be identified in discussions with the contractor.

(b) When the GSA Nondiscrimination Officer receives incomplete complaints, he shall seek promptly the needed information from the complainant. The complainant shall be advised that such information must be furnished in writing, and signed; and, if the desired information is not received within 60 days of the date of request, the case may be closed. The records of such closed cases shall be treated in a manner similar to that set forth in § 5–53.705–7.

§ 5–53.705–3 Investigation of complaints.

(a) The Compliance Division shall investigate all complaints except where GSA is not the predominant interest agency. If GSA is not the predominant interest agency the complaint shall be forwarded to such agency by the GSA Nondiscrimination Officer for appropriate action.

(b) Investigations conducted by the Compliance Division should include, where appropriate, a review of the pertinent personnel practices and policies of the contractor or subcontractor, the circumstances under which the alleged discrimination occurred, and other factors relevant to a determination as to whether the contractor or subcontractor has complied with the nondiscrimination provisions of the contract.

§ 5–53.705–4 Resolution of complaints.

(a) The Compliance Division shall forward the report of investigation in duplicate to the GSA Nondiscrimination Officer, who shall determine whether or not the investigation shows a violation of the nondiscrimination provisions of the contract. If the GSA Nondiscrimination Officer determines that no violation has been shown, he shall forward one copy of the report to the Executive Vice Chairman for concurrence. If the Executive Vice Chairman concurs in the determination of the GSA Nondiscrimination Officer that the investigation shows no violation, the Compliance Division, the contracting officer, the complainant, and the appropriate contractors and subcontractors shall be so notified by the GSA Nondiscrimination Officer and the case shall be closed pursuant to § 5–53.705–7.

(1) If the GSA Nondiscrimination Officer determines that additional facts are necessary to enable him to reach a decision, he may request further investigation by the Compliance Division.

(2) If the Executive Vice Chairman does not concur in the determination of the GSA Nondiscrimination Officer, he may request further investigation by GSA or he may undertake such investigation by the Committee as he may deem appropriate. If the Executive Vice Chairman requests further investigation by GSA, the GSA Nondiscrimination Officer shall forward such request to the Compliance Division for appropriate action.

(b) If the GSA Nondiscrimination Officer determines that the investigation indicates an apparent violation of the nondiscrimination provisions, he shall refer a copy of the report to the contracting officer. The matter should then be resolved by informal means by the contracting officer or his authorized representative, whenever possible. When a complaint cannot be resolved by informal means, the contractor or subcontractor complained against may be given an opportunity for a hearing and the matter treated in a manner similar to that prescribed in § 5–53.704(c).

§ 5–53.705–5 Requests for hearings.

Requests for hearings received by GSA personnel from firms or individuals shall be forwarded to the GSA Nondiscrimination Officer who shall normally conduct such hearings in accordance with § 5–53.708.

§ 5–53.705–6 Alleged erroneous orders issued to contractors and subcontractors.

If a contractor or subcontractor complies with recommendations or orders of the Executive Vice Chairman or the contracting officer (or his authorized representative), without a hearing and believes such recommendations or orders issued in connection with complaints to be erroneous, he shall be afforded an opportunity for a hearing upon request. Such hearing will be held before the GSA Nondiscrimination Officer or the Executive Vice Chairman, whoever issued the basic recommendation or order.

§ 5–53.705–7 Disposition of case records.

Within 30 days after the completion of processing of a complaint case, the report of investigation and a summary report shall be forwarded to the GSA Nondiscrimination Officer for transmittal to the Executive Vice Chairman. The summary report shall contain the following information:

(a) Name and address of the complainant;

(b) Brief summary of the findings; and

(c) A statement of the disposition of the case, including any corrective action taken and any sanctions (e.g., continuance of the contract conditioned upon a program for future compliance approved by the GSA Nondiscrimination Officer) or penalties (e.g., termination of the contract or portion thereof) imposed in connection with any termination action taken under the contract nondiscrimination provisions or, wherever appropriate, the recommended corrective action and sanctions or penalties.

§ 5–53.705–8 Complaints referred by the Committee.

(a) Whenever the Executive Vice Chairman processes complaints affecting GSA contractors or subcontractors, and where ineligibility is proposed, the GSA Nondiscrimination Officer may be called upon to hold hearings on such complaints. When such hearings are requested by the Executive Vice Chairman, findings and recommendations shall be forwarded to the Executive Vice Chairman promptly after the completion of the hearings, for determination of the corrective action to be taken.

(b) The Executive Vice Chairman will notify GSA of the corrective action to be taken or sanctions to be imposed. A report of action taken shall be made through the GSA Nondiscrimination Officer to the Executive Vice Chairman as provided in the notice of corrective action from the Executive Vice Chairman.

§ 5–53.706 Referral to the Department of Justice.

Contracting officers may initiate a recommendation to the Department of Justice that appropriate proceedings be brought against a contractor or subcontractor to enforce the nondiscrimination provisions because of material or substantial violations of the provisions or the threat of such material or substantial violations. The following actions shall be taken by the contracting officer before referral to the Department of Justice.

(a) A report of investigation and recommendation shall be forwarded through the GSA Nondiscrimination Officer to the Executive Vice Chairman for approval of the recommended action.

(b) After approval by the Executive Vice Chairman, the contractor or subcontractor involved shall be given a notice of intent to refer the case to the Department of Justice by the contracting officer. Such notice shall allow a period of 10 days (unless a longer period is fixed by the GSA Nondiscrimination Officer with the approval of the Executive Vice Chairman) from the date of receipt of the notice for the contractor or subcontractor to comply with the provisions of the Executive order. The contracting officer or his authorized representative shall make reasonable efforts to persuade the contractor to comply with the provisions of the Executive order and to take such corrective action as may be appropriate.

(c) If, at the end of the 10-day period (or longer period as authorized), the contractor or subcontractor has not complied with the Executive order, the contracting officer shall forward the case, completely documented, through channels to the Office of General Counsel for referral to the Department of Justice. When referral is made by the Office of General Counsel, a copy of the letter of transmittal shall be forwarded to the GSA Nondiscrimination Officer, the Compliance Division, and the contracting officer.

§ 5–53.707 Contract ineligibility cases.

When ineligibility due to violations of the nondiscrimination provisions is proposed the following procedures shall be followed:

(a) A notice of the proposed determination in writing, signed by the GSA Nondiscrimination Officer, shall be sent to the contractor or subcontractor by certified mail, return receipt requested. The notice shall contain the proposed determination of ineligibility for further Government contracts, supported by instances of violation of the nondiscrimination provisions in sufficient detail as to person, place, and time, to inform the contractor of the justification for the proposed determination.

(b) The contractor has 10 days to request a hearing on the proposed determination. In this request, he may ask for a written statement of further facts in reasonable detail regarding the specific charges.

(c) If, at the end of such 10-day period, no request for a hearing has been received by the GSA Nondiscrimination Officer, it may be assumed that the contractor or subcontractor does not desire to be heard; in which event the case file shall be appropriately annotated of this fact and a summary of the case, including any appropriate recommendations, shall be forwarded to the Executive Vice Chairman.

§ 5–53.708 Nondiscrimination hearings.

§ 5–53.708–1 General.

(a) A contractor or subcontractor shall be afforded an opportunity for a hearing where, after investigation, ineligibility is proposed. They may also be afforded an opportunity for a hearing in connection with complaints which cannot be resolved by informal means even though no ineligiblity is involved but where an investigation indicates the existence of an apparent violation of the provisions. Such hearings shall be conducted by the GSA Nondiscrimination Officer, or such other person or committee as the Administrator may designate. (Hearings in connection with appeals from decisions of contracting officers are handled by the GSA Board of Contract Appeals. (See Subpart 5–53.6.)

(b) The designated hearing officer shall regulate the course of hearings conducted by GSA. The following general rules shall apply to such hearings:

(1) Hearings shall be informally conducted.

(2) Every party shall have the right to counsel, and a fair opportunity to present his case or defense including such cross-examination and confirmation as may be appropriate in the circumstances.

(3) The hearing officer shall make his findings and recommend conclusions upon the basis of the record and evidence presented.

(c) No decision made by the hearing officer with respect to an ineligibility hearing shall be final without prior approval of a panel of the Committee. Therefore, all findings and recommendations in such cases shall be forwarded to the Executive Vice Chairman, who upon approval may enter an order declaring the contractor or subcontractor ineligible for further Government contracts, or extension or other modification of existing contracts until such contractor or subcontractor shall have satisfied the Committee that he has established and will carry out personnel and employment policies in compliance with the provisions of the Order.

§ 5–53.708–2 Hearing notice.

Whenever hearings are to be held, reasonable advance notice thereof shall be given by certified mail, return receipt requested, to the contractor or subcontractor complained against. The notice shall include the following:

(a) A convenient time and place of hearing.

(b) A statement of the provisions of the Executive order and regulations pursuant to which the hearing is to be held.

(c) A concise statement of the matters pursuant to which the action forming the basis of the hearing has been taken or is proposed to be taken.

§ 5–53.709 Posters and notices.

§ 5–53.709–1 General.

The Committee has prescribed a standard nondiscrimination poster and Standard Form 38, Notice to Labor Unions or Other Organizations of Workers, to be used in effecting compliance with the nondiscrimination provisions. Posters and notices are to be acquired, distributed, and used in accordance with this § 5–53.709.

§ 5–53.709–2 Requirements for use.

(a) Except as provided in § 5–53.709–3, contracting officers shall furnish a sufficient quantity of nondiscrimination posters and notices (Standard Form 38) to prime contractors to satisfy their requirements.

(b) The posters and notices shall be furnished by contracting officers with the notification of award and, at the same time, the contractor shall be advised that:

(1) He is required to furnish the nondiscrimination posters to his subcontractors;

(2) The nondiscrimination posters must be posted in all employment offices, on bulletin boards, and other conspicuous places available to employees and applicants for employment;

(3) The nondiscrimination posters must be similarly displayed by subcontractors;

(4) He is required to complete, sign, and furnish the notice (Standard Form 38) to each labor union or organization of workers with which he has a collective bargaining agreement or other contract or understanding;

(5) His subcontractors are also required to execute and furnish such notice in the same manner to each labor union or organization of workers with which they have a collective bargaining agreement or other contract or understanding;

(6) The notice (Standard Form 38) must be posted in all employment offices, on bulletin boards, and other conspicuous places available to employees and applicants for employment and must be similarly displayed by his subcontractor; and

(7) Additional supplies of the posters and notices will be supplied upon request.

§ 5–53.709–3 Exceptions.

Contracting officers need not furnish, and contractors and subcontractors need not use, the posters and notices under the following circumstances:

(a) Contracts and purchase orders exempt from the use of the nondiscrimination provisions as set forth in §§ 5–12.5003–1 and 5–12.5003–2;

(b) Certain types and classes of contracts and purchase orders which have been exempt from certain paragraphs of the nondiscrimination provisions (see § 5–12.5003–3): Provided, That such ex-

emptions specifically include an exemption from the requirements to display posters and notices; or

(c) Any specific contract, subcontract, or purchase order where a request for such exemption has been approved by the Executive Vice Chairman. (Requests for exemptions shall be forwarded to the GSA Nondiscrimination Officer.)

§ 5–53.709–4 Acquisition of posters and notices.

The nondiscrimination posters and the notice (Standard Form 38) are available in all GSA Stores Depots and may be ordered by GSA personnel in the usual manner. Stock numbers and descriptions of these items are as follows:

Stock No.	*Description*
7530–338–5437	Nondiscrimination poster, 12½" x 18¼".
7530–338–5448	Nondiscrimination poster, 8½" x 12".
7540–823–7871	Standard Form 38—Notice to Labor Unions or Other Organizations of Workers.

§ 5–53.709–5 Inability or unwillingness to display posters and notices.

(a) If during the conduct of a routine compliance review, or by other means, a contracting officer (or his authorized representative) becomes aware of the inability or unwillingness of a contractor or subcontractor to display posters or furnish notices in accordance with this § 5–53.709 or, where the labor unions or other organizations of workers have refused or otherwise declined to accept such notices from a contractor or subcontractor, a report of such instances shall be made by the contracting officer to the GSA Nondiscrimination officer for transmittal to the Committee.

(b) The report referred to in (a), above, shall contain the pertinent circumstances of the case and the action taken in the matter by the contracting officer or his authorized representative.

Effective date. These regulations are effective upon publication in the FEDERAL REGISTER.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: July 25, 1962.

LAWSON B. KNOTT, Jr.,
Acting Administrator.

[F.R. Doc. 62–7553; Filed, July 31, 1962; 8:49 a.m.]

PART 5–51—CONTRACT FINANCING

Miscellaneous Amendments

Subpart 5–51.2 is revised and Subpart 5–51.3 is added, to read as follows:

Subpart 5–51.2—Progress Payments

Subpart 5–51.3—Advance Payments

AUTHORITY: §§ 5–51.200 to 5–51.302 issued under sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 5–51.2—Progress Payments

§ 5–51.200 Scope of subpart.

This subpart prescribes basic policies and procedures in providing contract financing in the form of progress payments.

§ 5–51.201 Applicability.

The policies and procedures of this Subpart 5–51.2 are applicable only to fixed-price contracts for domestically produced supplies and for nonpersonal service (other than construction, or the engineering and architectural contracts pertinent to construction). Provision is made for progress payments for construction contracts in Standard Forms 19 and 23A, which are prescribed in Subpart 1–16.4.

§ 5–51.202 Definition.

"Progress payment" means a payment made from time to time during the performance of a contract on the basis of costs to the contractor, or percentage of completion, or particular stage of completion, in connection with which the Government takes title to property acquired and work performed under the contract.

§ 5–51.203 Policy.

To the maximum practicable extent, the need for progress payments shall not be treated as a handicap in awarding contracts to concerns which qualify as responsible suppliers. A prospective contractor deemed reliable, competent, and otherwise responsible shall not be regarded as any less responsible because of the need for progress payments.

§ 5–51.204 Requirement for use of progress payments.

(a) The contracting officer shall include in the invitation for bids or request for proposals the provision set forth in § 5–51.205, unless he determines that progress payments would be impractical or not reasonably necessary. Except in the formation of indefinite quantity contracts, it shall generally be considered practical or reasonably necessary to make progress payments, unless one or more of the following factors are present:

(1) The procurement is expected to result in a contract for less than $10,000.

(2) The contracting officer determines that the time between starting performance (usually immediately following the date of award) and delivery of the first end items is of such short duration (90 days or less) as to obviate the need for progress payments.

(3) The contract provides for the placing of orders and the making of payments by more than one office.

(b) In unusual conditions, progress payments may be considered practical or reasonably necessary even though one or more of the exceptions of (a) (1), (2), or (3), above, may be applicable. In such cases a written determination by the contracting officer is required. Such a determination would be warranted if previous experience indicates that contract performance is likely to involve expenditures which have a material impact on the supplier's working funds prior to delivery of the first end items.

§ 5–51.205 Provision for invitations for bids or requests for proposals.

The following provision shall be included in invitations for bids or requests for proposals under the circumstances set forth in § 5–51.204.

AVAILABILITY OF PROGRESS PAYMENTS

The Government will make provision for progress payments in any contract resulting from this invitation for bids (or request for proposals) by including an appropriate clause in the contract if:

(a) The period of time between starting performance and delivery of the first end items will exceed 6 months; or contract performance is likely to involve, prior to delivery of the first end items, expenditures having a material impact on the Contractor's working funds, or, in the case of progress payments first requested subsequent to award, involves expenditures having such impact; and

(b) The bidder (offeror) or Contractor makes a written request for progress payments and is found eligible for such payments under applicable regulations.

The need for progress payments on the foregoing basis will not be considered a handicap or an adverse factor in awarding contracts.

If a bidder (offeror) desires progress payments, and accompanies his bid (offer) with a written request therefor, the bidder (offeror) shall also check the appropriate box below:

☐ Progress payments are desired but bid (offer) is not conditioned on receiving progress payments.

☐ Bid (offer) is conditioned on receiving progress payments.

(NOTES: 1. If bid (offer) is conditioned on the availability of progress payments and bidder (offeror) is found ineligible for progress payments, the bid (offer) will be rejected. 2. Submission of a bid (offer) without requesting progress payments does not preclude the bidder (offeror) from later requesting progress payments in accordance with applicable regulations, prior to or after award of a contract.)

§ 5–51.206 Progress payment clause for use in contracts.

(a) When progress payments are to be authorized, an appropriate clause shall be included in the contract at the time of award or subsequent thereto, as appropriate.

(b) Progress payment clauses shall be based upon percentage of cost. See § 5–51.212. The contracting officer shall establish the form of progress payment clause (based upon percentage of costs) that is to be used, after coordinating with appropriate legal counsel and the Office of Financial Management, OFA. Provision for progress payments based on costs at rates in excess of 90 percent of direct labor and materials (either or both) costs, or 75 percent of total costs, may be made only with the approval of the head of the procuring activity and the Director of Financial Management, or their designees. Full consideration shall be given to the clauses shown as exhibits in GSA Personal Property Management Regulation No. 33, December 31, 1956 (which are illustrative only, and intended as guides for developing appropriate progress payment clauses).

(c) Progress payment clauses shall be in accordance with section 8 of PPMR No. 33.

§ 5–51.207 Eligibility for progress payments.

(a) Contracting officers shall determine the eligibility of contractors or prospective contractors to receive progress payments. The determination shall be in writing and approved by the head of the procuring activity or his designee, and the contractor or prospective contractor and the Office of Financial Management, OFA, shall be so notified.

(b) To be eligible to receive a progress payment, a contractor or prospective contractor must have

(1) Submitted a written request;

(2) Been found responsible under the provisions of § 1–1.310, §5–1.310, and § 5–51.203;

(3) Been found in line for an award or received a contract that includes a provision for progress payments; and

(4) An accounting system and controls adequate for the proper administration of the progress payment clause.

§ 5–51.208 Liquidation of progress payments.

Progress payments shall be liquidated at the rates specified in section 8c of Personal Property Management Regulation No. 33. Recovery at rates lower than those so specified may only be made with the approval of the head of the procuring activity and the Director of Financial Management or their designees. With respect to clauses based on direct labor and materials, the appropriate Credit and Finance Division will provide assistance to contracting officers in estimating costs for the purpose of establishing the liquidation rate.

§ 5–51.209 Administration of the progress payment clause.

(a) Contracting officers shall keep informed regarding the overall operations and financial condition of contractors that are receiving progress payments so as to preclude overpayments and losses. The Office of Financial Management, OFA, shall promptly report to the contracting officer the date and amount of each progress payment made to a contractor. Controls shall be established to provide timely knowledge of circumstances that affect performance and liquidation. This would ordinarily include periodic checks on physical progress to determine whether payments are supported by the value of work actually accomplished, and also on the contractor's inventory to insure that it does not exceed reasonable requirements for the contract involved. The extent of the supervision required will vary with the nature and value of the contract.

(b) The appropriate Credit and Finance Division serving the contracting office shall institute adequate fiscal controls and shall inform the contracting officer, in writing, whenever its findings may warrant action by the Government.

(c) See also section 10, PPMR No. 33, regarding supporting data required of contractors when submitting requests for progress payments.

§ 5–51.210 Suspension or reduction of payments or liquidation at an increased rate.

(a) When an inexcusable failure to perform is established or a report of an adverse nature is received with respect to the contractor's condition or conduct of business, the contracting officer shall determine whether progress payments should be suspended or reduced. When actual or future costs of performance are higher than the estimated costs used to establish liquidation rates, the contracting officer shall determine whether the liquidation rate should be increased. Actions to suspend or reduce payments or to increase the liquidation rate should not be taken capriciously or arbitrarily, but shall be predicated upon an appropriate provisions in the contract (see section 8.e.(4), PPMR No. 33) and a thorough review of the pertinent facts as well as a notice to and discussion with the contractor. Such actions should be coordinated with and based upon other official actions, if any, affecting contract performance, such as termination of the contractor's right to proceed with deliveries.

(b) The contracting officer shall document actions to suspend or reduce progress payments or to increase the liquidation rate with a written determination, concurred in by legal counsel and the Director of Financial Management, and approved by the head of the procuring activity, or his designee.

§ 5–51.211 Unusual matters.

Problems or inquiries concerning progress payments that cannot be resolved by regional procuring activities shall be referred to the Commissioner of the appropriate service, or his designee, with all relevant facts.

§ 5–51.212 Explanation of limitations and illustrations of their application.

In accordance with § 5–51.206, all progress payment clauses must include limitations, expressed in terms of percentages, controlling the total amount of progress payments, the amount of unliquidated progress payments, and the rate of liquidation of progress payments, all of which limitations are described in (a) through (d), below:

(a) A limitation on the aggregate amount of progress payments at any one time, expressed in terms of a percentage of the cumulative costs of the contractor which are allocable to the contract (referred to in this § 5–51.212 as "percentage A").

(b) A limitation on the total amount of progress payments, expressed in terms of a percentage of the total contract price (referred to in this § 5–51.212 as "percentage B").

(c) A limitation, expressed in terms of a percentage, prescribing the minimum portion of the payments for delivered items which must be applied toward the reduction of unliquidated progress payments (referred to in this § 5–51.212 as "percentage C").

(d) A limitation on the amount of unliquidated progress payments at any one time, expressed in terms of a percentage of the contract price for all undelivered items (referred to in this § 5–51.212 as "percentage D").

§ 5–51.212–1 Total costs basis.

When the progress payment clause is based on total costs, the maximum payments made (percentage A) may not ordinarily exceed 75 percent of the cumulative total cost allocable to the contract. Under this type of clause, percentage A is established first, and percentages B, C, and D are always the same as percentage A.

§ 5–51.212–2 Direct labor and materials (either or both) costs basis.

When the progress payments clause is based on costs of direct labor and materials, the maximum progress payments made (percentage A) may not ordinarily exceed 90 percent of the cumulative direct labor and materials costs allocable to the contract. Under this type of clause, percentage A is established first. The percentage used for B, C, and D is computed from the ratio of the estimated direct labor and materials costs to the estimated total costs, multiplied by percentage A.

§ 5–51.212–3 Examples.

(a) In (b) and (c), below, the following hypothetical contract values are used to illustrate the computation and application of the limiting percentages described in this § 5–51.212:

(1) Total contract value: $100,000.

(2) Total costs estimated to be: $90,000.

(3) Direct labor and materials costs estimated to be: $63,000.

(4) Value of delivered items, at contract price: $60,000.

(5) Value of undelivered items, at contract price: $40,000.

(6) Value of invoice submitted for payment of delivered items: $60,000.

(7) Percentage A (total costs basis): 75 percent.

(8) Percentage A (direct labor and materials basis): 90 percent.

(b) Under a total costs clause, percentage A is 75 percent by hypothesis (see (a)(7), above), and percentages B, C, and D are 75 percent by definition. Accordingly, the dollar values of the factors corresponding to the limiting percentages are as follows:

Factor limited by percentage	Computation	Limit value of factor
A	($90,000) (75%)	$67,500
B	($100,000) (75%)	75,000
C	($60,000) (75%)	45,000
D	($40,000) (75%)	30,000

(c) Under a direct labor and materials (either or both) costs clause, percentage A is 90 percent by hypothesis (see (a)(8), above). By definition, percentages B, C, and D are computed:

$$(1)\ \frac{\text{Estimated direct labor and materials costs}}{\text{Estimated total costs}} = \frac{\$63,000}{\$90,000} = 0.70;\ \text{and}$$

(2) (0.70) (90 percent) = 63 percent (percentages B, C, and D);

(3) Accordingly, the dollar values of the factors corresponding to the limiting percentages are as follows:

Factor limited by percentage	Computation	Limit value of factor
A	($63,000) (90%)	$56,700
B	($100,000) (63%)	63,000
C	($60,000) (63%)	37,800
D	($40,000) (63%)	25,200

Subpart 5–51.3—Advance Payments

§ 5–51.300 Scope of subpart.

This subpart prescribes policies and procedures relating to advance payments. Advance payments are payments made by the Government to a contractor in the form of advances prior to and in anticipation of performance under a contract.

§ 5–51.301 Authority.

Pursuant to the authority contained in section 305 of the Federal Property and Administrative Services Act of 1949, advance payments may not exceed the unpaid contract price and may be made only upon adequate security and a determination that to do so would be in the public interest. It must also be determined that provision for such advance payments is necessary and appropriate in order to procure required supplies or services under the contract.

§ 5–51.302 Approval.

(a) If the procuring activity receives a request for an advance payment, the contracting officer concerned shall request the appropriate Credit and Finance Division to determine if there is adequate security for such advance payment. The determinations required under § 5–51.301 shall be prepared by the contracting officer in cooperation with the appropriate legal counsel and Director of Financial Management's representatives. Each determination shall be based on written findings made by the official making such determination or decision, which findings shall be final and shall be available for a period of at least six years following the date of the determination or decision. A copy of the findings shall be filed with the General Accounting Office copy of the contract.

(b) Appropriate advance payment clauses recommended for inclusion in the proposed contract shall be prepared by the contracting officer in cooperation with the appropriate legal counsel and Director of Financial Management's representatives. The determinations and findings, together with the recommended advance payment clauses and other pertinent information, shall be submitted to the Head of the Procuring Service or Staff Office, or his designee, for review and approval prior to award.

Effective date. These regulations are effective upon publication in the FEDERAL REGISTER.

Dated: July 25, 1962.

LAWSON B. KNOTT, Jr.,
Acting Administrator.

[F.R. Doc. 62–7554; Filed, July 31, 1962; 8:50 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 2735]

[50443]

IDAHO AND UTAH

Power Site Restoration No. 579; Partly Revoking Power Site Reserve No. 373

By virtue of the authority vested in the President by section 1 of the Act of June 25, 1910 (36 Stat. 847; 43 U.S.C. 141), and pursuant to Executive Order No. 10355 of May 26, 1952, and by virtue of the authority contained in section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075; 16 U.S.C. 818), as amended, and pursuant to determinations of the Federal Power Commission in combined DA–129–Utah and DA–528–Idaho, it is ordered as follows:

1. The Executive order of July 3, 1913, which established Power Site Reserve No. 373, is hereby revoked so far as it affects the following-described lands:

UTAH

SALT LAKE MERIDIAN

T. 13 N., R. 5 E.
Sec. 10, lots 2, 3, and 4;
Sec. 15, lots 1, 2, 3, and 4;
Sec. 22, lot 3;
Sec. 23, lots 1 and 2;
Sec. 24, lot 4 (designated on official plats as lot 1).
T. 14 N., R. 5 E.,
Sec. 9, lot 1.
T. 13 N., R. 6 E.,
Sec. 5, lots 1, 2, 3, and 4;
Sec. 8, lots 1, 2, 3, 4, and 5;
Sec. 17, lot 1.
T. 14 N., R. 6 E.,
Sec. 9, lots 1, 2, 3, and 4;
Sec. 21, lots 1, 2, 3, and 4;
Sec. 28, lot 1;
Sec. 29, lot 1.
T. 15 N., R. 6 E.,
Sec. 34, lot 4.

IDAHO

BOISE MERIDIAN

T. 14 S., R. 44 E.,
Sec. 12, S½SE¼;
Sec. 21, lots 1, 2, 3, and 4;
Sec. 22, lots 1 and 2;
Sec. 26, S½NE¼;
Sec. 35, lots 3 and 4.
T. 15 S., R. 44 E.,
Sec. 1, lots 5, 6, 9, and 10;
Sec. 6, lots 1, 2, 3, 4, and 5;
Sec. 12, lots 2, 3, 6, and 7;
Sec. 13, lots 2, 3, and 6;
Sec. 14, lot 1.
T. 16 S., R. 44 E.,
Sec. 1, lots 1 and 2;
Sec. 12, lots 1, 2, 3, 4 and NE¼NE¼;
Sec. 13, lots 1, 2, 3, and 4;
Sec. 24, lots 1, 2, 3, 4 and SW¼SE¼;
Sec. 25, lots 1, 2, 3, and 4.

The areas described total in the aggregate approximately 2,354 acres, of which approximately 762 acres are in Utah, and 1,592 acres in Idaho. Some of the lands are withdrawn for other purposes, and some are patented.

2. Until 10:00 a.m. on January 26, 1963, the States of Utah and Idaho shall have (1) a preferred right of application to select the public lands within their respective borders released from withdrawal by this order in accordance with subsection (c) of section 2 of the Act of August 27, 1958 (72 Stat. 928; 43 U.S.C. 851, 852), and (2) a preferred right to apply for the reservation to the State, or to any of its political subdivisions, as appropriate, under any statute or regulation applicable thereto, of any of the lands required for a right-of-way for a public highway or as a source of materials for the construction and maintenance of such highways.

3. This order shall not otherwise be effective to change the status of the lands until 10:00 a.m. on January 26, 1963. At that time they shall be open to the operation of the public land laws generally, subject to valid existing rights and equitable claims, the requirements of applicable law, rules and regulations, and the provisions of any existing withdrawals. The lands have been open to applications and offers under the mineral leasing laws and to location under the United States mining laws, subject to the provisions of the Act of August 11, 1955 (69 Stat. 682; 30 U.S.C. 621).

4. As to the lands which may be affected, any disposals shall be subject to all rights in the grant for the Bear Lake Reservoir and canals made April 1, 1907, by the Department of the Interior to L. L. Nunn, under the Acts of March 3, 1891, and May 11, 1898, which rights are now held by the Utah Power and Light Company.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Salt Lake City, Utah, or Boise, Idaho, as appropriate.

JOHN A. CARVER, Jr.,
Assistant Secretary of the Interior.

JULY 26, 1962.

[F.R. Doc. 62–7544; Filed, July 31, 1962; 8:48 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 945]

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

Notice of Proposed Expenses and Rate of Assessment

Notice is hereby given that the Secretary of Agriculture is considering the approval of the expenses and rate of assessment hereinafter set forth, which were recommended by the Idaho-Eastern Oregon Potato Committee, established pursuant to Marketing Agreement No. 98, as amended, and Order No. 945, as amended (7 CFR Part 945).

This marketing order regulates the handling of Irish potatoes grown in certain designated counties in Idaho and Malheur County, Oregon, and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Consideration will be given to any data, views, or arguments pertaining thereto, which are filed with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., not later than 15 days following publication of this notice in the FEDERAL REGISTER.

§ 945.215 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred by the Idaho-Eastern Oregon Potato Committee, established pursuant to Marketing Agreement No. 98 and this part, both as amended, to enable such committee to perform its functions, pursuant to the provisions of the aforesaid amended marketing agreement and order, during the fiscal period June 1, 1962, through May 31, 1963, will amount to $30,000.00.

(b) The rate of assessment to be paid by each handler shall be seventy cents per carload or fraction thereof or per truckload of 5,000 pounds or more, of potatoes handled by him as the first handler thereof during said fiscal period.

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

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

Dated: July 27, 1962.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 62–7549; Filed, July 31, 1962; 8:49 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 507]

[Reg. Docket No. 1313]

AIRWORTHINESS DIRECTIVES

Notice of Proposed Rule Making

Pursuant to the authority delegated to me by the Administrator (14 CFR Part 405), notice is hereby given that the Federal Aviation Agency has under consideration a proposal to amend Part 507 of the Regulations of the Administrator to include an airworthiness directive superseding AD 57–7–3, 22 F.R. 6049, which requires inspection and replacement of the wing flap attachment fittings and bolts on Vickers Viscount 700 Series aircraft. Continued investigations by the manufacturer has resulted in substantiation of an increase in bolt life after incorporation of a modification changing the attachment of the flap beam units. It is proposed to supersede AD 57–7–3 with a new directive providing for the increased bolt life when the modification is incorporated. In addition, it is proposed that an inspection of the top flap beam attachment fittings aft of the trailing edge member be made until accomplishment of the modification.

Interested persons may participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section of the Federal Aviation Agency, Room C–226, 1711 New York Avenue NW., Washington 25, D.C. All communications received on or before August 31, 1962, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments submitted will be available in the Docket Section for examination by interested persons at any time. The proposal will not be given further distribution as a draft release.

This amendment is proposed under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423).

In consideration of the foregoing, it is proposed to amend § 507.10(a) of Part 507 (14 CFR Part 507), by adding the following airworthiness directive:

VICKERS. Applies to all Viscount 700 Series aircraft.

Compliance required as indicated.

As a result of wing flap attachment difficulties the following is required for both flap assemblies:

(a)(1) Replace bolts P/N's 72403–2445, 70103–2645 and 70103–2639, at flap support bracket units Nos. 2 and 3 respectively, right and left side with new bolts every 1,500 landings.

(2) Replace bolts P/N's 70003–2359 and 70107–467, at flap support bracket units Nos. 1 and 4 respectively, right and left side with new bolts every 2,500 landings.

(3) When Modification D.2175 is incorporated and provided the bolts referred to in paragraphs (a)(1) and (a)(2) are replaced with new bolts at the same time, the life of these new bolts is extended as specified in the overhaul schedule listed below:

Part number	*Retirement time*
72403–2445	4,500 landings.
70103–2645	4,500 landings.
70103–2639	4,500 landings.
70003–2359	7,500 landings.
70107–467	7,500 landings.

(b) Flap beam (supporting bracket) attachment fitting at wing trailing edge false spar member inspection.

(1) Within the next 135 hours' time in service after the effective date of this AD and each 135 hours' time in service thereafter, visually inspect for cracks all four lower flap support attachment fittings aft of the wing trailing edge member (false spar) on the right and left sides. The initial inspection is not required if these fittings were thoroughly examined at the time of bolt replacement of paragraph (a).

(2) Within the next 385 hours' time in service after the effective date of this AD and each 1,080 hours' time in service thereafter, visually inspect for cracks all the flap support attachment fittings forward of the trailing edge member (false spar), top and bottom, right and left sides at flap positions 2 and 3.

(3) Within the next 385 hours' time in service after the effective date of this AD and each 385 hours' time in service thereafter, visually inspect for cracks all top flap beam attachment fittings aft of the trailing edge member (false spar) on the right and left sides.

(4) Replace cracked fittings.

(5) Incorporate Vickers Modification D.2175 within the next 400 hours' time in service after the effective date of this AD on aircraft exceeding 3,000 landings, or within 400 hours' time in service upon the accumulation of 3,000 landings on aircraft not exceeding 3,000 landings on the effective date of this AD. Upon incorporation of this modification, the inspections called for in (b) (1), (2), and (3) may be discontinued.

(Vickers Viscount 700 Series PTL No. 151, Issue 4 covers this subject.)

This supersedes AD 57–7–3 (22 F.R. 6049).

Issued in Washington, D.C., on July 26, 1962.

G. S. MOORE,
Acting Director, Flight Standards Service.

[F.R. Doc. 62–7532; Filed, July 31, 1962; 8:46 a.m.]

[14 CFR Part 507]

[Reg. Docket No. 1315]

AIRWORTHINESS DIRECTIVES

Notice of Proposed Rule Making

Pursuant to the authority delegated to me by the Administrator (14 CFR Part 405), notice is hereby given that the Federal Aviation Agency has under consideration a proposal to amend Part 507 of the Regulations of the Administrator to include an airworthiness directive re-

quiring modification of the Convair Models 22 and 22M aircraft to eliminate mechanical interference which makes it impossible to apply brakes with the rudder pedals adjusted to the full forward position and the rudder fully deflected.

Interested persons may participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section of the Federal Aviation Agency, Room A–103, 1711 New York Avenue NW., Washington 25, D.C. All communications received on or before August 31, 1962, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments submitted will be available in the Docket Section for examination by interested persons at any time. This proposal will not be given further distribution as a draft release.

This amendment is proposed under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423).

In consideration of the foregoing, it is proposed to amend § 507.10(a) of Part 507 (14 CFR Part 507), by adding the following airworthiness directive:

CONVAIR. Applies to all Models 22 and 22M Series aircraft.

Compliance required within the next 350 hours' time in service after the effective date of this AD, unless already accomplished.

With the rudder pedals adjusted to the full forward position and the rudder fully deflected, mechanical interference can make it impossible to apply brakes on the side with the deflected rudder.

To correct this interference problem, P/N's 22–41202–1 LH and 22–41202–2 RH located at fuselage Station 192 shall be reworked in accordance with General Dynamics/Convair Service Bulletin A27–53 for the Model 22 and A27–22 for the Model 22M or in accordance with an FAA engineering approved equivalent modification.

(General Dynamics/Convair Alert Service Bulletin A27–53 for the Model 22 and A27–22 for the Model 22M cover this same subject.)

Issued in Washington, D.C., on July 26, 1962.

G. S. MOORE,
Acting Director,
Flight Standards Service.

[F.R. Doc. 62–7533; Filed, July 31, 1962; 8:46 a.m.]

FEDERAL TRADE COMMISSION

[16 CFR Part 32]

WIRE ROPE INDUSTRY

Proposed Trade Practice Rules; Notice of Hearing and of Opportunity to Present Views, Suggestions or Objections

Opportunity is hereby extended by the Federal Trade Commission to any and all persons, firms, corporations, organizations and other parties, affected by or having an interest in the proposed trade practice rules for the Wire Rope Industry to present to the Commission their views concerning said rules, including such pertinent information, suggestions, or objections as they may desire to submit, and to be heard in the premises.

For this purpose copies of the proposed rules may be obtained upon request to the Commission. Such views, information, suggestions, or objections may be submitted by letter, memorandum, brief, or other communication, to be filed with the Commission not later than August 27, 1962.

Opportunity to be heard orally will be afforded at the hearing beginning at 9 a.m., e.d.t., on Monday, August 27, 1962, in Room 532, Federal Trade Commission Building, Pennsylvania Avenue at Sixth Street NW., Washington, D.C., to any persons, firms, corporations, organizations, or other parties, who desire to appear and be heard. After due consideration of all matters presented in writing or orally, the Commission will proceed to final action on the proposed rules.

The industry is composed of persons, firms, corporations, and organizations, engaged in the manufacture, sale or distribution of wire rope, wire cable and/or fabricated assemblies consisting primarily of wire rope, cable and strand.

The proceedings are directed to the elimination and prevention of certain acts and practices deemed violative of statutes administered by the Federal Trade Commission.

Authorized: July 18, 1962.

By the Commission:

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 62–7496; Filed, July 31, 1962; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC–6]

[49 CFR Part 170]

REDEFINITION OF THE PHILADELPHIA, PA., COMMERCIAL ZONE

Notice of Proposed Rule Making

JULY 27, 1962.

Petitioners: Delaware Valley Industrial Properties, Inc., Philadelphia Wholesale Drug Co., The Carpenter Steel Co., Burroughs Corp. (Todd Co., Inc.), Hewitt-Robbins, Inc., National Aeronautical Corp., American Cyanamid Co., Minneapolis-Honeywell Regulator Co., Melrose Lighting Co.

Petitioners' attorneys: Richard H. Rea, Commerce Building, Harrisburg, Pa., and Richard E. McDevitt, 1421 Chestnut Street, Philadelphia 2, Pa.

By petition filed May 3, 1962, petitioners request the Commission to reopen this proceeding for oral hearing and to redefine the Philadelphia, Pa., commercial zone which was originally established in this proceeding July 21, 1939, reported at 17 M.C.C. 533, and was modified by order entered March 19, 1962 (49 CFR 170.6). As presently defined, the commercial zone of Philadelphia includes points in Lower Moreland, Abington, Cheltenham, Springfield, Whitemarsh, and Lower Merion Townships in Montgomery County, Pa. The instant petition requests the Commission to enlarge and redefine the Philadelphia commercial zone to include points in an area of Upper Dublin Township, Montgomery County, Pa., bounded by a line "beginning at the intersection of Pennsylvania Avenue and Commerce Drive, thence along the northeast line of Commerce Drive to U.S. Highway 309, thence north on U.S. Highway 309 to Madison Avenue, thence northeast on Madison Avenue to Hartranft Avenue, thence east on Hartranft Avenue to Highland Avenue, thence southeast on Highland Avenue to Camphill Road, thence northeast on Camphill Road to Susquehanna Road, thence southeast on Susquehanna Road to Limekiln Pike (Pennsylvania Highway 152), thence north on Limekiln Pike (Pennsylvania Highway 152) to Dreshertown Road, thence northeast on Dreshertown Road to Welsh Road, thence southeast on Welsh Road to the right of way of The Pennsylvania Railroad Co., thence west along the right of way of the Pennsylvania Railroad Co. to U.S. Highway 309, thence north on U.S. Highway 309 to Pennsylvania Avenue, thence northwest on Pennsylvania Avenue to Commerce Drive, the point of beginning."

The area proposed for inclusion within the zone is said to comprise the northern portion of an industrial and commercial center known as Ft. Washington Industrial Park, the southern portion of which lies in Whitemarsh Township within the Philadelphia commercial zone as presently defined.

This proceeding is assigned for oral hearing on September 24, 1962, before Examiner A. Lane Cricher at Room 300, U.S. Custom House Building, Second and Chestnut Streets, Philadelphia, Pa.

Notice to the general public of the matter herein under consideration will be given by depositing a copy of this notice in the office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission, Division 1.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 62–7559; Filed, July 31, 1962; 8:51 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[W–0183861]

WYOMING

Notice of Proposed Withdrawal and Reservation of Lands

The Bureau of Reclamation, United States Department of the Interior, has filed an application, serial number Wyoming 0183861, for the withdrawal of lands described below, from all forms of appropriation under the first form of withdrawal as provided by section 3 of the Act of July 17, 1902 (32 Stat. 388), subject to valid existing rights.

The applicant desires the lands for reclamation purposes in connection with the Yellowtail Reservoir, Yellowtail Unit, Lower Bighorn Division, Missouri River Basin Project, Wyoming.

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 State Director, Bureau of Land Management, Department of the Interior, P.O. Box 929, Cheyenne, Wyoming.

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:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 56 N., R. 94 W.
Lots 65–C and 65–D (Secs. 6 and 7).

Containing 78.98 acres.

ED PIERSON,
State Director.

[F.R. Doc. 62–7545; Filed, July 31, 1962; 8:48 a.m.]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 55676]

COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN ISRAEL, UNITED ARAB REPUBLIC, PORTUGAL, AND REPUBLIC OF CHINA

Restrictions on the Entry or Withdrawal From Warehouse

JULY 26, 1962.

There are published below a letter of July 17, 1962, and two letters of July 19, 1962, from the Interagency Textile Administrative Committee, recommending and requesting the taking of specified action relating to certain cotton textiles and cotton textile products produced or manufactured in Israel, the United Arab Republic, Portugal, and the Republic of China, which were exported from any of the aforesaid countries on or after certain dates.

Accordingly, it is hereby ordered that cotton textiles and cotton textile products produced or manufactured in Israel included in Category 3 and exported from Israel on or after July 20, 1962, produced or manufactured in the United Arab Republic included in Category 3 and exported from the United Arab Republic on or after July 20, 1962, produced or manufactured in Portugal included in Categories 3, 19, and 26, and exported from Portugal on or after July 20, 1962, and produced or manufactured in the Republic of China included in Category 9 and exported from the Republic of China on or after July 27, 1962, shall not be permitted to be entered for consumption, or withdrawn from warehouse for consumption, at any port of entry in the United States (including the Commonwealth of Puerto Rico). The categories involved are described in detail in the "Schedule A and U.S.I.D.A. Components of Selected International Cotton Textile Arrangement Categories," attached to the aforesaid letters. This order is not applicable to samples which would otherwise be eligible for duty-free importation pursuant to title 19, United States Code, section 1201, paragraph 1821(b). The procedures of §§ 12.70 to 12.73 of the Customs Regulations (19 CFR 12.70 to 12.73), governing importations of restricted textiles, are applicable to importations of merchandise affected by this decision.

[SEAL] JAMES POMEROY HENDRICK,
Acting Assistant Secretary of the Treasury.

THE ASSISTANT SECRETARY OF COMMERCE
WASHINGTON 25, D.C.

THE INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

JULY 17, 1962.

The Honorable C. DOUGLAS DILLON,
The Secretary of the Treasury,
Washington 25, D.C.

DEAR MR. SECRETARY: In accordance with the letters of March 16, 1962, and June 21, 1962, to you from the President of the United States delegating authority under certain parts of section 204 of the Agricultural Act of 1956 as amended by P.L. 87–488 and in accordance with the authority granted to the Interagency Textile Administrative Committee in those letters, the Interagency Textile Administrative Committee recommends and requests, in accordance with Articles IA and ID of the Arrangements Regarding International Trade in Cotton Textiles done at Geneva July 21, 1961, that you take the actions listed below to prevent disruption or threatened disruption of the markets of listed textile products in the United States and to prevent circumvention or frustration of the said Arrangements by nonparticipants. These Arrangements were concluded under authority of section 204 of the Agricultural Act of 1956 on a multilateral basis by countries accounting for a significant part of the world trade in cotton textiles and cotton textile products.

Actions Recommended and Requested

Cotton textile and cotton textile products included in Category 3, produced or manufactured in the United Arab Republic and exported therefrom on or after July 20, 1962, produced or manufactured in Israel and exported therefrom on or after July 20, 1962, or produced or manufactured in Portugal and exported therefrom on or after July 20, 1962, shall be refused entry into the United States for consumption.

The products included in Category 3 are described in detail in the attached "Schedule A and U.S.I.D.A. Components of Selected International Cotton Textile Arrangement Categories." The foregoing restraint should not be made applicable to samples otherwise eligible for duty-free importation pursuant to paragraph 1821 of Section 1201 of Title 19 of the United States Code. Furthermore, in carying out the above-described recommendations, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

This recommendation was arrived at on the 6th day of July 1962, by unanimous vote of the Interagency Textile Administrative Committee.

Sincerely yours,

HICKMAN PRICE, Jr.,
Chairman.

Enclosure:

Schedule A and U.S.I.D.A. Components of Selected International Cotton Textile Arrangement Categories

Category	*Schedule A Number*	*U.S.I.D.A. Number*
3. Cotton yarn, singles, combed, not ornamented, etc.	3021 200	0901 22**

**The last two digits represent yarn number groups (e.g., 05 represents yarn numbers 1 through 5; 30 represents yarn numbers 26 through 30; 90 represents yarn numbers from 81 through 90, etc.).

THE ASSISTANT SECRETARY OF COMMERCE
WASHINGTON 25, D.C.

THE INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

JULY 19, 1962.

The Honorable C. DOUGLAS DILLON,
The Secretary of the Treasury,
Washington, D.C.

DEAR MR. SECRETARY: In accordance with the letter of March 16 to you from the President of the United States delegating authority under certain parts of Section 204 of the Agricultural Act of 1956 and in accordance with the authority granted to the Interagency Textile Administrative Committee in that letter, the Interagency Textile Administrative Committee recommends and requests, in accordance with Article IA of the Arrangements Regarding International Trade in Cotton Textiles done at Geneva July 21, 1961, that you take the actions listed below to prevent disruption or threatened disruption of the markets of listed textile products in the United States. These Arrangements were concluded under authority

of Section 204 of the Agricultural Act of 1956 on a multilateral basis by countries accounting for a significant part of the world trade in cotton textiles and cotton textile products.

Actions Recommended and Requested

Cotton textile and cotton textile products included in Categories 19 and 26, produced or manufactured in Portugal and exported therefrom on or after July 20, 1962, shall be refused entry into the United States for consumption. Because of the critical circumstances that arose from importation of these categories of cotton textiles, the United States found it necessary to inform Portugal that the United States would not accept entry for consumption of goods in these categories shipped from this country on or after July 20, 1962.

The products included in Categories 19 and 26 are described in detail in the attached "Schedule A and U.S.I.D.A. Components of Selected International Cotton Textile Arrangement Categories." The foregoing restraint should not be made applicable to samples otherwise eligible for duty-free importation pursuant to paragraph 1821 of Section 1201 of Title 19 of the United States Code. Furthermore, in carrying out the above-described recommendations, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

This recommendation was arrived at on the 6th day of July 1962, with respect to Category 19, and on the 9th day of July 1962, with respect to Category 26, by unanimous vote of the Interagency Textile Administrative Committee.

Sincerely yours,

HICKMAN PRICE, Jr.,
Chairman.

Enclosure:

Schedule A and U.S.I.D.A. Components of Selected International Cotton Textile Arrangement Categories

Category	Schedule A Number	U.S.I.D.A. Number
19. Print cloth type shirting, other than 80 x 80 type, carded yarn	3048 500	0904 152*
	3058 500	252*
	3068 500	352*
		0905 152*
		252*
		352*
26. Fabrics, n.e.s., carded yarn	3048 900	0904 192*
	3058 900	492*
	3068 900	792*
	3075 010	292*
	3078 010	592*
	3080 210	892*
	3081 350	392*
	3081 410	692*
	3968 010	992*
		0905 192*
		492*
		792*
		292*
		592*
		892*
		392*
		692*
		992*
		0906 1000
		0908 4520
		0909 4520
		5020
		0520
		2020
		2520
		3020
		1122 1000

*The last digit represents average yarn number groups (e.g., *0* represents average yarn numbers 10 or lower; *3* represents average yarn numbers 21 through 25; *9* represents average yarn numbers over 60, etc.).

THE ASSISTANT SECRETARY OF COMMERCE
WASHINGTON 25, D.C.

THE INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

JULY 19, 1962.

The Honorable C. DOUGLAS DILLON,
The Secretary of the Treasury,
Washington, D.C.

DEAR MR. SECRETARY: In accordance with the letter of June 21, 1962, to you from the President of the United States delegating authority under certain parts of Section 204 of the Agricultural Act of 1956 as amended by P.L. 87-488 and in accordance with the authority granted to the Interagency Textile Administrative Committee in that letter, the Interagency Textile Administrative Committee recommends and requests, in accordance with Articles IA and ID of the Arrangements Regarding International Trade in Cotton Textiles done at Geneva July 21, 1961, that you take the actions listed below to prevent circumvention or frustration of the said Arrangements by non-participants. These Arrangements were concluded under authority of Section 204 of the Agricultural Act of 1956 on a multilateral basis by countries accounting for a significant part of the world trade in cotton textiles and cotton textile products.

Actions Recommended and Requested

Cotton textile and cotton textile products included in Category 9, produced or manufactured in the Republic of China and exported therefrom on or after July 27, 1962, shall be refused entry into the United States for consumption.

The products included in Category 9 are described in detail in the attached "Schedule A and U.S.I.D.A. Components of Selected International Cotton Textile Arrangement Categories." The foregoing restraint should not be made applicable to samples otherwise eligible for duty-free importation pursuant to paragraph 1821 of Section 1201 of Title 19 of the United States Code. Furthermore, in carrying out the above-described recommendations, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

This recommendation was arrived at on the 6th day of July 1962, by unanimous vote of the Interagency Textile Administrative Committee.

Sincerely yours,

HICKMAN PRICE, Jr.,
Chairman.

Enclosure:

Schedule A and U.S.I.D.A. Components of Selected International Cotton Textile Arrangement Categories

Category	Schedule A Number	U.S.I.D.A. Number
9. Sheeting, carded yarn	3048 210	0904 110*
	3048 230	112*
	3058 200	212*
	3068 200	312*
		0905 110*
		112*
		212*
		312*

*The last digit represents average yarn number groups (e.g., *0* represents average yarn numbers 10 or lower; *3* represents average yarn numbers 21 through 25; *9* represents average yarn numbers over 60, etc.).

[F.R. Doc. 62-7564; Filed, July 31, 1962; 8:52 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

AGREEMENT WITH AMERICAN SHEEP PRODUCERS COUNCIL, INC.

Notice of Referendum Among Producers and Procedure for Conduct of Such Referendum

The following procedure will be applicable to the producers' referendum held for the purpose of determining whether producers approve execution by the Secretary of Agriculture of an agreement with the American Sheep Producers Council, Inc., for the advertising and sales promotion of lamb and wool pursuant to section 708 of the National Wool Act of 1954, as amended (68 Stat. 912, 7 U.S.C. 1787).

1. *Definitions.* For the purpose of this notice, the following terms shall have the following meaning:

(a) *ASC County Committee.* The group of persons elected within a county as the County Committee pursuant to the regulations governing the election and functioning of the County Agricultural Stabilization and Conservation Committees.

(b) *ASC State Committee.* The group of persons designated within any State to act as the State Agricultural Stabilization and Conservation Committee.

(c) *Cooperative association.* An incorporated group of producers which (1) is operated for the mutual benefit of its members as producers; (2) markets the members' sheep or wool; (3) does not deal in sheep and wool for non-members to an amount greater in value than the amount representing the value of sheep and wool handled by the association for members, and (4) permits every member to have only one vote irrespective of the amount of stock or membership capital he may own in the association.

(d) *Deputy Administrator.* The Deputy or Acting Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service, United States Department of Agriculture.

(e) *Eligible voter.* A producer who owned sheep or lambs, 6 months of age or older, located in the United States for any one period of at least 30 days between January 1, 1962, and the date his ballot is cast. Two or more producers who are required by § 472.1144 of the wool payment program regulation (27 F.R. 938) to apply jointly for a payment constitute an eligible voter and only one ballot may be cast for all. A producer in either category who casts a ballot in this referendum is referred to hereinafter as an "individual voter". A cooperative association may cast one vote for eligible producers who on the date the vote is cast are members of, stockholders in, or are under contract to sell their wool or lambs through the association in the 1962 marketing year (April 1, 1962, through March 31, 1963).

(f) *Individual Voter.* See paragraph (e).

(g) *Producer.* An individual, partnership, corporation, association, business trust, any organized unincorporated group of persons, or a state or any subdivision thereof, having an interest as owner or part owner of sheep or who, by agreement with such owner, furnishes labor in connection with caretaking, lamb production, or feeding and is entitled either to a share of the wool or lamb production or the sales proceeds thereof.

(h) *Secretary of Agriculture.* The Secretary or Acting Secretary of Agriculture of the United States, or any officer or employee of the United States Department of Agriculture to whom authority has been delegated, or to whom authority may hereafter be delegated, to act in his stead.

2. *Agreement considered in this referendum.* The agreement being considered in this referendum would be between the Secretary of Agriculture and the American Sheep Producers Council, Inc., a non-profit membership corporation organized under the laws of the State of Illinois, for the purpose of developing and conducting an advertising and sales promotion program for wool, sheep, and products thereof, subject to the determination by the Secretary that the agreement has the approval of the producers as provided in section 708 of the National Wool Act of 1954, as amended (68 Stat. 912, 7 U.S.C. 1787). The text of the agreement follows:

AGREEMENT

By agreement made as of March 17, 1955, between the United States Secretary of Agriculture (hereinafter referred to as "Secretary") and the American Sheep Producers Council, Inc. (hereinafter referred to as "Council"), a nonprofit membership corporation, organized under the laws of the State of Illinois, provision was made for the conduct of sales and promotion programs pursuant to Section 708 of the National Wool Act of 1954, financed by deductions from producer wool payments made under the Act for the marketing years commencing April 1, 1955 and ending March 31, 1959. As of October 23, 1959, a new agreement was entered into which covered the marketing years beginning April 1, 1959, and ending March 31, 1962. The following agreement, made as of the ------ day of ----------, 1962 between the Secretary and the Council, provides, upon approval by producers in a referendum, for a continuation of advertising and sales promotion programs pursuant to that Act, as amended, financed by deductions from payments for the marketing years through March 31, 1966, being four additional years following the period during which deductions were made under the prior agreements. This agreement

WITNESSETH

Whereas, the Secretary, pursuant to the National Wool Act of 1954 (Title VII of the Agricultural Act of 1954, 68 Stat. 910, as amended 72 Stat. 994 and 75 Stat. 306), hereinafter referred to as the "Act", has announced a price support program for wool marketed during the marketing year April 1, 1962 to March 31, 1963, by means of payments to be made by the Commodity Credit Corporation to the producers of such wool as soon as practicable after the close of such marketing year;

Whereas, it is anticipated that similar programs will be instituted for subsequent marketing years under the Act;

Whereas, Section 708 of the Act authorizes the Secretary to enter into agreements with marketing cooperatives, trade associations or other organizations engaged or whose members are engaged in the handling of wool, sheep, and the products thereof for the purpose of developing and conducting on a National, State, or a regional basis advertising and sales promotion programs for wool, sheep, and the products thereof;

Whereas, it is desirable that there be continued an advertising and sales promotion program or programs beneficial on a National basis, for wool, she p, and products thereof to be financed by pro rata deductions from such price support payment to wool producers; and

Whereas, the Council is qualified to conduct such a program, being so organized, having the necessary powers under its charter and by-laws, having for its members marketing cooperatives and other associations who are engaged in or whose members are engaged in handling wool, sheep, and products thereof, and who are represented at meetings of the Council's membership by wool and sheep producers selected on a basis affording nationwide representation, and having a Board of Directors who also are producers of wool and sheep selected to afford nationwide representation;

Now, therefore, the parties hereto agree as follows:

1. This agreement shall become effective only upon determination by the Secretary that this agreement has approval of the producers as provided in section 708 of the Act. The Secretary will notify the Council in writing as to whether the producers have approved this agreement and as of what day the agreement shall become effective, such effective date to be not later than the 20th day after the date of the notification.

2. The Council shall, from time to time, develop and submit to the Secretary for approval advertising and sales promotion programs and supporting budgets for wool and lambs and the products thereof and such amendments thereto as may be needed. Each such submission shall describe, among other things, the plan of operation and the benefits to be derived on a National basis by producers, commodities to be promoted, the proposed media and methods which the Council intends to use in advertising and otherwise promoting (including related educational and developmental activities) the sale of wool and lambs and the products thereof. After such program and budget have been approved by the Secretary, and in accordance therewith, the Council will enter into such agreements with advertising and promotional agencies, radio and television stations and others, will employ such personnel and will take such other action as the Council deems appropriate or necessary to effectuate such program.

3. When price support payments are made to producers pursuant to the Act, the Secretary will make a pro rata deduction from such payments and pay the amount so deducted to the Council in order to provide the funds necessary to defray the expenses of the Council incurred pursuant to this agreement: Provided, however, That deductions will only be made from payments, if any, which are made to producers for marketing during the marketing years beginning April 1, 1962, and ending March 31, 1966. The deductions from payments for marketings during the marketing year April 1, 1962–March 31, 1963, shall be at the rate of 1 cent per pound of shorn wool marketed, and shall be made at a comparable rate as determined by the Secretary on unshorn lambs and yearlings (pulled wool) marketed; thereafter the deductions shall be at such rates as the Secretary and Council may agree upon, but in no event shall be in excess of a rate of 1 cent per pound in the case of shorn wool marketed and a comparable rate in the case of unshorn lambs and yearlings marketed, as determined by the Secretary.

4. The charter and bylaws of the Council having been approved by the Secretary, any amendments or additions to the charter or bylaws shall be subject to his approval.

5. The Council shall submit annually for the approval of the Secretary proposed budgets for the administration of the advertising and sales promotion programs and, from time to time, any amendments thereto that it may determine to be necessary.

6. The Council shall furnish the Secretary with a report of its activities semiannually beginning with the period in which the Council either receives any funds from the Secretary under this agreement or undertakes obligations as part of its advertising and sales promotion program, whichever event is the earlier. Such reports shall be furnished within 15 days following the close of each such period. On or before September 15, 1962, and each September 15th thereafter during the life of this agreement, the Council shall furnish a statement of assets and liabilities to the Secretary as of the preceding June 30th. The Council shall also furnish the Secretary with such other reports and with such information as he may from time to time request. The Council shall keep accurate records of all its transactions, and these records shall be subject to inspection and audit by representatives of the Secretary at all times during regular business hours after the date of this agreement and for 3 years after the Council has completed performance of all contracts made and obligations incurred.

7. This agreement shall terminate June 30, 1969, unless extended by agreement of the parties hereto. Prior to such date, either party may terminate this agreement by delivering, or mailing by registered mail, a written notice of such termination effective on the date to be specified therein, but not earlier than 30 days after giving of such notice. If the Secretary, on or after April 1, 1963, upon petition or referendum of the wool producers, or otherwise, determines that this agreement is no longer favored by the requisite number of producers, he shall so declare and no deductions from payments to producers shall thereafter be made to defray expenses of the Council, under this agreement, except deductions from such payments as are being made in connection with marketings of a prior year.

8. Funds obtained by the Council pursuant to the agreement of October 23, 1959, and unobligated on the date when this agreement becomes effective shall become subject to the terms and conditions of this agreement and be available to finance either separately or in combination with other funds made available under this agreement, sales promotion and advertising programs established pursuant to this agreement.

9. Upon termination of this agreement, if all the funds of the Council were derived from deductions from wool payments, all such funds remaining unobligated in the hands of the Council shall be returned to the Secretary of Agriculture, together with a statement explaining the various items which entered into the amount returned to the Secretary; if the Council received funds for advertising and promotion purposes, and general administrative purposes from other sources than the Secretary acting pursuant to this agreement, the Council shall return to the Secretary the same proportion of the unobligated funds as the funds contributed by the Secretary bore to all funds received by the Council for these advertising and sales promotion programs and general

administrative purposes. A statement of the assets and liabilities of the Council shall be furnished to the Secretary within 60 days after such termination becomes effective. The provision with respect to the return of unobligated funds shall also apply in case of dissolution or liquidation of the affairs of the Council.

10. The authority reserved to the Secretary under the provisions of this agreement may be exercised by an official or officials of the Department of Agriculture designated by him for such purpose.

3. *Agencies conducting referendum.* The Deputy Administrator shall be in charge of conducting this referendum. Each ASC State Committee shall be in charge of conducting the referendum in its State and each ASC county committee shall be in charge of conducting the referendum in its county.

4. *Period of referendum.* The period of this referendum will be from September 10, 1962, to September 21, 1962, both dates inclusive.

5. *Notice of referendum.* The ASCS State and county offices will provide full and accurate public notice, without incurring advertising expense, of the time and place of balloting in the referendum and the rules governing the eligibility to vote, by means of newspapers, radio, etc., or any other method they deem desirable.

6. *Voting.* (a) *Mailing of ballot to eligible voters.* Each ASCS county office will mail ballots to all producers, of whom the committee has knowledge, having ranch or farm headquarters located in its county. The mailing of a ballot is not a determination of eligibility to vote and if a producer has not received a ballot, he can obtain one in the ASCS State or county office upon request. The Livestock, Dairy and Poultry Division, Agricultural Stabilization and Conservation Service, will mail ballots to all cooperative associations which qualify to vote on behalf of their members and others in accordance with paragraph (c) hereof.

(b) *Place and manner of voting by individuals.* The ASCS county office serving the county in which the producer's farm or ranch headquarters is located shall be his polling place. A ballot may be cast on Form CCC 1160 by personal delivery to the polling place on or before the close of business September 21, 1962, or mailing it to the polling place on or before September 21, 1962. The date of the postmark will be considered the date of mailing.

(c) *Place and manner of voting by cooperative associations.* A cooperative association may cast only one vote. The vote shall be cast for all eligible producers who on the date the vote is cast are members of, stockholders in, or are under contract to sell their wool or lambs through the association in the 1962 marketing year. A cooperative association must qualify for voting by filing with the Director of the Livestock, Dairy and Poultry Division, ASCS, Washington 25, D.C., not later than September 5, 1962, each of the following: (1) A certified copy of the Articles of Incorporation of the Association and bylaws of the association and, (2) a certified copy of the resolution adopted by the association's Board of Directors authorizing such vote. The Livestock, Dairy and Poultry Division will distribute a ballot to each cooperative association that establishes eligibility to vote. The cooperative association shall return the marked ballot to the Director of the Livestock, Dairy and Poultry Division so that it will reach that office not later than September 14, 1962. Each ballot cast by a cooperative association shall be accompanied by the original and two copies of a listing showing the names and addresses of all producers, otherwise eligible to vote, who on the date the vote is cast are members of, stockholders in, or under contract to sell their wool or lambs through the association in the 1962 marketing year. The producers' names shall be arranged alphabetically, on separate sheets for each county. The listing for each county shall be headed by the name and address of the cooperative association and show whether voting "Yes" or "No" in the referendum. In preparing the listings, the cooperative association shall show for each producer the number of sheep and lambs, 6 months of age or older, located in the United States, which the producer owned for any one period of at least 30 days from January 1, 1962, through the date of voting. After checking the ballots and lists received from cooperative associations for completeness, the lists of producers for whom cooperative associations have voted will be forwarded by the Livestock, Dairy and Poultry Division to the ASCS State offices concerned for distribution to the respective ASCS county offices.

7. *Determining volume of production represented.* The volume of production represented by each producer voting will be determined by the number of sheep, 6 months of age or older, which he owned for any one period of at least 30 days from January 1, 1962, through the date his ballot is cast.

8. *Challenge of ballots.* A ballot may be challenged on the basis of the knowledge of any ASC State, county, or community committeeman; employee of an ASCS State or county office; or any other person. Before a challenged ballot is either counted or declared invalid, a determination shall be made by the ASC county committee in connection with such challenged ballot. The determination shall cover all questions as to the eligibility of the individual voter or any producer for whom a cooperative association has cast a ballot and the accuracy of the number of sheep represented. If two or more cooperative associations cast ballots for the same producer, and the ballots take the same position with reference to the agreement which is the subject of the referendum, the producer's vote will be counted only once. If they take different positions, his vote will not be counted.

9. *Canvass of ballots.* The ASC county committees will make a count of the eligible voting producers, determining (a) the number of eligible voting producers favoring the agreement and the number of sheep represented by them, (b) the number of eligible voting producers disapproving the agreement and the number of sheep represented by them, and (c) the number of voting producers found to be ineligible. All ballots shall be treated as confidential and the contents of the ballots shall not be divulged, except as provided herein or as the Secretary may direct.

10. *Reporting results of referendum.* Each ASCS county office will transmit a written summary of the results of the referendum in its county to its ASCS state office. Each ASCS state office will transmit a written summary of the referendum results received from the ASCS county offices within its State to the Director of the Livestock, Dairy and Poultry Division, ASCS, Washington 25, D.C., and maintain one copy of the summary in the ASCS state office where it shall be available for public inspection for a period of 5 years following the end of the referendum period. The Director of the Livestock, Dairy and Poultry Division, Agricultural Stabilization and Conservation Service, shall prepare and submit to the Secretary a report as to the results of the referendum.

11. *Additional instructions and forms.* The Deputy Administrator is hereby authorized to prescribe additional instructions and forms not inconsistent with the provisions of this notice to govern the procedure to be followed in the conduct of this referendum.

(Sec. 708, 68 Stat. 912; 7 U.S.C. 1787)

Signed at Washington, D.C., on July 26, 1962.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 62-7572; Filed, July 31, 1962; 8:54 a.m.]

Office of the Secretary

COLORADO AND NORTH CAROLINA

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321(a) of Public Law 87-128 (7 U.S.C. 1961) it has been determined that in the hereinafter named counties in the States of Colorado and North Carolina natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

COLORADO

Weld

NORTH CAROLINA

Chowan

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1963, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 23d day of July, 1962.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 62-7551; Filed, July 31, 1962; 8:49 a.m.]

NEW YORK

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321(a) of Public Law 87–128 (7 U.S.C. 1961) it has been determined that in the hereinafter named counties in the State of New York a natural disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

NEW YORK

Albany.	Oneida.
Allegany.	Onondago.
Broome.	Orange.
Chemung.	Oswego.
Chenango.	Otsego.
Clinton.	Rensselaer.
Columbia.	St. Lawrence.
Cortland.	Saratago.
Delaware.	Schenectady.
Dutchess.	Schoharie.
Essex.	Schuyler.
Franklin.	Steuben.
Fulton.	Sullivan.
Greene.	Tioga.
Hamilton.	Tompkins.
Herkimer.	Ulster.
Jefferson.	Warren.
Lewis.	Washington.
Madison.	Yates.
Montgomery.	

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1963, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 24th day of July, 1962.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 62–7574; Filed, July 31, 1962; 8:55 a.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S–140]

GRACE LINE INC.

Notice of Hearing and Prehearing Conference

Notice is hereby given that a hearing has been authorized and directed to be held concerning an application filed by Grace Line Inc., 3 Hanover Square, New York 4, New York, for written permission of the Maritime Subsidy Board, under section 805(a) of the Merchant Marine Act, 1936, as amended, 46 U.S.C. 1223, (A) to allow this company's two (2) owned C3 type containerships (the "Santa Eliana" and "Santa Leonor" or any replacements thereof) operating in its subsidized service on Trade Route No. 4 to call on a weekly basis at a port or ports in the Commonwealth of Puerto Rico on a total of not to exceed 53 outbound and 53 inbound containership sailings per annum, and (B) also to allow this company's five (5) owned combination ships (three of the C2 type—the "Santa Monica," "Santa Sofia" and "Santa Barbara"—or any replacements thereof, and two of the P2 type—the "Santa Rosa" and "Santa Paula") operating in its subsidized service on Trade Route No. 4 to call on a weekly basis at a port or ports in the Commonwealth of Puerto Rico on a total of not to exceed 53 outbound and 53 inbound combination ship sailings per annum.

The hearing will be conducted by the Chief Hearing Examiner, Maritime Administration/Maritime Subsidy Board, in accordance with the rules of practice and procedure of the Maritime Administration/Maritime Subsidy Board at a time and place to be announced and an initial decision will be issued.

Interested parties may inspect said application in the Office of the Chief Hearing Examiner, Room 3095 of the General Accounting Office Building, 441 G Street NW., Washington 25, D.C.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) must, before the close of business on August 15, 1962, notify the Secretary, Maritime Administration/Maritime Subsidy Board in writing, in triplicate, and file a Petition for Leave to Intervene which shall state clearly and concisely the grounds of interest, and the alleged facts in support thereof. Notwithstanding anything in Rule 5(n) of the rules of practice and procedure, Maritime Administration/Maritime Subsidy Board, Petitions for Leave to Intervene received after the close of business on August 15, 1962, will not be granted in this proceeding.

Notice is further given that a Prehearing Conference in this proceeding will be held in Room 4458 of the General Accounting Office Building at 10:00 a.m., e.d.t., on Thursday, September 6, 1962, before the Chief Hearing Examiner.

In order to facilitate conduct of the Prehearing Conference, Petitioners for Leave to Intervene are requested to file with the Chief Hearing Examiner (with copies to the Applicant and the Hearing Counsel Branch, Division of Operating Subsidy Contracts, Office of General Counsel, Maritime Administration/Maritime Subsidy Board) on or before August 29, 1962:

1. Motions pertaining to the scope of the proceeding.
2. Proposed stipulations.
3. Statements of position.
4. Requests for evidence.
5. Proposed procedural dates.

Service of the foregoing documents should also be made by each Petitioner for Leave to Intervene upon all other Petitioners for Leave to Intervene. Their names may be obtained from the Docket Clerk in the office of the Chief Hearing Examiner from and after August 16, 1962.

Dated: July 27, 1962.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 62–7635; Filed, July 31, 1962; 8:55 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50–200]

BABCOCK AND WILCOX CO.

Notice of Application for Construction Permit and Utilization Facility License

Please take notice that The Babcock and Wilcox Company, 161 East 42d Street, New York, New York, under section 104(c) of the Atomic Energy Act of 1954, as amended, has submitted an application for license authorizing construction and operation of a testing reactor at a site in Campbell County, Virginia located near Lynchburg, Virginia. The facility has been designated by the applicant as the "B&W Test Reactor" and is proposed to be initially operated at power levels up to 6 megawatts, (thermal), with an ultimate power level of 12 megawatts.

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

Dated at Germantown, Md., this 25th day of July 1962.

For the Atomic Energy Commission.

SAUL LEVINE,
Chief, Test and Power Reactor Safety Branch, Division of Licensing and Regulation.

[F.R. Doc. 62–7527; Filed, July 31, 1962; 8:45 a.m.]

FEDERAL AVIATION AGENCY

[OE Docket No. 62–EA–3]

PROPOSED ALTERATION OF TELEVISION ANTENNA STRUCTURE

Determination of 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: Rollins Broadcasting, Inc., Wilmington, Delaware, proposes to increase by 300 feet the overall height of an existing television antenna structure near Charleston, West Virginia, at latitude 38°24′28″ north, longitude 81°54′13″ west. The new overall height of the structure would be 2,349 feet above mean sea level (1,299 feet above ground).

Objections were made in response to the circularization by the following: West Virginia State Aeronautics Commission, Air Transport Association of America, National Pilots Association, Department of the Air Force, Air Line Pilots Association and Aircraft Owners and Pilots Association. At the FAA New York Informal Airspace Meeting the Aircraft Owners and Pilots Association, Department of the Air Force, Air Transport Association and Air Line Pilots Association reaffirmed their previous objections. In summary, the objectors concluded that the proposed structure would:

1. Be hazardous to aircraft operating in accordance with Visual Flight Rules during marginal weather or during the normal haze condition of this area.

2. Violate the criteria as contained in § 626.12(a) (1), (2) and (3) of the regulations of the Administrator.

3. Increase the minimum en route altitudes.

4. Increase altitudes of instrument approach procedures.

The existing structure is located approximately 17 miles west of the Kanawha Airport, Charleston, West Virginia; seven miles west of the Charleston low frequency radio range station; and eight miles northwest of the Charleston VORTAC.

Although there was considerable objection to the proposed structure from a hazard to VFR flight standpoint, no substantial evidence of adverse effect upon such operations was shown nor do Agency records indicate a significant volume of VFR flight activity in proximity to the proposed structure. The FAA report of VFR general aviation operation for fiscal year 1961, indicates that there were approximately 20 VFR flight plans filed for direct route between the Kanawha Airport and the Downtown Airport, Huntington, West Virginia, and 80 VFR flight plans filed for direct route between the Kanawha Airport and the Tri-State Airport, Huntington, West Virginia. The aircraft which file VFR via direct route between the above airports, a distance of fifty miles, should pass one to two miles south of the proposed structure.

The proposed increase in height of the television antenna would affect instrument flight rules, altitudes and instrument approach procedures as follows:

1. It would require an increase in the minimum en route altitude from 2,500 feet to 2,600 feet on the segment of VOR Federal airway No. 133 between Charleston VOR and Hometown Intersection. The Agency study disclosed, however, that this increase would have no adverse effect upon aeronautical operations as the cardinal altitude of 3,000 feet would be retained.

2. It would require an increase in the minimum en route altitude from 3,000 feet to 3,300 feet on the segment of Victor 128 between Charleston VOR and the Milton Intersection.

3. It would require an increase in the procedure turn altitude from 3,000 feet to 3,300 feet and an increase in the final approach altitude from 2,500 feet to 2,800 feet from AL–852–ADF–2 instrument approach procedure.

4. It would require an increase from 3,000 feet to 3,300 feet in the missed approach altitudes for the AL–852–ADF–1, AL–852–ILS–RWY–23 and AL–852–VOR instrument approach procedures.

The Agency study disclosed that the use of 3,000 feet as the minimum flight altitude in the above IFR procedures (except Item 1) would be hazardous since insufficient vertical obstruction clearance in accordance with applicable Agency criteria would exist between the aircraft and the proposed structure. The study further disclosed that the affected minimum flight altitudes cannot be increased to provide sufficient vertical obstruction clearance in accordance with applicable Agency criteria without producing adverse effects upon aeronautical operations as follows:

1. The altitudes of 3,000 feet and 4,000 feet are allocated to Huntington, West Virginia, and Charleston, West Virginia, approach control facilities for Tower En Route Control Service for traffic operating between these facilities via direct route and via Victor 128 from Crown City, West Virgina, Intersection to Charleston VOR. The loss of 3,000 feet on the segment of Victor 128 affected would seriously curtail IFR traffic departing and arriving at Kanawha Airport via the Milton Intersection and the Charleston VOR. The FAA 1961 peak day IFR traffic count for the affected airway segment at the Tower En Route Control altitudes was 24 flights.

2. Increasing the procedure turn and missed approach altitudes to 3,300 feet would require aircraft approaching the Charleston VOR at 3,000 feet or 4,000 feet via V–128 or via direct route to be stopped short of the instrument approach area at any time an instrument approach was being conducted until the aircraft on approach had reported leaving 3,000 feet and there was no danger of a missed approach. This would have a substantial adverse effect upon aeronautical operations in the Charleston area. There were 36,641 instrument operations in the Charleston area and 4,167 instrument approaches at the Kanawha Airport during Calendar Year 1961.

The study has disclosed that any structure at this location with an overall height greater than that of the existing antenna structure (2049' MSL) would result in the loss of the 3,000 foot cardinal altitude and have a substantial adverse effect upon IFR aeronautical operations, procedures and minimum flight altitudes in the Charleston, West Virginia, area as described above.

Therefore, pursuant to the authority delegated to me by the Administrator (14 CFR 626.33), it is concluded that the proposed increase in structure height to the mean sea level elevation specified herein, would have a substantial adverse effect upon aeronautical operations, procedures and minimum flight altitudes; and it is hereby determined that this structure with an overall height greater than 2,049 feet MSL would be a hazard to air navigation.

This determination is effective as of the date of issuance and will become final 30 days thereafter unless an appeal is filed under § 626.34 (14 CFR 626.34). If the appeal is denied, the determination will then become final as of the date of the denial or 30 days after the issuance of the determination, whichever is later.

Issued in Washington, D.C., on July 19, 1962.

OSCAR W. HOLMES,
Chief,
Obstruction Evaluation Branch.

[F.R. Doc. 62–7529; Filed, July 31, 1962; 8:45 a.m.]

FEDERAL MARITIME COMMISSION

COPELAND SHIPPING, INC., ET AL.

Agreements Filed for Approval

Notice is hereby given that the following agreements have been filed with the Federal Maritime Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended. Each of the parties is an independent ocean freight forwarder eligible to carry on the business of forwarding pursuant to section 44 of the Shipping Act, 1916.

Agreement No. 8922 between Copeland Shipping, Inc. of New York and Wm. R. Filbin & Co., Inc. of Detroit, is a mutual arrangement between the parties under which each will complete the shipping documents on shipments referred to it by the other party. On shipments routed to Filbin by Copeland, compensation received from the ocean carrier is to be divided equally, and in addition Filbin is to receive a $5.00 service fee per shipment. On shipments routed by Filbin to Copeland, the latter will retain the entire ocean compensation, plus the same service fee.

Agreement No. 8966 between Gallagher & Ascher Co. of Chicago and Judson Sheldon International Corporation of New York (with various branches), provides for the completion by Judson Sheldon of shipping documents on shipments referred to it by Gallagher & Ascher. As compensation, Judson Sheldon will receive a minimum fee of $8.50 per shipment, in addition to half the compensation obtained from the ocean carrier.

Agreements 8969 and 8972 have identical terms, and W. R. Zanes & Co. of La., Inc. (New Orleans) is party to each. The other parties are Pan Maritime Cargo Service, Inc. of New York (No. 8969) and W. J. Byrnes & Co. of La., Inc. (Los Angeles). These agreements are cooperative arrangements between the parties covering the performance of forwarding services for each other. Forwarding fees and ocean compensation will be divided after negotiation on each transaction.

Agreement No. 8971 between H. L. Ziegler, Inc. (Houston) and Wall Shipping Co., Inc. (Washington, D.C.) is a reciprocal arrangement under which the parties will perform freight forwarding services for each other, dividing freight compensation equally. The forwarding fee will be retained by the party performing the service.

Interested persons may inspect these agreements and obtain copies thereof at the Bureau of Domestic Regulation, Federal Maritime Commission, Washington 25, D.C., or at the Commission's District Offices at:

45 Broadway, New York, N. Y.
333 St. Charles Street, New Orleans, La.
180 New Montgomery Street, San Francisco, Calif.

They may submit, within twenty days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreements, and their position as to approval, disapproval,

or modification thereof, together with request for hearing should such hearing be desired.

By order of the Federal Maritime Commission.

Dated: July 25, 1962.

THOMAS LISI,
Secretary.

[F.R. Doc. 62-7568; Filed, July 31, 1962; 8:53 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP60-5]

EAST TENNESSEE NATURAL GAS CO.

Notice of Petition To Amend

JULY 24, 1962.

Take notice that on June 18, 1962, East Tennessee Natural Gas Company (Petitioner), Knoxville, Tennessee, filed in Docket No. CP60-5 a petition to amend the Commission's order issued May 3, 1961, in Docket No. CP60-5, by authorizing Petitioner to transport and deliver on an interruptible basis up to 6,000 Mcf of natural gas per day to Monsanto Chemical Company (Monsanto) in lieu of the presently authorized interruptible volumes of up to 1,200 Mcf per day, all as more fully set forth in the petition on file with the Commission and open to public inspection.

The subject order authorized Petitioner to construct and operate 1.8 miles of 6-inch lateral pipeline, a measuring and regulating station, and to transport and deliver on an interruptible basis up to 1,200 Mcf of natural gas per day to Monsanto for use in the latter's phosphate processing plant near Columbia, Tennessee.

The petition shows that Monsanto has installed additional facilities and will require increased volumes of gas for drying coke in its rotary coke driers where a uniform temperature must be maintained at all times. The estimated third year peak day requirements of Monsanto upon completion of the foregoing installations are stated to be 6,000 Mcf.

Petitioner states further that the proposed increased industrial interruptible load will assist it to fill the valley to be created by the probable loss this year of interruptible sales to the Atomic Energy Commission, Oak Ridge, Tennessee.

Protests, petitions to intervene or requests for hearing 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 20, 1962.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 62-7540; Filed, July 31, 1962; 8:47 a.m.]

[Docket No. CP62-177]

EAST TENNESSEE NATURAL GAS CO.

Notice of Petition To Amend

JULY 24, 1962.

Take notice that on May 23, 1962, East Tennessee Natural Gas Company (Petitioner), Knoxville, Tennessee, filed in Docket No. CP62-177 a petition to amend the Commission's order, issued May 18, 1962, in Docket No. CP62-177 by authorizing Petitioner to construct and operate 1.21 miles of 4-inch lateral pipeline and a meter station, and to transport and deliver, on an interruptible basis, up to 1,200 Mcf of natural gas per day to Olin Mathieson Chemical Corporation (Olin) in lieu of the facilities and the volumes of natural gas presently authorized by said order, all as more fully set forth in the petition on file with the Commission and open to public inspection.

The order of May 18, 1962, authorized Petitioner to construct and operate 1.21 miles of 2-inch lateral pipeline and a meter station and to transport and deliver, on an interruptible basis, up to 360 Mcf of natural gas per day to Olin for use in the latter's new plant near Charleston, Tennessee. Petitioner states that Olin has advised that the additional volumes of natural gas will be required for a new plant producing high-test calcium hypochlorite, the principal uses of which are in sanitation.

The petition shows Olin's estimated third year peak day natural gas requirements to be 1,200 Mcf at 14.9 psia.

Petitioner states that the proposed modification of facilities will increase the cost of such facilities from $23,100 to $31,929.

Protests, petitions to intervene or requests for hearing 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 20, 1962.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 62-7541; Filed, July 31, 1962; 8:47 a.m.]

[Docket No. CP62-298]

UNITED GAS PIPE LINE CO.

Notice of Application and Date of Hearing

JULY 25, 1962.

Take notice that on June 14, 1962, United Gas Pipe Line Company (Applicant), 1525 Fairfield Avenue, Shreveport, Louisiana, filed in Docket No. CP62-298 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction during the 15-month period commencing October 1, 1962, and the operation of taps on its existing transmission system to sell gas to new and existing customers for resale to rural customers along and in the vicinity of said system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application states that the subject deliveries will not exceed 300,000 Mcf per year and that such sales will not require any expansion or enlargement of Applicant's presently existing system. The proposed facilities will not exceed a cost of $12,000, with no single project to exceed a cost of $600, to be financed from current working funds.

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 6, 1962, 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 27, 1962. 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.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 62-7542; Filed, July 31, 1962; 8:47 a.m.]

FEDERAL RESERVE SYSTEM

MARINE MIDLAND CORP.

Order for Public Proceeding

In the matter of the application of Marine Midland Corporation, Buffalo, New York, pursuant to section 3 of the Bank Holding Company Act of 1956.

The Board of Governors has pending before it an application filed by Marine Midland Corporation, Buffalo, New York, a registered bank holding company, pursuant to section 3(a)(2) of the Bank Holding Company Act of 1956, for prior approval of the acquisition by Applicant of 100 percent of the voting shares of Security National Bank of Long Island, Huntington, New York. Notice of the Board's receipt of this application was published in the FEDERAL REGISTER affording interested persons an opportunity to submit written views and comments regarding the application.

It now appears to the Board to be in the interest of the public, as well as the Applicant, to afford further opportunity for the expression of views and opinions by interested persons in a public proceeding before the Board. Accordingly,

It is hereby ordered, That an oral presentation before the Board be held commencing at 2:30 p.m. on September 17, 1962, at the offices of the Board of Governors, Washington, D.C., and that such presentation be public except for

any portion thereof which the Board may determine should, in the public interest, be conducted in private.

It is further ordered, That any person desiring to express orally a view or opinion on the application before the Board should file with the Secretary of the Board, 20th and Constitution Avenue NW., Washington 25, D.C., on or before August 15, 1962, a written request relative thereto, setting forth therein a general statement of the nature of the views he wishes to express. Persons submitting such requests will be notified of the Board's decision thereon.

Dated at Washington, D.C., this 25th day of July 1962.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN, *Secretary.*

[F.R. Doc. 62-7543; Filed, July 31, 1962; 8:47 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Area 392]

KENTUCKY

Declaration of Disaster Area

Whereas, it has been reported that during the month of July 1962, because of the effects of certain disasters, damage resulted to residences and business property located in Kenton County in the State of Kentucky;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act may be received and considered by the Offices below indicated from persons or firms whose property, situated in the aforesaid County and areas adjacent thereto, suffered damage or destruction resulting from flood and accompanying conditions occurring on or about July 15, 1962.

OFFICES

Small Business Administration Regional Office,
Standard Building, Fourth Floor,
1370 Ontario Street,
Cleveland 13, Ohio.

Small Business Administration Branch Office,
Commonwealth Building, Room 1900,
Fourth and Broadway,
Louisville 2, Kentucky.

2. A temporary office will be established in the Town Hall in Covington, Kentucky.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to January 31, 1963.

Dated: July 20, 1962.

JOHN E. HORNE, *Administrator.*

[F.R. Doc. 62-7552; Filed, July 31, 1962; 8:49 a.m.]

TARIFF COMMISSION

[7-116]

SOFTWOOD LUMBER

Notice of Investigation and Hearing

Investigation instituted. Upon application of the Lumbermen's Economic Survival Committee, Seattle, Washington, received July 23, 1962, the United States Tariff Commission, on the 26th day of July 1962, under authority of section 7 of the Trade Agreements Extension Act of 1951, as amended, instituted an investigation to determine whether sawed lumber and timber of fir, spruce, pine, hemlock, or larch (not including dowels), provided for in paragraph 401 of the Tariff Act of 1930, as amended, or in section 4551 of the Internal Revenue Code of 1954, as amended (items 202.03-.24, 202.45, 202.50, 202.52, or 202.63 of the Tariff Schedules of the United States the adoption of which is provided for in Public Law 87-456, approved May 24, 1962), are, as a result in whole or in part of the duty or other customs treatment reflecting concessions granted thereon under the General Agreement on Tariffs and Trade, being imported into the United States in such increased quantities, either actual or relative, as to cause or threaten serious injury to the domestic industry producing like products.

Public hearing ordered. A public hearing in connection with this investigation will be held beginning at 10 a.m., e.d.s.t., on October 2, 1962, in the Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, D.C. Interested parties desiring to appear and to be heard at the hearing should notify the Secretary of the Commission, in writing, at least five days in advance of the date set for the hearing.

Inspection of application. The application filed in this case is available for public inspection at the office of the Secretary, United States Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York office of the Tariff Commission located in Room 437 of the Customhouse, where it may be read and copied by persons interested.

Issued July 26, 1962.

By order of the Commission.

DONN N. BENT, *Secretary.*

[F.R. Doc. 62-7560; Filed, July 31, 1962; 8:51 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 221]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JULY 27, 1962.

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 3379 (Deviation No. 2), SNYDER BROS. MOTOR FREIGHT INC., 363 Stanton Avenue, P.O. Box 830, Akron 9, Ohio, filed July 19, 1962. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route between Richmond and Petersburg, Va., over Interstate Highway 95, 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 Richmond over U.S. Highway 1 to Petersburg, and return over the same route.

MOTOR CARRIERS OF PASSENGERS

No. MC 2890 (Deviation No. 20), AMERICAN BUSLINES, INC., 1805 Leavenworth Street, Omaha 2, Nebr., filed July 23, 1962. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, over a deviation route as follows: From the junction of U.S. Highway 140 and Interstate Highway 695, near Pikesville, Md., over Interstate Highway 695 to junction U.S. Highway 1, southwest of Baltimore, Md., thence over Interstate Highway 695 to junction Baltimore-Washington Expressway (with an access route from Baltimore over U.S. Highway 40 to said interstate highway), and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to

transport passengers over pertinent service routes as follows: From Baltimore over U.S. Highway 140 to Westminster, Md.; from Baltimore over U.S. Highway 1 to Washington, D.C.; and from Baltimore over the Baltimore-Washington Expressway to Washington, D.C., and return over the same routes.

By the Commission.

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

[F.R. Doc. 62-7556; Filed, July 31, 1962; 8:50 a.m.]

[Notice 461]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JULY 27, 1962.

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 carriers of property or passengers of brokers under sections 206, 209, and 211 of the Interstate Commerce Act and certain other proceedings with respect thereto.

All hearings and prehearing conferences will be called at 9:30 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

The applications immediately following are assigned for hearing at the time and place designated in the notice of filing as here published in each proceeding. All of the proceedings are subject to the Special Rules of Procedure for Hearing outlined below:

SPECIAL RULES OF PROCEDURE FOR HEARING

(1) All of the testimony to be adduced by applicant's company witnesses shall be in the form of written statements which shall be submitted at the hearing at the time and place indicated.

(2) All of the written statements by applicant's company witnesses shall be offered in evidence at the hearing in the same manner as any other type of evidence. The witnesses submitting the written statements shall be made available at the hearing for cross-examination, if such becomes necessary.

(3) The written statements by applicant's company witnesses, if received in evidence, will be accepted as exhibits. To the extent the written statements refer to attached documents such as copies of operating authority, etc., they should be referred to in written statement as numbered appendices thereto.

(4) The admissibility of the evidence contained in the written statements and the appendices thereto, will at the time of offer, be subject to the same rules as if the evidence was produced in the usual manner.

(5) Supplemental testimony by a witness to correct errors or to supply inadvertent omissions in his written statement is permissible.

No. MC 1641 (Sub-No 53), filed May 25, 1962. Applicant: PEAKE TRANSPORT SERVICE, INC., Chester, Nebr. Applicant's attorney: Einar Viren, 904 City National Bank Building, Omaha 2, Nebr. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Dry manufactured fertilizers and fertilizer mixes,* in bulk, using equipment requiring loading and unloading devices, (1) from Lawrence, Kans., and points within ten (10) miles thereof, to points in Arkansas, Colorado, Missouri, Nebraska, Oklahoma, and South Dakota; (2) from St. Joseph, Mo., and points within ten (10) miles thereof, to points in Iowa, Kansas, and Nebraska; (3) from Horn, Mo., and points within ten (10) miles thereof, to points in Arkansas, Colorado, Iowa, Kansas, Nebraska, and Oklahoma; and (4) from Muskogee, Okla., and points within ten (10) miles thereof, to points in Arkansas, Colorado, Kansas, and Missouri.

HEARING: September 12, 1962, at the Park East Hotel, Kansas City, Mo., before Examiner Alton R. Smith.

No. MC 2974 (Sub-No. 22), filed April 5, 1962. Applicant: O.I.M. TRANSIT CORPORATION, Commerce Drive, Fort Wayne 7, Ind. Applicant's attorney: Walter N. Bieneman, Guardian Building, Detroit 26, Mich. 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 requiring special equipment, and those injurious or contaminating to other lading), serving the Grand Valley State College (south of Grand Rapids) and points within two (2) miles thereof, as offroute points in connection with carrier's authorized regular route operations to and from Grand Rapids, Mich.

HEARING: September 27, 1962, at the Federal Building, Lansing, Mich., before Joint Board No. 76, or, if the Joint Board waives its right to participate, before Examiner William R. Tyers.

No. MC 2998 (Sub-No. 23), filed February 28, 1962. Applicant: WOLVERINE EXPRESS, INCORPORATED, 701 Erie Avenue, Muskegon, Mich. Applicant's attorney: Walter N. Bieneman, Guardian Building, Detroit 26, Mich. 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 requiring special equipment, and those injurious or contaminating to other lading), serving the site of Grand Valley State College (located south of Grand Rapids, Mich.) and points within two miles thereof as offroute points in connection with carrier's authorized operations to and from Grand Rapids, Mich.

HEARING: September 27, 1962, at the Federal Building, Lansing, Mich., before Joint Board No. 76, or, if the Joint Board waives its right to participate, before Examiner William R. Tyers.

No. MC 3151 (Sub-No. 12), filed March 7, 1962. Applicant: BENDER & LOUDON MOTOR FREIGHT, INC., 3024 North Cleveland Massillon Road, West Richfield, Ohio. Applicant's attorney: Walter N. Bieneman, Guardian Building, Detroit 26, Mich. 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 requiring special equipment, and those injurious or contaminating to other lading), serving the site of Grand Valley State College located South of Grand Rapids, Mich., and points within two (2) miles thereof, as offroute points in connection with carrier's authorized regular route operations to and from Grand Rapids, Mich.

HEARING: September 27, 1962, at the Federal Building, Lansing, Mich., before Joint Board No. 76, or, if the Joint Board waives its right to participate, before Examiner William R. Tyers.

No. MC 10761 (Sub-No. 116) filed March 7, 1962. Applicant: TRANS-AMERICAN FREIGHT LINES, INC., 1700 North Waterman Avenue, Detroit 9, Mich. Applicant's attorney: Walter N. Bieneman, Guardian Building, Detroit 26, Mich. 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 requiring special equipment, and those injurious or contaminating to other lading), serving the site of Grand Valley State College located South of Grand Rapids, Mich., and points within two (2) miles thereof, as offroute points in connection with carrier's authorized regular route operations to and from Grand Rapids, Mich.

HEARING: September 27, 1962, at the Federal Building, Lansing, Mich., before Joint Board No. 76, or, if the Joint Board waives its right to participate before Examiner William R. Tyers.

No. MC 13700 (Sub-No. 5), filed March 7, 1962. Applicant: ROOKS TRANSFER LINES, INC., 650 East 16th Street, Holland, Mich. Applicant's attorney: Walter N. Bieneman, Guardian Building, Detroit 26, Mich. 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 requiring special equipment, and those injurious or contaminating to other lading), serving Grand Valley State College located south of Grand Rapids, Mich., and points within two (2) miles thereof, as offroute points in connection with applicant's regular-route operations to and from Grand Rapids, Mich.

Hearing: September 27, 1962, at the Federal Building, Lansing, Mich., before Joint Board No. 76, or, if the Joint Board waives its right to participate, before Examiner William R. Tyers.

No. MC 28478 (Sub-No. 16), filed February 28, 1962. Applicant: GREAT

LAKES EXPRESS CO., a corporation, 172 Davenport Street, Saginaw, Mich. Applicant's attorney: Walter N. Bieneman, Guardian Building, Detroit 26, Mich. 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 requiring special equipment, and those injurious or contaminating to other lading), serving the site of Grand Valley State College (located south of Grand Rapids, Mich.) and points within two miles thereof as offroute points in connection with carrier's authorized operations to and from Grand Rapids, Mich.

HEARING: September 27, 1962, at the Federal Building, Lansing, Mich., before Joint Board No. 76, or, if the Joint Board waives its right to participate, before Examiner William R. Tyers.

No. MC 30897 (Sub-No. 13), filed March 14, 1962. Applicant: CONSOLIDATED FREIGHT COMPANY, a corporation, 321 South Franklin Street, P.O. Box 970, Saginaw, Mich. Applicant's attorney: Walter N. Bieneman, 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 requiring special equipment, and those injurious or contaminating to other lading), serving the site of Grand Valley State College located south of Grand Rapids, Mich., and points within two (2) miles thereof, as offroute points in connection with carrier's authorized regular route operations to and from Grand Rapids, Mich.

NOTE: Common control may be involved.

HEARING: September 27, 1962, at the Federal Building, Lansing, Mich., before Joint Board No. 76, or, if the Joint Board waives its right to participate before William R. Tyers.

No. MC 35628 (Sub-No. 243), filed March 19, 1962. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, 134 Grandville Avenue SW., Grand Rapids 2, Mich. Applicant's attorney: Walter N. Bieneman, Guardian Building, Detroit 26, Mich. 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 requiring special equipment, and those injurious or contaminating to other lading), serving the Grand Valley State College, located south of Grand Rapids, Mich., and points within two miles thereof, as offroute points in connection with carrier's authorized operations to and from Grand Rapids, Mich.

HEARING: September 27, 1962, at the Federal Building, Lansing, Mich., before Joint Board No. 76, or, if the Joint Board waives its right to participate, before Examiner William R. Tyers.

No. MC 41192 (Sub-No. 7), filed February 28, 1962. Applicant: GRAND RAPIDS MOTOR EXPRESS, INC., 1520 Steele Avenue SW., Grand Rapids 2, Mich. Applicant's attorney: Walter N. Bieneman, Guardian Building, Detroit 26, Mich. 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 requiring special equipment, and those injurious or contaminating to other lading), serving the site of Grand Valley State College, located south of Grand Rapids, Mich., and points within two (2) miles thereof, as offroute points in connection with applicant's authorized regular route operations to and from Grand Rapids, Mich.

HEARING: September 27, 1962, at the Federal Building, Lansing, Mich., before Joint Board No. 76, or, if the Joint Board waives its right to participate, before Examiner William R. Tyers.

No. MC 46280 (Sub-No. 46), filed June 18, 1962. Applicant: DARLING FREIGHT, INC., 4000 Division Avenue South, Grand Rapids, Mich. Applicant's attorney: Rex Eames, 1800 Buhl 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 commodities requiring special equipment, (1) between Grand Rapids, Mich., on the one hand, and, on the other, the Grand Valley State College and Allendale Township, Mich., and (2) between Detroit, Mich., on the one hand, and, on the other, the Grand Valley State College and Allendale Township, Mich.

HEARING: September 27, 1962, at the Federal Building, Lansing, Mich., before Joint Board No. 76, or, if the Joint Board waives its right to participate, before Examiner William R. Tyers.

No. MC 52460 (Sub-No. 65), filed May 25, 1962. Applicant: HUGH BREEDING, INC., 1420 West 35th Street, P.O. Box 9515, Tulsa, Okla. Applicant's attorney: Louis I. Dailey, 2111 Sterick Building, Memphis 3, Tenn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Manufactured fertilizer*, dry, in bags and in bulk (hopper or auger trailers), from Horn (Jasper County), Mo., to points in Oklahoma, Kansas, Colorado, South Dakota, Iowa, Nebraska, Arkansas, and Wyoming.

HEARING: September 12, 1962, at The Park East Hotel, Kansas City, Mo., before Examiner Alton R. Smith.

No. MC 59117 (Sub-No. 19), filed May 25, 1962. Applicant: ELLIOTT TRUCK LINES, INC., P.O. Box 1, Vinita, Okla. Applicant's attorney: Carll V. Kretsinger, Suite 510 Professional Building, Kansas City 6, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer compounds*, dry, in bulk, bags and in containers, and in mixed shipments of bulk, bags and containers, from Horn, Mo., to points in Kansas, Nebraska, Iowa, Oklahoma, Arkansas, and Texas, and *empty containers and damaged or rejected shipments* of the above specified commodities, on return.

HEARING: September 12, 1962, at The Park East Hotel, Kansas City, Mo., before Examiner Alton R. Smith.

No. MC 59206 (Sub-No. 17), filed February 28, 1962. Applicant: HOLLAND MOTOR EXPRESS, INC., 1 West Fifth Street, Holland, Mich. Applicant's attorney: Walter N. Bieneman, Guardian Building, Detroit 26, Mich. 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 requiring special equipment, and those injurious or contaminating to other lading), serving the site of Grand Valley State College (located south of Grand Rapids, Mich.) and points within two miles thereof as offroute points in connection with carrier's authorized operations to and from Grand Rapids, Mich.

HEARING: September 27, 1962, at the Federal Building, Lansing, Mich., before Joint Board No. 76, or, if the Joint Board waives its right to participate, before Examiner William R. Tyers.

No. MC 61396 (Sub-No. 89) (REPUBLICATION), filed April 30, 1962, published FEDERAL REGISTER, issue of June 20, 1962, and republished this issue to show handling under special rules and new hearing date. Applicant: HERMAN BROS., INC., P.O. Box 189, Downtown Station, Omaha 1, Nebr. Applicant's attorney: Donald L. Stern, 924 City National Bank Building, Omaha 2, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, in bulk, in hopper and pneumatic trailers, (1) from Horn, Mo., and points within 10 miles thereof, to points in Arkansas, Oklahoma, Colorado, Kansas, Nebraska, Iowa, South Dakota, and Wyoming, (2) from St. Joseph, Mo., and points within 10 miles thereof, to points in Nebraska, Iowa, Kansas, Colorado, South Dakota, and Wyoming, (3) from Muskogee, Okla., and points within 10 miles thereof to points in Arkansas, Kansas, and Missouri, and (4) from Lawrence, Kans., and points within 10 miles thereof, to points in Missouri, Oklahoma, Colorado, South Dakota, Nebraska, Iowa, and Wyoming, and *returned and rejected shipments*, in connection with routes (1), (2), (3), and (4), above on return.

HEARING: September 12, 1962, at The Park East Hotel, Kansas City, Mo., before Examiner Alton R. Smith.

No. MC 65920 (Sub-No. 1), filed June 22, 1962. Applicant: PETER BISHOP, WILLIAM BISHOP AND HATTIE BISHOP, doing business as BISHOP MOTOR EXPRESS, 607 Century Avenue SW., Grand Rapids, Mich. Applicant's attorney: Robert A. Sullivan, 1800 Buhl Building, Detroit 26, Mich. 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 (when transported as a separate and distinct service in connection with so-called "household movings"), commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading); serving the Grand Valley State College and points within two (2) miles thereof located on or near Michigan Highway 50 west of Grand Rapids, Mich., as offroute points in connection with applicant's presently authorized regular-route operations to and from Grand Rapids, Mich.

HEARING: September 27, 1962, at the Federal Building, Lansing, Mich., before Joint Board No. 76, or, if the Joint Board waives its right to participate, before Examiner William R. Tyers.

No. MC 69833 (Sub-No. 60), filed February 28, 1962. Applicant: ASSOCIATED TRUCK LINES, INC., 15 Andre Street SE., Grand Rapids 7, Mich. Applicant's attorney: Walter N. Bieneman, Guardian Building, Detroit 26, Mich. 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 requiring special equipment, and those injurious or contaminating to other lading), serving the site of Grand Valley State College (located south of Grand Rapids, Mich.) and points within two miles thereof as offroute points in connection with carrier's authorized operations to and from Grand Rapids, Mich.

HEARING: September 27, 1962, at the Federal Building, Lansing, Mich., before Joint Board No. 76, or, if the Joint Board waives its right to participate, before Examiner William R. Tyers.

No. MC 111401 (Sub-No. 130) (REPUBLICATION), filed June 4, 1962, published FEDERAL REGISTER, issue of June 20, 1962, and republished this issue to show handling under Special Rules and new hearing date. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Enid, Okla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, in bulk, in hopper and pneumatic trailers, (1) from Lawrence, Kans., and points within ten (10) miles thereof, to points in Colorado, Iowa, Missouri, Nebraska, Oklahoma, South Dakota, and Wyoming, (2) from Horn, Mo., and points within ten (10) miles thereof, to points in Arkansas, Colorado, Iowa, Kansas, Nebraska, Oklahoma, South Dakota, and Wyoming, (3) from St. Joseph, Mo., and points within ten (10) miles thereof, to points in Colorado, Iowa, Kansas, Nebraska, South Dakota, and Wyoming, and (4) from Muskogee, Okla., and points within ten (10) miles thereof, to points in Arkansas, Colorado, Kansas, Missouri, and Texas and *rejected shipments only*, on return.

HEARING: September 12, 1962, at The Park East Hotel, Kansas City, Mo., before Examiner Alton R. Smith.

No. MC 112822 (Sub-No. 34), filed May 17, 1962. Applicant: EARL BRAY, INC., P.O. Box 910, Linwood and North Street, Cushing, Okla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Manufactured fertilizer, dry*, in truckloads, from the plant site of the Farmers Chemical Company at Horn, Mo., approximately six (6) miles west of Joplin, Mo., to points in Iowa, South Dakota, Nebraska, Kansas, Oklahoma, Arkansas, and Colorado, and *damaged and rejected shipments of dry manufactured fertilizer*, on return.

NOTE: Common control may be involved.

HEARING: September 12, 1962, at The Park East Hotel, Kansas City, Mo., before Examiner Alton R. Smith.

No. MC 117094 (Sub-No. 7), filed May 31, 1962. Applicant: HOFER, INC., P.O. Box 583, Pittsburg, Kans. Applicant's attorney: John E. Jandera, 641 Harrison St., Topeka, Kans. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer compounds*, dry (restricted against the use of tank or hopper vehicles), between Horn, Mo., on the one hand, and on the other, points in Kansas, Arkansas, Colorado, Wyoming, and Nebraska.

NOTE: Applicant states the above described operations are limited to a transportation service to be performed under a continuing contract, or contracts, with the Consumers Cooperative Association of Kansas City, Mo.

HEARING: September 12, 1962, at The Park East Hotel, Kansas City, Mo., before Examiner Alton R. Smith.

No. MC 118535 (Sub-No. 10), filed May 14, 1962. Applicant: JIM TIONA, JR., 603 Lee Street, Butler, Mo. Applicant's attorney: Tom B. Kretsinger, Suite 510, Professional Building, Kansas City, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer compounds*, dry, in bulk, bags, and in containers, and in mixed shipments of bulk, bags, and containers, (1) from Horn, Mo., to points in Kansas, Nebraska, Colorado, Iowa, South Dakota, Oklahoma, and Arkansas, and (2) from East St. Louis, Ill., to points in Iowa, Kansas, and Missouri, and *empty containers*, and *damaged and rejected shipments* of the commodities specified above, and *other such incidental facilities* (not specified), on return.

HEARING: September 12, 1962, at The Park East Hotel, Kansas City, Mo., before Examiner Alton R. Smith.

No. MC 119630 (Sub-No. 5), filed May 14, 1962. Applicant: VAN TASSEL, INCORPORATED, Fifth and Grand, Pittsburg, Kans. Applicant's representative: H. V. Eskelin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Manufactured fertilizer*, dry, from Horn, Mo., to Oklahoma, Kansas, Colorado, Wyoming, Nebraska, South Dakota, Iowa, and Arkansas, and *empty containers or other incidental facilities* (not specified) used in transporting the above described commodities, on return.

NOTE: Applicant is also authorized to conduct operations as a contract carrier in Permit MC 115036 and subs thereunder; therefore, dual operations may be involved.

HEARING: September 12, 1962, at The Park East Hotel, Kansas City, Mo., before Examiner Alton R. Smith.

By the Commission.

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

[F.R. Doc. 62-7557; Filed, July 31, 1962; 8:50 a.m.]

[Notice 462]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JULY 27, 1962.

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 carriers of property or passengers of brokers under sections 206, 209, and 211 of the Interstate Commerce Act and certain other proceedings with respect thereto.

All hearings and prehearing conferences will be called at 9:30 a.m., United States standard time (or 9:30 a.m., local daylight saving time, if that time is observed), unless otherwise specified.

APPLICATIONS ASSIGNED FOR ORAL HEARING OR PREHEARING CONFERENCE

MOTOR CARRIERS OF PROPERTY

No. MC 263 (Sub-No. 139), filed May 31, 1962. Applicant: GARRETT FREIGHTLINES, INC., 2055 Pole Line Road, Pocatello, Idaho. Applicant's attorney: Maurice H. Greene, P.O. Box 1554, Boise, Idaho. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals, plastics, ores and ore concentrates, glues, resins, industrial vegetable flours, dusts and powders, animal blood and meals, furafil*, and *petroleum additives and catalysts*, in bulk, (1) between points in Oregon, Washington, and Idaho, and (2) between points in Oregon, Washington, and Idaho, on the one hand, and, on the other, points in California.

HEARING: September 20, 1962, at the Interstate Commerce Commission Hearing Room, 410 Southwest 10th Avenue, Portland, Oreg., before Examiner William E. Messer.

No. MC 2989 (Sub-No. 29), filed March 30, 1962. Applicant: DAYS TRANSFER, INC., 730 East Beardsley, Elkhart, Ind. Applicant's attorney: Homer E. Bradshaw, Suite 510 Central National Building, Des Moines 9, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* as described in Appendix V, *Descriptions in Motor Carriers Certificates*, Ex Parte MC-45, from points in Kankakee County, Ill., to points in Indiana, Ohio, and

points in the lower peninsula of Michigan.

NOTE: Applicant states "Brady Motorfrate, Inc., operates and controls Days Transfer, Inc. pursuant to authorization by the Commission in MC–F–7584."

HEARING: September 20, 1962, at The Palmer House, Chicago, Ill., before Examiner William R. Tyers.

No. MC 11220 (Sub-No. 78), filed July 20, 1962. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Avenue, Memphis, Tenn. Applicant's attorney: James W. Wrape, 2111 Sterick Building, Memphis 3, Tenn. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except automobiles set up on wheels, Classes A and B explosives, household goods as defined in *Practices of Motor Common Carrier of Household Goods*, 17 M.C.C. 467, commodities in bulk, and those requiring special equipment), serving the Village of Champ, Mo. (also known as Champ Industrial Village) as an off-route point in connection with applicant's authorized regular route operations.

HEARING: September 13, 1962, at the Pick-Mark Twain Hotel, St. Louis, Mo., before Joint Board No. 179.

No. MC 13235 (Sub-No. 9) filed July 20, 1962. Applicant: CENTRALIA CARTAGE CO., a corporation, P.O. Box 128, Centralia, Ill. Applicant's representative: R. W. Burgess, 1507 Papin Street, St. Louis 3, Mo. 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), between St. Louis, Mo., and points in the Commercial Zone thereof, and Champ, Mo.-Industrial Village; (1) from the St. Louis terminal at 1700 North 11th Street to Interstate Highway 70, thence over Interstate Highway 70 to Champ, Mo.-Industrial Village, and return over the same route, serving no intermediate points, and (2) from the Western boundary of the St. Louis Commercial Zone to the junction of By-Pass 66 and Interstate Highway 70, thence over Interstate Highway 70 to Champ, Mo.-Industrial Village, and return over the same route, serving no intermediate points.

HEARING: September 13, 1962, at the Pick-Mark Twain Hotel, St. Louis, Mo., before Joint Board No. 135.

No. MC 18738 (Sub-No. 28), filed March 15, 1962. Applicant: SIMS MOTOR TRANSPORT LINES, INC., 610 West 138th Street, Chicago 27, Ill. 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 irregular routes, transporting: *Iron and steel articles*, as described in Appendix V, *Descriptions in Motor Carrier Certificates*, Ex Parte MC–45, from points in Kankakee County, Ill., to points in North Dakota, South Dakota, Minnesota, Nebraska, Iowa, Kentucky, Indiana, Wisconsin, Michigan, Ohio, Pennsylvania, and West Virginia, and *empty containers or other such incidental facilities* (not specified) used in transporting the commodities specified above, on return.

HEARING: September 19, 1962, at The Palmer House, Chicago, Ill., before Examiner William R. Tyers.

No. MC 42487 (Sub-No. 550), filed May 9, 1962. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. Applicant's attorney: J. G. McLaughlin, 625 Pacific Building, Portland 4, Oreg. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals, plastics, ores and ore concentrates, glues, resins, industrial vegetable flours, dusts or powders, animal blood and meals, furafil, and petroleum additives and catalysts*, in bulk, (1) between points in Oregon, Washington, and Idaho, and (2) between points in Oregon, Washington, and Idaho, on the one hand, and, on the other, points in California.

NOTE: Common control may be involved.

HEARING: September 20, 1962, at the Interstate Commerce Commission Hearing Room, 410 SW. 10th Avenue, Portland, Oreg., before Examiner William E. Messer.

No. MC 42487 (Sub-No. 557), filed June 11, 1962. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. Applicant's attorney: R. E. Poelman, 175 Linfield Drive, Menlo Park, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phenol*, in bulk, in tank vehicles, from Riverview (Marietta), Ohio, to points in California, Oregon, and Washington.

NOTE: Common control may be involved.

HEARING: September 25, 1962, at the New Mint Building, 133 Hermann Street, San Francisco, Calif., before Examiner William E. Messer.

No. MC 52110 (Sub-No. 74), filed March 30, 1962. Applicant: BRADY MOTORFRATE, INC., 1223 Sixth Avenue, Des Moines, Iowa. Applicant's attorney: Homer E. Bradshaw, Suite 510, Central National Building, Des Moines 9, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as described in Appendix V, *Descriptions in Motor Carriers Certificates*, Ex Parte MC–45, from points in Kankakee County, Ill., to points in Iowa, Minnesota, Nebraska, and South Dakota.

NOTE: Common control may be involved.

HEARING: September 20, 1962, at The Palmer House, Chicago, Ill., before Examiner William R. Tyers.

No. MC 52709 (Sub-No. 164), filed March 30, 1962. Applicant: RINGSBY TRUCK LINES, INC., 3201 Ringsby Court, Denver 5, Colo. Applicant's representative: Eugene St. M. Hamilton (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum wax*, in bulk, in tank vehicles, from Beaumont, Tex., to points in Arizona.

NOTE: Common control may be involved.

HEARING: October 1, 1962, at the Arizona Corporation Commission, Phoenix, Ariz., before Joint Board No. 127, or, if the Joint Board waives its right to participate before Examiner F. Roy Linn.

No. MC 52709 (Sub-No. 167), filed April 23, 1962. Applicant: RINGSBY TRUCK LINES, INC., 3201 Ringsby Court, Denver 5, Colo. Applicant's representative: Eugene St. M. Hamilton (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid cleaning compound*, in bulk, in tank vehicles, from Hawthorne, Calif., to Hutchinson, Kans.

NOTE: Applicant states it controls United Freight, Inc. (Docket FF 155) and Inter State Express, Inc. (Docket FF 102), both of which are wholly owned by applicant.

HEARING: September 24, 1962, at the New Mint Building, 133 Hermann Street, San Francisco, Calif., before Examiner William E. Messer.

No. MC 68909 (Sub-No. 60), filed July 23, 1962. Applicant: DECATUR-SEAWAY MOTOR EXPRESS, INC., 3537 Broadway, Kansas City, Mo., Applicant's attorney: Frank W. Taylor, Jr., 1012 Baltimore Building, Kansas City 5, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk and commodities injurious or contaminating to other lading), serving Champ, Mo., Industrial Village as an off-route point in connection with applicant's regular-route operation to and from St. Louis, Mo.

NOTE: Applicant states it is wholly owned by Indianapolis-Kansas City Motor Express Company, a common motor carrier of freight, as authorized by the Commission in MC–F–7324.

HEARING: September 13, 1962, at the Pick-Mark Twain Hotel, St. Louis, Mo., before Joint Board No. 179.

No. MC 69116 (Sub-No. 65), filed March 28, 1962. Applicant: SPECTOR FREIGHT SYSTEM, INC., 3100 South Wolcott Avenue, Chicago 8, Ill. Applicant's attorney: David Axelrod, 39 South La Salle Street, Chicago 3, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as described in Appendix V, *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, 294, from points in Kankakee County, Ill., to points in North Dakota, South Dakota, Minnesota, Nebraska, Iowa, Kentucky, Indiana, Wisconsin, Michigan, Ohio, Pennsylvania, and West Virginia.

HEARING: September 19, 1962, at The Palmer House, Chicago, Ill., before Examiner William R. Tyers.

No. MC 80504 (Sub-No. 10) (AMENDMENT), filed December 6, 1961, pub-

lished FEDERAL REGISTER issue December 20, 1961, amended March 7, 1962, and republished as amended this issue. Applicant: HERMAN SHEIN, HOWARD M. SHEIN, JULES Y. SHEIN, PHILLIP SHEIN, AND SAMUEL SHEIN, a partnership, doing business as, SHEIN'S EXPRESS, 1225 Calhoun Street, Trenton, N.J. Applicant's attorney: John C. Bradley, Suite 618, Perpetual Building, 1111 E Street NW., Washington 4, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except livestock, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment); (1) between Buffalo, N.Y., and junction of New York Highway 5 and U.S. Highway 20 near Avon, N.Y.; from Buffalo over U.S. Highway 20 to junction of U.S. Highway 20 and New York Highway 5 near Avon, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only in connection with applicant's present regular-route operations; (2) between Auburn, N.Y., and Trenton, N.J.; from Auburn over U.S. Highway 20 to Lafayette, N.Y., thence over U.S. Highway 11 to Scranton, Pa., thence over U.S. Highway 611 to junction of U.S. Highway 611 and U.S. Highway 46, thence over U.S. Highway 46 to Buttzville, N.J., thence over New Jersey Highway 69 to Trenton, and return over the same route, serving no intermediate points (except Lafayette, N.Y., for purposes only of joinder with route (5) below), as an alternate route for operating convenience only in connection with applicant's present regular-route operations; (3) between Auburn, N.Y., and Philadelphia, Pa.; from Auburn to junction of U.S. Highway 611 and U.S. Highway 46 as specified above, thence over U.S. Highway 611 to Philadelphia, and return over the same route, serving no intermediate points (except Lafayette, N.Y., for purposes only of joinder with route (5) below), as an alternate route for operating convenience only in connection with applicant's present regular-route operations; (4) between Auburn, N.Y., and junction of New Jersey Highway 3 and New Jersey Highway 17; from Auburn to Buttzville, N.J., as specified above, thence over U.S. Highway 46 to junction of U.S. Highway 46 and New Jersey Highway 3, thence over New Jersey Highway 3 to junction New Jersey Highway 3 and New Jersey Highway 17, and return over the same route, serving no intermediate points (except Lafayette, N.Y., for purposes only of joinder with route (5) below), as an alternate route for operating convenience only in connection with applicant's present regular-route operations; and (5) between Syracuse, N.Y., and Lafayette, N.Y., for purposes of joinder only at Lafayette, with routes (2), (3), and (4) above, from Syracuse, N.Y., over U.S. Highway 11 to Lafayette, and return over the same route, serving no intermediate points.

NOTE: The purpose of this republication is for clarification purposes only and in no way meant to alter applicant's original intent; also to include applicant's attorney as shown above.

HEARING: September 21, 1962, at the U.S. Court Rooms, Trenton, New Jersey, before Examiner A. Lane Cricher.

No. MV 95540 (Sub-No. 431) (REPUBLICATION), filed May 28, 1962, published FEDERAL REGISTER issue of July 25, 1962, and republished this issue to show correct hearing date. Applicant: WATKINS MOTOR LINES, INC., Albany Highway, Thomasville, Ga. Applicant's attorney: Joseph H. Blackshear, Gainesville, Ga.

HEARING: Reassigned September 6, 1962, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner C. Evans Brooks, along with No. MC 107107 Sub-217.

No. Mc 98216 (Sub-No. 1), filed May 9, 1962. Applicant: SAMUEL MOORE, MURRAY MOORE AND NATHAN MOORE, a partnership doing business as MOORE TRUCKING COMPANY, 18 North Sixth Street, Brooklyn, N.Y. Applicant's attorney: Arthur J. Piken, 160 Jamaica Avenue, Jamaica 32, N.Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meat* and *packinghouse products*, including but not limited to *animal bladders, butter, cheese, shortening, cured pork in barrels, dried beef, corned beef in cans and barrels, lard, lard components, lard substitutes, meats* (*cooked, cured, canned, dried, pickled, preserved, smoked, salted*) *oils, oleomargarine, oleomargarine stock, poultry, sausage* (*fresh, cooked, cured, and preserved*) *sausage casings, sterine, soaps, washing compounds and animal tallow,* from points in the New York, N.Y., commercial zone as defined by the Commission in 1 M.C.C. 665, to points in Nassau, Suffolk and Westchester Counties, N.Y., and Newark, Elizabeth, Passaic, and Paterson, N.J., and *empty containers and other such incidental facilities* (not specified) used in transporting above commodities, on return.

NOTE: Applicant presently operates within the State of New York under authority of the Second Proviso of 206(a)(1). That authority would be canceled upon the granting of authority sought herein.

HEARING: September 12, 1962, at 346 Broadway, New York, N.Y., before Examiner A. Lane Cricher.

No. MC 98707 (Sub-No. 10), filed May 7, 1962. Applicant: MILES MOTOR TRANSPORT SYSTEM, P.O. Box 510, Stockton, Calif. Applicant's attorney: Marshall G. Berol, 100 Bush Street, San Francisco, Calif. 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, Classes A and B explosives, liquid commodities in bulk, articles of unusual value, livestock, poultry, and unprocessed agricultural commodities (poultry and unprocessed agricultural commodities being excepted only when moving in mixed loads with other commodities not named in section 203(b)(6) of the Interstate Commerce Act), (1) between Los Angeles, Calif., and Ukiah, Calif., serving all intermediate points and the off-route points of Davenport, Antioch, and Watsonville, Calif., as follows: From Los Angeles over U.S. Highway 101 and alternate U.S. Highway 101 to junction of said highways near Montalvo, Calif., thence over U.S. Highway 101 to Ukiah, and return over the same route; (2) between Los Angeles, Calif., and Sacramento, Calif., serving all intermediate points and the offroute points of Lyoth, Lathrop, Davenport and Antioch, Calif., as follows: From Los Angeles over U.S. Highway 99 to Sacramento, and return over the same route; and (3) between Stockton, Calif., and San Francisco, Calif., serving all intermediate points and the off-route points of Lyoth, Lathrop, Davenport and Antioch, Calif., as follows: From Stockton over U.S. Highway 50 to San Francisco, and return over the same route.

NOTE: Applicant states that under its MC 98707 Sub 2 it presently holds authority to transport the commodities specified herein over the routes and between the points set forth in this application, but with limitations as to minimum weight of shipments to be transported, and that shipments shall move from one consignor to one consignee. This application seeks to remove the said two restrictions, i.e., as to minimum weight and movement from one consignor to one consignee. It does not seek authority to transport "any commodities over any route or between any points or service to any point not presently authorized under its Sub 2." Note further that applicant's two shareholders are also shareholders in Miles & Sons Trucking Service (MC–92806 and MC–F–6773).

HEARING: September 26, 1962, at the New Mint Building, 133 Hermann Street, San Francisco, Calif., before Examiner William E. Messer.

No. MC 103435 (Sub-No. 112), filed April 25, 1962. Applicant: UNITED-BUCKINGHAM FREIGHT LINES, 900 East Omaha Street, Rapid City, S. Dak. Applicant's attorney: Alvin J. Meiklejohn, Jr., 526 Denham Building, Denver 2, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as described in Appendix V, *Descriptions in Motor Carrier Certificates*, Ex Parte MC–45, from points in Kankakee County, Ill., to points in North Dakota, South Dakota, Minnesota, Nebraska, Iowa, Missouri, and Kansas.

HEARING: September 21, 1962, at The Palmer House, Chicago, Ill., before Examiner William R. Tyers.

No. MC 103435 (Sub-No. 117), filed July 2, 1962. Applicant: UNITED BUCKINGHAM FREIGHT LINES, A corporation, E. 915 Springfield Street, Spokane 2, Wash. Applicant's attorney: George LaBissoniere, 333 Central Building, Seattle 4, Wash. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except

articles of unusual value, livestock, Classes A and B explosives, commodities in bulk, and household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467), (1) between Missoula and Helena, Mont., as follows: From Missoula over U.S. Highway 10 to its junction with U.S. Highway 10N at or near Garrison, Mont., and thence over U.S. Highway 10N to Helena, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only; and (2) between Butte and Billings, Mont., over U.S. Highway 10, serving no intermediate points, as an alternate route for operating convenience only.

HEARING: September 7, 1962, at the Board of R.R. Commissioners, Helena, Mont., before Joint Board No. 82.

No. MC 105461 (Sub-No. 44), filed July 20, 1962. Applicant: HERR'S MOTOR EXPRESS, INC., Quarryville, Pa. Applicant's representative: Bernard N. Gingerich (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum furniture, wooden furniture, wooden toys, and wooden gates, ironing tables, and clothes dryers* from Wellsville and Whitesville, N.Y., to points in Connecticut, Massachusetts, and Rhode Island.

HEARING: September 12, 1962, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Alfred B. Hurley.

No. MC 105813 (Sub-No. 69) (REPUBLICATION), filed May 29, 1962, published FEDERAL REGISTER issue of July 25, 1962, and republished this issue to show correct hearing date. Applicant: BELFORD TRUCKING CO., INC., 1299 NW. 23d Street, Miami 42, Fla. Applicant's attorney: Clarence D. Todd, 1825 Jefferson Place NW., Washington 6, D.C.

HEARING: Reassigned September 6, 1962, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner C. Evans Brooks, along with No. MC 107107 Sub 217.

No. MC 107107 (Sub-No. 201), filed March 1, 1962. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 65, Allapattah Station, Miami 42, Fla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Charleston, S.C., and Savannah, Ga., to points in Ohio.

HEARING: September 12, 1962, at the New Post Office Building, Columbus, Ohio, before Examiner William R. Tyers.

No. MC 107107 (Sub-No. 225), filed July 19, 1962. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 65, Allapattah Station, Miami 42, Fla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods, potatoes and potato products, frozen and unfrozen, cooked, uncooked and blanched*, from points in Nebraska (except Omaha and Lincoln) on the east of U.S. Highway 383 and 183 and points on and south of U.S. Highway 30 and Carthage, Mo., to points in Florida, Georgia, South Carolina, North Carolina, Alabama, Tennessee, Missouri, Arkansas, and Mississippi.

HEARING: September 11, 1962, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Charles B. Heinemann.

No. MC 107162 (Sub-No. 11), filed April 20, 1962. Applicant: NOBLE GRAHAM, Brimley, Mich. Applicant's attorney: Michael D. O'Hara, Spies Building, Menominee, Mich. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Mined rock*, (2) *lumber* (excluding plywood dimension stock and built-up wood), from points on the International Boundary Line between the United States and Canada at or near Sault Sainte Marie, Mich., and the Upper Peninsula of Michigan, to points in Michigan, and Wisconsin on and east of U.S. Highway 51, and Chicago, Ill.

HEARING: September 26, 1962, at the Federal Building, Lansing, Mich., before Examiner William R. Tyers.

No. MC 107515 (Sub-No. 401) (REPUBLICATION), filed May 27, 1962, published FEDERAL REGISTER issue of July 25, 1962, and republished this issue to show correct hearing date. Applicant: REFRIGERATED TRANSPORT CO., INC., 290 University Avenue SW., Atlanta 10, Ga. Applicant's attorney: Paul M. Daniell, Grant Building, Atlanta, Ga.

HEARING: Reassigned September 6, 1962, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner C. Evans Brooks, along with No. MC 107107 Sub-217.

No. MC 107643 (Sub-No. 59), filed May 11, 1962. Applicant: St. JOHNS MOTOR EXPRESS CO., a corporation, 7220 North Burlington Avenue, Portland, Oreg. Applicant's attorney: John G. McLaughlin, Pacific Building, Portland 4, Oreg. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals, plastics, ores and ore concentrates, glues, resins, industrial vegetable flours, dusts or powders, animal blood and meals, furafil*, and *petroleum additives and catalysts*, in bulk, (a) between points in Oregon, Washington, and Idaho; and (b) between points in Oregon, Washington, and Idaho, on the one hand, and, on the other, points in California.

HEARING: September 20, 1962, at the Interstate Commerce Commission Hearing Room, 410 Southwest 10th Avenue, Portland, Oreg., before William E. Messer.

No. MC 108053 (Sub-No. 39) (REPUBLICATION), filed May 29, 1962, published FEDERAL REGISTER issue of July 25, 1962, and republished this issue to show correct hearing date. Applicant: LITTLE AUDREY'S TRANSPORTATION COMPANY, INC., P.O. Box 310, Fremont, Nebr. Applicant's attorney: Clarence D. Todd 1825 Jefferson Place NW., Washington 6, D.C.

HEARING: Reassigned September 6, 1962, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner C. Evans Brooks, along with No. MC 107107 Sub-217.

No. MC 108207 (Sub-No. 95), filed June 11, 1962. Applicant: FROZEN FOOD EXPRESS, 318 Cadiz Street, P.O. Box 5888, Dallas, Tex. Applicant's attorney: Ralph W. Pulley, Jr., First National Bank Building Dallas 2, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, dairy products and articles distributed by meat packinghouses* as defined by Commission, from Clovis, N. Mex., and points within five (5) miles thereof to points in Arizona and California.

HEARING: September 6, 1962, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner C. Evans Brooks.

No. MC 108586 (Sub-No. 53), filed March 28, 1962. Applicant: STEFFKE FREIGHT CO., a corporation, P.O. Box 990, Wausau, Wis. Applicant's attorney: David Axelrod, 39 South La Salle Street, Chicago 3, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as described in Appendix V, *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, 294, from points in Kankakee County, Ill., to points in North Dakota, South Dakota, Minnesota, Nebraska, Iowa, Indiana, and Wisconsin.

HEARING: September 19, 1962, at The Palmer House, Chicago, Ill., before Examiner William R. Tyers.

No. MC 109689 (Sub-No. 132), filed May 23, 1962. Applicant: W. S. HATCH COMPANY, a corporation, 643 South 800 West, Woods Cross, Utah. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, (1) from points in Utah to points in Washington and points in Multnomah County, Oregon, and (2) between points in Nevada on the one hand, and on the other, points in Oregon, Washington, and Montana.

NOTE: Restricted against liquid fertilizers and liquid fertilizer solutions from Geneva and Garfield, Utah, and points within 10 miles of each to points in Washington.

HEARING: September 26, 1962, at the Utah Public Service Commission, Salt Lake City, Utah, before Examiner Alton R. Smith.

No. MC 109689 (Sub-No. 133), filed May 28, 1962. Applicant: W. S. HATCH COMPANY, a corporation, 643 South 800 West, Woods Cross, Utah. Applicant's attorney: Mark K. Boyle, 345 South State Street, Salt Lake City, Utah. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, between points in California, Nevada, Arizona, and Utah.

NOTE: Applicant states that it holds some authority within the scope of this application, and duplicating authority is not being

requested. The above description is used to simplify the application.

HEARING: September 25, 1962, at The Utah Public Service Commission, Salt Lake City, Utah, before Examiner Alton R. Smith.

No. MC 110264 (Sub-No. 25), filed July 6, 1962. Applicant ALBUQUERQUE PHOENIX EXPRESS, INC., P.O. Box 404, Albuquerque, N. Mex. Applicant's attorney: Paul F. Sullivan, Sundial House, 1821 Jefferson Place NW., Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, dairy products, and articles distributed by meat packinghouses*, as shown in Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766, from Clovis, N. Mex., and points within five (5) miles thereof, to points in Arizona, California, El Paso, Tex., and Las Vegas, Nev.

HEARING: September 6, 1962, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner C. Evans Brooks.

No. MC 110625 (Sub-No. 4), filed May 28, 1962. Applicant: CLARENCE VOGT, doing business as VOGT TRANSFER & STORAGE CO., 63 East Idaho Avenue, Ontario, Oreg. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, and Classes A and B explosives), (1) between Ontario and Burns, Oreg., from Ontario over U.S. Highway 20 to Burns, and return over the same route, (2) between Burns and John Day, Oreg., from Burns over U.S. Highway 395 to John Day, and return over the same route, and (3) between John Day and Ontario, Oreg., from John Day over U.S. Highway 26 to Ontario, and return over the same route, serving all intermediate points on the highways named above and all offroute points in Malheur, Harney, and Grant Counties, Oreg., and points in Baker County, Oreg., south of the Burnt River.

HEARING: September 17, 1962, at the Interstate Commerce Commission Hearing Room, 410 Southwest 10th Avenue, Portland, Oreg., before Joint Board No. 172, or, if the Joint Board waives its right to participate, before Examiner William E. Messer.

No. MC 111434 (Sub-No. 39), filed May 4, 1962. Applicant: DON WARD, INC., P.O. Box 1488, Durango, Colo. Applicant's attorney: Peter J. Crouse, Equitable Building, Denver 2, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pozzolan*, in bulk, from Laramie, Wyo., to points in Colorado, points in Nebraska, on and west of U.S. Highway 83, and points in New Mexico, north of U.S. Highway 66, and *rejected shipments* of commodities specified above, on return.

NOTE: Common control may be involved.

HEARING: September 21, 1962, at The New Customs House, Denver, Colo., before Examiner Alton R. Smith.

No. MC 112020 (Sub-No. 161) (AMENDMENT), filed June 4, 1962, published FEDERAL REGISTER issue July 25, 1962, and republished as amended this issue. Applicant: COMMERCIAL OIL TRANSPORT, INC., 1030 Stayton Street, Forth Worth, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fish oil and fish by-products*, in bulk, from points in Texas, Louisiana and Mississippi, to points in Alabama, Arkansas, Louisiana, Mississippi, Georgia, South Carolina, Tennessee, Oklahoma, Missouri, Illinois, Colorado, Iowa, Kentucky, Kansas, Nebraska, and Texas.

NOTE: The purpose of this republication is to add the origin state of Mississippi and the destination states of Colorado, Nebraska, Iowa, Kentucky, Tennessee, Mississippi, Alabama, Georgia, and South Carolina to the proposed authority previously sought.

HEARING: Remains as assigned September 20, 1962, at the Texas State Hotel, Houston, Tex., before Examiner Parks M. Low.

No. MC 112504 (Sub-No. 3), filed April 3, 1962. Applicant: LEO J. HANDY, P.O. Box 148, Heyburn, Idaho. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber* from points in Camas, Cassia, Custer, Blaine and Minidoka Counties, Idaho, to points in Utah, Wyoming, and Colorado.

HEARING: September 14, 1962, at the Public Utilities Commission, State House, Boise, Idaho, before Examiner William E. Messer.

No. MC 112553 (Sub-No. 1), filed April 16, 1962. Applicant: VAN'S TRANSPORTATION, INC., Vine and Webster Streets, Middletown, Ohio. Applicant's attorney: Paul F. Beery, 44 East Broad Street, Columbus 15, Ohio. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel buildings*, knocked down and *fabricated metal products*, (1) between points within three (3) miles of Washington Court House, Ohio, on the one hand, and, on the other, points in New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Tennessee, Illinois, Wisconsin, Michigan, those in that part of Indiana north of a line beginning at the Ohio-Indiana state line and extending thence along Indiana Highway 37 to Indianapolis, Ind., and thence along U.S. Highway 40 to the Indiana-Illinois state line; those in that part of Pennsylvania east of U.S. Highway 15, and those in that part of West Virginia south of U.S. Highway 60, and the District of Columbia, and (2) from points in that part of Indiana on and south of a line beginning at the Ohio-Indiana state line and extending thence along Indiana Highway 37 to Indianapolis, Ind., and thence along U.S. Highway 40 to the Indiana-Illinois state line; those in that part of Pennsylvania on and west of U.S. Highway 15; those in that part of West Virginia on and north of U.S. Highway 60, and Kentucky to points within three (3) miles of Washington Court House, Ohio.

HEARING: September 10, 1962, at the New Post Office Building, Columbus, Ohio, before Examiner William R. Tyers.

No. MC 113434 (Sub-No. 8) (AMENDMENT), filed May 31, 1962, published FEDERAL REGISTER issue July 4, 1962, amended July 20, 1962, and republished as amended this issue. Applicant: GRABELL TRUCK LINE, INC., 679 Lincoln Avenue, P.O. Box 511, Holland, 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: *Cider vinegar stock*, and *vinegar and cider*, in bulk, from points in Kent County, Mich., to Chicago, Ill.

NOTE: The purpose of this republication is to add "in bulk" to the proposed transportation service.

HEARING: Remains as assigned September 14, 1962, at the Federal Building, Lansing, Michigan, before Joint Board No. 73.

No. MC 114045 (Sub-No. 95), filed July 18, 1962. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 5842, Dallas, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts*, from Clovis, N. Mex. to points in Connecticut, Delaware, District of Columbia, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, and West Virginia.

HEARING: September 6, 1962, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner C. Evans Brooks.

No. MC 114364 (Sub-No. 64), filed April 20, 1962. Applicant: WRIGHT MOTOR LINES, INC., 16th and Elm Streets, Rocky Ford, Colo. Applicant's attorney: Marion F. Jones, 526 Denham Building. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition lumber*, from Craig, McCurtain County, Okla., to points in Arizona, Colorado, Utah, and Wyoming.

NOTE: Applicant states that Craig, Okla., is within 10 miles of Broken Bow, Okla., and in MC–114364 (Sub-No. 52), it is authorized to transport lumber from Broken Bow, and points within 10 miles thereof, to points in Colorado and Wyoming. This application is filed due to the question as to whether the commodity "lumber" includes "composition lumber". Applicant further states that it is acquiring authority by purchase, which would authorize service between points in Colorado, New Mexico, Arizona, and Oklahoma. Common control may be involved (MC–F–6985).

HEARING: September 17, 1962, at the New Customs House, Denver, Colo., before Examiner Alton R. Smith.

No. MC 114569 (Sub-No. 50), filed May 1, 1962. Applicant: SHAFFER TRUCKING, INC., Elizabethville, Pa. 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 commodities requiring special equip-

ment), beginning at the intersection of Pennsylvania Highways 14 and 325, thence over Pennsylvania Highways 325, 209, 125, 49010, 336 and 14 to the intersection of Pennsylvania Highway 14 and Pennsylvania Highway 325, including points within three (3) miles of the Borough of Tower City, Schuylkill County, Pa., on the one hand, and, on the other, Harrisburg, Lancaster, Pottsville, Sunbury, York, and the Townships of Hampden and Silver Springs, Cumberland County, Pa.

HEARING: September 26, 1962, at the Pennsylvania Public Utility Commission, Harrisburg, Pa., before Examiner A. Lane Cricher.

No. MC 114818 (Sub-No. 6). Applicant: BARTON TRUCK LINE, INC., 455 West Fourth South, Salt Lake City, Utah. Applicant's attorney: J. Reed Tuft, Attorney At Law, Suite 202 Newhouse Realty Building, 53 East 4th South, Salt Lake City 11, Utah. Assigned for hearing to determine whether the motor vehicle operations of Barton Truck Line, Inc. are and will be managed and operated in a common interest, management, and control with those of Bonanza Trucking Company, a multiple-State carrier holding Certificate No. MC 123594, and whether Barton Truck Line, Inc., is eligible to engage in operations in interstate or foreign commerce within the State of Utah under the second proviso of section 206(a)(1) of the Interstate Commerce Act.

HEARING: September 24, 1962, at The Utah Public Service Commission, Salt Lake City, Utah, before Examiner Alton R. Smith.

No. MC 118407 (Sub-No. 8), filed May 7, 1962. Applicant: NEBRASKA, ILLINOIS, COLORADO EXPRESS, INC., doing business as N.I.C.E., INC. and NATE'S TRUCK LINE, INC., 780 East 51st Avenue, Denver, Colo. Applicant's attorney: Duane W. Acklie, Box 2041, Lincoln, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat by-products, dairy products and articles distributed by meat packinghouses* as described in Appendix 1 to *Descriptions in Motor Carrier Certificates* 61 MCC 209, (except commodities in bulk in tank vehicles), from Denver and Colorado Springs, Colo., to points in Arizona, California, and Nevada.

HEARING: September 20, 1962, at the New Customs House, Denver, Colo., before Examiner Alton R. Smith.

No. MC 115331 (Sub-No. 28) (CORRECTION), filed June 28, 1962, published in FEDERAL REGISTER July 4, 1962, republished this issue as corrected. Applicant: TRUCK TRANSPORT, INC., Room 719 Buder Building, St. Louis, Mo. Applicant's attorney: Thomas F. Kilroy, 1815 H Street NW., Washington 6, D.C. This republication is for the purpose of including among the commodities listed in (1) *"ammonium nitrate"* which was incorrectly published as two items, namely, *"ammonia, nitrate."*

HEARING: Remains as assigned August 7, 1962, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Richard A. White.

No. MC 118318 (Sub-No. 4), filed May 8, 1962. Applicant: IDA-CAL FREIGHT LINES, INC., 1798 Floral Avenue (P.O. Box 455), Twin Falls, Idaho. Applicant's attorney: Marvin Handler, 625 Market Street, San Francisco 5, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat by-products*, as described in paragraphs (a) and (c) of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Caldwell, Idaho, to San Francisco, San Jose, Santa Clara, Modesto, Stockton, Yuba City, San Diego, San Fernando, San Bernardino, El Monte, Riverside, Whittier, Fullerton, Pomona, Santa Ana, Calif., and points in the Los Angeles, Calif., Commercial Zone and the Los Angeles Harbor Commercial Zone.

NOTE: Applicant states it already has a certificate to transport fresh meat from Caldwell, Idaho, to San Francisco, San Jose, and Santa Clara, Calif. No duplicating authority is requested. Applicant further states "the controlling stockholder of applicant controls, through stock ownership, the operation of Ambrose Refrigerated Service which is a motor common carrier, principally of general commodities between Idaho Falls, Idaho, Butte, Mont., and intermediate points—Docket No. MC 118648 and Docket No. MC 118648 Sub 1."

HEARING: September 28, 1962, at the New Mint Building, 133 Herman Street, San Francisco, Calif., before Examiner William E. Messer.

No. MC 118330 (Sub-No. 3), filed June 19, 1962. Applicant: G. B. INVESTMENT INC., 356 Terminal Building, Phoenix, Ariz. Applicant's attorney: Marion R. Smoker, Suite 303, Luhrs Tower, Phoenix 3, Ariz. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Frozen juices, frozen fruit pies, and frozen meat pies*, from Ontario, Torrance, and points in Los Angeles County, Calif., to Phoenix, Ariz., and *exempt commodities*, on return.

NOTE: Applicant states, the proposed service will be under continuing contract or contracts with Associated Grocers of Phoenix, Ariz., and Bashas' Markets of Arizona.

HEARING: October 2, 1962, at the Arizona Corporation Commission, Phoenix, Arizona, before Joint Board No. 47, or, if the Joint Board waives its right to participate, before Examiner F. Roy Linn.

No. MC 119968 (Sub-No. 1), filed April 16, 1962. Applicant: A. J. WEIGAND, INC., 1008 North Tuscarawas Avenue, Dover, Ohio. Applicant's attorney: Richard H. Brandon, Hartman Building, Columbus 15, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Sheet steel and sheet steel products*, from the site of Reeves Steel and Manufacturing Co. plant located near Dover, Ohio, to points in the District of Columbia, points in New Jersey, Peoria, Ill., points in that part of Maryland on and east of U.S. Highway 11, and points in that part of New York east of a line beginning at Oswego, N.Y., and extending along New York Highway 57 to Syracuse, N.Y., and thence along U.S. Highway 11 to the New York-Pensylvania State Line, and (2) *machinery, equipment, materials, supplies and all other items commonly used in the manufacturing, sale, packing and shipping of sheet steel and sheet steel products*, from points in New York, Maryland, Pennsylvania, West Virginia, Kentucky, Michigan, Illinois, Indiana, New Jersey, and the District of Columbia, to the site of Reeves Steel and Manufacturing Company plant located near Dover, Ohio.

HEARING: September 11, 1962, at the New Post Office Building, Columbus, Ohio, before Examiner William R. Tyers.

No. MC 123061 (Sub-No. 10), filed May 24, 1962. Applicant: LEATHAM BROTHERS, INC., 46 Orange Street, Salt Lake City, Utah. Applicant's attorney: Harry D. Pugsley, 721 Continental Bank Building, Salt Lake City, Utah. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, in packages, in bulk or in mixed shipments of packages and bulk, from Flux (Solar), Utah, to points in Washington and that part of Oregon west of Harney, Grant, and Umatilla Counties, and *exempt commodities*, on return.

HEARING: September 27, 1962, at the Utah Public Service Commission, Salt Lake City, Utah, before Examiner Alton R. Smith.

No. MC 123061 (Sub-No. 11), filed May 24, 1962. Applicant: LEATHAM BROTHERS, INC., 46 Orange Street, Salt Lake City, Utah. Applicant's attorney: Harry D. Pugsley, Continental Bank Building, Salt Lake City, Utah. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, in packages, in bulk or in mixed shipments of packages and bulk, from Silsbee, Utah, to points in Idaho, Montana, Colorado, Wyoming, Nevada, Oregon, and Washington, and *exempt commodities*, on return.

HEARING: September 27, 1962, at the Utah Public Service Commission, Salt Lake City, Utah, before Examiner Alton R. Smith.

No. MC 123061 (Sub-No. 12), filed May 24, 1962. Applicant: LEATHAM BROTHERS, INC., 46 Orange Street, Salt Lake City, Utah. Applicant's attorney: Harry D. Pugsley, Continental Bank Building, Salt Lake City 1, Utah. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated wood trusses*, with steel braces therein known as "trusdecks" from Boise, Idaho, to points in Colorado and Wyoming, and *exempt commodities*, on return.

HEARING: September 28, 1962, at the Utah Public Service Commission, Salt Lake City, Utah, before Examiner Alton R. Smith.

No. MC 124241, filed February 26, 1962. Applicant: REX WELLS AND RAY WELLS, a partnership, doing business as WELLS BROTHERS, 584 Sparks

Street, Twin Falls, Idaho. Applicant's attorney: Raymond D. Givens, Columbia Building, 500 Washington Street, P.O. Box 964, Boise, Idaho. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Meat* and *meat products*, (1) from Buhl, Idaho, to points in the Los Angeles, Calif., Commercial Zone; from Buhl over U.S. Highway 30 to junction U.S. Highway 93 near Twin Falls, Idaho; from Twin Falls to Wells, Nev., over U.S. Highway 93; over U.S. Highway 40 to Carlin, Nev.; over U.S. Highway 20 south to junction U.S. Highway 50; over U.S. Highway 50 to junction U.S. Highway 8A; over U.S. Highway 8A to junction U.S. Highway 6; over U.S. Highway 6 to Los Angeles, serving Lancaster, Calif., as an intermediate point, and (2) from Buhl, Idaho, to Sacramento and San Francisco, Calif.; from Buhl over U.S. Highway 30 to junction U.S. Highway 93 near Twin Falls, Idaho; from Twin Falls to Wells, Nev., over U.S. Highway 93; from Wells to Sacramento and San Francisco, over U.S. Highway 40, serving no intermediate points.

NOTE: Applicants state they propose to transport exempt commodities on return.

HEARING: September 13, 1962, at the Public Utilities Commission, State House, Boise, Idaho, before Joint Board No. 175, or, if the Joint Board waives its right to participate, before Examiner William E. Messer.

No. MC 124318 (Sub-No. 2), filed May 31, 1962. Applicant: M. J. MERLE & SONS, INC., 521 Riverside Avenue, Lyndhurst, N.J. Applicant's attorney: Herman B. J. Weckstein, 1060 Broad Street, Newark, N.J. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Excavating, loading, hauling, dumping, and spreading earth fill*, consisting in part of clay, sand, and gravel, between points in Connecticut, New Jersey, New York, and Pennsylvania, under individual contracts and agreements with persons, who operate in the business of constructing highways.

HEARING: September 17, 1962, at Room 212, State Office Building, 1100 Raymond Boulevard, Newark, N.J., before Examiner A. Lane Cricher.

No. MC 124462, filed May 21, 1962. Applicant: RICHARD M. KORNER, 3380 North Pacific Highway, Medford, Oreg. Applicant's attorney: Earle V. White, 2130 Southwest Fifth Avenue, Portland 1, Oreg. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked and disabled motor vehicles*, when moving by wrecker-type equipment, (1) from points in Siskiyou and Del Norte Counties, Calif., to points in Oregon and Washington; and (2) from points in Jackson, Josephine, and Douglas Counties, Oreg., to points in California and Washington.

HEARING: September 19, 1962, at the Interstate Commerce Commission Hearing Room, 410 Southwest 10th Avenue, Portland, Oreg., before Joint Board No. 5, or, if the Joint Board waives its right to participate before Examiner William E. Messer.

No. MC 124464, filed May 21, 1962. Applicant: LORIN A. WALDRON, 10 Jackson Street, Placerville, Calif. Applicant's representative: Pete H. Dawson, 1261 Drake Avenue, Burlingame, Calif. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from lumber mills located at points in California bounded by the following highways: Beginning at the Nevada-California State line, thence over California Highway 88 to junction California Highway 49, thence over California Highway 49 to junction California Highway 16; thence over California Highway 16 to junction alternate U.S. Highway 40; thence over alternate U.S. Highway 40 to junction U.S. Highway 395; thence over U.S. Highway 395 to Nevada-California State line; thence southward, along Nevada-California State line to California Highway 88, including points situated on the above named highways, to Sacramento, Stockton, Oakland, Placerville, Roseville, Bishop, Lone Pine, and San Francisco, Calif. (for shipment beyond in interstate or foreign commerce), and Carson City, Reno, Sparks, Eureka, Fallon, Minden, Las Vegas, and the site of the U.S. Atomic Energy Commission Base, located at Mercury, Nev. (Mercury is situated approximately five miles north of U.S. Highway 95 at a point sixty miles northwest of Las Vegas).

NOTE: Applicant is also authorized to conduct operations as a common carrier in Certificates MC 116445 and 116445 and Sub-1. If the authority sought herein is granted, then applicant desires to cancel the above numbered Certificates.

HEARING: September 18, 1962, at the Interstate Commerce Commission Hearing Room, 410 Southwest 10th Avenue, Portland, Oreg., before Joint Board No. 11, or, if the Joint Board waives its right to participate before Examiner William E. Messer.

No. MC 124470, filed May 22, 1962. Applicant: GRAIN & FEED TRANSPORTATION COMPANY, INC., 738 Majestic Building, Denver, Colo. Applicant's attorney: Herbert M. Boyle, 738 Majestic Building, Denver 2, Colo. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cottonseed meal* and *soybean meal*, in bulk or in sacks, between Kansas City, Mo., Wichita and Emporia, Kans., and Lubbock, Tex., on the one hand, and on the other, points in El Paso, Rio Grande, Denver, Arapahoe, Jefferson, Adams, Boulder, Larimer, Weld, Morgan, Lincoln, Logan, Sedgwick, Washington, and Yuma Counties, Colo.

HEARING: September 19, 1962, at the New Customs House, Denver, Colo., before Examiner Alton R. Smith.

No. MC 124479, filed May 28, 1962. Applicant: RALPH W. SHRADER, doing business as, BAYSHORE AIR FREIGHT AND MESSENGER SERVICE, P.O. Box 122, Morganville, N.J. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City 6, N.J. 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, commodities in bulk and commodities requiring special equipment) between Newark Airport, N.J., on the one hand, and on the other, points in Monmouth and Ocean Counties, N.J., and points in Middlesex County, N.J., south of the Raritan River and east of the New Jersey turnpike.

NOTE: Applicant states restricted to shipments having a prior or subsequent movement by air.

HEARING: September 19, 1962, at Room 212, State Office Building, 1100 Raymond Boulevard, Newark, N.J., before Examiner A. Lane Cricher.

No. MC 124534, filed June 13, 1962. Applicant: LLOYD R. CULLENY, doing business as DYOLL DELIVERY SERVICE, 95 Jackson Avenue, Rockaway, N.J. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City 6, N.J. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except Classes A and B explosives, household goods, and commodities in bulk), between New York International Airport, N.Y., La Guardia Airport, N.Y., and Newark Airport, N.J., on the one hand, and, on the other, points in Morris, Sussex, and Passaic Counties, N.J.

NOTE: Applicant states the proposed service will be restricted to shipments having a prior or subsequent movement by air.

HEARING: September 20, 1962, at Room 212, State Office Building, 1100 Raymond Boulevard, Newark, New Jersey, before Examiner A. Lane Cricher.

No. MC 124544, filed June 18, 1962. Applicant: BOISE-WHITE TRUCK AND EQUIPMENT, INC., 212 South 15th Street, Boise, Idaho. Applicant's attorney: Maurice H. Greene, P.O. Box 1554, Boise, Idaho. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked and disabled trucks, truck tractors, trailers, semitrailers* and *buses* loaded or empty, and *wrecked and disabled road grading equipment*, all weighing in excess of 6,500 pounds, and *trucks, truck tractors, trailers, semitrailers and buses*, when being transported as replacements for wrecked and disabled vehicles, in wrecker tow-away service, between Boise, Idaho, and points within 5 miles of Boise, on the one hand, and, on the other, points in Malheur, Harney, Grant, Baker, and Union counties, Oreg., and that portion of Elko, Eureka, Lander, Humboldt, and Pershing Counties, Nev., lying on and north of U.S. Highway 40 and Interstate Highway 80.

HEARING: September 12, 1962, at the Public Utilities Commission, State House, Boise, Idaho, before Joint Board No. 260, or, if the Joint Board waives its right to participate before Examiner William E. Messer.

No. MC 124621, filed July 16, 1962. Applicant: CLEMENT RISBERG, doing business as RISBERG TRUCK SERVICE, 2339 Southeast Grand Avenue, Portland, Oreg. Applicant's attorney: John G. McLaughlin, Pacific Building,

Portland 4, Oreg. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk), between Portland, Oreg., on the one hand, and, on the other, the Fred Meyer, Inc., retail store located at Hazell Dell, Wash., approximately 1½ miles north of Vancouver, Wash.

NOTE: Applicant states service is to be performed for the account of Fred Meyer, Inc., *only*, and it is intended by applicant that any permit granted will be so restricted. Applicant further states that Clement Risberg is the major stockholder and President of Risberg Truck Line, a corporation, holding authority as a regular and irregular route common carrier in docket No. MC 28905 and subs thereof.

HEARING: September 24, 1962, at the Interstate Commerce Commission Hearing Room, 410 Southwest 10th Avenue, Portland, Oreg., before Joint Board No. 45, or, if the Joint Board waives its right to participate, before Examiner Samuel Horwich.

MOTOR CARRIERS OF PASSENGERS

No. MC 3647 (Sub-No. 327), filed May 23, 1962. Applicant: PUBLIC SERVICE COORDINATED TRANSPORT, a corporation, 180 Boyden Avenue, Maplewood, N.J. Applicant's attorney: Richard Fryling, 180 Boyden Avenue, Maplewood, N.J. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, and *express* and *newspapers* in the same vehicles with passengers, as follows: (1) From Borough of Bronx, Bronx County, N.Y., over city streets to the New York International Airport, Borough of Queens, Queens County, N.Y., and return, serving all intermediate points; and (2) from Borough of Manhattan, New York County, N.Y., over city streets to the New York International Airport, Borough of Queens, Queens County, N.Y., and return, serving all intermediate points.

HEARING: September 13, 1962, at 346 Broadway, New York, N.Y., before Examiner A. Lane Cricher.

No. MC 43267 (Sub-No. 12), filed May 14, 1962. Applicant: MOHAWK COACH LINES, INC., 143 Liberty Street, Little Ferry, N.J. Applicant's attorney: Robert E. Goldstein, 24 West 40th Street, New York 18, N.Y. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, express and newspapers*, in the same vehicle with passengers, between New York, N.Y., and Babylon, N.Y., as follows: From New York City over New York Highway 24 (Long Island Expressway) in Nassau County, N.Y., to junction with access roads leading to Guinea Woods Road, thence over access roads to Guinea Woods Road, thence over Guinea Woods Road to its junction with Jericho Turnpike, thence over Jericho Turnpike to its junction with Mineola Boulevard, in Mineola, N.Y., thence over Mineola Boulevard to its junction with Franklin Avenue, thence over Franklin Avenue through Garden City, N.Y., to its junction with North Franklin Street, thence over North Franklin Street to its junction with New York Highway 24A in Hempstead, N.Y., thence over New York Highway 24A through East Meadow, Levittown, Plainedge and Farmingdale to its junction with New York Highway 110 in Suffolk County, N.Y., thence over New York Highway 110 to its junction with New York Highway 27A in Amityville, N.Y., thence over New York Highway 27A to Babylon, and return over the same route, serving all intermediate points.

NOTE: Applicant states that some of its officers and stockholders are officers and stockholders in Manhattan Transit Company and Westwood Transportation Lines, Inc.; "and therefore, to some extent there is common control."

HEARING: September 10, 1962, at 346 Broadway, New York, N.Y., before Examiner A. Lane Cricher.

No. MC 116611 (Sub-No. 2), filed July 17, 1962. Applicant: PAN AMERICAN MOTOR COACHES, a corporation, P.O. Box 1870, Harlingen, Tex. Applicant's attorney: Edward G. Villalon, Perpetual Building, 1111 E Street NW., Washington 4, D.C. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Migrant workers* as defined in section 203(a)(23) of the Interstate Commerce Act, *and their baggage*, in the same vehicle, (1) between points in Texas, Louisiana, and Washington, (2) between points in Texas, Arizona, California, South Carolina, North Carolina, Virginia, West Virginia, Maryland, Pennsylvania, Delaware, New Jersey and Florida, and (3) between points in El Paso County, Tex., and points in Texas, Alabama, Arkansas, Colorado, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Montana, Ohio, Oklahoma, Tennesesee, Wisconsin, Wyoming, Arizona, California, South Carolina, North Carolina, Virginia, West Virginia, Maryland, Pennsylvania, Delaware, New Jersey, Michigan, and New Mexico.

NOTE: Applicant holds common authority in MC 112157 and Subs thereunder; therefore, dual operations may be involved.

HEARING: September 27, 1962, at the Granado Hotel, San Antonio, Tex., before Examiner Parks M. Low.

APPLICATION IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN ELECTED

MOTOR CARRIERS OF PROPERTY

No. MC 2998 (Sub-No. 25), filed July 12, 1962. Applicant: WOLVERINE EXPRESS, INC., 701 Erie Avenue, Muskegon, Mich. Applicant's representative: James F. Nolan (same address as applicant). 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, articles in bulk, livestock, automobiles, and those requiring special equipment), between Scottville, Mich., and Clare, Mich.; from Scottville over U.S. Highway 10 to Clare, 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.

No. MC 58885 (Sub-No. 21), filed July 5, 1962. Applicant: ATLANTA MOTOR LINES, INC., 1268 Caroline Street, Atlanta, Ga. Applicant's attorney: Paul M. Daniell, 214–217 Grant Building, Atlanta 3, 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 those requiring special equipment), between Canton, Ga., and Chattanooga, Tenn., from Canton over Georgia Highway 20 to junction U.S. Highway 41, thence over U.S. Highway 41 to Chattanooga, 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.

No. MC 66562 (Sub-No. 1905), filed July 5, 1962. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N.Y. Applicant's attorney: William H. Marx, Railway Express Agency, Inc., Law Department, 219 East 42d Street, New York 17, N.Y. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *General commodities*, moving in express service, between junction U.S. Highway 219 and New York Highway 39 and Arcade, N.Y., over New York Highway 39, serving no intermediate points.

NOTE: Applicant states the proposed route is an extension of and will be operated in connection with its existing authorized operation in MC 66562 (Sub-No. 1275).

RESTRICTION: The service to be performed will be limited to that which is auxiliary to or supplemental of express service, and shipments to be transported will be limited to those moving on a through bill of lading or express receipt covering in addition to a motor carrier movement by applicant, an immediately prior or immediately subsequent movement by rail or air.

No. MC 95743 (Sub-No. 20), filed July 19, 1962. Applicant: WILLIAM FREDERICK MEHRING, doing business as, WILLIAM F. MEHRING, Post Office, Keymar, Md. Applicant's representative: Donald E. Freeman, 172 East Green Street, Westminster, Md. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed industrial lime and limestone*, in bulk, in dump and hopper vehicles from Le Gore, Md., to Washington, D.C.

No. MC 113410 (Sub-No. 37), filed July 20, 1962. Applicant: DAHLEN TRANSPORT, INC., 875 North Prior Avenue, St. Paul 4, Minn. Applicant's attorneys: Leonard A. Jaskiewicz, and Ronald N. Cobert, Munsey Building, Washington 4, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Wrenshall, Minn., to Duluth, Minn., and that part of Minnesota on and east of U.S. Highway 53 between Duluth and the

Port of Entry on the International Boundary line between the United States and Canada at or near International Falls, Minn.

NOTE: Applicant states "joint control of applicant and Dahlen Transport of Iowa, Inc. approved in Docket MC-F-6554".

No. MC 113908 (Sub-No. 100), filed July 20, 1962. Applicant: ERICKSON TRANSPORT CORPORATION, 706 West Tampa, MPO Box 706, Springfield, Mo. Applicant's attorney; Turner White, 809 Woodruff Building, Springfield, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brandy, wine, and rum*, in bulk, in tank vehicles, from Lake Alfred, Fla., to points in Pennsylvania.

No. MC 124626, filed July 19, 1962. Applicant: SMULOFSKY BROS., INC., 238 Junius Street, Brooklyn 12, N.Y. Applicant's representative: William D. Traub, 10 East 40th Street, New York 16, N.Y. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bags, brooms, aluminum foil and plates, plastic and wooden forks, knives and spoons, paper, paper goods, and incandescent and flash bulbs* between New York, N.Y., on the one hand, and, on the other, points in Fairfield County, Conn., and Bergen, Essex, Hudson, Union, Morris, Monmouth, Passaic, Somerset, and Middlesex Counties, N.J.

NOTE: Applicant states that proposed service is to be conducted under a continuing contract with Scheck Bros, Inc., Dahill, Road and Avenue I, Brooklyn, N.Y., exclusively.

APPLICATION FOR BROKERAGE LICENSE

MOTOR CARRIERS OF PASSENGERS

No. MC 12818, filed July 18, 1962. Applicant: PAUL LLOYD, doing business as PAUL LLOYD TOURS, 1660 North Oak Lane, Provo, Utah. For a license (BMC 5) to engage in operations as a *broker* at Provo, Utah, in arranging for transportation in interstate or foreign commerce of *passengers and their baggage* in the same vehicle, in special and charter, all expense tours, beginning and ending at Provo, Utah, and extending to points in the United States, including Ports of Entry on the International Boundary Lines between the United States and Mexico and the United States and Canada.

NOTICE OF FILING OF PETITIONS SEEKING MODIFICATION OF COMMODITY DESCRIPTIONS IN PERTINENT ACTIVE OPERATING AUTHORITIES HELD BY PETITIONERS

In a report on reconsideration, decided October 16, 1962, and served November 9, 1961, in the No. MC 109637 (Sub-No. 74), Southern Tank Lines, Inc., Extension—St. Bernard, Ohio, the Commission concluded generally that the commodity descriptions utilized in granting operating authority to motor carriers of liquid chemicals, including those prescribed in *Descriptions in Motor Carrier Certificates*, 61 M.C. 209, 766, and *Maxwell Co. Extension—Addyston*, 63 M.C.C. 677, should be revised for use in making future grants, and as a basis for modifying outstanding certificates and permits upon application of the holders thereof in accordance with approved procedure. The Commission found with respect to the commodity descriptions at issue, that the generic heading "liquid chemicals, in bulk, in tank vehicles," is a proper and reasonable commodity description for use in motor carrier operating authorities issued by the Commission; and that where such commodity description described is utilized, the following will be a reasonable and proper definition thereof for determining the commodities which are embraced in such description:

Liquid chemicals, as used in the foregoing commodity description are those substances or materials resulting from a chemical or physical change induced by processes employed in the chemical industry, including uniting, mixing, blending, and compounding.

The subject report provided: "All motor carriers holding certificates or permits authorizing the transportation in bulk, in tank vehicles, of 'liquid chemicals as defined in the *Maxwell* case', of 'Acids and chemicals as described in the *Descriptions* case', or of liquid chemicals under any other commodity description, are hereby notified that petitions will be entertained requesting the modification of such authorities to reflect the revised commodity description promulgated herein. Such petitions should refer to the specific authority which the carrier desires to have modified, and should contain a certification that there is, in fact, traffic available for the transportation from and to the points it is authorized to serve, and that its operations are not dormant. The petitions should be filed in the proceedings in which the authority held was granted, these petitions will be published in the FEDERAL REGISTER, and if no objections are filed thereto, they will be disposed of without extended further proceedings. If protests are received, a hearing may be required for their disposition; but, in such event, every effort will be made to conclude the proceedings promptly." The following petitions seeking modification of the pertinent operating authorities identified by number below have been received:

No. MC 64932 (Sub-Nos. 133, 152, 168, 169, 177, 178, 210, 211, and 269), filed July 5, 1962. Petitioner: ROGERS CARTAGE CO., a corporation, Chicago, Ill. Petitioner's attorneys: Axelrod, Goodman and Steiner, 39 South LaSalle Street, Chicago 3, Ill.

No. MC 103378 (Sub-No. 80), filed July 9, 1962. Petitioner: PETROLEUM CARRIER CORPORATION, 369 Margaret Street, Jacksonville, Fla. Petitioner's attorney: Martin Sack, 500 Atlantic Bank Building, Jacksonville 2, Fla.

No. MC 109637 (Sub-Nos. 147 and 200), filed July 12, 1962. Petitioner: SOUTHERN TANK LINES, INC., 4107 Bells Lane, Louisville 11, Ky. Petitioner's representative: H. N. Nunnally (same address as petitioner).

No. MC 111401 (Sub-Nos. 56, 96, and 102), filed July 18, 1962. Petitioner: GROENDYKE TRANSPORT, INC., Enid, Okla. Petitioner's attorney: W. D. White, 1900 Mercantile Dallas Building, Dallas 1, Tex. Any person or persons desiring to participate in this proceeding may file replies to said petitioners (original and fourteen (14) copies each) within 30 days from the date of this publication in the FEDERAL REGISTER. In the event it is deemed necessary or desirable, informal conferences between our staff members and the tank truck carriers, and any other persons who may have an interest in the matter, can be arranged for the purpose of implementing the matter. Persons responding to this publication should specifically advise whether an informal conference is desired.

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

No. MC 2770 (Sub-No. 5), filed July 23, 1962. Applicant: SANBORN'S MOTOR EXPRESS, INC., Fore Street Road, Oxford, Maine. Applicant's attorney: Mary E. Kelley, 10 Tremont Street, Boston 8, Mass. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), (1) between Brewer, Maine, and Norcross, Maine; from Brewer over U.S. Highway 2, to its junction with Maine Highway 157, thence over Maine Highway 157 to its junction with Maine Highway 11, thence over Maine Highway 11 to Norcross, and return over the same route, serving all intermediate points and the off-route points of Grindstone and Millinocket Lake, Maine, (2) between Old Town, Maine, and Norcross, Maine; from Old Town over Maine Highway 16 to its junction with Maine Highway 11, thence over Maine Highway 11 to Norcross, and return over the same route, serving no intermediate points, and (3) between Augusta, Maine and Norcross, Maine; from Augusta over Interstate Highway 95 or U.S. Highway 201 to Waterville, Maine, thence over Maine Highway 11 to Newport, Maine, thence over Maine Highway 7 to Dover-Foxcroft, Maine, thence over Maine Highway 16 to Milo, Maine, thence over Maine Highway 11 to Norcross, and return over the same route, serving the intermediate point of Pittsfield, Maine, only.

NOTE: This application is directly related to section 5 application of Sanborn's Motor Express, Inc., to purchase property of Bemis Express, Inc., MC-F 8194 published this issue.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b), of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-8160 (MORRIS MOTOR EXPRESS, INC.—PURCHASE—

CHARLES WOLLENWEBER), published in the June 13, 1962 issue of the FEDERAL REGISTER on page 5645. Application filed July 24, 1962 for temporary authority under section 210a(b).

No. MC–F–8192. Authority sought for purchase by CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif., of the operating rights and certain property of BELNAP FREIGHT LINES, INC., 350 South First West Street, Salt Lake City, Utah, and for acquisition by CONSOLIDATED FREIGHTWAYS, INC., also of Menlo Park, Calif., of control of such rights and property through the purchase. Applicants' attorneys: Wood R. Worsley, 701 Continental Bank Building, Salt Lake City, Utah, Ronald E. Poelman, 175 Linfield Drive, Menlo Park, Calif., and Eugene T. Liipfert, 801 National Grange Building, 1616 H Street NW., Washington 6, D.C. Operating rights sought to be transferred: (A) *General commodities,* except livestock, Class A and B explosives, and liquids in bulk, as a *common carrier* over regular routes, between Los Angeles, Calif., and Kingman, Ariz., serving all intermediate points in California on U.S. Highway 66 between Los Angeles, Calif., and the California-Arizona State line, serving all points within 50 miles of Kingman, Ariz., and all points in Los Angeles County, Calif., as intermediate or off-route points, and serving the off-route points of Fullerton, Huntington Beach, and Santa Ana, Calif., and between Los Angeles, Calif., and Kingman, Ariz., serving the intermediate point of Las Vegas, Nev., restricted to tacking with the operating authority described in (B) below for the movement of traffic which has originated at or is destined to points beyond Nevada; serving all points within 50 miles of Kingman, Ariz., and all points in Los Angeles County, Calif., as intermediate or off-route points; and the off-route points of Fullerton, Huntington Beach, and Santa Ana, Calif. RESTRICTION: The authority granted herein above over the several routes between California points and Kingman, Ariz., shall not be construed as conferring more than one rights and such routes shall not be severable by sale or otherwise; (B) *general commodities,* excepting, among others, household goods and commodities in bulk, between Salt Lake City, Utah, and Boulder City, Nev., serving certain intermediate and off-route points, and between Kingman, Ariz., and Boulder City, Nev., serving all intermediate and certain off-route points; *mining machinery, supplies and equipment, ore and ore concentrates, and empty ore sacks,* between Salt Lake City, Utah, and Kingman, Ariz., serving certain intermediate and off-route points, and between Las Vegas, Nev., and Goodsprings, Nev., serving all intermediate and certain off-route points; *hides, pelts, wool, furs,* and *junk,* from Las Vegas, Nev., to Salt Lake City, Utah, serving no intermediate points; *building materials,* from Boulder City, Nev., to Chloride, Ariz., serving intermediate and off-route points within 12 miles of Chloride, Ariz., restricted to delivery. Vendee is authorized to operate as a *common carrier* in Utah, Idaho, Montana, North Dakota, Oregon, Washington, California, Nevada, Minnesota, Wisconsin, Illinois, Wyoming, Iowa, Arizona, Michigan, Pennsylvania, West Virginia, New Mexico, Colorado, Ohio, Indiana, South Dakota, Nebraska, Kansas, Louisiana, Texas, Kentucky, Missouri, Virginia, Maryland, Arkansas, Florida, New York, Tennessee, Georgia and Oklahoma. Application has been filed for temporary authority under section 210a(b).

No. MC–F–8193. Authority sought for merger into M. & G. CONVOY, INC., 590 Elk Street, Buffalo 10, N.Y., of the operating rights and property of HULBERT FORWARDING COMPANY, INC., 590 Elk Street, Buffalo 10, N.Y., and for acquisition by EDWARD J. HAND, 731 West Ferry Street, Buffalo 22, N.Y., of control of such rights and property through the transaction. Applicants' attorney: S. S. Eisen, 140 Cedar Street, New York 6, N.Y. Operating rights sought to be merged: *Automobiles,* as a *common carrier* over irregular routes, through Pennsylvania, when necessary, with (a) no seasonal restriction, from Buffalo, N.Y., and Cleveland, Ohio, to Rome and Cooperstown, N.Y., points in New Hampshire, Massachusetts, Rhode Island, and Connecticut (other than those in Litchfield, New Haven, and Fairfield Counties), and those on New York Highway 5, and (b) during the season extending from the 10th day of December to the 1st day of April, inclusive, *automobiles,* from points in Macomb and Wayne Counties, Mich., to Rome and Cooperstown, N.Y., and points on New York Highway 5; *new automobiles, automobile bodies, automobile chassis* and *automobile parts and accessories* moving in connection therewith, *automobile show equipment and paraphernalia,* and *farm and garden tractors and parts and accessories thereof,* moving in connection therewith, during the seasons extending from the 10th day of December to the 1st day of April, inclusive, of each year in initial movements, in truckaway and driveaway service, from Willow Run in Washtenaw County, Mich., to Rome and Cooperstown, N.Y., and points in New York on New York Highway 5; *new automobiles,* by truckaway service, in secondary movements, from Buffalo, N.Y., and Cleveland, Ohio, to points in Litchfield, New Haven and Fairfield Counties, Conn., and those in Maine and Vermont; *new automobiles* and *new trucks,* by truckaway service, in initial movements, during the season of closed navigation on the Great Lakes, from points in Wayne County, Mich., to points in Litchfield, New Haven, and Fairfield Counties, Conn., and those in Maine and Vermont; *new trucks, new truck-tractors, new ambulances, new truck and bus chassis, and new station wagons,* in secondary movements, in truckaway and driveaway service, from Buffalo, N.Y., and Cleveland, Ohio, to Rome and Cooperstown, N.Y., points in Connecticut, New Hampshire, Maine, Vermont, Massachusetts, Rhode Island, and those on New York Highway 5, traversing Pennsylvania for operating convenience only. M. & G. CONCOY, INC., is authorized to operate as a *common carrier* in Michigan, Delaware, Maryland, New Jersey, Pennsylvania, Rhode Island, Maine, New York, Ohio, North Carolina, Virginia, New Hampshire, Massachusetts, Connecticut, Florida, Georgia, South Carolina, Vermont, West Virginia, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–8194. Authority sought for purchase by SANBORN'S MOTOR EXPRESS, INC (mailing adress) Box 312, Norway, Maine, Fore Street Road, Oxford, Maine, of a portion of the operating rights and property of BEMIS EXPRESS, INC., 35 Market St., Bangor, Maine, and for acquisition by HOWARD L. SANBORN, DWIGHT L. SANBORN, both of 99 Pine Street, South Paris, Maine, and H. BLAINE SANBORN, 51 Pleasant Street, Norway, Maine, of control of such rights and property through the purchase. Applicants' attorneys: Merrill R. Bradford, 6 State Street, Bangor, Maine, and Mary E. Kelley, 10 Tremont Street, Boston, Mass. Operating rights sought to be transferred: *General commodities,* with no exceptions, as a *common carrier* over regular routes, between Bangor, Maine, and Castine, Maine, serving all intermediate points; *general commodities,* excepting, among others, household goods and commodities in bulk, between junction of Maine Highways 175 and 166 and Orland, Maine, and Brooklin, Maine, serving all intermediate and certain off-route points; a portion of the operations under the Second Proviso of section 206(a)(1) of the Interstate Commerce Act, in the State of Maine, covering the transportation of *general commodities,* excepting, among others, household goods and commodities in bulk, (A–1) Millinocket to Bangor-Brewer as follows: Between Millinocket and Winn including Millinocket, East Millinocket, Grindstone, Medway, Mattawamkeag, Winn, serving to and/or from all points, and from or to North Lincoln, Lincoln Center, Lincoln, South Lincoln, Howland, West Enfield, Passadumkeag, Olamon, Greenbush, Costigan, Milford, Great Works, Old Town, Webster, Orono, Basin Mills, Veazie, Bangor, Brewer, and East Hampden, serving with only such freight as is shipped from or destined to the points Millinocket to Winn as named above, (A–2) Lincoln to Bangor-Brewer as follows: between Lincoln, Lincoln Center, South Lincoln, and Basin Mills inclusive, serving to and/or from all points, and from or to Bangor, Brewer, East Hampden, South Brewer, Orono, Old Town, Milford, Costigan, Greenbush, Olamon, Passadumkeag, West Enfield, serving with only such freight as is shipped from or destined to South Lincoln, Lincoln, Lincoln Center, and Basin Mills, (A–3) Millinocket Lake and Norcross with shipments originating at or destined to points set forth in A–1 and A–2. Vendee is authorized to operate as a *common carrier* in Maine, New Hampshire, and Massachusetts. Application has been filed for temporary authority under section 210a(b).

NOTE: No. MC–2770 Sub-5 is a matter directly related.

No. MC–F–8195. Authority sought for purchase by PRICHARD TRANSFER, INC., P.O. Box 690, Price, Utah, of a portion of the operating rights and certain property of ARNOLD A. WEISS, doing business as WEISS TRUCKING COMPANY, Rangley, Colorado, and for acquisition by BERT L. PRICHARD, Price, Utah, GUY LEGRANDE PRICHARD, Moab, Utah, and LEON K. PRICHARD, Vernal, Utah, of control of such rights through the purchase. Applicants' attorney: Fred L. Finlinson, Riter, Cowan, Finlinson & Daines, Suite 822 Kearns Building, Salt Lake City, Utah. Operating rights sought to be transferred: *Machinery, equipment, materials, and supplies* except gilsonite 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, not including the stringing or picking up of pipe in connection with the construction or dismantling of pipe lines, as a *common carrier*, over irregular routes, between points in Garfield, Mesa, Moffat, and Rio Blanco Counties, Colo., on the one hand, and, on the other points in Utah, and between points in Utah; *machinery, materials, supplies, and equipment* incidental to, or used in, the the construction, development, operation and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, between points in Moffat, Rio Blanco, Mesa, and Garfield Counties, Colo., and between points in the counties named above, on the one hand, and, on the other, points in Colorado. Vendee is authorized to operate as a *common carrier* in Utah, and under the Second Proviso of section 206 (a)(1) of the Interstate Commerce Act, in the State of Utah. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–8196. Authority sought for control by SOUTHWEST FREIGHT LINES, INC., 1400 Kansas Avenue, Kansas City 5, Kans., of DIRECT TRANSPORTS, INC., 801 East 17th Street, Kansas City 8, Mo., and for acquisition by JOSEPH E. GRINPAS, 1400 Kansas Ave., Kansas City, Kans., of control of DIRECT TRANSPORTS, INC., through the acquisition by SOUTHWEST FREIGHT LINES, INC. Applicants' attorneys: Lee Reeder and W. E. Griffin, 1012 Baltimore Building, Kansas City 5, Mo., and R. G. May, 316 Security Bank Building, Sioux Falls, S. Dak. Operating rights sought to be controlled: *General commodities*, except money and jewelry, as a *common carrier* over regular routes, between Leon, Iowa, and St. Joseph, Mo., serving the intermediate points of Bethany, Mo., and those between Bethany, Mo., and Leon, Iowa, and the off-route point of Ridgeway, Mo., without restriction, and intermediate points between Bethany and St. Joseph, Mo., restricted to southbound traffic only, and between Leon, Iowa, and Des Moines, Iowa, serving all intermediate and certain off-route points; *general commodities*, excepting, among others, household goods and commodities in bulk, between Eagleville, Mo., and Kansas City, Kans., serving the intermediate points of Bethany, Pattonsburg, and Kansas City, Mo., and the off-route points of Ridgeway, New Hampton, and Civil Bend, Mo., without restriction, and intermediate and off-route points within 10 miles of Bethany (except Ridgeway, Mo.), restricted to pick-up of livestock, between Eagleville, Mo., and St. Joseph, Mo., serving certain intermediate and offroute points, between St. Joseph, Mo., and Albany, Mo., serving all intermediate points, between Albany, Mo., and McFall, Mo., serving all intermediate points, and between junction U.S. Highways 169 and 136 and Grant City, Mo., serving certain intermediate and off-route points; butter, from Ravenwood, Mo., to Kansas City, Mo., serving no intermediate points; *general commodities*, excepting, among others, household goods and commodities in bulk, over irregular routes, between points in Decatur and Ringgold Counties, Iowa, on the one hand, and, on the other, Kansas City, Kans., St. Joseph and Kansas City, Mo., and points in Harrison, Mercer and Worth Counties, Mo., and between King City, Mo., and points within 10 miles thereof, on the one hand, and, on the other, points in Iowa, Kansas, and Nebraska; *candy*, in truckload lots, from St. Joseph, Mo., to points in Kansas; *coal*, from points in Putnam and Schuyler Counties, Mo., to points in Decatur County, Iowa; *emigrant movables*, between Bethany, Mo., and points within 10 miles thereof, on the one hand, and, on the other, points in Iowa, Kansas, and Illinois; *flour and seed*, from Beatrice, Crete, Wymore, and Nebraska City, Nebr., to Lamoni, Iowa, and Unionville, Princeton, Cainsville, and Ridgeway, Mo.; *household goods* as defined by the Commission, between points in Decatur and Ringgold Counties, Iowa, on the one hand, and, on the other, points in Missouri, and between St. Joseph, Mo., and points in Missouri within 30 miles of St. Joseph, on the one hand, and, on the other, points in Kansas. Carrier may combine two or more of the above-described irregular-route authorities provided the authorities have a point common to both to which the carrier may transport a given commodity under one authority and from which the carrier may transport the same commodity under the other, and establish through service under such combination provided in each instance the shipment is transported through the common or gateway point. SOUTHWEST FREIGHT LINES, INC., is authorized to operate as a *common carrier* in Illinois, Kansas, Missouri, Iowa, Arkansas, Oklahoma, Nebraska, Colorado, Wyoming, Indiana, South Dakota, Texas, Kentucky, and Tennessee. Application has been filed for temporary authority under section 210a(b).

No. MC–F–8197. Authority sought for control by CECIL A. PELTS, 2500 North 24th Avenue, Phoenix, Ariz., of B LINE TRANSPORTATION CO., INC., 2500 North 24th Avenue, Phoenix, Ariz. Applicants' attorney: A. Michael Bernstein, 1327 Guaranty Bank Building, Phoenix 12, Ariz. Operating rights sought to be controlled: Operations under the Second Proviso of section 206(a)(1) of the Interstate Commerce Act, in the State of Arizona, covering the transportation of *freight, ore, mining machinery, houses and supplies*, in Bouse, Arizona, vicinity, and to include the territory in Yuma County, lying south of Williams in Santa Maria River, and from the junction of the latter river with the Colorado River on the West, thence East to the Yavapai County Line, thence South along the Western Line of Yavapai and Maricopa Counties to a point directly East of Deep Well, thence Westerly to the Colorado River. CECIL A. PELTS operates under the Second Proviso of section 206(a)(1) of the Interstate Commerce Act, in the State of Arizona. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–8198. Authority sought for purchase by LIGHTNING EXPRESS, INC., 2701 Railroad Street, Pittsburgh 22, Pa., of a portion of the operating rights of CHARLES J. DICKMAN, JR., doing business as C. J. DICKMAN TRANSFER (ROBERT B. DICKMAN, EXECUTOR), 1715 Jacob Street, Wheeling, W. Va. Applicants' attorney and representative respectively: Henry M. Wick, Jr., Delisi and Wick, 1515 Park Building, Pittsburgh 22, Pa., and David L. Bennett, Methodist Building, Wheeling, West Virginia. 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 Brook, Marshall, and Ohio Counties, W. Va., and those in Ohio situated on Ohio Highway 7 between and including Steubenville and Shadyside, Ohio, on the one hand, and, on the other, points in that part of Pennsylvania, Ohio, and West Virginia within a territory bounded by a line beginning at Florence, Pa., and extending along U.S. Highway 22 to Smyrna, Ohio, thence along Ohio Highway 8 to Griffith, Ohio, thence along Ohio Highway 255 to Sardis, Ohio, thence along Ohio Highway 7 to Duffy, Ohio, thence across the Ohio River to New Martinsville, W. Va., thence along West Virginia Highway 7 to junction U.S. Highway 250, thence along U.S. Highway 250 to Hundred, W. Va., thence along West Virginia Highway 70 to the West Virginia-Pennsylvania State line, thence along Pennsylvania Highway 18 to Waynesburg, Pa., thence along U.S. Highway 19 to Washington, Pa., thence along Pennsylvania Highway 18 to point of beginning including points on the indicated portions of the highways specified; *corrugated and paper fibre boxes*, between points in Ohio County, W. Va., and those in Ohio, Pennsylvania, and West Virginia, within 75 miles of Wheeling, W. Va. Vendee is authorized to operate as a *common carrier* in Pennsylvania, West Virginia, and Ohio. Application has been filed for temporary authority under section 210a(b).

No. MC–F–8199. Authority sought for control and merger by M & M TANK LINES, INC., P.O. Box 4174, North Station, Winston Salem, N.C., of the operating rights and property of RELIABLE TRANSPORT, INCORPORATED, P.O. Box 2323, Raleigh, N.C., and for acqui-

sition by S. H. MITCHELL, P.O. Box 612, Winston Salem, N.C., of control of such rights and property through the transaction. As a result of the merger, if approved, M & M TANK LINES, INC., would control RELIABLE TRANSPORT OF VIRGINIA, INCORPORATED, P.O. Box 2323, Raleigh, N.C., through stock ownership. Applicants' attorneys and representative respectively: James E. Wilson, Perpetual Building, 1111 E Street NW., Washington, D.C., A. W. Flynn, Jr., Box 127, Greensboro, N.C., Vaughan S. Winborne, Capital Club Building, Raleigh, N.C., and Frank C. Philips, Box 612, Winston Salem, N.C. Operating rights sought to be controlled and merged: *Liquid petroleum products,* in tank trucks, as a *common carrier* over irregular routes, from Richmond, Va., and points within 10 miles of Richmond, to points in that part of North Carolina on and east of U.S. Highway 21; *petroleum gasoline,* in bulk, in tank vehicles, from Richmond, Va., to points in North Carolina on and west of U.S. Highway 21, and points in South Carolina on and west and north of U.S. Highway 1; *diesel fuel oil,* in bulk, in tank vehicles, from Cheatham Annex, Va., to Raleigh, N.C. RELIABLE TRANSPORT OF VIRGINIA, INCORPORATED, is authorized to operate as a *common carrier* over irregular routes liquid petroleum products, in tank trucks, from Norfolk, and Hopewell, Va., and Wilmington, N.C., and points within 10 miles of each, to points in that part of North Carolina on and east of U.S. Highway 21. Application has been filed for temporary authority under section 210a(b).

No. MC–F–8200. Authority sought for purchase by R. L. JEFFRIES TRUCKING CO., INC., 1020 Pennsylvania Street, Evansville 1, Ind., of a portion of the operating rights of ECK MILLER CONTRACT CO., INC., 1125 Sweeney Street, Owensboro, Ky., and for acquisition by R. L. JEFFRIES, 3015 Hartig Avenue, Evansville, Ind., C. R. JEFFRIES, 4209 Jennings Lane, Evansville, Ind., and O. E. JEFFRIES, 2926 Hartig Avenue, Evansville, Ind., of control of such rights through the purchase. Applicants' attorney: Ernest A. Brooks II, 1311 Ambassador Building, St. Louis 1, Mo. Operating rights sought to be transferred: *Such commodities* as require the use of special equipment by reason of size or weight, but not including motor vehicles, as a *common carrier* over irregular routes, from points in Ohio, Indiana, Illinois, Missouri, Virginia, West Virginia, and the lower peninsula of Michigan to points in Indiana, and Kentucky within 150 miles of Owensboro, Kentucky, including Owensboro, and from points in Tennessee to points in Kentucky within 150 miles of Owensboro, Kentucky, including Owensboro, RESTRICTIONS: (1) The transportation service authorized above is restricted against the transportation of traffic moving between any two points both of which are in Indiana, and (2) the above specified authority may not be joined with any of the other authority granted herein for the purpose of rendering through service; *such commodities* as require the use of special equipment by reason of size or weight and *parts* thereof, when moving in connection therewith, from points in Illinois and Kentucky to points in Ohio, Indiana, Illinois, Missouri, Tennessee, Virginia, West Virginia, and the lower peninsula of Michigan, from points in Indiana to points in Indiana, Illinois, Virginia, and the lower peninsula of Michigan, and from points in Tennessee within 150 miles of Owensboro, Kentucky, to points in Indiana, Illinois, Missouri, Tennessee, and Virginia; *oil well and mine machinery, pipe, and supplies,* between points in Indiana, Illinois, and Kentucky on the one hand, and, on the other, points in Indiana, Illinois, Kentucky, Tennessee, Mississippi, and Georgia, between points in Tennessee within 200 miles of Owensboro, Kentucky, on the one hand, and, on the other points in Tennessee, Mississippi and Georgia, and between points within 35 miles of Owensboro, Kentucky on the one hand, and, on the other, points in West Virginia. Vendee is authorized to operate as a *common carrier* in Indiana, Illinois, Kentucky, Alabama, Arkansas, Florida, Georgia, Iowa, Kansas, Louisiana, Michigan, Mississippi, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, Texas, West Virginia, and Wisconsin. Application has been filed for temporary authority under section 210a(b).

By the Commission.

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

[F.R. Doc. 62–7558; Filed, July 31, 1962; 8:51 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

JULY 27, 1962.

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

LONG-AND-SHORT HAUL

FSA No. 37847: *Fresh peaches to points in Michigan and Wisconsin.* Filed by O. W. South, Jr., Agent (No. A4213), for interested rail carriers. Rates on fresh peaches (not cold-packed nor frozen), in carloads, as described in the application, from points in southern territory, to points in Michigan and Wisconsin.

Grounds for relief: Short-line distance formula and grouping.

Tariff: Supplement 38 to Southern Freight Association tariff I.C.C. S–75.

FSA No. 37848: *Asphalt to St. Peter, Minn.* Filed by Trans-Continental Freight Bureau, Agent (No. 390), for interested rail carriers. Rates on asphalt (asphaltum), natural, byproducts of petroleum (other than paint, stain or varnish), in tank-car loads, subject to aggregate shipment of not less than 20 tank-car loads, from Billings, East Billings, Great Falls and Laurel, Mont., to St. Peter, Minn.

Grounds for relief: Carrier competition.

Tariff: Supplement 70 to Trans-Continental Freight Bureau tariff I.C.C. 1644.

FSA No. 37849: *Common lime to points in Louisiana.* Filed by Southwestern Freight Bureau, Agent (No. B–8241), for interested rail carriers. Rates on lime, common, hydrated, in bags in box cars, in carloads, from specified points in Arkansas, Missouri, Oklahoma, and Texas, to specified points in Louisiana.

Grounds for relief: Market competition.

Tariff: Supplement 93 to Southwestern Freight Bureau tariff I.C.C. 4021.

FSA No. 37850: *Brick or tile raw materials between points in southern territory.* Filed by O. W. South, Jr., Agent (No. A4212), for interested rail carriers. Rates on crude earth suitable only for use in the manufacture of brick or tile, as described in the application, in carloads, between points in southern territory, also Ohio and Mississippi River crossings, Virginia cities, and Washington, D.C.

Grounds for relief: Truck competition and short-line distance formula.

Tariff: Supplement 46 to Southern Freight Association tariff I.C.C. S–144.

By the Commission.

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

[F.R. Doc. 62–7555; Filed, July 31, 1962; 8:50 a.m.]