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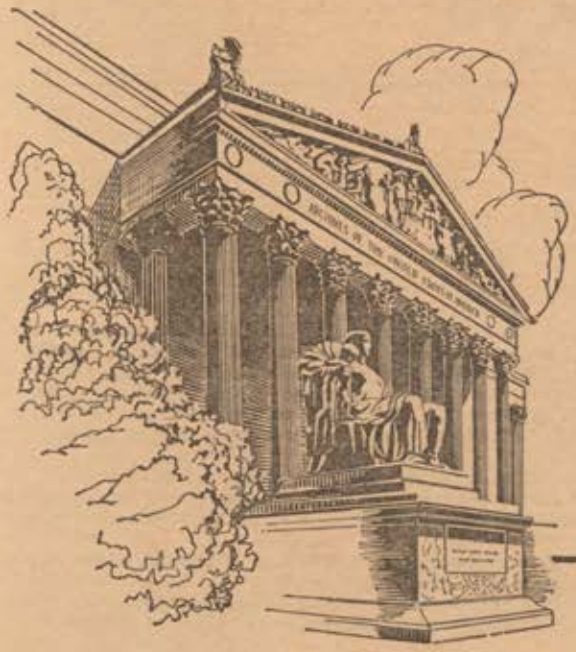

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**A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.**

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## Title 3—THE PRESIDENT

### Proclamation 3794

### MODIFYING PROCLAMATION 3279 ADJUSTING IMPORTS OF PETROLEUM AND PETROLEUM PRODUCTS

**By the President of the United States of America**

**A Proclamation**

WHEREAS, pursuant to section 2 of the act of July 1, 1954, as amended (72 Stat. 678), and section 232 of the Trade Expansion Act of 1962 (76 Stat. 877), findings and determinations have been made that adjustments in the imports of crude oil, unfinished oils, and finished products were necessary so that such imports would not threaten to impair the national security, such adjustments have been made by Proclamation 3279[1] (24 F.R. 1781) and modified by Proclamation 3290 (24 F.R. 3527), Proclamation 3328 (24 F.R. 10133), Proclamation 3386 (25 F.R. 13945), Proclamation 3389 (26 F.R. 507, 811), Proclamation 3509 (27 F.R. 11985), Proclamation 3531 (28 F.R. 4077), Proclamation 3541 (28 F.R. 5931), Proclamation 3693 (30 F.R. 15459), and Proclamation 3779 (32 F.R. 5919); and

WHEREAS, I find and determine that, in support of Federal, state and local rules and regulations for air pollution control, it is necessary to enhance the ability of the petroleum industry to provide adequate supplies of low sulphur residual fuel oil to be used as fuel; and

WHEREAS, I find that it is necessary to permit the entrance of new importers and to provide for allocations which will assure that adequate supplies of low sulfur residual fuel oil to be used as fuel will be distributed to users of such products; and

WHEREAS, I find and determine that such action will be compatible with the purposes of Proclamation 3279:

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America, acting under and by virtue of the authority vested in me by the Constitution and the statutes, including section 232 of the Trade Expansion Act of 1962, do hereby proclaim that:

1. Subparagraph (2) of paragraph (a) of section 2 of Proclamation 3279, as amended, is amended to read as follows:

(2) The maximum level of imports of residual fuel oil to be used as fuel into Districts I, Districts II–IV, and District V for a particular allocation period shall be the level of imports of that product into those districts during the calendar year 1957 as adjusted by the Secretary as he may determine to be consonant with the objectives of this proclamation.

2. Paragraph (d) of section 2 of Proclamation 3279, as amended, is revoked and paragraph (e) of section 2 is redesignated as paragraph (d).

3. Subparagraph (5) of paragraph (b) of section 3 of Proclamation 3279, as amended, is amended to read as follows:

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[1] 3 CFR 1959–1963 Comp., p. 11.

(5) With respect to the allocation of imports of residual fuel oil to be used as fuel into Districts II–IV, District V, and Puerto Rico, such regulations shall, to the extent possible, provide for a fair and equitable distribution of imports of residual fuel oil to be used as fuel among persons who were importers of that product into the respective districts or Puerto Rico during the respective base periods specified in section 2 of this Proclamation. In addition, in District V, and Puerto Rico, the Secretary by regulation may, to the extent possible, provide for a fair and equitable distribution of imports of residual fuel oil to be used as fuel, the maximum sulfur content of which is acceptable to the Secretary (i) among persons who are in the business in the respective districts or Puerto Rico of selling residual fuel oil to be used as fuel and who have had inputs of that product to deep-water terminals located in the respective districts or Puerto Rico, and (ii) among persons who are in the business in the respective districts or Puerto Rico of selling residual fuel oil to be used as fuel and have throughput agreements (warehouse agreements) with deep-water terminal operators. With respect to the allocation of imports into District I of residual fuel oil to be used as fuel, such regulations shall, to the extent possible, provide for a fair and equitable distribution of imports of residual fuel oil to be used as fuel (i) among persons who were importers of that product into such district during the calendar year 1957, (ii) among persons who are in the business in District I of selling residual fuel oil to be used as fuel and who have had inputs of that product to deep-water terminals located in District I, and (iii) among persons who are in the business in District I of selling residual fuel oil to be used as fuel and have throughput agreements (warehouse agreements) with deep-water terminal operators. With respect to the allocation of imports of residual fuel oil to be used as fuel into District I, Districts II–IV, District V, and Puerto Rico, such regulations shall also provide, to the extent possible, for the granting and adjustment of allocations of imports of residual fuel oil to be used as fuel in accordance with procedures established pursuant to section 4 of this proclamation.

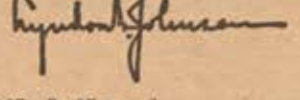
4. A new paragraph (e), reading as follows, is added to section 3 of Proclamation 3279, as amended:

(e) Notwithstanding the levels established in section 2 of this proclamation and the provisions of paragraph (b) of this section, the Secretary may provide by regulation for additional allocations of imports of crude oil and unfinished oils to persons in Districts I–IV and District V who manufacture in the United States residual fuel oil to be used as fuel, the maximum sulphur content of which is acceptable to the Secretary, in consultation with the Secretary of Health, Education and Welfare. These allocations to each of such persons shall not exceed the amount of such residual fuel oil produced by that person.

5. Subparagraph (7) of paragraph (g) of section 9 of Proclamation 3279, as amended, is amended to read as follows:

(7) Residual fuel oil—topped crude oil or viscous residuum which has a viscosity of not less than 45 seconds Saybolt universal at 100° F. and crude oil which has a viscosity of not less than 45 seconds Saybolt universal at 100° F. minimum viscosity and which is to be used as fuel without further processing other than by blending by mechanical means.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of July in the year of our Lord nineteen hundred and sixty-seven, and of the Independence of the United States of America the one hundred and ninety-second.



[F.R. Doc. 67-8390; Filed, July 17, 1967; 3:05 p.m.]

# Rules and Regulations

## Title 7—AGRICULTURE

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 16]

### PART 717—HOLDING OF REFERENDA ON MARKETING QUOTAS

#### Subpart—Regulations Governing the Holding of Referenda on Marketing Quotas

REFERENDUM COMMUNITIES

*Basis and purpose.* The amendment herein is issued under and in accordance with the provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.).

The purpose of this amendment is to revise the referendum communities for flue-cured tobacco referendums for Mecklenburg County, Va.

Since a referendum for flue-cured tobacco will be held on July 18, 1967, it is important that this amendment be issued and made effective as soon as possible. Accordingly, it is hereby found that compliance with the notice, public procedure, and effective date requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest and this amendment shall become effective as provided herein.

The table of referendum communities in § 717.4(c) is amended to revise the referendum communities for Mecklenburg County, Va., to read as follows:

**§ 717.4 Place for balloting.**

* * * * *

(c) Referendum communities for flue-cured tobacco referendums by States and counties are as follows:

| | | |
|---|---|---|
| * * * | * * * | * * * |
| Mecklenburg | Flue-cured tobacco. | Regular ASCS communities, except that Eppes Fork precinct of Palmer Springs District shall constitute a separate referendum community. |
| * * * | * * * | * * * |

(Secs. 312, 375, 52 Stat. 46, 66, as amended, 7 U.S.C. 1312, 1375)

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

Signed at Washington, D.C., on July 13, 1967.

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

[F.R. Doc. 67-8284; Filed, July 18, 1967; 8:46 a.m.]

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[Amdt. 25]

### PART 724—BURLEY, FLUE-CURED, FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR-BINDER (TYPES 51 AND 52), CIGAR-FILLER AND BINDER (TYPES 42, 43, 44, 53, 54, AND 55), AND MARYLAND TOBACCO

#### Subpart—Allotment and Marketing Quota Regulations, 1963–64 and Subsequent Marketing Years

MISCELLANEOUS AMENDMENTS

*Basis and purpose.* (a) The amendments contained herein are issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.), and are made for the purpose of amending the Tobacco Allotment and Marketing Quota Regulations for the 1963–64 and Subsequent Marketing Years. The proposed amendments set forth below in part are designed to comply with Public Law 89–487, 80 Stat. 250, which will become effective on July 4, 1967 requires that statements of policy, interpretations and administrative staff manuals and instructions to staff which affect the public be published in the FEDERAL REGISTER. The amendments herein include the penalty rates for the 1967–68 marketing year for several kinds of tobacco; deletion of the restrictions on lease and transfer of Maryland tobacco acreage allotments, which is required by the enactment of Public Law 90–6; provision for reduction in the current year's allotment, upon the written request of the operator, because of an insufficient acreage of cropland; changes in and additions to definitions of terms for more effective administration; provision for a hearing before the county committee prior to reduction of allotment for failure to account for tobacco or other violations; and several changes of a clarifying or purely administrative nature designed for more effective administration.

(b) Tobacco farmers are currently engaged in the preparation for and production of the kinds of tobacco set forth above. Hence, it is essential that the amendments contained herein which deal with the identification of sales of 1967 crop tobacco and for the keeping of records with respect thereto be made effective at the earliest possible date. Accordingly, it is hereby found and determined that compliance with the notice, public procedure and 30-day effective date requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest, and the amendments contained herein shall become effective upon filing of this document with the Director, Office of the Federal Register.

1. Section 724.51, paragraphs (d), (j), and (l) are revised and paragraph (dd) is added to read as follows:

**§ 724.51 Definitions.**

* * * * *

(d) "Buyers Corrections Account" means the warehouse account of tobacco purchased at auction by the buyer but not delivered to the buyer, or any tobacco returned by the buyer because of rejection by the buyer, lost ticket, or any other valid reason, which is turned back to the warehouseman and supported by an adjustment invoice from the buyer. This account shall include the pounds deducted resulting from returned baskets, short baskets and short weights, and pounds added resulting from long baskets and long weights, which buyers support with adjustment invoices.

* * * * *

(j) "Floor sweepings" for burley, flue-cured, dark air-cured, Virginia sun-cured, and Maryland tobacco for the marketing year beginning October 1, 1967, and subsequent marketing years, means scraps of tobacco or leaves other than bundles of tobacco, which accumulate on the warehouse floor in the regular course of business which is sold in the untied form in which acquired and sales and resales of such tobacco: *Provided*, That floor sweepings exceeding the pounds determined by multiplying the applicable listed percentage times the total first sales of tobacco at auction for the season for the warehouse, shall be deemed to be leaf account tobacco:

| *Kind of tobacco* | *Percentage* |
|---|---|
| Burley and Maryland | 0.30 (three-tenths of 1 percent). |
| Fire-cured, air-cured, and Virginia sun-cured. | 0.02 (two-hundredths of 1 percent). |

* * * * *

(l) "Leaf account tobacco" means for burley, fire-cured, dark air-cured, Virginia sun-cured, and Maryland tobacco for the marketing year beginning October 1, 1967, and succeeding marketing years, all tobacco purchased or otherwise

acquired by or for the account of the warehouse and shall include, but not be limited to, tobacco from Buyers Corrections Account and sales and resales of such tobacco, scrap tobacco obtained through grading tobacco for farmers or furnishing farmers curing or stripping space, floor sweepings purchased from another warehouseman or dealer, and floor sweepings deemed to be leaf account tobacco under paragraph (j) of this section.

* * * * *

(dd) "Sale" means, with respect to cigar-filler and cigar-binder tobacco, the first marketing of farm tobacco on which the gross amount of the sale price therefor has been or could be readily determined.

2. Section 724.55 is amended to read as follows:

**§ 724.55 Determination of preliminary acreage allotments and tobacco history acreage for old farms.**

(a) *Determination of preliminary acreage allotments*—(1) *Farms with history acreage in base period.* A preliminary farm acreage allotment shall be determined for each farm which has tobacco history acreage, as defined and explained in paragraph (b) of this section, in the base period, except that no preliminary farm acreage allotment shall be established in the current year under any one of the following conditions: (i) The only tobacco history acreage credited to the farm during the entire base period is history acreage restored because the allotment was reduced for violation of the marketing quota regulations; (ii) a new farm allotment was established in any prior year but was canceled for the preceding year; (iii) an allotment was pooled under Part 719 of this chapter but was canceled; or (iv) an allotment for land which the county committee determines has been retired from agricultural production and which was not or could not have been acquired under right of eminent domain by the acquiring person or agency. This paragraph shall not preclude the determination of a preliminary acreage allotment for an old farm returned to agricultural production if the allotment for the retired land was not allocated to other land contained in the farm of which the retired land was a part, or a farm for which an acreage allotment may be determined under the provisions of § 724.59(a).

(2) *Preliminary farm acreage allotments.* The preliminary farm acreage allotment for the current year for a farm which qualifies for a preliminary farm acreage allotment under subparagraph (1) of this paragraph shall be the same as the allotment (prior to lease and transfer and prior to reduction for violation) for the preceding year: *Provided,* That if the tobacco history acreage for the farm in neither of the two immediately preceding years was as much as 75 percent of the allotment (after any reduction for violation), the preliminary acreage allotment shall be the larger of (not to exceed the allotment for the preceding year): (i) The largest tobacco history acreage in either of the two preceding years, or (ii) the average tobacco history acreage for the base period.

(b) *Determination of tobacco history acreage.* Tobacco history acreage shall be determined for each farm for which a tobacco farm acreage allotment has been established for the current year.

(1) *Farm acreage allotment fully preserved.* The farm acreage allotment is fully preserved as tobacco history acreage for any year if: (i) (*a*) In such year or either of the two immediately preceding years the sum of (*1*) the final tobacco acreage as determined under Part 718 of this chapter, (*2*) acreage leased and transferred from the farm, (*3*) acreage reduced because of insufficient cropland on the farm, and (*4*) acreage regarded as planted under the conservation programs and conservation practices determined pursuant to Part 719 of this chapter, was as much as 75 percent of the allotment after any reduction for violation. If an erroneous notice of allotment was applicable, the smaller of the correct or the erroneous notice shall be used to determine whether 75 percent planting provision has been met; or (b) in any year or either of the two immediately preceding years the farm acreage allotment was in the eminent domain pool; or (ii) the farm consists of federally owned land for which a restrictive lease is in effect prohibiting the production of tobacco. (Federally owned land as used in this paragraph means land owned by the Federal Government or any department, bureau, or agency thereof, or by any corporation all of the stock of which is owned by the Federal Government.)

(2) *Computed history acreage.* If the farm acreage allotment is not fully preserved as tobacco history acreage under subparagraph (1) of this paragraph, the tobacco history acreage shall be the sum of the acreage (not to exceed the farm acreage allotment) as follows:

(i) Final tobacco acreage.

(ii) Acreage regarded as planted under the conservation programs and conservation practices determined pursuant to Part 719 of this chapter.

(iii) Acreage leased and transferred from the farm.

(iv) Acreage reduced because of insufficient cropland on the farm.

(v) Acreage reduced for violation of marketing quota regulations.

(3) *Adjustment of tobacco history acreage for abnormal weather or disease.* If the county committee determines (with the approval of a representative of the State committee) that for any year the sum of the final tobacco acreage, any acreage transferred from the farm, the acreage allotment reduced because of insufficient cropland acreage, and the acreage regarded as planted to tobacco under the conservation programs and conservation practices, is less than 75 percent of the allotment (after any reduction for violation) because of abnormal weather or disease, the tobacco history acreage for such year shall be adjusted to become the smaller of (i) the allotment (prior to any reduction for violation), or (ii) the sum of the final tobacco acreage for the farm, the additional acreage which the county committee determines (with the approval of a representative of the State committee) would have been included in the final acreage except for abnormal weather or disease, any acreage leased and transferred from the farm, the acreage reduced because of insufficient cropland acreage, the acreage regarded as planted to tobacco under the conservation programs and conservation practices, and the amount of any reduction for violation. Any adjustment in tobacco history acreages because of abnormal weather or disease shall not be considered as acreage devoted to tobacco in determining whether or not 75 percent of the allotment is planted. No adjustment for abnormal weather or disease shall be made unless the farm operator requests such an adjustment in writing to the county committee no later than October 1 of the crop year involved.

(4) *Zero allotment farms.* Any acreage planted to tobacco on a farm for which is farm acreage allotment of zero was established shall not be credited with any tobacco history acreage.

(5) *Allotments in eminent domain pool.* The farm acreage allotment in the eminent domain pool, as provided in Part 719 of this chapter, shall be considered fully planted during the years in the pool, including any year in which the pooled allotment is released by the displaced owner to the county committee for reapportionment to other farms in the county. The tobacco history acreage shall be the same as the pooled allotment.

(6) *All history acreage is restored history acreage.* A farm shall be considered to have no tobacco history acreage during the base period and shall not be considered an old farm if the only tobacco history acreage computed for the farm during the base period consists of tobacco history acreage restored for reduction of the farm acreage allotment for violation of the tobacco marketing quota regulations.

(7) *Tobacco history acreage for new farms.* The tobacco history acreage for a farm for the year it received an allotment as a new farm shall be the same as the new farm allotment if as much as 75 percent of the allotment is planted in such year. If less than 75 percent of the new farm allotment is planted, the tobacco history acreage shall be the same as the planted acreage. No adjustment for abnormal weather or disease shall be made in the tobacco history acreage for the farm for the year it was a new farm.

3. A new § 724.56a is added after § 724.56 to read as follows:

**§ 724.56a Reduction in farm allotment because of cropland limitation.**

The allotment determined for any farm under § 724.56 may be reduced for

the current year if the sum of the feed grain base, total allotments, and sugar proportionate shares exceeds the cropland for the farm for the current year and the farm operator requests in writing to reduce the tobacco allotment in lieu of the feed grain base: *Provided*, That such reduction shall not exceed the acreage by which the sum of the feed grain base, total allotments, and sugar proportionate shares exceeds the cropland for the farm: *Provided, further*, That such reduction shall be effective for the current year only. For purposes of establishing future State, and farm acreage allotments, the acreage not planted under the farm allotment because of a reduction under this paragraph shall be regarded as planted on the farm.

4. Section 724.57 is amended to read as follows:

**§ 724.57 Adjustment of acreage allotments for old farms, correction of errors made in acreage allotments for old farms and allotments for overlooked old farms.**

(a) Notwithstanding the limitations contained in § 724.55, the individual current year's farm acreage allotment heretofore established for an old farm may be increased if the county committee justifies such increase to the satisfaction of a representative of the State committee as being necessary to establish an allotment for such farm which is fair and equitable in relation to the allotments for other old farms in the county on the basis of the past acreage of tobacco, making due allowances for drought, flood, hail, other abnormal weather conditions, plant bed, and other diseases; land, labor and equipment available for the production of tobacco, crop rotation practices; and the soil and other physical factors affecting the production of tobacco.

(b) Not to exceed 4 percent of the total acreage for the respective kind of tobacco allotted to all tobacco farms in the State for the preceding year shall be made available in the State by the State committee, with the approval of the Deputy Administrator, for increasing allotments as described above in this section, for correcting errors, and for providing allotments for overlooked farms.

(c) The allotment for a farm under a conservation program contract or agreement shall be given the same consideration under this section as the allotment for similar farms.

(d) The total of all adjustments in old farm allotments under this paragraph shall not exceed the acreage apportioned the State for such purpose. The sum of the adjustments for farms in the county owned, operated or controlled by the State, county and community committeemen and the county office manager, shall not be larger in relation to the sum of the preceding year's allotments for such farms than the sum of the adjustments for other farms in the county in relation to the preceding year's allotments for such farms.

5. Section 724.59 is amended by adding a new paragraph (d) at the end as follows:

**§ 724.59 Reallocation and release and reapportionment of allotments determined for farms acquired by an agency having the right of eminent domain, or shifted from production of cigar-binder (types 51 and 52) tobacco and cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco to production of shade-grown cigar-leaf (type 61) wrapper tobacco.**

* * * * *

(d) No release and reapportionment of allotment acreage hereunder shall be the result of any private negotiations between individuals. Any acreage released shall be released to the county committee and such acreage shall be reapportioned only by the county committee.

§ 724.67 [Amended]

6. Section 724.67(d) is deleted.

7. Section 724.87 is amended by adding at the end of subparagraph (1) of paragraph (a) the following:

**§ 724.87 Debt stamping and replacing marketing cards.**

(a) *Stamping to show indebtedness.* (1) * * * As debt collections are made, the amount of the debt shown on the card shall be revised to show the debt balance, and the floor sheet shall show the amount collected. A debt-free marketing card shall be issued when the debt has been entirely paid.

* * * * *

8. Section 724.90 is amended by adding a new paragraph (j) at the end as follows:

**§ 724.90 Identification of marketings, excluding cigar tobacco.**

* * * * *

(j) *Identification of returned first sale (producer) tobacco.* When resold at auction, tobacco which has been previously sold and returned to a warehouse by the buyer is resale tobacco. When such tobacco is resold by the warehouseman, it shall be identified as leaf account resale tobacco.

9. Section 724.92 is amended by adding two new paragraphs designated (l) and (m) at the end as follows:

**§ 724.92 Rate of penalty.**

* * * * *

(l) *1966–67 average market price.* The average market price for the kinds of tobacco listed below as determined by the Crop Reporting Board, Statistical Reporting Service, U.S. Department of Agriculture, for the 1966–67 marketing year was:

AVERAGE MARKETING PRICE

| *Kinds of Tobacco* | *Cents per pound* |
|---|---|
| Burley | 66.9 |
| Fire-cured (type 21) | 41.2 |
| Fire-cured (types 22, 23, 24) | 42.2 |
| Dark air-cured | 37.3 |
| Virginia Sun-cured | 42.3 |
| Cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) | 31.9 |
| Cigar-binder (types 51 and 52) | 50.4 |

(m) *1967–68 rate of penalty per pound.* The penalty rate per pound for the kinds of tobacco listed below upon marketings of excess tobacco subject to marketing quotas during the 1967–68 marketing year shall be:

RATE OF PENALTY

| *Kinds of Tobacco* | *Cents per pound* |
|---|---|
| Burley | 50 |
| Fire-cured (type 21) | 31 |
| Fire-cured (types 22, 23, and 24) | 32 |
| Dark air-cured | 28 |
| Virginia Sun-cured | 32 |
| Cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) | 24 |
| Cigar-binder (types 51 and 52) | 38 |

10. Section 724.94 is amended by adding two new paragraphs designated as (h) and (i) at the end as follows:

**§ 724.94 Penalties considered to be due from warehousemen, hogshead warehousemen, dealers, buyers, and others excluding the producer.**

* * * * *

(h) *Excess resale rule.* Where an analysis of an auction warehouse or dealer account shows excess resales for the season to be less than 100 pounds the State executive director may accept the account as being satisfactory and no penalty due on account of excess resales.

(i) *Failure to obtain an MQ–77, Sale Memo, and failure to record a sale on MQ–76.* Any sale of cigar tobacco for which a dealer (1) if within quota tobacco, fails to record the sale on the marketing card issued for the farm or (2) if the tobacco was produced on a farm for which an excess marketing card was issued, fails to obtain a valid sales memo by the end of the sale date, shall be presumed, subject to rebuttal, to the subject penalty. The penalty thereon shall be paid by the buyer who fails to make the required record.

11. Section 724.95 is amended by adding a new paragraph (c) at the end as follows:

**§ 724.95 Producers penalties; false identification; failure to account; cancelled allotments.**

* * * * *

(c) *Person to pay penalty when erroneous rate is shown on card.* If an erroneous penalty rate is shown on a marketing card and tobacco is identified by such card, the producer shall remit any additional penalty due for the sale.

12. Section 724.98 is amended by changing paragraph (c) and by adding a new paragraph (m) at the end, to read as follows:

**§ 724.98 Producer's records and reports.**

* * * * *

(c) *Report of estimate of production.* Form MQ–92, Estimate of Production, shall be executed jointly by a producer on the farm and a representative of the county or State committee. An estimate of production shall be obtained for each farm (1) where the final measured

(planted) acreage is in excess of the allotment, (2) where a producer on the farm has an interest in another tobacco farm for which the final measured acreage is in excess of the allotment, (3) where a nonquota kind of tobacco is being grown on a farm which is also producing a kind under quotas, and the nonquota kind could be commingled and sold as a quota kind, and (4) where the county committee has reason to believe that an estimate of production would be desirable to more adequately determine disposition of the farm's production of tobacco.

* * * * *

(m) *County administrative hearings in connection with violations.* Except for the failure to return a marketing card to the county office, the allotment for any farm shall not be reduced for a violation under this section until after the operator of the farm has been notified in writing by the county office manager of the time and place of a hearing to determine the nature and extent of the violation. The notice of the hearing shall request the farm operator to bring to the hearing warehouse bills (floor sheets) and other relevant supporting documents. At last two members of the county committee shall be present at the hearing. The hearing shall be held at the time and place named in this notice and any action taken on the violation shall be taken after the hearing. If the farm operator does not attend the hearing, or is not represented, the county committee may take whatever action it deems proper.

13. Section 724.99 is amended by adding new subparagraphs (12) and (13) at the end of paragraph (h), and by adding a new paragraph (k) at the end, to read as follows:

**§ 724.99 Warehouseman's records and reports.**

* * * * *

(h) Daily report of auction warehouse business: * * *

(12) Where a producer rejects the sale of a basket or a lot of tobacco, the warehouseman shall not change (i) the applicable sale memo, and (ii) the MQ–80 on which is reported the sale, if such tobacco has been billed out and the bills have been presented to the buyer.

(13) In balancing first sales (represented by marketing recorder's total sales memos) with computed first sales (bill-out total minus resales as reported by the warehouseman) the State executive director is authorized to approve reports with variance not to exceed one half of one percent of such pounds.

* * * * *

(k) Producer tobacco (first sale) in the possession of a warehouseman, resulting from long weights and long baskets, which has not previously been identified by a sale shall be recorded and reported in the same manner as a nonwarehouse sale to a warehouseman who does not prepare a warehouse bill (floor sheet) and shall be reported on MQ–79, Dealer's Record.

14. Section 724.102 is amended to read as follows:

**§ 724.102 Dealers exempt from regular records and reports, excluding cigar tobacco buyers.**

Any dealer or buyer who does not purchase or otherwise acquire tobacco except at a warehouse sale, hogshead warehouse sale, or directly from dealers other than warehousemen or hogshead warehousemen, and who does not resell in the form in which tobacco ordinarily is sold by farmers more than 5 percent of such tobacco so purchased by him, shall not be subject to the provisions of § 724.101: *Provided, however,* That any such dealer or buyer who purchases tobacco at nonwarehouse sale or who purchases or resells tobacco from or to another dealer or a warehouseman, but not at a warehouse sale, a hogshead warehouse sale shall be subject to the provisions of § 724.101 with respect to such purchases and resales.

(Secs. 301, 313, 314, 315, 316, 363, 372–75, 377, 378, 52 Stat. 38, as amended, 47, as amended, 48, as amended, 63, as amended, 65, as amended, 66, as amended, 66 Stat. 597, as amended, 70 Stat. 206, as amended, 72 Stat. 703, 995, as amended, 75 Stat. 469, as amended; sec. 401, 63 Stat. 1054, as amended, secs. 106, 112, 125, 70 Stat. 191, 195, 198, as amended; 7 U.S.C. 1301, 1313, 1314, 1314a, 1314b, 1363, 1372–75, 1377, 1378, 1421, 1813, 1824 and 1836)

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

Signed at Washington, D.C., on July 13, 1967.

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

[F.R. Doc. 67-8285; Filed, July 18, 1967; 8:46 a.m.]

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SUBCHAPTER C—SPECIAL PROGRAMS

[Amdt. 3]

## PART 777—PROCESSOR WHEAT MARKETING CERTIFICATE REGULATIONS

### Conversion Factor Basis of Reporting

The following amendment is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (see sec. 379a to 379j, 52 Stat. 31, as amended, 7 U.S.C. 1379a to 1379j), to provide miscellaneous changes to the Republication of the Processor Wheat Marketing Certificate Regulations (31 F.R. 13502). There were no suggestions for changing the proposed amendment as a result of a notice given the public pursuant to section 4 of the Administrative Procedure Act (60 Stat. 238, 5 U.S.C. 553). Accordingly, the following conversion factor for whole wheat flakes for cereal is the same as published in the proposed amendment (32 F.R. 7976).

Since these provisions must be acted on immediately, or are needed immediately in the administration of the regulations, it is hereby found and determined that compliance with the 30-day effective date requirements of section 4 of the Administrative Procedure Act (60 Stat. 238, 5 U.S.C. 1003) is impracticable and contrary to the public interest and that this amendment shall be effective on the date provided below.

The Processor Wheat Marketing Certificate Regulations (31 F.R. 13502) are changed to read as follows:

Section 777.14(c) is amended by adding the following conversion factor for the product indicated:

| A—Food product | B—Bushels of wheat equivalent per 100 pounds of product (conversion factor). |
|---|---|
| Whole wheat flakes for cereal, including fines (extraction approximately 89 percent cereal and approximately 7 percent fines).[2] | 1.87. |

*Effective date.* This amendment shall be effective with the first processing report period following the date of filing with the Office of the Federal Register and to any prior processing report period for which a processor had been erroneously reporting quantities of wheat processed into the above described food product on a conversion factor basis unless the processor elects for such prior periods to submit amended reports on the weight of wheat basis of reporting.

Signed at Washington, D.C., on July 13, 1967.

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

[F.R. Doc. 67-8286; Filed, July 18, 1967; 8:46 a.m.]

## Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

### SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

[Sugar Reg. 814.5, Amdt. 4]

## PART 814—ALLOTMENT OF SUGAR QUOTA, MAINLAND CANE SUGAR AREA

### 1967

*Basis and purpose.* This amendment is issued under Section 205(a) of the Sugar Act of 1948, as amended (61 Stat. 926 as amended), hereinafter called the "Act," for the purpose of amending Sugar Regulation 814.5 (32 F.R. 6188, 8805), which established allotments for the Mainland Cane Sugar Area for the calendar year 1967.

This amendment is necessary to give effect to Sugar Regulation 811, Amendment 10, effective July 3, 1967 (32 F.R. 9949), which established the Mainland Cane Sugar Area Quota at 1,169,333 short tons, raw value, a quantity 34,666 tons greater than the quantity previously allotted.

In accordance with paragraphs (5) and (8) of the findings and conclusions set forth in S.R. 814.5, Amdt. 2 (32 F.R. 6188), and pursuant to paragraph (e) of such regulation, paragraph (7) of such findings and conclusions is amended to read as follows:

(7) The calculation of allotment referred to in paragraph (5) above, reflecting the quota for the area of 1,169,333 short tons, raw value, is set forth in the following table:

| Processor | Processings of sugar [1] | | Average quota marketings [2] | | Ability to market | | | | | Processors basic allotment [4] | | Processor's adjusted allotment [4] short tons, raw value |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | Effective inventory Jan. 1, 1967 | New-crop quota marketings | | Measures used | | Percent of total | Short tons, raw value | |
| | | | | | | Average 1964–66 | "Shares" of difference [3] | Col. (5) plus col. (7) | Percent of total | | | |
| | Short tons, raw value | Percent of total | Short tons, raw value | Percent of total | Short tons, raw value | | | | | | | |
| | (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) | (9) | (10) | (11) | (12) |
| Alhania Sugar Co. | 10,454 | 0.858 | 10,703 | 1.017 | 1,137 | 9,396 | 8,057 | 9,194 | 0.786 | 0.875 | 10,226 | 10,037 |
| Alma Plantation Ltd. | 10,407 | .854 | 10,192 | .968 | 760 | 10,014 | 8,587 | 9,347 | .799 | .860 | 10,121 | 9,934 |
| J. Aron & Co., Inc. | 13,652 | 1.121 | 15,113 | 1.436 | | 14,935 | 12,807 | 12,807 | 1.095 | 1.179 | 13,785 | 13,530 |
| Billeaud Sugar Factory | 9,943 | .816 | 10,212 | .970 | 2,680 | 7,852 | 6,733 | 9,413 | .805 | .845 | 9,875 | 9,693 |
| Breaux Bridge Sugar Co-op. | 9,427 | .774 | 8,754 | .832 | 2,723 | 7,137 | 6,120 | 8,843 | .756 | .782 | 9,139 | 8,970 |
| Wm. T. Burton Industries, Inc. | 6,515 | .535 | 8,923 | .848 | 651 | 4,963 | 4,273 | 4,924 | .421 | .575 | 7,223 | 7,090 |
| Caire & Graugnard | 5,648 | .464 | 5,577 | .539 | 479 | 4,973 | 4,265 | 4,744 | .406 | .467 | 5,457 | 5,356 |
| Cajun Sugar Co-op, Inc. | 20,234 | 1.661 | 19,462 | 1.849 | 20,234 | 38 | 33 | 20,267 | 1.733 | 1.713 | 20,019 | 20,234 |
| Caldwell Sugars Co-op, Inc. | 13,792 | 1.132 | 12,816 | 1.217 | 909 | 12,505 | 10,724 | 11,633 | .995 | 1.122 | 13,113 | 12,871 |
| Columbia Sugar Co. | 9,067 | .739 | 8,152 | .774 | 2,060 | 7,302 | 6,262 | 8,322 | .712 | .741 | 8,660 | 8,500 |
| Cora-Texas Manufacturing Co., Inc. | 9,242 | .759 | 7,176 | .682 | 6,222 | 3,213 | 2,755 | 8,977 | .768 | .745 | 8,708 | 8,547 |
| Dugas & LeBlanc, Ltd. | 15,477 | 1.271 | 14,545 | 1.382 | 2,165 | 13,924 | 11,940 | 14,105 | 1.206 | 1.280 | 14,959 | 14,683 |
| Dube & Bourgeois Sugar Co. | 10,964 | .900 | 10,133 | .963 | 1,079 | 9,821 | 8,422 | 9,501 | .813 | .895 | 10,461 | 10,268 |
| Erath Sugar Co., Ltd. | 6,483 | .532 | 7,416 | .704 | 647 | 5,927 | 5,083 | 5,730 | .490 | .558 | 6,520 | 6,400 |
| Evan Hall Sugar Co-op, Inc. | 23,894 | 1.962 | 22,130 | 2.102 | 2,369 | 21,756 | 18,657 | 21,026 | 1.798 | 1.957 | 22,871 | 22,449 |
| Frisco Cane Co., Inc. | 3,006 | .252 | 2,846 | .270 | 533 | 2,452 | 2,103 | 2,636 | .226 | .251 | 2,934 | 2,880 |
| Glenwood Co-op, Inc. | 16,864 | 1.385 | 15,663 | 1.488 | 1,673 | 15,436 | 13,239 | 14,912 | 1.275 | 1.384 | 16,175 | 15,877 |
| Helvetia Sugar Co-op, Inc. | 13,331 | 1.094 | 11,855 | 1.126 | 2,431 | 11,253 | 9,650 | 12,081 | 1.033 | 1.088 | 12,716 | 12,481 |
| Iberia Sugar Co-op, Inc. | 19,486 | 1.600 | 19,621 | 1.864 | 6,766 | 13,437 | 11,523 | 18,289 | 1.564 | 1.646 | 19,237 | 18,882 |
| Lafourche Sugar Co. | 19,270 | 1.582 | 17,855 | 1.696 | 2,936 | 17,017 | 14,593 | 17,529 | 1.499 | 1.588 | 18,559 | 18,216 |
| Harry L. Laws & Co., Inc. | 15,763 | 1.294 | 16,524 | 1.569 | 2,163 | 12,392 | 10,627 | 12,790 | 1.094 | 1.309 | 15,297 | 15,015 |
| Levert-St. John, Inc. | 13,061 | 1.072 | 14,736 | 1.400 | | 13,537 | 11,608 | 11,608 | .993 | 1.122 | 13,119 | 12,877 |
| Little Texas, Inc. | 5,610 | .461 | 4,449 | .422 | 2,128 | 4,021 | 3,448 | 5,576 | .477 | .456 | 5,330 | 5,232 |
| Louisa Sugar Co-op, Inc. | 12,186 | 1.000 | 11,553 | 1.097 | 2,901 | 9,705 | 8,322 | 11,223 | .960 | 1.011 | 11,816 | 11,598 |
| Louisiana State Penitentiary | 4,066 | .334 | 3,657 | .290 | 2,557 | 1,987 | 1,704 | 4,261 | .365 | .331 | 3,868 | 3,797 |
| Meeker Sugar Co-op, Inc. | 10,963 | .900 | 10,400 | .988 | 8,907 | 3,103 | 2,661 | 11,568 | .989 | .935 | 10,926 | 10,724 |
| Milliken & Farwell, Inc. | 10,726 | .881 | 9,727 | .924 | 1,770 | 9,288 | 7,965 | 9,735 | .833 | .880 | 10,284 | 10,094 |
| M. A. Patout & Son, Ltd. | 17,198 | 1.412 | 15,733 | 1.494 | 2,983 | 14,819 | 12,708 | 15,691 | 1.342 | 1.414 | 16,526 | 16,221 |
| Poplar Grove Planting & Refining Co. | 9,200 | .755 | 9,161 | .870 | 2,395 | 6,915 | 5,930 | 8,325 | .712 | .769 | 8,987 | 8,821 |
| Savoie Industries | 15,563 | 1.278 | 14,297 | 1.358 | 2,197 | 13,709 | 11,756 | 13,953 | 1.193 | 1.277 | 14,924 | 14,649 |
| St. James Sugar Co-op, Inc. | 21,760 | 1.786 | 17,333 | 1.646 | 13,314 | 9,351 | 8,027 | 21,341 | 1.825 | 1.766 | 20,641 | 20,260 |
| St. Mary Sugar Co-op, Inc. | 15,320 | 1.258 | 14,378 | 1.366 | 1,921 | 13,782 | 11,819 | 13,740 | 1.175 | 1.263 | 14,760 | 14,488 |
| South Coast Corp. | 62,843 | 5.159 | 71,445 | 6.787 | 45,965 | 12,183 | 10,447 | 56,412 | 4.825 | 5.418 | 63,320 | 62,154 |
| Southdown, Inc. | 38,242 | 3.140 | 42,500 | 4.043 | 11,513 | 24,523 | 21,029 | 32,542 | 2.783 | 3.249 | 37,971 | 37,270 |
| Sterling Sugars, Inc. | 28,226 | 2.317 | 25,938 | 2.464 | 4,729 | 24,047 | 20,621 | 25,350 | 2.168 | 2.317 | 27,078 | 26,578 |
| Sunshine Processing Co., Inc. | 2,859 | .235 | 3,363 | .319 | 0 | 9 | 8 | 8 | .001 | .205 | 2,396 | 2,352 |
| J. Supple's Sons Lumber & Shingle Co. | 5,626 | .462 | 5,747 | .546 | 1,468 | 4,144 | 3,554 | 5,022 | .430 | .472 | 5,516 | 5,414 |
| Valentine Sugars, Inc. | 10,208 | .838 | 12,891 | 1.224 | 439 | 8,709 | 7,520 | 7,959 | .681 | .884 | 10,331 | 10,140 |
| Vida Sugars, Inc. | 6,157 | .505 | 5,543 | .527 | 821 | 5,253 | 4,513 | 5,334 | .456 | .500 | 5,843 | 5,735 |
| A. Wilbert's Sons Lumber & Shingle Co. | 10,813 | .888 | 10,133 | .963 | 1,906 | 9,330 | 8,001 | 9,907 | .847 | .895 | 10,460 | 10,267 |
| Young's Industries, Inc. | 7,135 | .586 | 7,429 | .706 | 2,088 | 5,129 | 4,398 | 6,486 | .555 | .604 | 7,058 | 6,928 |
| Louisiana subtotal | 570,676 | 46.852 | 565,641 | 53.730 | 170,619 | 399,389 | 342,492 | 513,111 | 43.884 | 47.634 | 557,209 | 547,509 |
| Atlantic Sugar Association, Inc. | 34,590 | 2.840 | 31,031 | 2.947 | 35,375 | 58 | 50 | 35,425 | 3.030 | 2.899 | 33,880 | 34,346 |
| Florida Sugar Corp. | 20,833 | 1.710 | 12,054 | 1.145 | 17,209 | 4,085 | 3,503 | 20,712 | 1.771 | 1.609 | 18,806 | 18,439 |
| Glades County Sugar Growers Co-op Association | 46,409 | 3.810 | 33,874 | 3.218 | 47,435 | 0 | 0 | 47,435 | 4.057 | 3.741 | 43,729 | 46,055 |
| Osceola Farms Co. | 52,766 | 4.332 | 36,056 | 3.425 | 53,755 | 1,360 | 1,166 | 54,921 | 4.697 | 4.224 | 49,398 | 52,191 |
| South Puerto Rico Sugar Co., Inc. | 81,977 | 6.730 | 66,975 | 6.362 | 75,944 | 9,708 | 8,325 | 84,269 | 7.207 | 6.752 | 78,914 | 77,457 |
| Sugarcane Growers Co-op of Florida | 115,600 | 9.491 | 84,763 | 8.052 | 117,865 | 3 | 3 | 117,868 | 10.081 | 9.321 | 108,937 | 114,437 |
| Talisman Sugar Corp. | 51,709 | 4.250 | 27,444 | 2.607 | 52,639 | 129 | 111 | 52,750 | 4.512 | 3.974 | 46,447 | 51,108 |
| United States Sugar Corp. | 243,421 | 19.985 | 194,907 | 18.514 | 209,175 | 39,144 | 33,567 | 242,742 | 20.761 | 19.846 | 231,952 | 227,671 |
| Florida Subtotal | 647,365 | 53.148 | 487,104 | 46.270 | 609,397 | 54,487 | 46,725 | 656,122 | 56.116 | 52.366 | 612,024 | 621,724 |
| Total all mainland cane | 1,218,041 | 100.000 | 1,052,745 | 100.000 | 780,016 | 453,876 | 389,217 | 1,169,233 | 100.000 | 100.000 | 1,169,233 | 1,169,233 |

[1] The higher of either the production of sugar from the 1966 crop sugarcane or 85 percent of the average production for the 1964 and 1965 crops of sugarcane.

[2] Average annual quota marketing for each processor for years he had such marketing during the period 1964 through 1966.

[3] The difference between 1,169,233 tons (quota for 1967 established by S.R. 811, Amdt. 10, less 100 tons reserve for Louisiana State University) and the total Jan. 1, 1967, effective inventories for all processors amounting to 780,016 tons. This difference of 389,217 tons prorated on the basis of each processor's average 1964–66 new-crop marketings.

[4] Col. (10) was determined by weighting "processings" Col. (2) by 60 percent, "marketings" Col. (4) by 20 percent, and "ability" col. (9) by 20 percent. Col. (11) was determined by multiplying the quota, less 100 tons reserved for Louisiana State University, by col. (10) and revising such resulting allotments by adding 500 tons to the allotment of Wm. T. Burton Industries, Inc., and reducing proportionately by a total of 500 tons the allotments of processors who were recipients of deficit reallocations in 1966 as provided in finding (5)(c). Such reduction can be determined for each individual processor by multiplying the percentage in col. (10) times the quota, less 100 tons reserved for Louisiana State University, and subtracting therefrom the amount shown in col. (11).

[5] Basic allotments in col. (11) which were less than the respective processors' Jan. 1, 1967, effective inventories were increased by a total of 16,000 short tons, raw value, and such basic allotments of other processors (those having Jan. 1, 1967, effective inventories not in excess of their basic allotments) were reduced proportionately as necessary to make total adjusted allotments equal to the quota in short tons, raw value, less 100 tons set aside for Louisiana State University. Upward adjustments in allotments (not to exceed a total of 16,000 tons) were made, first by increasing the allotment of any processor having a Jan. 1, 1967, physical inventory in excess of his basic allotment to the extent of such excess; and second, the remainder of the 16,000 tons was prorated to increase the allotments of other processors having Jan. 1, 1967, effective inventories in excess of their basic allotments in a manner that permitted each affected processor to market the same percentage, but not more than 100 percent, of his Jan. 1, 1967, effective inventory.

Pursuant to provisions of section 205(a) of the Act and in accordance with paragraph (e) of § 814.5 of this chapter, paragraph (a) of such § 814.5 is amended to read as follows:

**§ 814.5 Allotment of the 1967 sugar quota for the Mainland Cane Sugar Area.**

(a) The 1967 sugar quota for the Mainland Cane Sugar Area of 1,169,333 short tons, raw value, is hereby allotted to the following processors in the quantities which appear opposite their respective names:

| Processors | Allotments (short tons, raw value) |
|---|---|
| Albania Sugar Co. | 10,037 |
| Alma Plantation, Ltd. | 9,934 |
| J. Aron & Co., Inc. | 13,530 |
| Billeaud Sugar Factory | 9,693 |
| Breaux Bridge Sugar Co-op | 8,970 |
| Wm. T. Burton Industries, Inc. | 7,090 |
| Caire & Graugnard | 5,356 |
| Cajun Sugar Co-op, Inc. | 20,234 |
| Caldwell Sugars Co-op, Inc. | 12,871 |
| Columbia Sugar Co. | 8,500 |
| Cora-Texas Manufacturing Co., Inc. | 8,547 |
| Dugas & LeBlanc, Ltd. | 14,683 |
| Duhe & Bourgeois Sugar Co. | 10,268 |
| Erath Sugar Co., Ltd. | 6,400 |
| Evan Hall Sugar Co-op, Inc. | 22,449 |
| Frisco Cane Co., Inc. | 2,880 |
| Glenwood Co-op, Inc. | 15,877 |
| Helvetia Sugar Co-op, Inc. | 12,481 |
| Iberia Sugar Co-op, Inc. | 18,882 |
| Lafourche Sugar Co. | 18,216 |
| Harry L. Laws & Co., Inc. | 15,015 |
| Levert-St. John, Inc. | 12,877 |
| Little Texas, Inc. | 5,232 |
| Louisa Sugar Co-op, Inc. | 11,598 |
| Louisiana State Penitentiary | 3,797 |
| Louisiana State University | 100 |
| Meeker Sugar Co-op, Inc. | 10,724 |
| Milliken & Farwell, Inc. | 10,094 |
| M. A. Patout & Son, Ltd. | 16,221 |
| Poplar Grove Planting & Refining Co. | 8,821 |
| Savoie Industries | 14,640 |
| St. James Sugar Co-op, Inc. | 20,260 |
| St. Mary Sugar Co-op, Inc. | 14,488 |
| South Coast Corp. | 62,151 |
| Southdown, Inc. | 37,270 |
| Sterling Sugars, Inc. | 26,578 |
| Sunshine Processing Co., Inc. | 2,352 |
| J. Supple's Sons Planting Co., Inc. | 5,414 |
| Valentine Sugars, Inc. | 10,140 |
| Vida Sugars, Inc. | 5,735 |
| A. Wilbert's Sons Lumber & Shingle Co. | 10,267 |
| Young's Industries, Inc. | 6,928 |
| Louisiana subtotal | 547,609 |
| Atlantic Sugar Association | 34,346 |
| Florida Sugar Corp. | 18,459 |
| Glades County Sugar Growers Co-op Association | 46,055 |
| Osceola Farms Co. | 52,191 |
| South Puerto Rico Sugar Co., Inc. | 77,457 |
| Sugarcane Growers Co-op of Florida | 114,437 |
| Talisman Sugar Corp. | 51,108 |
| United States Sugar Corp. | 227,671 |
| Florida subtotal | 621,724 |
| Total all mainland cane | 1,169,333 |

* * * * *

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153. Secs. 205, 209; 61 Stat. 926, as amended, 928, as amended; 7 U.S.C. 1115, 1119)

*Effective date.* Allotments established in this order for all processors are larger than the allotments established in S.R. 814.5, Amdt. 3 (32 F.R. 8805). To afford adequate opportunity to plan and to market the additional quantities of sugar in an orderly manner, it is imperative that this amendment becomes effective as soon as possible. Accordingly, it is hereby found that compliance with the 30-day effective date requirement of 5 U.S.C. 553 (80 Stat. 378) is impracticable and contrary to the public interest and consequently, this amendment shall be effective upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., this 13th day of July 1967.

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

[F.R. Doc. 67-8245; Filed, July 18, 1967; 8:45 a.m.]

## Chapter X—Consumer and Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order 12]

## PART 1012—MILK IN TAMPA BAY MARKETING AREA

### Order Suspending Certain Provisions

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Tampa Bay marketing area (7 CFR Part 1012), it is hereby found and determined that:

(a) Subparagraphs (2), (3), and (4) in § 1012.16(b) of the order will not tend to effectuate the declared policy of the Act for the months of July and August 1967.

(b) Notice of proposed rule making, public procedure thereon, and 30 days notice of the effective date hereof are impractical, unnecessary, and contrary to the public interest in that:

(1) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date.

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) This action will suspend for the months of July and August 1967 the provisions that limit the quantity of producer milk that may be diverted to nonpool plants by cooperatives and proprietary handlers. Without the suspension, the order would limit the quantity of producer milk that may be diverted by a cooperative association to 25 percent of all milk of its member producers physically received at pool plants during the month. The same percentage limitation on the diversion of its producer receipts would apply to the operator of a pool plant.

Such provisions were suspended for the months of May and June 1967 (32 F.R. 6835). Prior to that action, interested parties were afforded an opportunity to file written data, views, or arguments concerning a proposed termination of the diversion limitations (32 F.R. 6206). Persons filing views indicated that they would not oppose a suspension of the diversion provisions for a limited period.

The Tampa Independent Dairy Farmers' Association requested that these provisions be suspended for the additional months of July and August 1967. The request is supported by Dairy Farmers Mutual, and two other cooperatives have indicated that they do not oppose such a suspension. These four cooperatives represent over 90 percent of the producers in Tampa Bay market.

These diversion limitations would continue to cause an extreme hardship on Tampa Independent Dairy Farmers' Association and disorderly conditions in the market if in effect in July and August 1967. The Association performs the role of balancing the milk supply for the entire market. In doing so, substantial quantities of member milk, which must currently be disposed of to surplus outlets, would have to be kept out of the pool because of the diversion limitations. This would result in lower returns to the Association's members relative to other producers on the market.

Therefore, good cause exists for making this order effective upon publication in the FEDERAL REGISTER.

*It is therefore ordered*, That the aforesaid provisions of the order are hereby suspended for the period July 1, 1967, through August 31, 1967.

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

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on July 13, 1967.

ORVILLE L. FREEMAN,
*Secretary.*

[F.R. Doc. 67-8289; Filed, July 18, 1967; 8:46 a.m.]

[Milk Order 102]

## PART 1102—MILK IN FORT SMITH, ARK., MARKETING AREA

### Order Amending Order

**§ 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, Ark., 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, 1967. 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 Deputy Administrator was issued May 22, 1967, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued June 28, 1967. 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, 1967, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER (5 U.S.C. 553(d) (1966)).

(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 hereby 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, Ark., marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended and as hereby amended, as follows:

1. In § 1102.51, the introductory text preceding paragraph (a) is revised to read as follows:

**§ 1102.51 Class prices.**

Subject to the provisions of §§ 1102.52 and 1102.54, 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:

* * * * *

2. Add a new § 1102.54 to read as follows:

**§ 1102.54 Location adjustment to handlers.**

(a) For milk received from producers at an approved plant located more than 50 miles by the shortest highway distance, as determined by the market administrator, from the county courthouse in Fort Smith, Ark., which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1102.51(a) shall be reduced at the rate of 1.5 cents for each 10 miles or fraction thereof that such plant is distant from the county courthouse in Fort Smith, Ark.; and

(b) For purposes of calculating such adjustment, transfers of fluid milk products between approved plants shall be assigned to Class I disposition at the transferee plant which is in excess of the sum of receipts at such plant from producers and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

3. Section 1102.60 is revised to read as follows:

**§ 1102.60 Producer-handlers.**

Sections 1102.40 through 1102.46, 1102.50 through 1102.54, 1102.70 through 1102.72, 1102.80 through 1102.86, and 1102.90 through 1102.93 shall not apply to a producer-handler.

4. Section 1102.71 is revised to read as follows:

**§ 1102.71 Computation of uniform prices for handlers.**

For each of the months of August through February, the market administrator shall compute for each handler a uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Adjust the amount computed pursuant to § 1102.70 for each one-tenth percent that the average butterfat test of milk received from producers by such handler is less or more than 3.5 percent, an amount computed by multiplying such difference by the butterfat differential computed pursuant to § 1102.81 and multiplying the result by the total hundredweight of milk received from producers;

(b) Add the amount represented by any deductions made for eliminating fractions of a cent in computing the uniform price(s) for such handler for the preceding month;

(c) Add an amount equal to the sum of the deductions to be made for location differentials pursuant to § 1102.86; and

(d) Divide the resulting amount by the total hundredweight of milk received from producers by such handler. The result, less any fraction of a cent per hundredweight, shall be known as the uniform price for such handler for milk of 3.5 percent butterfat content.

5. In § 1102.72, paragraph (a) is revised to read as follows:

**§ 1102.72 Computation of the uniform prices for base and excess milk for each handler.**

* * * * *

(a) Follow the computations and adjustments provided for in § 1102.71 (a), (b), and (c);

* * * * *

6. In § 1102.80, paragraph (a) is revised to read as follows:

**§ 1102.80 Time and method of payment.**

* * * * *

(a) On or before the 15th day after the end of the month during which the milk was received, to each producer except as provided in paragraph (c) of this section, at not less than the appropriate uniform price(s) adjusted by the producer butterfat differential computed pursuant to § 1102.81, subject to the location adjustment to producers pursuant to § 1102.86, for all milk received from such producer during the preceding month less the amount of payment made pursuant to paragraph (b) of this section.

* * * * *

7. Add a new § 1102.86 to read as follows:

**§ 1102.86 Location differentials to producers.**

The uniform price for producer milk received at an approved plant shall be reduced according to the location of the approved plant, at the rates set forth in § 1102.54.

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

Effective date: August 1, 1967.

Signed at Washington, D.C., on July 13, 1967.

ORVILLE L. FREEMAN,
*Secretary.*

[F.R. Doc. 67-8288; Filed, July 18, 1967; 8:46 a.m.]

# Title 14—AERONAUTICS AND SPACE

## Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 66-EA-97]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Alteration of Transition Area

*Correction*

In F.R. Doc. 67-7918, appearing at page 10193 of the issue for Tuesday, July 11, 1967, in the amendatory language of item 1, the words "by adding the description of the 700-foot floor transition area" should read "by adding in the description of the 700-foot floor transition area".

# Title 5—ADMINISTRATIVE PERSONNEL

## Chapter I—Civil Service Commission

## PART 213—EXCEPTED SERVICE

### Department of Defense

Section 213.3206 is amended to show that certain positions formerly excepted under Schedule B in the Office of the Deputy Assistant Secretary (Programing) now are excepted under Schedule B in the Operations Analysis Group and in the Office of the Deputy Assistant Secretary (Management Systems Development), both in the Office of the Assistant Secretary (Comptroller). Effective on publication in the FEDERAL REGISTER, subparagraph (2) of paragraph (a) of § 213.3206 is amended as set out below.

**§ 213.3206 Department of Defense.**

(a) *Office of the Secretary.* * * *

(2) Professional positions at GS-11 and above involving systems, costs, and economic analysis functions in the Office of the Assistant Secretary (Systems Analysis); and in the Operations Analysis Group and in the Office of the Deputy Assistant Secretary (Management Systems Development), both in the Office of the Assistant Secretary (Comptroller).

* * * * *

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[F.R. Doc. 67-8269; Filed, July 18, 1967; 8:45 a.m.]

## PART 213—EXCEPTED SERVICE

### Executive Office of the President

Section 213.3303 is amended to show that a position of Public Affairs Officer on the staff of the President's Committee on Consumer Interests is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, paragraph (e) is added to § 213.3303 as set out below.

**§ 213.3303 Executive Office of the President.**

* * * * *

(e) *President's Committee on Consumer Interests.*

(1) One Public Affairs Officer.

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[F.R. Doc. 67-8270; Filed, July 18, 1967; 8:45 a.m.]

## PART 213—EXCEPTED SERVICE

### Department of Transportation

Section 213.3394 is amended to show that the position of Confidential Secretary to the General Counsel is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (8) is added to paragraph (a) of § 213.3394 as set out below.

**§ 213.3394 Department of Transportation.**

(a) *Office of the Secretary.* * * *

(8) One Confidential Secretary to the General Counsel.

* * * * *

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[F.R. Doc. 67-8271; Filed, July 18, 1967; 8:45 a.m.]

## PART 550—PAY ADMINISTRATION (GENERAL)

### Windchill Chart

In F.R. Doc. 67-6905 published June 20, 1967, the lines of demarcation between the columns "Little Danger," "Considerable Danger," and "Very Great Danger" on the Windchill Chart for Appendix A-1 were not clearly identified. The chart should read as set forth below. (P.L. 89-512).

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

WINDCHILL CHART

| Wind Speed (MPH) | Local Temperature (°F) | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | 32 | 23 | 14 | 5 | -4 | -13 | -22 | -31 | -40 | -49 | -58 |
| Calm | 32 | 23 | 14 | 5 | -4 | -13 | -22 | -31 | -40 | -49 | -58 |
| 5 | 29 | 20 | 10 | 1 | -9 | -18 | -28 | -37 | -47 | -56 | -65 |
| 10 | 18 | 7 | -4 | -15 | -26 | -37 | -48 | -59 | -70 | -81 | -92 |
| 15 | 13 | -1 | -13 | -25 | -37 | -49 | -61 | -73 | -85 | -97 | -109 |
| 20 | 7 | -6 | -19 | -32 | -44 | -57 | -70 | -83 | -96 | -109 | -121 |
| 25 | 3 | -10 | -24 | -37 | -50 | -64 | -77 | -90 | -104 | -117 | -130 |
| 30 | 1 | -13 | -27 | -41 | -54 | -68 | -82 | -97 | -109 | -123 | -137 |
| 35 | -1 | -15 | -29 | -43 | -57 | -71 | -85 | -99 | -113 | -127 | -142 |
| 40 | -3 | -17 | -31 | -45 | -59 | -74 | -87 | -102 | -116 | -131 | -145 |
| 45 | -3 | -18 | -32 | -46 | -61 | -75 | -89 | -104 | -118 | -132 | -147 |
| 50 | -4 | -18 | -33 | -47 | -62 | -76 | -91 | -105 | -120 | -134 | -148 |
| | Little Danger | | Considerable Danger | | | Very Great Danger | | | | | |
| For Properly Clothed Persons | Danger From Freezing of Exposed Flesh | | | | | | | | | | |

[F.R. Doc. 67-8272; Filed, July 18, 1967; 8:45 a.m.]

# Title 12—BANKS AND BANKING

## Chapter III—Federal Deposit Insurance Corporation

### SUBCHAPTER A—PROCEDURE AND RULES OF PRACTICE

## PART 303—APPLICATIONS, REQUESTS, AND SUBMITTALS

Effective on the date of publication of this revision in the FEDERAL REGISTER, Part 303 of the rules and regulations of the Federal Deposit Insurance Corporation (12 CFR Part 303) is revised to read as follows:

Sec.
303.1 Application by nonmember bank for deposit insurance.
303.2 Application by insured State nonmember bank to establish a branch.
303.3 Application by insured State nonmember bank to move main office or branch.

AUTHORITY: The provisions of this Part 303 issued under sec. 9, 64 Stat. 881; 12 U.S.C. 1819. Interpret or apply secs. 5, 6, 8, 18, 19, 64 Stat. 876, 879, 891, 893; 12 U.S.C. 1815, 1816, 1818, 1828, 1829.

### § 303.1 Application by nonmember bank[1] for deposit insurance.

Application for deposit insurance by an existing or proposed State nonmember bank should be filed with the Supervising Examiner of the Federal Deposit Insurance Corporation District in which the bank or proposed bank is or will be located. Any such application by an existing bank must be accompanied by separate applications for the consent of the Corporation to the continued operation of each branch which it proposes to continue to operate. Any such application by a proposed bank must be accompanied by a separate application for the consent of the Corporation to establish and operate each proposed branch. The appropriate forms of application and instructions for completing the same may be obtained upon request from the Supervising Examiner of the District in which the application originates. (See Part 304 of this title for list of forms and instructions.)

### § 303.2 Application by insured State nonmember bank to establish a branch.[2]

Application by an insured State nonmember bank (except a District bank) to establish and operate a new branch should be filed with the Supervising Examiner of the Federal Deposit Insurance Corporation District in which the bank is located. The appropriate form of application and instructions for completing the same may be obtained upon request from the Supervising Examiner of the District in which the application originates. (See Part 304 of this title for list of forms and instructions.)

### § 303.3 Application by insured State nonmember bank to move main office or branch.

Application for the consent of the Corporation to move the main office or branch of an insured State nonmember bank (except a District bank) should be filed with the Supervising Examiner of the Federal Deposit Insurance Corporation District in which the bank is located. The appropriate form of application and instructions for completing the same may be obtained upon request from the Supervising Examiner of the District in which the application originates. (See Part 304 of this title for list of forms and instructions.)

### § 303.4 Application by insured State nonmember bank to reduce or retire capital.

Application for the consent of the Corporation to the reduction in the amount, or retirement of any part, of the common or preferred capital stock, or retirement of any of the capital notes or debentures, of an insured State nonmember bank (except a District bank) should be filed with the Supervising Examiner of the Federal Deposit Insurance Corporation District in which the bank is located. The appropriate form of application and instructions for completing the same may be obtained upon request from the Supervising Examiner of the District in which the application originates. (See Part 304 of this title for list of forms and instructions.)

### § 303.5 Application for conversion, merger, consolidation, assumption and sale of asset transactions.

(a) *With noninsured bank or institution.* Application by an insured bank for the consent of the Corporation to merge or consolidate with a noninsured bank or institution, or to convert into a noninsured institution, or to assume liability to pay any deposits made in, or similar liabilities of, any noninsured bank or institution, or to transfer assets to any noninsured bank or institution in consideration of the assumption of liability for any portion of the deposits made in such insured bank, together with copies of all agreements or proposed agreements relating thereto, should be filed with the Supervising Examiner of the Federal Deposit Insurance Corporation District in which the insured bank is located. The appropriate form of application and instructions for completing the form, as well as instructions concerning notice to depositors, may be obtained upon request from the office of said Supervising Examiner.

(b) *Conversion with diminution of capital or surplus.* Application for the appropriate form of application and into an insured State nonmember bank (except a District bank)—when the conversion will result in the converted bank's having less capital stock or surplus than the converted bank at the time of the shareholders' meeting approving such conversion—together with copies of the charter and/or articles of association of the converted bank, should be filed with the Supervising Examiner of the Federal Deposit Insurance Corporation District in which the insured bank is located. The appropriate form of application and instructions for completing the form may be obtained upon request from the office of said Supervising Examiner.

(c) *Merger, consolidation, asset acquisition or assumption transaction between insured banks.* Application by an insured bank for the consent of the Corporation to merge or consolidate with, acquire the assets of, or assume the liability to pay any deposits made in, another insured bank—when the resulting or assuming bank is to be an insured State nonmember bank (except a District bank)—together with copies of all agreements or proposed agreements relating thereto, including the charter or articles of incorporation of the resulting or assuming bank, should be filed with the Supervising Examiner of the Federal Deposit Insurance Corporation District in which the resulting or assuming bank is located. The appropriate form of application and instructions for completing the same may be obtained upon request from the office of said Supervising Examiner.

### § 303.6 Application by insured State nonmember bank to extend its corporate or charter powers.

Application for the consent of the Corporation to the extension of the corporate or charter powers of an insured State nonmember bank (except a District bank) should be filed with the Supervising Examiner of the Federal Deposit Insurance Corporation District in which the bank is located. The appropriate form of application and instructions for completing the same may be obtained upon request from the Supervising Examiner of the District in which the application originates. (See Part 304 of this title for list of forms and instructions.)

### § 303.7 Application to continue or resume insured status.

Application under § 327.3(c) of this title by a bank whose insured status has been terminated for permission to continue or to resume its status as an insured bank should be filed with the Supervising Examiner of the Federal Deposit Insurance Corporation District in which the bank is located. Such application should (a) be in writing, (b) be signed by the president, or cashier, or other managing officer of the bank, (c) be accompanied by a certified copy of the resolution of its board of directors authorizing the submission of such application, (d) contain a statement that the bank's insured status has been terminated (including the date thereof and the basis therefor), that the insurance of its deposits has not ceased, and that it applies for permission to continue or resume its status as an insured bank, and (e) state the reasons why the continuance or resumption of such status should be permitted by the Corporation.

### § 303.8 Application for exemption from or exception to advertising requirements.

Any application made by an insured bank under any of the provisions of Part 328 of this title should be filed with the

[1] A nonmember bank is a bank which is not a member of the Federal Reserve System.

[2] "The term 'branch' includes any branch bank, branch office, branch agency, additional office, or any branch place of business located in any State of the United States or in any Territory of the United States, Puerto Rico, Guam, or the Virgin Islands at which deposits are received or checks paid or money lent." (Sec. 3(o) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1813(o)).

Division of Examination of the Corporation at its principal office. Such application should (a) be in writing, (b) be signed by the president, or cashier, or other managing officer of the bank, and (c) state, in conformity with the particular provision in respect of which the application is made, the reason for the request in detail and the reason why the application should be granted.

**§ 303.9 Other applications.**

Except as otherwise provided by rule or regulation, all applications, requests, and submittals for which no form of application has been prescribed by the Corporation should (a) be in writing, (b) be signed by the applicant or his duly authorized agent, (c) contain a statement of the applicant's interest therein, a complete and concise statement of the action requested and the reasons and facts relied upon as the basis for such requested action, and (d) be addressed to the Secretary at the principal office of the Corporation. The applicant shall furnish such other pertinent information as may be required by the Corporation. Whenever applicable, the forms specified in Part 304 of this title should be used, the instructions issued with respect thereto should be followed, and submission should be made as therein provided.

**§ 303.10 Procedure on applications.**

(a) With respect to applications for deposit insurance under § 303.1, the Division of Examination of the Corporation will cause an investigation to be conducted and an examination to be made of the bank or proposed bank. Thereafter, the Board of Directors, in accordance with applicable provisions of law, will act upon such application after considering the report of such investigation and examination, the recommendations thereon of the examiner and Supervising Examiner of the District in which the bank is or will be located, the recommendations of the Division of Examination, the recommendations of the Board of Review with respect to matters referred to it, and the legal opinion of counsel for the Corporation. The applicant bank will be duly advised of the Board's decision upon such application.

(b) With respect to all other applications, requests, or submittals, the Board of Directors will cause such an investigation or examination, or both, to be made by the proper Divisions of the Corporation as the Board shall deem appropriate, and upon the report of such investigation and examination, and the recommendations thereon, will take such action as it shall deem necessary or appropriate in the premises.

(c) The Chief of the Division of Examination and the Supervising Examiner of the District in which the bank is located have been authorized to take final action with respect to the approval of certain applications, such as applications by an insured State nonmember bank to move its main office or branch or to obtain an extension of time limitation imposed in connection with a previous application. This delegated authority is subject to certain limitations set forth in the delegations of authority which are available at the office of each Supervising Examiner. The Chief of the Division of Examination is also authorized to act upon applications by insured State nonmember banks for extensions of time of 90 days or less within which to register securities pursuant to the provisions of section 12(g) of the Securities Exchange Act of 1934, as amended.

(d) For the purpose of assuring the performance and continuity in the management functions and activities of the Corporation, the Board of Directors has delegated, to the extent deemed necessary, authority with respect to the management of the Corporation's affairs to certain designated officers, such authority to be exercised only in the event of an emergency, involving an enemy attack on the continental United States or other warlike occurrence, which renders the Board of Directors unable to perform the management functions and activities normally performed by it.

(e) With respect to any application, the Board of Directors will afford the applicant or other properly interested persons, including Government agencies, an opportunity to present views orally before the Board of Directors or its designated representative or representatives, either at informal conference discussions or at informal presentation of evidence.

**§ 303.11 Notice of disposition of application.**

Prompt notice will be given of the grant or denial, in whole or in part, of any written application, petition, or other request of any interested person made in connection with any agency proceeding. In the case of a denial, except in affirming a prior denial, or where the same is self-explanatory, such notice will be accompanied by a simple statement of procedural or other grounds.

The amendments revise Part 303 of the Corporation's rules and regulations (12 CFR Part 303) to make editorial changes. The revision of § 303.8 conforms the section to amendments to Part 328 of the Corporation's rules and regulations (12 CFR Part 328) which were previously published in the FEDERAL REGISTER.

Inasmuch as the Board of Directors has found, pursuant to § 302.6 of the Corporation's rules and regulations (12 CFR 302.6), that the amendments to Part 303 are editorial and not substantive in nature and that notice, public participation, and prior publication are unnecessary and would serve no useful purpose, the requirements of section 553 of title 5, United States Code, with respect to notice, public participation, and deferred effective date were not followed in connection with this amendment.

(Sec. 9, 64 Stat. 881; 12 U.S.C. 1819.)

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] E. F. DOWNEY,
*Secretary.*

[F.R. Doc. 67-8315; Filed, July 18, 1967; 8:48 a.m.]

## PART 304—FORMS, INSTRUCTIONS, AND REPORTS

Effective on the date of publication of this revision in the FEDERAL REGISTER, Part 304 of the rules and regulations of the Federal Deposit Insurance Corporation (12 CFR Part 304) is revised to read as follows:

Sec.
304.1 Certified statements.
304.2 Reports of condition, etc.
304.3 Forms and instructions.

AUTHORITY: The provisions of this Part 304 issued under sec. 9, 64 Stat. 881; 12 U.S.C. 1819. Interpret or apply secs. 5–8, 10, 18, 19, 64 Stat. 876, 879, 882, 891, 893; 12 U.S.C. 1815–1818, 1820, 1828, 1829.

**§ 304.1 Certified statements.**

The certified statements required to be filed by insured banks in accordance with the provisions of section 7 of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1817), shall be filed with the Fiscal Agent of the Corporation upon the forms, and in the manner, prescribed by the Board of Directors. The assessments required to be certified must be paid to the Corporation at the time such statements are required to be filed. The form of certified statement will be furnished to all insured banks by, or may be obtained upon request from, the fiscal agent.

**§ 304.2 Reports of condition, etc.**

Whenever required, insured State nonmember banks (except District banks) shall file reports of condition, reports of income and dividends, and summaries of deposits with the Division of Research upon the forms, in the manner, and pursuant to the instructions prescribed by the Board of Directors from time to time. The form of such reports and instructions for completing the same will be furnished to all such banks by, or may be obtained upon request from, the Division of Research. Each insured national bank and each insured District bank at the time of making reports of conditon to the Comptroller of the Currency and each insured State member bank at the time of making reports of condition to the Federal Reserve bank, required under the Federal Deposit Insurance Act, shall furnish an executed and attested copy thereof to the Corporation.

**§ 304.3 Forms and instructions.**

The following forms and instructions have been prepared by the Corporation for the use of banks and may be obtained by any person properly and directly concerned therewith upon request at the office designated in this chapter:

(a) *Form 82; Application of proposed bank (other than mutual savings) for Federal deposit insurance.* The proposed incorporators are required to make statements and representations and to submit information with respect to the several factors enumerated in section 6 of the Federal Deposit Insurance Act (12 U.S.C. 1816). The application on Form 82 must be executed in quadruplicate. Three applications signed by the proposed incorporators must be forwarded to the

Supervising Examiner and the other application may be retained by the prospective incorporators. Applications filed on Form 82 must be accompanied by a certified copy of the proposed articles of incorporation or association and the requisite number of properly executed Forms 83. If the proposed bank contemplates the establishment of a branch or branches, its application on Form 82 must be accompanied by a properly executed Form 85 for each branch. After incorporation is duly effected, the bank must submit a properly executed Form 82a.

(b) *Form 82–M: Application of proposed mutual savings bank for Federal deposit insurance.* Form 82–M, which is substantially the same as Form 82, should be used when the proposed bank is to be a mutual savings bank and should be prepared and submitted in the same manner as Form 82. If the proposed bank contemplates the establishment of a branch or branches, its application on Form 82–M must be accompanied by a properly executed Form 85–M for each branch.

(c) *Form 82a and Form 82a–M: Certificate of adoption of resolution.* Form 82a is a copy of the resolution of the board of directors (or trustees) of the bank approving the action of the prospective incorporators in preparing and presenting its application for Federal deposit insurance on Form 82 or 82–M, certified to be a true and correct copy by the president or vice president and cashier or secretary. After incorporation has been duly effected and the bank is chartered to do business by the proper State authority, four properly executed Forms 82a must be transmitted to the Supervising Examiner. If not previously submitted, Form 82a must be accompanied by a copy of the bank's articles of incorporation or association and a copy of the bank's license or authorization to engage in the business of receiving deposits.

(d) *Form 84: Application for Federal deposit insurance by an existing noninsured State bank (other than mutual savings).* The applicant bank is required to submit statements, representations, and information with respect to the several factors enumerated in section 6 of the Federal Deposit Insurance Act (12 U.S.C. 1816) and a copy of the resolution of its board of directors authorizing the bank's president or vice president and cashier or secretary to make the application. The application must be executed in quadruplicate, signed by such officers, and the bank's corporate seal affixed thereto. Three signed applications must be forwarded to the Supervising Examiner and the other application may be retained by the bank. Applications filed on Form 84 must be accompanied by the requisite number of properly executed Forms 83 and a certified copy of the articles of incorporation or association, including any amendments thereto. If the bank has a branch or branches, its application on Form 84 must be accompanied by a properly executed Form 85 for each branch.

(e) *Form 84–M: Application for Federal deposit insurance by an existing noninsured mutual savings bank.* Form 84–M, which is substantially the same as Form 84, should be used by mutual savings banks and should be prepared and submitted in the same manner as Form 84. If the bank has a branch or branches, its application on Form 84–M must be accompanied by a properly executed Form 85–M for each branch.

(f) *Form 83 and Form 83–M: Financial statement.* Form 83 must be executed in triplicate and certified to be true and correct by each individual director (or trustee) and officer of the bank or proposed bank (who is solely responsible for its contents) for the benefit of the Board of Directors of the Corporation in determining, with respect to the applicant bank, the general character of its management in accordance with section 6 of the Federal Deposit Insurance Act (12 U.S.C. 1816). The requisite number of properly executed and signed Forms 83 must accompany each application on Form 82, Form 82–M, Form 84, or Form 84–M.

(g) *Form 85, Form 85a, and Form 85b: Application of insured State nonmember bank (except District bank and mutual savings bank) to establish or move its main office or branch.* (1) Form 85 is an application to establish a branch. The applicant bank is required to submit statements, representations, and information with respect to the several factors enumerated in section 6 of the Federal Deposit Insurance Act (12 U.S.C. 1816) and a copy of the resolution of its board of directors authorizing the bank's president or vice president and cashier or secretary to make the application. The application must be executed in quadruplicate, signed by the president or vice president, have the corporate seal of the bank affixed thereto, and be attested by the cashier or secretary. Three signed applications must be forwarded to the Supervising Examiner and the other application may be retained by the bank. The application must be accompanied by a certified copy of the bank's articles of incorporation or association, including any amendments thereto unless previously submitted to the Corporation and not subsequently amended.

(2) Form 85a is an application to move main office or branch. It is similar to Form 85 and should be prepared and submitted in the same manner as Form 85.

(3) Form 85b is an application to establish a branch pursuant to designation as despositary and financial agent of the U.S. Government. It is similar to Form 85 and should be prepared and submitted in the same manner as Form 85.

(h) *Form 85–M and Form 85a–M: Application by insured nonmember mutual savings bank to establish a branch or move its main office or branch.* (1) Form 85–M is substantially the same as Form 85 and should be prepared and submitted in the same manner as Form 85.

(2) Form 85a–M is substantially the same as Form 85a and should be prepared and submitted in the same manner as Form 85.

(i) *Form 86: Application for merger, consolidation, asset acquisition, or assumption.* The bank applying for prior written consent to merge with, consolidate with, acquire the assets of, or assume liability to pay deposits made in, another bank or institution, pursuant to section 18(c) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1828(c)), and for the establishment of branches incident thereto pursuant to section 18(d) of the Act is required to submit statements, representations, and information with respect to the several factors enumerated in said section 18(c). Twelve copies of the application and all documents, schedules, and exhibits, including the agreement between the participating banks and the charter or articles of incorporation of the resulting or assuming bank, are to be executed by an authorized officer with the bank's corporate seal affixed and forwarded to the Supervising Examiner. The Corporation will furnish the applicant bank with a form of the notice (Form 116) for publication provided for in said section 18(c).

(j) *Form 100: Application for consent to retirement of common or preferred stock, capital notes, or debentures.* The applicant bank is required to submit statements with respect to the nature of the proposal, source of funds to effect the proposal, and other steps involved in the retirement. The application contains a statement of assets and liabilities and the disposition of certain assets adversely classified in the preceding report of examination made of the bank by examiners of the Corporation. Three applications certified to be true and correct and signed by the president or cashier of the bank must be forwarded to the Supervising Examiner.

(k) *Form 102: Application.* Form 102 should be used by all banks applying for the consent of the Corporation with respect to any application requiring such consent and for which no specific form is prescribed by this section or otherwise. The form contains a copy of the resolution of the bank's board of directors describing the proposal and authorizing the application, a statement of the action taken upon the proposal by the proper State banking authority where such action is required, and must be signed by the president or vice president and attested by the cashier or secretary. The application must be accompanied by a copy of the bank's articles of incorporation or association including any amendments thereto unless previously submitted to the Corporation and not subsequently amended. The application must be executed in quadruplicate. Three signed applications must be submitted to the Supervising Examiner of the District wherein the bank is located and one copy may be retained by the bank.

(l) *Form 64: Report of condition (from banks other than mutual savings).* Form 64 is a report in the form of a

standard statement of the assets and liabilities of the reporting bank together with additonal detailed breakdown of selected items and information for assessment purposes. When special circumstances so require, additional detail with respect to specific asset or liability items may be required. Reports of condition must be prepared in accordance with the instructions contained in the booklet entitled "Instructions for the preparation of Report of Condition on Form 64," copies of which are furnished by the Corporation to all insured State nonmember banks (except District banks) and which may be obtained on request from the Division of Research.

(m) *Form 64 (Savings): Report of condition (from mutual savings banks).* Form 64 (Savings) is substantially the same as Form 64 and should be used by mutual savings banks.

(n) *Form 73: Report of income and dividends (from banks other than mutual savings).* Report of income and dividends, Form 73, is a report in the form of a standard profit and loss statement and a reconciliation of changes in total capital accounts during the year. When special circumstances so require, additional detail with respect to specific income or expense items, chargeoffs or recoveries, profits on assets sold, or changes in total capital account may be required. Reports of income and dividends must be prepared in accordance with the instructions contained in the booklet entitled "Instructions for the preparation of Report of Income and Dividends on Form 73," which is furnished by the Corporation to all insured State nonmember banks (except District banks) and which may be obtained on request from the Division of Research.

(o) *Form 73 (Savings): Report of income and dividends (from mutual savings banks).* Form 73 (Savings) is substantially the same as Form 73 and should be used by mutual savings banks.

(p) *Form 89: Summary of Deposits.* Report of summary of deposits is a report of the number of deposit accounts and the amount of deposits in such accounts grouped by size of account and type of deposit. Summary of deposit reports must be prepared in accordance with instructions contained in the pamphlet entitled "Instructions for preparation of Form 89," which is furnished by the Corporation to all insured banks and which may be obtained on request from the Division of Research.

(q) *Form 545: Certified statement (for banks other than mutual savings).* A form 545 must be submitted on or before January 31 and July 31 of each year by every insured bank, except any newly insured banks which must submit their first certified statement on Form 645, and any mutual savings banks which must use Form 545 (Savings). Form 545 shows the deposit liabilities, less authorized deductions, reported in two reports of condition in each semiannual assessment period. The form will show the computation of the assessment base and the amount of the assessment due the Corporation. It must be prepared in duplicate, certified by the president of the bank or any other officer designated by its board of directors, and an original must be forwarded to the fiscal agent. The duplicate copy should be retained in the bank's file.[1] The forms are mailed to all insured banks each six months in ample time to permit compliance with the law, but if not received on or before January 1 or July 1, they should be obtained from the fiscal agent. Any questions in respect to such forms should be directed to the fiscal agent.

(r) *Form 545 (Savings): Certified statement (for mutual savings banks).* This form is substantially the same as Form 545 and should be used by mutual savings banks.

(s) *Form 645: First certified statement (for banks other than mutual savings).* The first certified statement, Form 645, must be submitted on or before July 31 or January 31 following the semiannual period in which the bank began operation as an insured bank. The form shows the deposit liabilities, less authorized deductions, as provided by law, on the last date within such period for which it was required to submit a report of condition or, if such bank became an insured bank after the last date in such period for which a report of condition was required, such bank shall make a report of condition as of the last day of such semiannual period, and shall file with the Corporation a certified statement showing, as its assessment base for such period, its assessment base for the date of such special report. The form will show the computation of the assessment base and the amount of the assessment due the Corporation. It must be prepared in duplicate, certified by the president of the bank or any other officer designated by its board of directors, and the original must be forwarded to the fiscal agent. The duplicate copy should be retained in the bank's file.[1] The forms will be mailed by the fiscal agent to newly insured banks with appropriate instructions for their preparation.

(t) *Form 645 (Savings): First certified statement (for mutual savings banks).* This form is substantially the same as Form 645 and should be used by mutual savings banks.

(u) *Form 845: Final certified statement—for use by an insured bank (except mutual savings banks) whose deposits are assumed by another insured bank.* This statement, Form 845, shows the deposit liabilities, less authorized deductions, of the bank in the report or reports of condition prior to the assumption date. Form 845, accompanied by appropriate letter of explanation and instructions, will be mailed by the fiscal agent to each insured bank whose deposit liabilities are assumed by another insured bank. The form must be prepared in duplicate, certified by the president of the bank or any other officer designated by its board of directors, and the original must be forwarded to the fiscal agent. The duplicate copy should be retained in the bank's files.[1] If the deposits of the liquidating bank are assumed by a newly insured bank, the liquidating bank is not required to file Form 845 or to pay any assessments upon the deposits so assumed after the semiannual period in which the assumption takes effect.

(v) *Form 845 (Savings): Final certified statement (for mutual savings banks).* This form is substantially the same as Form 845 and should be used by mutual savings banks.

(w) *Form 845A: Final certified statement—for use of an insured bank (other than mutual savings banks) whose deposit liabilities are assumed by another insured operating bank.* (To be used when the assuming bank executes the certified statement for the bank whose deposits were assumed.) Form 845A may be substituted for Form 845 described in paragraph (u) of this section if the assuming bank is executing the certified statement for the bank whose deposit liabilities were assumed. Form 845A is prepared in the same manner as Form 845 except the certification is executed by an official of the assuming bank.

(x) *Form 845A (Savings): Final certified statement—for use of an insured mutual savings bank whose deposit liabilities are assumed by another insured operating bank.* (To be used when the assuming bank executes the certified statement for the bank whose deposits were assumed.) Form 845A (Savings) may be substituted for Form 845 (Savings) described in paragraph (v) of this section if the assuming bank is executing the certified statement for the bank whose deposit liabilities were assumed. Form 845A (Savings) is prepared in the same manner as Form 845 (Savings) except the certification is executed by an official of the assuming bank.

(y) *Amended and corrected certified statements.* Forms for use in amending or correcting previously submitted certified statements are identical in number and form with Forms 545, 645, 845, 845A (for other than mutual savings banks), 545 (Savings), 645 (Savings), 845 (Savings), and 845A (Savings) described above, except the title of the forms contains the additional word "Amended" or "Corrected." These forms may be obtained on request from the fiscal agent.

This revision of Part 304 of the Corporation's rules and regulations (12 CFR Part 304) substitutes the word "income" for the word "earnings" in Form 73 and Form 73 (Savings). The revision incorporates numerous other changes of an editorial nature.

[1] Section 7(b)(6) of the Federal Deposit Insurance Act, which relates to assessment base deductions, provides, in part, as follows: "Each insured bank, as a condition to the right to make any such deduction in determining its assessment base, shall maintain such records as will readily permit verification of the correctness of its assessment base. No insured bank shall be required to retain such records for such purpose for a period in excess of five years from the date of the filing of any certified statement, except that when there is a dispute between the insured bank and the Corporation over the amount of any assessment the bank shall retain such records until final determination of the issue."

Inasmuch as the Board of Directors has found, pursuant to § 302.6 of the Corporation's rules and regulations (12 CFR 302.6), that the revision of Part 304 is editorial and not substantive in nature and that notice, public participation, and prior publication are unnecessary and would serve no useful purpose, the requirements of section 553 of title 5, United States Code, with respect to notice, public participation, and deferred effective date were not followed in connection with this amendment. (Sec. 9, 64 Stat. 881; 12 U.S.C. 1819.)

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] E. F. DOWNEY,
*Secretary.*

[F.R. Doc. 67-8318; Filed, July 18, 1967; 8:49 a.m.]

## PART 306—RECEIVERSHIPS AND LIQUIDATIONS

### National Bank Receiverships

Effective on the date of publication of this amendment in the FEDERAL REGISTER, the fifth and sixth sentences and footnote 1 of § 306.2 *National bank receiverships* of the rules and regulations of the Federal Deposit Insurance Corporation (12 CFR 306.2) are amended by substituting the figure "$15,000" for the figure "$10,000".

Subsection (a) of section 301 of the Financial Institutions Supervisory Act of 1966 (80 Stat. 1055) amended section 3(m) of the Federal Deposit Insurance Act (12 U.S.C. 1813(m)) by changing "$10,000" to read "$15,000". The amendment to § 306.2 of the Corporation's rules and regulations reflects this statutory change.

Inasmuch as the Board of Directors has found, pursuant to § 302.6 of the Corporation's rules and regulations (12 CFR 302.6), that notice, public participation, and prior publication of this amendment to § 306.2 would serve no useful purpose, the requirements of section 553 of title 5, United States Code, with respect to such notice, public participation, and deferred effective date were not followed in connection with this amendment. (Sec. 9, 64 Stat. 881; 12 U.S.C. 1819.)

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] E. F. DOWNEY,
*Secretary.*

[F.R. Doc. 67-8319; Filed, July 18, 1967; 8:49 a.m.]

## PART 307—VOLUNTARY TERMINATION OF INSURED STATUS

### Miscellaneous Amendments

Effective on the date of publication of these amendments in the FEDERAL REGISTER, Part 307 of the rules and regulations of the Federal Deposit Insurance Corporation (12 CFR Part 307) is amended as follows:

1. Footnote 2 is amended by striking out the words "and to the Reconstruction Finance Corporation if it owns or holds as pledgee any preferred stock, capital notes, or debentures of such bank,".

2. Footnote 8 is amended by substituting the words "Section 8(o)" for the words "Section 8(b)".

3. Paragraph (a) of § 307.3 is amended by substituting the words "section 8(q)" for the words "section 8(d)" in the form for notice to depositors.

4. Footnote 9 is amended by substituting the words "Section 8(q)" for the words "Section 8(d)".

The purpose of the above amendments is to reflect the amendment of subsection (a), and the redesignation of subsections (b) and (d) as (o) and (q), of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) by the Financial Institutions Supervisory Act of 1966 (80 Stat. 1028).

Inasmuch as the Board of Directors has found, pursuant to § 302.6 of the Corporation's rules and regulations (12 CFR 302.6), that notice, public participation, and prior publication of these amendments to Part 307 would serve no useful purpose, the requirements of section 553 of title 5, United States Code, with respect to such notice, public participation, and deferred effective date were not followed in connection with these amendments. (Sec. 9, 64 Stat. 881; 12 U.S.C. 1819.)

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] E. F. DOWNEY,
*Secretary.*

[F.R. Doc. 67-8320; Filed, July 18, 1967; 8:49 a.m.]

### SUBCHAPTER B—REGULATIONS AND STATEMENTS OF GENERAL POLICY

## PART 325—INTRODUCTORY

### Scope

Effective on the date of publication of these amendments in the FEDERAL REGISTER, § 325.0 *Scope* of the rules and regulations of the Federal Deposit Insurance Corporation (12 CFR 325.0) is amended by substituting the words "subchapter II of chapter 5 of title 5, United States Code" for the words "the Administrative Procedure Act (60 Stat. 237)" and by substituting the words "section 552(a)(1)(D) of title 5, United States Code" for the words "section 3(a)(3) of the Administrative Procedure Act".

The purpose of these amendments is to correct references in § 325.0 of the Corporation's rules and regulations to "the Administrative Procedure Act (60 Stat. 237)" and to "section 3(a)(3) of the Administrative Procedure Act" which were rendered inaccurate by the revision, codification, and enactment of title 5, United States Code, by the Act of September 6, 1966 (80 Stat. 378).

Inasmuch as the Board of Directors has found, pursuant to § 302.6 of the Corporation's rules and regulations (12 CFR 302.6), that the amendments to § 325.0 are editorial and not substantive in nature and that notice, public participation, and prior publication are unnecessary and would serve no useful purpose, the requirements of section 553 of title 5, United States Code, with respect to notice, public participation, and deferred effective date were not followed in connection with these amendments. (Sec. 9, 64 Stat. 881; 12 U.S.C. 1819.)

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] E. F. DOWNEY,
*Secretary.*

[F.R. Doc. 67-8321; Filed, July 18, 1967; 8:49 a.m.]

## PART 327—ASSESSMENTS

### Payment of Assessments by Banks Whose Insured Status Has Terminated

Effective on the date of publication of this amendment in the FEDERAL REGISTER, the first sentence of paragraph (c) of § 327.3 *Payment of assessments by banks whose insured status has terminated* of the rules and regulations of the Federal Deposit Insurance Corporation is amended by substituting the words "section 8 (a) or (o)" for the words "section 8 (a) or (b)".

Section 202 of the Financial Institutions Supervisory Act of 1966 (80 Stat. 1046) redesignated subsection (b) of section 8 of the Federal Deposit Insurance Act as subsection (o) of section 8. The amendment to § 327.3(c) of the Corporation's rules and regulations reflects this redesignation of subsections.

Inasmuch as the Board of Directors has found, pursuant to § 302.6 of the Corporation's rules and regulations (12 CFR 302.6), that the amendment to § 327.3(c) is editorial and not substantive in nature and that notice, public participation, and prior publication are unnecessary and would serve no useful purpose, the requirements of section 553 of title 5, United States Code, with respect to notice, public participation, and deferred effective date were not followed in connection with this amendment. (Sec. 9, 64 Stat. 881; 12 U.S.C. 1819.)

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] E. F. DOWNEY,
*Secretary.*

[F.R. Doc. 67-8322; Filed, July 18, 1967; 8:49 a.m.]

## PART 331—INSURANCE OF TRUST FUNDS

### Claim by Fiduciary Bank for Insured Deposits of Trust Estates

Effective on the date of publication of this amendment in the FEDERAL REGISTER, § 331.1(d) of the rules and regulations of the Federal Deposit Insurance Corporation (12 CFR 331.1(d)) is amended to read as follows:

**§ 331.1 Claim by fiduciary bank for insured deposits of trust estates.**

* * * * *

(d) *Insured deposit of a trust estate.* In arriving at the total insured deposit of a fiduciary bank or trust company with respect to any trust estate, the deposit of such estate as determined in accordance with any paragraph of this section shall be combined with that determined under any other paragraph of this section and the insured deposit shall be the total less any amount thereof in excess of $15,000.

Section 301 of the Financial Institutions Supervisory Act of 1966 (80 Stat. 1055) increased the maximum amount of the insured deposit of any depositor from $10,000 to $15,000. The amendment to § 331.1(d) of the Corporation's rules and regulations reflects the increase in the maximum amount of insurance coverage and makes other changes of an editorial nature.

Inasmuch as the Board of Directors has found, pursuant to § 302.6 of the Corporation's rules and regulations (12 CFR 302.6), that the amendment to § 331.1(d) is editorial and not substantive in nature and that notice, public participation, and prior publication are unnecessary and would serve no useful purpose, the requirements of section 553 of title 5, United States Code, with respect to notice, public participation, and deferred effective date were not followed in connection with this amendment. (Sec. 9, 64 Stat. 881; 12 U.S.C. 1819.)

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] E. F. DOWNEY,
*Secretary.*

[F.R. Doc. 67-8323; Filed, July 18, 1967; 8:49 a.m]

# Title 16—COMMERCIAL PRACTICES

## Chapter I—Federal Trade Commission

[Docket No. 8684o]

## PART 13—PROHIBITED TRADE PRACTICES

### Henderson Tobacco Market Board of Trade, Inc., et al.

Subpart—Combining or conspiring: § 13.395 *To control marketing practices and conditions;* § 13.470 *To restrain and monopolize trade.* Subpart—Cutting off access to customers or market: § 13.573 *Limiting new warehouse facilities.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Henderson Tobacco Market Board of Trade, Inc., et al., Henderson, N.C., Docket 8684, June 15, 1967]

Order requiring a Henderson, N.C., tobacco warehousing trade association and its members to cease restraining competition in the buying and selling of leaf tobacco through the adoption of by-laws and other rules which favor established warehouses and penalize new entrants.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

*It is ordered,* That the following order be substituted for the order to cease and desist contained in the initial decision:

ORDER

*It is ordered,* That respondents Henderson Tobacco Market Board of Trade, Inc., a corporation, its successors or assigns, and all of its officers, including its present officers, Charles Brooks Turner, president, W. J. Alston, Jr., vice president, William H. Hoyle, secretary-treasurer, directors and members, agents or instrumentalities; W. J. Alston, Jr., trading under the name and style of Farmer's Warehouse, individually and as a member of said board; A. H. Moore and C. E. Jeffcoat, trading under the name and style of Moore's Big Banner Tobacco Warehouse, individually and as members of said board; M. L. Hight, B. W. Young, and J. S. Royster, copartners trading under the name and style of Carolina Tobacco Warehouse, individually and as members of said board; C. B. Turner, R. E. Tanner, S. P. Flemming, and R. E. Flemming, trading under the name and style of High Price Tobacco Warehouse, individually and as members of said board; George T. Robertson and Samuel E. Southerland, trading under the name and style of Liberty Warehouse and Robertson & Southerland, as members of said board; F. H. Ellington and John Ellington, trading under the name and style of Ellington Warehouse, as members of said board; and all of the above-named persons as representatives of all of the warehouse members of said board and as officers and directors, directly or through any corporate or other device, in connection with procuring, purchasing, offering to purchase or selling or offering for sale, leaf tobacco, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from entering into, participating, continuing, cooperating in, or carrying out, or directing or instigating any planned common course of action, course of dealing, understanding, plan, combination, or conspiracy between or among any two or more of said respondents, or between any one or more of said respondents and another or other parties hereto, to do or perform any of the following acts and practices:

1. Allocate or cause to be allocated selling time to new entrant warehouses on the Henderson market on any basis or in any manner which refuses to give any credit to the size and capacity of a new entrant in excess of the average size and capacity of all the warehouses operating on the market;

2. Allocate or cause to be allocated any selling time pursuant to any system or method of allocating selling time which takes into account or includes as a basis for such allocation, warehouse space which is not only unsuitable and unavailable, but not actually used for the sale of tobacco at auction;

3. Allocate or cause to be allocated any selling time pursuant to any system, plan, method, policy or practice which fails to accord equitable and nondiscriminatory treatment to all warehouse members on the Henderson market whether said members are established operators or new entrants;

4. Allocate or cause to be allocated any selling time to warehouses operating on the Henderson market on the basis of any system, plan, method, policy or practice with the purpose or effect of restricting, hindering, limiting, preventing or foreclosing any person, firm or corporation from engaging in the tobacco business on the Henderson market either as a warehouse owner or operator, buyer, speculator, broker or rehandler of tobacco;

5. Adopting, using, adhering to or maintaining or attempting to adopt, use, adhere to or maintain any plan, system, method, policy or practice that restricts, hinders, limits, prevents or forecloses any person, firm or corporation from engaging in the tobacco business on the Henderson market either as a warehouse owner or operator, buyer, speculator, broker or rehandler of tobacco;

6. Engaging in any act or practice or entering into any arrangement, agreement or understanding with the purpose or effect of restricting, hindering, limiting, preventing, or foreclosing the entrance of any person, firm or corporation from engaging in the tobacco business on the Henderson market or any other person, firm or corporation already doing business on the Henderson market, from competing therein;

7. Engaging in any act or practice or entering into any arrangement, agreement or understanding with any respondent named herein or with any other person, firm or corporation with the purpose or effect of restricting, hindering, limiting, preventing or foreclosing competition between or among the warehouse members engaged in doing business on the Henderson market;

8. Engaging in any act or practice, the purpose or effect of which is to effectuate any understanding, agreement or combination prohibited herein; or

9. Placing in effect or carrying out any act, practice, policy or method, prohibited by any provision or part of this order, through respondent board or any other instrumentality, agent, agency, medium or representative.

*It is further ordered,* That the complaint be, and it hereby is, dismissed as to George T. Robertson, Samuel E. Southerland, F. H. Ellington, and John Ellington in their individual capacities.

*It is further ordered,* That the complaint be, and it hereby is, dismissed as to Royster-Hight Corp., a corporation, Fred S. Royster, W. G. Royster, and Gilbert F. Ellington.

*It is further ordered,* That the initial decision as modified be, and it hereby is, adopted as the decision of the Commission.

*It is further ordered*, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, submitting a plan, subject to Commission approval, for allocating selling time in compliance with paragraph 2 of the Commission's order and otherwise setting forth in detail the manner and form in which they have complied with the order to cease and desist contained herein.

Issued: June 15, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-8273; Filed, July 18, 1967; 8:45 a.m.]

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[Docket No. C-1227]

## PART 13—PROHIBITED TRADE PRACTICES

### King Distributing Co. and Richard J. Kennedy

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections*: 13.15-50 Dealer as charitable institution; § 13.50 *Dealer or seller assistance*; § 13.60 *Earnings and profits*; § 13.105 *Individual's special selection or situation*. Subpart—Misrepresenting oneself and goods—Goods: § 13.1608 *Dealer or seller assistance*; § 13.1615 *Earnings and profits*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, King Distributing Co. et al., Minneapolis, Minn., Docket C-1227, June 26, 1967]

Consent order requiring a Minneapolis, Minn., distributor of vending machines to cease misrepresenting that prospective purchasers will be specially selected, that their earnings will be any certain amount, that they will be given sales assistance, that the seller is a charitable institution, that purchasers will have exclusive territories and making other deceptive claims in selling its machines and supplies.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

*It is ordered*, That respondents King Distributing Co., a corporation, and its officers, and Richard J. Kennedy, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of vending machines, vending machine supplies, or any other product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that established businesses are being offered for sale by respondents to persons who respond to their advertisements; or misrepresenting, in any manner, the nature of any business opportunity offered by any respondent.

2. Representing, directly or by implication, that purchasers of respondents' products must own an automobile, furnish references, have special qualities or be specially selected to qualify for purchase of respondents' products; or misrepresenting, in any manner, the qualifications or requirements for purchase of respondents' products.

3. Representing, directly or by implication, that selling or soliciting is not required of those investing in any product or business; or misrepresenting, in any manner, the amount of selling or soliciting required in connection with any business.

4. Representing, directly or by implication, that purchasers of respondents' products are granted exclusive territories within which their machines may be placed for operation or that sales will not be made to other persons in such territories; provided, however, that it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that any exclusive territories granted by them are, in fact, in accordance with any represented offer.

5. Representing, directly or by implication, that the price at which respondents offer their vending machines is any amount or percentage less than their fair market value in the vicinity of their anticipated use; or misrepresenting, in any manner, the prices or fair market value of respondents' products in the vicinity of their anticipated use.

6. Representing, directly or by implication, that persons investing in any product or business offered by respondents will have profits or any percentage of profit or will earn any amount of income; provided, however, that it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that any represented percentage of profit or any represented amount of income or profit is the percentage or amount generally realized by previous purchasers of such products or businesses as a result of such purchase.

7. Representing, directly or by implication, that sales routes have been previously established by respondents for purchasers, or that respondents or their sales representatives have obtained or will obtain satisfactory or profitable locations for the purchaser's machines, or that respondents will relocate said machines; or misrepresenting, in any manner, the assistance that will be furnished in obtaining locations for the product or the business purchased.

8. Representing, directly or by implication, that purchasers of respondents' vending machines are given continuing advice and assistance in the operation of the machines; provided, however, that it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that such advice and assistance are actually furnished.

9. Representing, directly or by implication, that previous purchasers of respondents' vending machines are enjoying substantial earnings from the operation of said machines.

10. Representing, directly or by implication, that vending machines sold by respondents are of a specific structural design or type or of a specific capacity: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the machines sold are of the structural design or type and have the capacity represented.

11. Representing, directly or by implication, that respondents will repurchase vending machines or supplies from purchasers thereof who are dissatisfied with the vending machine business.

12. Representing, directly or by implication, that respondents are a nut and candy company, or are seeking to establish future markets for said products, or are selling machines to purchasers at or near cost to establish a market for their nuts, candies or other products; or misrepresenting, in any manner, the kind or character of the business of any respondent or any company represented by any respondent.

13. Representing, directly or by implication, that respondents' prices for nuts or candies or any other product are seven percent or any other percentage or stated amount below normal wholesale prices: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that their prices are, in fact, any represented or stated percentage or amount below normal wholesale prices.

14. Representing, directly or by implication, that the United Crippled Children Fund is similar in organization to other established charities engaged in research activities, or that United Crippled Children Fund is a charitable fund engaged in research activities for the prevention of children's diseases or that United Crippled Children Fund is wholly independent of or unconnected with respondents; or misrepresenting, in any manner, the nature or kind or function of or the past or present relationship with any organization sponsoring, or affiliated with, any respondent.

15. Failing to deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of the respondents' said products to purchasers; and failing to secure from each such person a signed statement acknowledging receipt of said order and agreeing to abide by the requirements of said order and to refrain from engaging in any of the acts or practices prohibited by said order; and for failure to do so, agreeing to dismissal or to the withholding of commissions, salaries and other remunerations or both to dismissal and to withholding of commissions, salaries and other remunerations.

*It is further ordered*, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the man-

ner and form in which they have complied with this order.

Issued: June 26, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-8274; Filed, July 18, 1967; 8:45 a.m.]

[Docket No. C-1229]

## PART 13—PROHIBITED TRADE PRACTICES

### Lee Rogers and S. I. Research Co.

Subpart—Advertising falsely or misleadingly: § 13.170 *Qualities or properties of product or service:* 13.170-22 Corrective, orthopedic, etc.; 13.170-24 Cosmetic or beautifying. Subpart—Using misleading name—Vendor: § 13.2445 *Producer or laboratory status of seller.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Lee Rogers doing business as S. I. Research Co., Los Angeles, Calif., Docket C-1229, June 26, 1967]

Consent order requiring a Los Angeles, Calif., distributor of health pamphlets to cease using deceptive advertising in the sale of his publications.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

*It is ordered,* That the respondent Lee Rogers, an individual, doing business under the name and style of S. I. Research Co., or under any other name or names, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of his pamphlet entitled "Surgical Techniques for Breast Enlargement" or any other pamphlet or publication whether sold under the same name or any other name, do forthwith cease and desist from, either directly or indirectly:

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

(a) Which represents directly or by implication: That the techniques set forth or referred to in his pamphlet entitled "Surgical Techniques for Breast Enlargement" or in any other pamphlet or publication containing substantially similar techniques, will cause or contribute to an increase in the size of, or otherwise bring about any reshaping of the female bust unless it is clearly, conspicuously and prominently disclosed that such procedures and/or techniques (1) cannot be utilized by the layman, and (2) can only be administered by a physician or surgeon.

(b) Which represents directly or by implication: That the respondent is engaged in scientific or medical research or that he owns, maintains or operates a scientific or medical research facility.

(c) Which represents directly or by implication: That the respondent has developed a new or revolutionary procedure, technique, product or device which is capable of enlarging or reshaping the female breast; or which misrepresents in any manner the capability or efficacy of any procedure, technique, product or device to enlarge or reshape the female breast.

(d) Which uses the word "Research" or any other word or words of similar import, in his trade or business name or in any other manner.

(e) Which misrepresents in any manner the nature of respondent's business, or the efficacy or capability of any product or device or any of the procedures or techniques used in connection therewith.

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

*It is further ordered,* That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

Issued: June 26, 1967.

By the Commission, Commissioner Elman not concurring in the issuance of complaint.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-8275; Filed, July 18, 1967; 8:45 a.m.]

[Docket No. 8619 o]

## PART 13—PROHIBITED TRADE PRACTICES

### Rodale Press, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.170 *Qualities or properties of product or service:* 13.170-52 Medicinal, therapeutic, healthful, etc.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Rodale Press, Inc., et al., Emmaus, Pa., Docket 8619, June 20, 1967]

*In the Matter of Rodale Press, Inc., a corporation, and Rodale Books, Inc., a corporation, and Jerome I. Rodale and Robert Rodale, Individually and as Officers of Said Corporations*

Order requiring an Emmaus, Pa., book publisher to discontinue making claims in its advertising that readers of two of its health and diet publications would gain various therapeutic benefits.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

*It is ordered,* That Rodale Press, Inc., and its officers, and Rodale Books, Inc., and its officers, and Jerome I. Rodale and Robert Rodale, individually and as officers of said corporations, and respondents' representatives, agents and employees, directly or through any corporate or other device in connection with the offering for sale, sale or distribution of books or other publications, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Representing in advertising, directly or by implication that:

A. Readers of the book "The Health Finder" and any subsequent editions thereof whether sold under that name or any other name will:

(a) Add years to their lives;

(b) Gain more energy;

(c) Effectuate savings on medical and dental expenditures;

(d) Feel better than ever before;

(e) Prevent the common cold;

(g) Prevent or cure all types of constipation;

(h) Prevent ulcers;

(i) Prevent fatigue;

(j) Prevent goiter;

(k) Prevent high blood pressure;

(l) Prevent cancer;

(m) Prevent, treat or relieve tuberculosis;

(n) Prevent infantile paralysis;

(o) Prevent, relieve or treat all types of heart disease;

(p) Prevent, relieve or treat arthritis;

(q) Prevent mental illness;

B. "The Health Finder" and any subsequent editions thereof whether sold under that name or any other name contains the answer to all health problems;

C. The publication, "How To Eat for a Healthy Heart" and "This Pace Is Not Killing Us," and any subsequent editions whether offered for sale under this name or any other name, will be of benefit in the prevention, treatment or cure of heart disease, unless the specific benefit contained in the book is disclosed in the advertising together with any qualifications and reservations stated in the publication;

D. "The Health Finder," "How To Eat for a Healthy Heart," "This Pace Is not Killing Us," or any subsequent editions thereof, whether sold under said names or any other name or names, will enable the reader to prevent, treat or relieve any stated disease or health problem, without clearly and conspicuously disclosing in the advertising any limitations and/or qualifications of the regimen which is contained in the book.

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

Issued: June 20, 1967.

By the Commission. Commissioner Elman dissented and has filed a dissenting opinion. Commissioner MacIntyre concurred in the result only and has filed a separate statement.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-8276; Filed, July 18, 1967; 8:45 a.m.]

[Docket No. C-1228]

## PART 13—PROHIBITED TRADE PRACTICES

### Sol Tamny Co., Inc., et al.

Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185–90 Wool Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212–90 Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–80 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; secs. 2–5, 54 Stat. 1128–1130; 15 U.S.C. 45, 68) [Cease and desist order, Sol Tamny Co., Inc., trading as Duffield Clothes, New York, N.Y., Docket C–1228, June 26, 1967]

*In the Matter of Sol Tamny Co., Inc., a Corporation, Trading as Duffield Clothes, and Sol Tamny, Individually and as an Officer of Said Corporation*

Consent order requiring a New York City clothing manufacturer to cease misbranding its wool products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

*It is ordered,* That respondents Sol Tamny, Co., Inc., a corporation, trading as Duffield Clothes, or under any other name or names, and its officers, and Sol Tamny, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment or shipment, in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Falsely or deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of the constituent fibers contained therein.

2. Failing to securely affix to or place thereon a stamp, tag, label, or other means of identification correctly showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

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

Issued: June 26, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-8277; Filed, July 18, 1967; 8:45 a.m.]

[Docket Nos. C–1217—C–1226]

## PART 13—PROHIBITED TRADE PRACTICES

### Standard Toykraft, Inc., et al.

Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1057 *Packaging deceptively;*[1] 13.1057–40 Oversized containers.[1] Subpart—Misrepresenting oneself and goods—Goods: § 13.1698 *Packaging deceptively.*[1]

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Consolidated cease and desist order, Standard Toykraft, Inc., et al., Dockets C–1217 through C–1226, June 22, 1967]

Consent orders requiring ten different toy manufacturers to cease using deceptive oversized containers to package toy products.

The consolidated order to cease and desist, including further order requiring report of compliance therewith, is as follows:

*It is ordered,* That each of the respondents named in the appendix, a corporation, and its officers, agents.

The Federal Trade Commission having initiated an investigation of certain acts and practices of each of the respondents named in the appendix herein, and each of the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge each of the respondents with violation of the Federal Trade Commission Act; and

Each of the respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by each of the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondent that the law has been violated as alleged in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having reason to believe that each of the respondents has violated the Federal Trade Commission Act, and having determined that complaints should issue stating its charges in that respect, hereby issues its complaints, accepts said agreements, makes the following jurisdictional findings, and enters the following orders:

1. Each of the respondents named in the appendix is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located as set forth in the appendix.

2. The Federal Trade Commission has jurisdiction of the subject matter of these proceedings and of the respondents, and the proceedings are in the public interest.

[1] Added.

ORDERS

*It is ordered,* That each of the respondents named in the appendix, a corporation, and its officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of the toy products identified by the name specified in the appendix, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Packaging said product in a retail container of a size or capacity in excess of that required solely by the physical dimensions of the merchandise itself; *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for the respondent to establish either:

(a) That retail purchasers, at the time of sale, are as fully aware of the disparity which exists between the size or capacity of the container and the physical dimensions of the merchandise as they would be if the container and the merchandise were displayed side-by-side; or

(b) That the container being employed is not larger in size or capacity than is necessary for the efficient packaging of the merchandise contained therein, and respondent has made all reasonable efforts to prevent any misleading appearance or impression from being created by such container.

2. Providing wholesalers, retailers or other distributors of said product with the means and instrumentalities by and through which they may mislead the purchasing public in the manner described in Paragraph (1) above.

*It is further ordered,* That each of the respondents herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

Issued: June 22, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

APPENDIX

CONSENTING MANUFACTURERS

(C–1217) Standard Toykraft, Inc., 95 Lorimer Street, Brooklyn, N.Y.—"Petal Craft."

(C–1218) Pressman Toy Corp., 1107 Broadway, New York City—"Loomatic."

C–1219) Remco Industries, Inc., Cape May Street, Harrison, N.J.—"Chemistry Science Kit."

(C–1220) Avalon Manufacturing Corp., 128 Middleton Street, Brooklyn, N.Y.—"Paint on Color Velvet."

(C–1221) H. Davis Toy Corp., 461 Frelinghuysen Avenue, Newark, N.J.—"Barrettes."

(C–1222) Lisbeth Whiting Co., Inc., 179–30 93d Avenue, Jamaica, N.Y.—"Bingle Bangle Hat."

(C–1223) Hassenfeld Bros., Inc., 1027 Newport Avenue, Pawtucket, R.I.—"Mary Poppins."

(C–1224) E. S. Lowe Co., Inc., 27 West 20th Street, New York City—"Hoodwink."

(C–1225) Ideal Toy Corp., 184–10 Jamaica Avenue, Hollis, N.Y.—"Snoop."

(C-1226) Kohner Bros., Inc., 1 Paul Kohner Place, East Paterson, N.J.—"Doll Craft."

[F.R. Doc. 67-8278; Filed, July 18, 1967; 8:46 a.m.]

## PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

### Tripartite Promotional Assistance Plan Featuring Rewards to Customers

**§ 15.135 Tripartite promotional assistance plan featuring rewards to customers.**

(a) The Commission was requested to render an advisory opinion concerning the legality of a tripartite promotional program featuring the sale by a promoter to grocery retailers of books in which customers can paste labels from suppliers' products and receive a cash reward depending upon the number of labels collected.

(b) Under the plan, manufacturers will be solicited for permission to show reproductions of their labels, box tops, etc., within the pages of the books at no charge. The promoter will then offer the books for sale to all retailers within the boundaries of the initial test area. The retailers can then distribute the books in any manner they choose, either by mail, house-to-house, or at their stores. They may offer them as a bonus for a certain purchase or for purchases of a specified amount.

(c) Consumers will be invited to buy and try the products shown and to paste or otherwise fasten the actual label or other product identification over the designated space in the book. The books are redeemable for cash at the issuing retailer's store and the value depends upon either the total number of product identifications returned in one type of book or whether all product identifications are returned in the other type of book. The retailer advances the cash reward to consumers redeeming books issued by him. The promoter will then reimburse the retailer the full amount advanced and in addition pay him a checking and handling fee, which will vary depending upon whether it is a completely filled or partially filled book. The promoter will then invoice suppliers based on the number of product identifications returned. This invoice will include an amount sufficient to cover the cash reward to the consumer, the fee to be paid the retailer and a payment to the promoter for his costs plus his profit.

(d) Retailers stocking all the items shown on the inside pages, or willing to do so, will be offered a choice of the two types of books. First, is the book offering a cash reward based on the number of product identifications returned. The consumer can fasten one or more of the product identifications in the book and return it to the retailer for a cash reward. Second, is the book offering a flat cash reward for completely filling the book with all identifications shown. Retailers stocking one or more of the items shown, but not all of them, will be offered the book where redemption value is based on the number of identifications returned. The consumer can make purchases anywhere and fill as many spaces as desired, regardless of limit to items stocked by the issuing retailer.

(e) Retailers using either type of book can choose from individualized covers or preprinted stock covers and will have a choice of using a name coined by the promoter or a name of their own choosing. The cost to the retailer will vary according to the type and quantity of books purchased. The promoter has advised that the differences in costs of both the standard and individualized covers is solely attributable to differences in the cost of printing and distributing different quantities and that the books are to be sold to retailers at cost.

(f) The promoter will mail an "Offer to Retailers" to all grocery stores, supermarkets, headquarters of each local, regional and national chain, wholesalers and the area headquarters or warehouses of each cooperative or association within the geographic area, as their names can be found in trade and telephone directories, route lists, etc. Realizing that some stores might be missing from these lists and also that other types of retailers might be offering at least some of the products shown, the promoter will run an advertisement in every daily newspaper within the area outlining the features of the books and offering to furnish a copy of the notice to any interested retailer. In any county where there is no daily newspaper, the notice or advertisement will be run in a weekly newspaper of general circulation.

(g) The Commission advised that while it believed the promoter had done a commendable job of devising a plan which contained alternatives which should prove to be usable in one form or another by every customer of the participating suppliers, there was still lacking the element of proportionally equal treatment of those customers as required by sections 2 (d) and (e) of the Clayton Act, as amended. In brief, these sections require that whenever a seller makes payments and furnishes services for the benefit of one customer, he must make those payments or services available on proportionally equal terms to all competing customers. If a situation such as this, where a number of suppliers will be making payments to the promoter which will inure to the benefit of their customers, the responsibility rests on the promoter and the suppliers to see that the promotional assistance thereby rendered is made available on proportionally equal terms to each competing customer of each participating supplier.

(h) The Commission's concern with this proposal stemmed first from the fact that the retailers will be charged different prices for these books depending upon the quantities ordered. In one sense, this could be viewed simply as a sale from the promoter to the retailers and thus subject to the cost justification defense which the statute makes available to one charged with a discrimination in price. However, the Commission found it conceptually impossible to lift this transaction out of the whole and view it as a separate price discrimination problem. The proposal involves one essentially promotional program in which the parts cannot be separated from the whole. While it is true that the promoter will sell the books to the retailers, he will do so at cost and this would not be possible were it not for the fact that he will derive his profit from payments made by the suppliers. Thus the Commission ruled that the entire plan was keyed to payments which emanate from the suppliers and this being so all parts must be judged according to the standards set forth in sections 2 (d) and (e) of the Act.

(i) This brought the Commission into confrontation with the fact that the defense of cost justification is not available to one charged with a violation of these Sections. It followed, in the Commission's view, that there was no way to escape the conclusion that the smaller dealers were not being afforded proportionally equal treatment when they had to pay more for the books than did their larger competitors. The opinion acknowledged it to be true that these prices are equally available to all in that all will be charged the same price for the same quantities. But it is equally true that all will not be able to buy in the same quantities. Since the retailers' profits from this plan will equal the amount by which their payments for redeeming books exceed their cost of purchasing such books, the Commission could not view the plan as being available on proportionally equal terms so long as there is a disparity in the prices they must pay in order to participate.

(j) In this connection, the Commission made it clear that it was only concerned with the prices charged for the books with standard covers since those were the real base of the plan. The purchase of books with individualized covers appeared to be purely optional with the retailer if he cared to spend more in order to more closely identify the plan with his own store.

(k) A second respect in which this proposal was held to be deficient under the law stemmed from the fact that the large retailers were apparently to be offered both the fully completed and the partially completed book plans, while the smaller retailers were to be offered only the latter. In the Commission's view, both plans must be affirmatively offered to and made available to all retailers before the overall plan could be said to be available to all competing customers on proportionally equal terms.

(l) The opinion singled out two additional factors of the proposal which should be borne in mind if it is to be conducted within the law. The first concerned the fact that grocery retailers will be notified by mail and all other customers of the participating suppliers will be notified by advertisement. While the statute prescribes no particular method by which the availability of allowances or services is to be communicated to a seller's customers, it is clear that the duty rests upon such seller to see that all competing customers are informed. A plan can only be said to be available to a customer if he knows about

its existence. If the method of notification chosen actually reaches all competing customers, there could be no objection to the plan on that score. However, the promoter was cautioned to keep in mind that the suppliers could incur liability if it subsequently developed that some did not as a matter of fact receive notice because of the method chosen.

(m) The second factor stemmed from the fact that it was proposed initially to test the program in nine contiguous counties. Even though this is a test area the promoter was advised to be careful here not to discriminate against customers located on the fringes but outside the area selected since they may be actually competing with those who are participating. In such situation, the existence of competition prevails, not geographic or political subdivisions, and the fringe area customers, if any there be, who in fact compete must be afforded an equal opportunity to participate.

(38 Stat. 717, as amended; 15 U.S.C. 41–58; 49 Stat. 1526; 15 U.S.C. 13, as amended)

Issued: July 18, 1967.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-8333; Filed, July 18, 1967; 8:50 a.m.]

## PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

### Selective Leasing of Shopping Center Space

**§ 15.136 Selective leasing of shopping center space.**

(a) The Federal Trade Commission was asked its views as to the legality of the following proposed course of conduct: A real estate developer plans to develop a new city composed of some 5,000 families. In connection therewith space is to be made available for business and service facilities. Prospective lessees of this space will be accepted, or rejected, in light of a statistical study purporting to show an optimum occupancy mix.

(b) The Commission advised the requesting party that, in the absence of any purpose or intent to create a monopoly, prospective lessees could be accepted or rejected at will provided the action taken was taken independently and as the result of the lessor's individual judgment.

(c) The Commission noted, however, that it expressed no views as to the propriety, under the trade regulation laws, of any agreement between lessor and lessee as to others to whom space might be leased.

(38 Stat. 717, as amended; 15 U.S.C. 41–58)

Issued: July 18, 1967.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-8334; Filed, July 18, 1967; 8:50 a.m.]

# Title 20—EMPLOYEES' BENEFITS

## Chapter I—Bureau of Employees' Compensation, Department of Labor

## PART 25—COMPENSATION FOR DISABILITY AND DEATH OF NON-CITIZENS OUTSIDE UNITED STATES

### Australia

Pursuant to the authority contained in 5 U.S.C. 8137, 8138, 8145, and 8149; Reorganization Plan No. 19 of 1950 (64 Stat. 1271, 3 CFR, 1949–1953 Comp., p. 1010); and General Order No. 46 (Rev.) of the Secretary of Labor (24 F.R. 8472), I hereby amend Subpart C of 20 CFR Part 25 by revising § 25.22 to read as set forth below.

As Subpart C of 20 CFR Part 25 relates only to public benefits, the provisions of 5 U.S.C. 553 concerning notice of proposed rule making, public participation therein, and delayed effectiveness of substantive rules, do not apply. I do not believe that such procedure will serve a useful purpose here. Accordingly, the amendment shall be effective upon publication in the FEDERAL REGISTER.

As revised, § 25.22 reads as follows:

**§ 25.22 Australia.**

(a) The special schedule of compensation established by Subpart B of this part shall apply, with the modifications or additions specified in paragraph (b) of this section, as of December 8, 1941, in Australia, is all cases of injury (or death from injury) which occurred between December 8, 1941, and December 31, 1941, inclusive, and shall be applied retrospectively in all such cases of injury (or death from injury). Compensation in all such cases pending as of July 15, 1946, shall be readjusted accordingly, with credit taken in the amount of compensation paid prior to such date. Refund of compensation shall not be required if the amount of compensation paid in any such case, otherwise than through fraud, mispresentation, or mistake, and prior to July 15, 1946, exceeds the amount provided for under this paragraph; and such case shall be deemed compromised and paid under 5 U.S.C. 8137.

(b) The total aggregate compensation payable in any case under paragraph (a) of this section, for injury or death or both, shall not exceed the sum of $4,000, exclusive of medical costs. The maximum monthly rate of compensation in any such case shall not exceed the sum of $50.

(c) The benefit amounts payable under the provisions of the Commonwealth Employees' Compensation Act 1930—1964, Australia, shall apply as of January 1, 1962, in Australia, as the exclusive measure of compensation in cases of injury (or death from injury) occurring on and after January 1, 1962, and shall be applied retrospectively in all such cases occurring on and after such date: *Provided*, That the compensation payable under the provisions of this paragraph shall in no event exceed that payable under the Federal Employees' Compensation Act.

(5 U.S.C. 8137, 8138, 8145, 8149; Reorganization Plan No. 19 of 1950 (64 Stat. 1271, 3 CFR, 1949–1953 Comp., p. 1010); and General Order No. 46 (Rev.), 24 F.R. 8472)

Signed at Washington, D.C., this 10th day of July 1967.

THOMAS A. TINSLEY, *Director, Bureau of Employees' Compensation.*

[F.R. Doc. 67-8332; Filed, July 18, 1967; 8:50 a.m.]

# Title 21—FOOD AND DRUGS

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

### SUBCHAPTER B—FOOD AND FOOD PRODUCTS

## PART 121—FOOD ADDITIVES

### Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

PACKAGING MATERIALS FOR USE DURING IRRADIATION OF PREPACKAGED FOODS

The Commissioner Food and Drugs, having evaluated the data submitted in a petition (FAP 7M2172) filed by the Department of the Army, U.S. Army Natick Laboratories, Natick, Mass. 01762, and other relevant material, has concluded that § 121.2543 of the food additive regulations should be amended (1) to provide for the safe use of kraft paper as a container incidentally subjected to radiation during the irradiation of flour and (2) to effect editorial clarifications. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 121.2543 is amended by revising the section heading, the introduction of the section, paragraph (a), and the introduction of paragraph (b), and by adding a new subparagraph (5) to paragraph (b). The affected portions read as follows:

**§ 121.2543 Packaging materials for use during the irradiation of prepackaged foods.**

The packaging materials identified in this section may be safely subjected to irradiation incidental to the radiation treatment and processing of prepackaged foods, subject to the provisions of this section and to the requirement that no induced radioactivity is detectable in the packaging material itself:

(a) The radiation of the food itself shall comply with regulations in Subpart G of this Part 121.

(b) The following packaging materials may be subjected to a dose of radiation, not to exceed 1 megarad, unless

otherwise indicated, incidental to the use of gamma radiation in the radiation treatment of prepackaged foods:

* * * * *

(5) Kraft paper prepared from unbleached sulfate pulp to which rosin, complying with § 121.2592, and alum may be added. The kraft paper is used only as a container for flour and is irradiated with a dose not exceeding 50,000 rads.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

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

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

Dated: July 12, 1967.

JAMES L. GODDARD,
*Commissioner of Food and Drugs.*

[F.R. Doc. 67-8297; Filed, July 18, 1967; 8:47 a.m.]

# Title 32A—NATIONAL DEFENSE, APPENDIX

## Chapter XIX—Office of the Maritime Administrator, Department of Commerce

[General Emergency Transportation Order 1-67]

## MA-ET-1—PRIORITY MOVEMENT TO BE ACCORDED TO MATERIALS AND PASSENGERS NECESSARY TO PROMOTE THE NATIONAL DEFENSE

Because of the short supply of domestic transportation equipment, facilities and services due to the current railroad strike which has brought to a halt virtually all transportation of persons and things by rail, and because the remaining transportation facilities of the Nation will be unable to handle all the essential traffic requirements put upon them, it is deemed necessary in the public interest and to promote the national defense to regulate, allocate, and promote the use of water carrier equipment, facilities, and service for preferential transportation of certain passengers, mail, and cargoes, necessary to the national defense; and it being impractical to consult with industry representatives due to the necessity of immediate action.

Now therefore pursuant to Title I of the Defense Production Act of 1950, as amended (50 App. U.S.C. 2061 et seq.), Executive Order 10480, as amended, Executive Order 11362, and the authority delegated to the Maritime Administrator by the Secretary of Commerce pursuant to Department of Commerce Order 117-A (31 F.R. 8087), *It is hereby ordered*, That:

Sec.
1 Transportation of priority cargoes, passengers, and mail.
2 Nonpriority cargoes and passengers.
3 Communications.
4 Applicability.

AUTHORITY: The provisions of this MA-ET-1 issued under sec. 704, 64 Stat. 816; 76 Stat. 112; 50 U.S.C. App. 2154, 2166(a); Executive Order 10480, as amended, Executive Order 11362 (July 16, 1967); and Department of Commerce Order 117-A (31 F.R. 8087).

### Section 1 Transportation of priority cargoes, passengers, and mail.

Every water carrier operating vessels in the coastwise and intercoastal trades, excluding the domestic offshore and inland waterways, are hereby directed to accord priority movement over all other traffic to the transportation on vessels operated by them in such trades, as follows:

(a) All material moving on Government bills of lading issued by military transportation officers;

(b) Material moving on commercial bills of lading specifically certified as essential by defense contract administrators;

(c) Essential government personnel travel including military passengers traveling on Government Travel Requests;

(d) Essential U.S. Mail;

(e) Fresh meats and poultry;

(f) Fresh eggs and milk;

(g) Fresh fruits and vegetables;

(h) Fresh fish and shellfish;

(i) Pharmaceuticals, biologicals, surgical textiles and instruments;

(j) Hospital and sick room supplies and equipment, including diagnostic devices and essential support utilities;

(k) Professional dental supplies and equipment;

(l) Medical laboratory supplies and equipment;

(m) Water and sewage processing and handling supplies and equipment, including chlorine, alum, lime, sulphate of iron, soda ash, and similar chemicals and equipment essential to the continuity of operation of water and sewage installations.

### Sec. 2 Nonpriority cargoes and passengers.

Material and passengers not included in the list set forth in section 1 of this Order may be moved on a space-available basis after all priority items have been accommodated; however, nonpriority material and passengers once loaded should not be displaced by priority movements, nor should allowable nonpriority baggage accompanying passengers be displaced by priority cargo.

### Sec. 3 Communications.

Communications concerning this order should refer to "General Emergency Transportation Order 1-67" and should be addressed to the Secretary, Maritime Administration, Washington, D.C. 20235.

### Sec. 4 Applicability.

The provisions of this order shall apply to coastwise and intercoastal shipping, but excluding shipping on the inland waterways and between the continental United States and the States of Alaska and Hawaii, the Commonwealth of Puerto Rico, and the possessions of the United States.

Issued at Washington, D.C., this 17th day of July 1967.

CARL C. DAVIS,
*Acting Maritime Administrator.*

[F.R. Doc. 67-8417; Filed, July 18, 1967; 8:50 a.m.]

# Title 47—TELECOMMUNICATION

## Chapter I—Federal Communications Commission

[FCC 67-837]

## PART 0—COMMISSION ORGANIZATION

### Miscellaneous Amendments

In the matter of amendment of Part 0, rules and regulations, to implement P.L. 89-487.

1. Rules implementing the Public Information Act of 1966 (P.L. 89-487, July 4, 1966) are set forth below. A substantial effort has been made in devising substantive criteria and procedures to achieve full compliance with both the letter and spirit of that law. The question of fees to cover the cost of locating and producing records for inspection is under consideration and will be dealt with at a subsequent time. In administering these provisions, we will take into account that:

This law was initiated by Congress and signed by the President with several key concerns:

That disclosure be the general rule, not the exception;

That all individuals have equal rights of access;

That the burden be on the Government to justify the withholding of a document, not on the person who requests it;

That individuals improperly denied access to documents have a right to seek injunctive relief in the courts;

That there be a change in Government policy and attitude.[1]

2. The Commission will welcome comment on any provision of these rules. The Commission intends to review the operation of the rules during the next

[1] Attorney General's Memorandum on the Public Information Section of the Administrative Procedure Act, June, 1967, at pp. III-IV.

6 months and to make such changes as are shown to be desirable upon the basis of our experience with them and the comments and views of all interested persons.

3. Authority for the amendments adopted herein is contained in sections 4(i), 4(j) and 303(r) of the Communications Act of 1934, as amended, and P.L. 89-487. Because these amendments pertain to matters of procedure and internal organization, and because their issuance is required by P.L. 89-487, compliance with the notice and effective date provisions of section 4 of the Administrative Procedure Act is neither necessary nor desirable in the public interest.

4. In view of the foregoing: *It is ordered*, Effective July 18, 1967, that Part 0 of the rules and regulations is amended as set forth below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303; and 5 U.S.C. 552)

Adopted: July 13, 1967.

Released: July 18, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
*Secretary.*

I. In Part 0 of Chapter I of Title 47 of the Code of Federal Regulations, Subpart A is amended as follows:

1. Section 0.1 is revised to read as follows:

**§ 0.1 The Commission.**

The Federal Communications Commission is composed of 7 members, who are appointed by the President subject to confirmation by the Senate. Normally, one Commissioner is appointed or reappointed each year, for a term of 7 years.

2. Section 0.3 is revised to read as follows:

**§ 0.3 The Chairman.**

(a) One of the members of the Commission is designated by the President to serve as Chairman, or chief executive officer, of the Commission. As Chairman, he has the following duties and responsibilities:

(1) To preside at all meetings and sessions of the Commission.

(2) To represent the Commission in all matters relating to legislation and legislative reports; however, any other Commissioner may present his own or minority views or supplemental reports.

(3) To represent the Commission in all matters requiring conferences or communications with other governmental officers, departments or agencies.

(4) To coordinate and organize the work of the Commission in such a manner as to promote prompt and efficient disposition of all matters within the jurisdiction of the Commission.

(b) The Commission will, in the case of a vacancy in the Office of the Chairman of the Commission, or in the absence or inability of the Chairman to serve, temporarily designate one of its members to act as Chairman until the cause or circumstance requiring such designation has been eliminated or corrected.

3. Section 0.4 is added to read as follows:

**§ 0.4 Standing committees of Commissioners.**

There are 3 standing committees of Commissioners; the Telegraph Committee, the Telephone Committee, and the Subscription Television Committee, each composed of 3 Commissioners. These committees are delegated authority to act or study and report on certain telegraph, telephone and subscription television matters from time to time.

4. Section 0.5 is revised to read as follows:

**§ 0.5 General description of Commission organization and operations.**

(a) *Principal staff units.* The Commission is assisted in the performance of its responsibilities by its staff, which is divided into the following principal units:

(1) Office of Executive Director.
(2) Office of Chief Engineer.
(3) Office of General Counsel.
(4) Broadcast Bureau.
(5) Common Carrier Bureau.
(6) Safety and Special Radio Services Bureau.
(7) Field Engineering Bureau.
(8) Office of Hearing Examiners.
(9) Review Board.
(10) Office of Opinions and Review.
(11) Office of the Secretary.
(12) Office of Reports and Information.
(13) CATV Task Force.

(b) *Staff responsibilities and functions.* The organization and functions of these major staff units are described in detail in §§ 0.11-0.171. The defense and emergency preparedness functions of the Commission are set forth separately, beginning at § 0.181. For a complete description of staff functions, reference should be made to these provisions. (See also the U.S. Government Organization Manual, which contains a chart showing the Commission's organization, the names of the members and principal staff officers of the Commission, and other information concerning the Commission.) So that the public may more readily inform itself concerning the operations of the Commission as a whole, concerning the staff officials who exercise responsibility over matters in which they are interested and concerning the relationship between the several staff units in such matters, however, a brief overall description of staff functions and responsibilities is set forth in this paragraph.

(1) *The Executive Director.* The Executive Director is directly responsible to the Commission, works under the supervision of the Chairman, and assists him in carrying out the Commission's organizational and administrative responsibilities. His principal role is to see that other staff units work together and promptly dispose of the matters for which they are responsible. He is directly responsible for internal administrative matters such as personnel and budget planning, and supervises implementation of the Public Information Act of 1966.

(2) *The Chief Engineer and the General Counsel.* Though primary responsibility in most established areas of regulation is lodged in other staff units, the Chief Engineer and the General Counsel are responsible for advising the Commission concerning any engineering or legal matter involved in the making and implementation of policy or in the decision of cases. For example, while policies relating solely to broadcasting are primarily the responsibility of the Broadcast Bureau, and the preparation of Commission opinions in hearing cases is primarily the responsibility of the Office of Opinions and Review, the Chief Engineer and the General Counsel may be called upon for advice and assistance in either area. The Chief Engineer and the General Counsel, in addition, exercise primary responsibility in areas of regulation which transcend the responsibilities of a single bureau. Thus, for example, the General Counsel is primarily responsible for the Rules of Practice and Procedure, Part 1 of this chapter, and the Chief Engineer is primarily responsible for frequency allocation and for other areas of regulation under Parts 2, 5, and 15. The General Counsel also represents the Commission in litigation in the courts and coordinates the preparation of the Commission's legislative program. Both the Chief Engineer and the General Counsel exercise responsibility in matters pertaining to international communications.

(3) *The operating bureaus.* The principal work load operations of the Commission are conducted by the four operating bureaus.

(i) Three of these bureaus: The Broadcast Bureau, Common Carrier Bureau, and Safety and Special Radio Services Bureau—exercise primary responsibility in the three principal areas of regulation into which the Commission has divided its responsibilities. The Broadcast Bureau, as its name indicates, is responsible for the regulation of broadcast stations (see Part 73 of this chapter) and related facilities (see Part 74). The Common Carrier Bureau is responsible for the regulation of communications common carriers whether carriage involves the use of wire or radio facilities (see Parts 21-66). The Safety and Special Radio Services Bureau is responsible for the regulation of all other radio stations with minor exceptions (e.g., experimental stations licensed under Part 5). These include amateur stations and numerous other categories of stations engaged in communication for safety, commercial or personal purposes (see Parts 81-99). Within its area of responsibility, each of these bureaus is responsible for developing and implementing a regulatory program; for processing applications for radio licenses or other filings; for the consideration of complaints and the conduct of investigations; for participation in Commission hearing proceedings as appropriate; and

[1] Commissioners Bartley, Cox, and Loevinger absent.

for the performance of such other functions as may be related to its area of responsibility.

(ii) The fourth operating bureau: The Field Engineering Bureau—maintains field offices and monitoring stations throughout the United States. It is responsible for detecting violations of regulations pertaining to the use of radio and, in this connection, monitors radio transmissions, periodically inspects stations, and investigates complaints of radio frequency interference. It issues violation notices to the station in question, thereby affording it an opportunity to take corrective measures. If formal enforcement action is appropriate, the proceedings are conducted by the staff unit which exercises primary responsibility over the station in question—usually one of the other operating bureaus. The Field Engineering Bureau, in addition, exercises responsibility over commercial radio operator matters (see Part 13 of this chapter), antenna structures (see Part 17), and the use of radio for purposes other than communication (see Part 18). It also conducts amateur operator examinations.

(4) *Staff units which exercise responsibility for the decision of hearing cases.* The Office of Hearing Examiners, the Review Board, and the Office of Opinions and Review exercise responsibility for the decision of hearing cases. The hearing examiners preside over hearing cases and issue initial decisions. In most cases, initial decisions are subject to review by the Revew Board, which is a permanent body composed of three or more senior Commission employees. Initial decisions may also be reviewed by one or more Commissioners designated by the Commission. In such cases, the Board or designated Commissioner(s) issues a final decision, which is subject to possible review by the Commission. In other cases, the initial decision is reviewed directly by the Commission en banc. The Office of Opinions and Review assists and advises the Commission, and any Commissioner(s) designated to review an initial decision, in the decision of cases which come before them.

(5) *The Secretary.* The secretary signs Commission correspondence and documents. He is custodian of the Commission's seal and records. He maintains minutes and records of Commission actions and the dockets of hearing proceedings, and is responsible for their accuracy, authenticity and completeness. Except as otherwise provided in this chapter (see § 0.401), he is the proper addressee and recipient of papers mailed to or filed with the Commission.

(6) *Office of Reports and Information.* The Office of Reports and Information is responsible for informing the public concerning actions which have been taken by the Commission and is the contact point for the press, the industry and the public in the matter of general information relating to the Commission and its activities.

(7) *The CATV Task Force.* The CATV Task Force is responsible for the development and implementation of a regulatory program for community antenna television systems and community antenna relay stations (see Subparts J and K of Part 74 of this chapter). The licensing of related microwave radio facilities is coordinated with the Task Force by the Common Carrier Bureau and the Safety and Special Radio Services Bureau.

(c) *Delegations of authority to the staff.* Pursuant to section 5(d) of the Communications Act, the Commission has delegated authority to its staff to act on matters which are minor or routine or settled in nature and those in which immediate action may be necessary. See Subpart B of this Part. Actions taken under delegated authority are subject to review by the Commission, on its own motion or on an application for review filed by a person aggrieved by the action. Except for the possibility of review, actions taken under delegated authority have the same force and effect as actions taken by the Commission. The delegation of authority to a staff officer, however, does not mean that he will exercise that authority in all matters subject to the delegation. In non-hearing matters, the staff is at liberty to refer any matter at any stage to the Commission for action, upon concluding that it involves matters warranting the Commission's consideration, and the Commission may instruct the staff to do so. In like manner, in hearing cases, pursuant to § 0.361 (b) and (c), the Commission may direct that matters pending before the Review Board be certified to the Commission for decision, and the Board may itself certify such matters to the Commission, with a request that they be acted upon by the Commission.

(d) *Commission action.* Matters requiring Commission action, or warranting its consideration, are dealt with by the Commission at regular weekly meetings, or at special meetings called to consider a particular matter. Meetings are normally held at the principal offices of the Commission in the District of Columbia, but may be held elsewhere in the United States. In appropriate circumstances, Commission action may be taken between meetings "by circulation", which involves the submission of a document to each of the Commissioners for his approval.

II. In Part 0 of Chapter I of Title 47 of the Code of Federal Regulations, Subpart C is amended as follows:

1. The Title of the Subpart is revised to read as follows: Subpart C—General Information.

2. In § 0.401, the portion of paragraph (a) preceding subparagraph (1) is revised to read as follows:

**§ 0.401 Location of Commission offices.**

(a) The main offices of the Commission are located in the New Post Office Building, 13th Street and Pennsylvania Avenue NW., Washington, D.C., and in the 521 Building, 521 12th Street NW., Washington, D.C.

* * * * *

3. Sections 0.403–0.431 are revoked and §§ 0.403–0.475 are added in lieu thereof, with appropriate undesignated center headings, to read as follows:

**§ 0.403 Office hours.**

The Offices of the Commission are open from 8:30 a.m. to 5 p.m., Monday through Friday, excluding legal holidays.

**§ 0.405 Statutory provisions.**

The following statutory provisions, among others, will be of interest to persons having business with the Commission:

(a) The Federal Communications Commission was created by the Communications Act of 1934, 48 Stat. 1064, June 19, 1934, as amended, 47 U.S.C. 151–609.

(b) The Commission exercises authority under the Submarine Cable Landing Act, 42 Stat. 8, May 27, 1921, 47 U.S.C. 34–39. See section 5 of Executive Order 10530, 19 F.R. 2709, May 10, 1954, as amended, 3 CFR 1965 ed., p. 463.

(c) The Commission exercises authority under the Communications Satellite Act of 1962, 76 Stat. 419, August 31, 1962, 47 U.S.C. 701–744.

(d) The Commission operates under the Administrative Procedure Act, 60 Stat. 237, June 11, 1946, as amended, originally codified as 5 U.S.C. 1001–1011. Pursuant to P.L. 89–554, September 6, 1966, 80 Stat. 378, the provisions of the Administrative Procedure Act now appear as follows in the Code:

| *Administrative Procedure Act* | *5 U.S.C.* |
|---|---|
| Sec. 2–9 | 551–558 |
| Sec. 10 | 701–706 |
| Sec. 11 | 3105, 7521, 5362, 3344, 1305 |
| Sec. 12 | 559 |

**§ 0.406 The rules and regulations.**

Persons having business with the Commission should familiarize themselves with those portions of its rules and regulations pertinent to such business. All of the rules have been published and are readily available. See §§ 0.411(b), 0.412, and 0.415. For the benefit of those who are not familiar with the rules, there is set forth in this section a brief description of their format and contents.

(a) *Format.* The rules are set forth in the Code of Federal Regulations as Chapter I of Title 47. Chapter I is divided into parts numbered from 0–99. Each part, in turn, is divided into numbered sections. To allow for the addition of new parts and sections in logical sequence, without extensive renumbering, parts and sections are not always numbered consecutively. Thus, for example, Part 2 is followed by Part 5, and § 1.8 is followed by § 1.10; in this case, Parts 3 and 4 and § 1.9 have been reserved for future use. In numbering sections, the number before the period is the part number; and the number after the period locates the section within that part. Thus, for example, § 1.1 is the first section of Part 1 and § 5.1 is the first section in Part 5. Except in the case of accounting regulations (Parts 31–35), the period should not be read as a decimal point; thus, § 1.511 is not located between § 1.51 and § 1.52 but at a much later point in the rules. In citing the Code of Federal Regulations, the citation, 47

CFR 5.1, for example, is to § 5.1 (in Part 5) of Chapter I of Title 47 of the Code, and permits the exact location of that rule. No citation to other rule units (e.g., subpart or chapter) is needed.

(b) *Contents.* Parts 0–19 of the rules have been reserved for provisions of a general nature. Parts 20–69 have been reserved for provisions pertaining to common carriers. Parts 70–79 have been reserved for provisions pertaining to broadcasting. Parts 80–99 have been reserved for provisions pertaining to the Safety and Special Radio Services. In the rules pertaining to common carriers, Parts 21, 23, and 25 pertain to the use of radio; Parts 31–66 pertain primarily to telephone and telegraph companies. In the rules pertaining to broadcasting, Part 74, Experimental, auxiliary and special broadcast services, also contains provisions for regulation of community antenna television (CATV) systems and community antenna relay (CAR) stations. Persons having business with the Commission will find it useful to consult one or more of the following parts containing provisions of a general nature in addition to the rules of the radio or wire communication service in which they are interested:

(1) *Part 0, Commission organization.* Part 0 describes the structure and functions of the Commission, lists delegations of authority to the staff, and sets forth information designed to assist those desiring to obtain information from, or to do business with, the Commission. This Part is designed, among other things, to meet certain of the requirements of the Administrative Procedure Act, as amended.

(2) *Part 1, practice and procedure.* Subpart A of Part 1 contains the general rules of practice and procedure. Except as expressly provided to the contrary, these rules are applicable in all Commission proceedings and should be of interest to all persons having business with the Commission. The subpart also contains certain other miscellaneous provisions. Subpart B contains the procedures applicable in formal hearing proceedings (see § 1.201). Subpart C contains the procedures followed in making or revising the rules and regulations. Subpart D contains rules applicable to applications for licenses in the Broadcast Radio Services, including the forms to be used, the filing requirements, the procedures for processing and acting on such applications, and certain other matters. Subpart E contains general rules and procedures applicable to common carriers. Additional procedures applicable to certain common carriers by radio are set forth in Part 21. Subpart F contains rules applicable to applications for licenses in the Safety and Special Radio Services, including the forms to be used, the filing requirements, the procedures for processing and acting on such applications, and certain other matters. Subpart G contains rules pertaining to application filing fees. Subpart H, concerning ex parte presentations, sets forth standards governing communication with Commission personnel in hearing proceedings and contested application proceedings. Subparts G and H will be of interest to all applicants, and Subpart H will, in addition, be of interest to all persons involved in hearing proceedings.

(3) *Part 2, frequency allocations and radio treaty matters; general rules and regulations.* Part 2 will be of interest to all persons interested in the use of radio. It contains definitions of technical terms used in the rules and regulations; provisions governing the allocation of radio frequencies among the numerous uses made of radio (e.g., broadcasting, land mobile) and radio services (e.g., television, public safety), including the Table of Frequency Allocations (§ 2.106); technical provisions dealing with emissions; provisions dealing with call signs and emergency communications; provisions governing type acceptance and type approval of radio equipment; and a list of treaties and other international agreements pertaining to the use of radio.

(4) *Part 5, experimental radio services (other than broadcast).* Part 5 deals with the temporary use of radio frequencies for research in the radio art, for communication involving other research projects, and for the development of equipment, data, or techniques.

(5) *Part 13, commercial radio operators.* Part 13 describes the procedures to be followed in applying for a commercial operator license, including the forms to be used and the examinations given, and sets forth rules governing licensed operators. It will be of interest to applicants for such licenses, licensed operators, and the licensees of radio stations which may be operated only by persons holding a commercial radio operator license.

(6) *Part 15, radio frequency devices.* Part 15 contains regulations designed to prevent harmful interference to radio communication from radio receivers and other devices which radiate radio frequency energy, and provides for the certification of radio receivers. It also provides for the certification of low power transmitters and for the operation of certificated transmitters without a license.

(7) *Part 17, construction, marking, and lighting of antenna structures.* Part 17 contains criteria for determining whether applications for radio towers require notification of proposed construction to the Federal Aviation Agency, and specifications for obstruction marking and lighting of antenna structures.

(8) *Part 18, industrial, scientific and medical equipment.* Part 18 contains regulations designed to prevent harmful interference to radio communication from ultrasonic equipment, industrial heating equipment, medical diathermy equipment, radio frequency stabilized arc welders, and other equipment which uses radio energy for purposes other than communication.

(9) *Part 19, employee responsibilities and conduct.* Part 19 prescribes standards of conduct for the members and staff of the Commission.

PRINTED PUBLICATIONS

**§ 0.411 General reference materials.**

The following reference materials are available in many libraries and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402:

(a) *Statutory materials.* Laws pertaining to communications are contained in Title 47 of the United States Code. Laws enacted since the printing of the last supplement to the Code are printed individually as slip laws, and these are compiled chronologically in the United States Statutes at Large. The Acts of Congress from 1910–62 pertaining to radio have been compiled in a single volume, Radio Laws of the United States (1962 ed.). See §§ 0.405 and 0.414.

(b) *Regulatory materials*—(1) *The Code of Federal Regulations.* The rules and regulations of the Commission are contained in Chapter I of Title 47 of the Code of Federal Regulations. Chapter I is divided into the following 4 subchapters, which may be purchased separately: Subchapter A—General; Subchapter B—Common Carrier Services; Subchapter C—Broadcast Radio Services; and Subchapter D—Safety and Special Radio Services. Most persons will find that they need Subchapter A, containing the general rules, and one of the other volumes, depending upon their area of interest. These four volumes are revised annually to reflect changes in the rules. See §§ 0.406, 0.412, and 0.415. The Code of Federal Regulations is fully indexed and contains numerous finding aids. See 1 CFR Appendix C.

(2) *The Federal Register.* As rules are adopted, amended, or repealed, the changes are published in the FEDERAL REGISTER, which is published daily except on days following legal holidays. Notices of proposed rule making, other rule making documents, statements of general policy, interpretations of general applicability, and other Commission documents having general applicability and legal effect are also published in the FEDERAL REGISTER. The FEDERAL REGISTER is fully indexed and contains numerous finding aids. See 1 CFR Appendix C.

**§ 0.412 Nongovernment publications.**

(a) *Pike and Fischer Radio Regulation.* This multi-volume service contains the text of statutes, treaties and regulations pertaining to radio; Commission and court decisions; and other materials, including a digest. Information concerning this service may be obtained from Pike and Fischer, Inc., 1726 M Street NW., Washington, D.C. 20036.

(b) *Rules Service Company service.* This service contains Parts 0, 1, 17, 73, 74, and 87 of the rules and regulations and other materials. Information concerning this service may be obtained from the Rules Service Company, 1001 15th Street NW., Washington, D.C. 20005.

NOTE: Other published research materials pertaining to communications will be listed in this section upon request of the publisher.

**§ 0.413 The Commission's printed publications.**

The Commission's printed publications are described in §§ 0.414–0.420. These publications may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The Commission does not furnish copies of these publications but will furnish a price list (Administration Bulletin No. 1) upon request. Requests for copies of that list should be directed to the Office Services Division, Office of Executive Director, Federal Communications Commission, Washington, D.C. 20554.

**§ 0.414 The Communications Act and other statutory materials.**

This publication, with packets of revised pages, contains the Communications Act of 1934, with amendments through 1964; the Administrative Procedure Act, with amendments through 1964; the Judicial Review Act; the Communications Satellite Act of 1962; and selected sections of the Criminal Code pertaining to communications. It also contains indexes to the Communications Act and the Administrative Procedure Act. Persons who do not have ready access to the United States Code, or who refer frequently to these materials, may find this volume to be useful.

**§ 0.415 The rules and regulations (loose-leaf service).**

In this service, the rules and regulations are divided into 10 volumes, each containing several related parts. Each volume may be purchased separately from the Superintendent of Documents. The purchase price for a volume includes a subscription to replacement pages reflecting changes in the rules contained therein until such time as the volume is revised. Each volume is revised periodically, depending primarily on the frequency with which the rules it contains have been amended. When a volume is revised, the revised volume and replacement pages therefor will be furnished to those who renew their subscriptions.

**§ 0.416 The Federal Communications Commission Reports.**

All documents currently adopted by the Commission having precedential or historical significance are published in the FCC Reports. The FCC Reports are published weekly in pamphlet form. The pamphlets are available on a subscription basis, and are subsequently compiled and published in bound volumes. Earlier volumes contain Commission decisions and reports but are less comprehensive than those currently being published. Supplements (to those earlier volumes) containing additional documents having precedential or historical significance will be issued from time to time. Current bound volumes contain indexes, tables of cases and other finding aids.

**§ 0.417 The Annual Reports.**

At the end of each fiscal year, the Commission publishes an Annual Report containing general information concerning the Commission and the history of regulation, a summary of developments during the year, and selected industry statistics.

**§ 0.420 Other Commission publications.**

The following additional Commission publications may be purchased from the Superintendent of Documents:

(a) Statistics of Commnnications Common Carriers (for the year 1965).

(b) Study Guide and Reference Material for Commercial Radio Operator Examinations (May 1965).

(c) Figure M-3, Estimated AM Ground Conductivity of the United States (set of two maps).

(d) Television Network Program Procurement Report, 2d Interim Report, Part 2, by the Office of Network Study.

FORMS AND DOCUMENTS AVAILABLE UPON REQUEST

**§ 0.421 Application forms.**

All forms for use in submitting applications for radio authorizations, together with instructions and information as to filing such forms, may be obtained at the Washington offices of the Commission or at any of the engineering field offices listed in § 0.121. For information concerning the forms to be used and filing requirements, see Subparts D, E, F, and G of Part 1 of this chapter and the appropriate substantive rules.

**§ 0.422 Current action documents and public notices.**

A limited number of copies of the text of documents adopted by the Commission, public notices of Commission actions, and other public releases is made available at the Office of Reports and Information when they are issued. Back issues of public releases are available for inspection in this office.

**§ 0.423 Information bulletins.**

The bulletins listed in this section have been prepared with the specific purpose of providing information to the public concerning communications and the Federal Communications Commission. Copies of these bulletins are available upon request. Many of the bulletins contain references to additional materials and the manner in which they may be obtained, including some which are available from the Commission without charge upon request.

(a) Copies of the following information bulletins issued by the Commission are available in the Office of Reports and Information and will be furnished upon request.

(1) An A–B–C of the FCC (No. 3–G).

(2) Radio Stations and Other Lists (No. 4–G).

(3) Publications and Services (No. 6–G).

(4) A Short History of Electrical Communication (No. 7–G).

(5) Radio Station Call Signs (No. 13–G).

(6) Regulation of Wire and Radio Communication (No. 14–G).

(7) Frequency Allocation (No. 15–G).

(8) Memo to All Young People Interested in Radio (No. 17–G).

(9) Letter to a Schoolboy (No. 18–G).

(10) Policing the Airwaves and Other FCC Field Services (No. 19–G).

(11) Broadcast Application and Hearing Procedures (No. 1–B).

(12) Broadcast Primer (No. 2–B).

(13) Educational Television (No. 16–B).

(14) Subscription TV and the FCC (No. 20–B).

(15) Educational Radio (No. 21–B).

(16) Common Carrier Primer (No. 12–C).

(17) Safety and Special Radio Services Primer (No. 11–S).

(b) Copies of the following information bulletins issued by the Office of Chief Engineer are available in that office and will be furnished upon request:

(1) Type Approved Miscellaneous Equipment (OCE Bull. No. 5).

(2) Type Approved Medical Diathermy Equipment (OCE Bull. No. 7).

(3) Industrial Radio Frequency Heaters Require Periodic Inspection (OCE Bulletin No. 8).

(4) Attachments to Type Approved Equipment Illegal (OCE Bulletin No. 10).

(5) Does My Transmitter Need a License (OCE Bulletin No. 11).

(6) Operation in the Broadcast Band Without a License (OCE Bulletin No. 12).

(7) Type Approved Wireless Microphones and Telemetering Transmitters (OCE Bulletin No. 13).

(8) Editorial Revision of FCC Rules, Parts 15 and 18 (OCE Bulletin No. 14).

(9) Type Acceptance Program (OCE Bulletin No. 15).

(c) Copies of the following information bulletins issued by the Safety and Special Radio Services Bureau are available from the Office Services Division, Office of Executive Director, upon request:

(1) Citizens Radio Service (SS Bulletin No. 1001).

(2) Use of Citizens Radio by Telephone Answering Services and Similar Organizations (SS Bull. No. 1001d).

(3) Citizens Radio Service—Selecting Class C and Class D Station Equipment (SS Bulletin No. 1001g).

(4) Aircraft Radio Station (SS Bulletin No. 1002).

(5) Aeronautical Advisory Stations (SS Bulletin No. 1002a).

(6) Aeronautical Public Service Stations (SS Bulletin No. 1002c).

(7) Amateur Radio Service (SS Bulletin No. 1003).

(8) Amateur Radio Operation Away from the Licensed Location (SS Bulletin No. 1003b).

(9) International Amateur Radiocommunication (SS Bulletin No. 1103c).

(10) Assignment of Amateur Radio Station Call Signs (SS Bulletin No. 1003d).

(11) Renewal of Amateur Radio Licenses (SS Bulletin No. 1003e).

(12) Reciprocal Amateur Operation (SS Bulletin No. 1003f).

(13) Land Transportation Radio Services (SS Bulletin No. 1004).

(14) Industrial Radio Services (SS Bulletin No. 1005).

(15) Use of the Same Transmitting Equipment by More than One Station Licensee in the Public Safety, Industrial and Land Transportation Services (SS Bulletin No. 1006a).

(16) Ship Radiotelephone and Radio (SS Bulletin No. 1007).

(17) Public Safety Radio Services (SS Bulletin No. 1009).

(18) Study Questions for Amateur Novice Class Examination (SS Bulletin No. 1035).

(19) Mutual Recognition of Certain Mobile and Amateur Radio Licenses Issued by the United States or Canada (SS Bulletin No. 1065).

(20) Notice to Licensees and Operators of Land Mobile Radio Stations (SS Bulletin No. 1097).

LISTS CONTAINING INFORMATION COMPILED BY THE COMMISSION

**§ 0.431 The FCC Service Frequency Lists.**

Lists of frequency assignments to radio stations authorized by the Commission are recapitulated periodically by means of a machine record system. All stations licensed by the Commission are included, except the following: Aircraft, Amateur, Citizens (except Class A), Civil Air Patrol, and Disaster. The resulting documents, the FCC Service Frequency Lists, consist of several volumes arranged by nature of service, in frequency order, including station locations, call signs and other technical particulars of each assignment. These documents are available for public inspection at each of the Commission's Field Engineering Bureau field offices (see § 0.121) and, in Washington, D.C. at the Commission's Broadcast and Docket Reference Room and in the offices of the Chief Engineer. They may be purchased from Cooper-Trent, Inc., 1130 19th Street NW., Washington, D.C. 20006.

**§ 0.432 The NARBA List.**

Pursuant to the North American Regional Broadcast Agreement and the United States/Mexican Agreement, appropriate countries are notified of standard broadcast station assignments as they are made. The information thus supplied by notice includes frequency, station location, call letters, power and other technical particulars. Every 6 months, a recapitulative list containing this information for all existing standard broadcast stations, arranged in frequency order, is prepared by the Commission. This is the so-called NARBA List. These lists are available for public examination at each of the Commission's Field Engineering Bureau field offices (see § 0.121) and, in Washington, D.C. at the Commission's Broadcast and Docket Reference Room. They may be purchased from Cooper-Trent, Inc., 1130 19th Street NW., Washington, D.C. 20006.

**§ 0.433 The Radio Equipment Lists.**

Lists of type approved and type accepted equipment (the Radio Equipment Lists) are prepared periodically by the Commission. These documents are available for public inspection at each of the Commission's Field Engineering Bureau field offices (see § 0.121) and in Washington, D.C., in the offices of the Chief Engineer. They may be purchased from Cooper-Trent, Inc., 1130 19th Street NW., Washington, D.C. 20006.

**§ 0.434 Lists of authorized broadcast stations and pending broadcast applications.**

Periodically the Commission prepares lists containing information about authorized broadcast stations and pending applications for such stations. These lists, which are prepared by an addressing machine, contain frequency, station locations, and other particulars. They are available for public examination at the Commission's Broadcast and Docket Reference Room, Washington, D.C., and may be purchased from Cooper-Trent, Inc., 1130 19th Street NW., Washington, D.C. 20006.

(a) For standard broadcast stations the lists are arranged as follows:

(1) Authorized stations arranged in frequency order, alphabetically by State and city, and by call letters.

(2) Pending applications for new stations and major changes in existing facilities arranged in frequency order and alphabetically by State and city.

(b) For FM broadcast stations the lists are arranged as follows:

(1) Authorized stations arranged by call letters and alphabetically by State and city.

(2) Pending applications for new stations and major changes in existing facilities arranged alphabetically by State and city.

(c) For television broadcast stations only one list is prepared. This list contains authorized stations and pending applications for new stations and major changes in existing facilities, and is arranged alphabetically by State and city.

(d) For television broadcast translator stations only one list is prepared. This list contains authorized stations and pending applications for new stations and major changes in existing facilities and is arranged alphabetically by State and city.

PUBLIC INFORMATION AND INSPECTION OF RECORDS

**§ 0.441 General.**

Any person desiring to obtain information may do so by writing or coming in person to any of the Commission's offices. A broader range of information and more comprehensive information facilities are available at the Commission's main office in Washington, D.C., however, and inquiries of a general nature should ordinarily be submitted to that office.

**§ 0.443 General information office.**

The Office of Reports and Information is located in the New Post Office Building. Here the public may obtain copies of public notices of Commission actions, formal documents adopted by the Commission and other public releases, as they are issued. Back issues of public releases are available for inspection in this Office. Copies of fact sheets which answer recurring questions about the Commission's functions may be obtained from this Office.

**§ 0.445 Publication, availability and use of opinions, orders, policy statements, interpretations, administrative manuals, and staff instructions.**

(a) All opinions and orders of the Commission (including concurring and dissenting opinions) are mailed to the parties and, as part of the record, are available for inspection in accordance with §§ 0.453 and 0.455.

(b) All final decisions and other documents currently adopted by the Commission having precedential or historical significance are published in the FCC Reports. Older materials of this nature are either published in the FCC Reports or are in the process of being published. In the event that such other materials are not yet published in the FCC Reports, reference should be made to Pike and Fischer Radio Regulations. See §§ 0.412(a) and 0.416.

(c) All rule making documents are published in the FEDERAL REGISTER. See § 0.411(b)(2).

(d) Formal policy statements and interpretations designed to have general applicability and legal effect are published in the FEDERAL REGISTER and the FCC Reports. See §§ 0.411(b)(2) and 0.416. Commission decisions and other Commission documents not entitled formal policy statements or interpretations may contain substantive interpretations and statements regarding policy, and these are published as part of the document in the FCC Reports. General statements regarding policy and interpretations furnished to individuals, in correspondence or otherwise, are not ordinarily published. A series of individual interpretations may be collected and published in the FEDERAL REGISTER and the FCC Reports.

(e) If the documents described in paragraphs (a)–(d) of this section are published in the FEDERAL REGISTER, the FCC Reports, or Pike and Fischer Radio Regulations, they may be relied upon, used or cited as precedent by the Commission or private parties in any matter. If they are not so published, they may not be relied upon, used or cited as precedent, except against persons who have actual notice of the document in question or by such persons against the Commission. No person is expected to comply wtih any requirement or policy of the Commission unless he has actual notice of that requirement or policy or unless a document stating it has been published as provided in this parargaph. Nothing in this paragraph, however, shall be construed as precluding a reference to the rationale set forth in a recent document which is pending publication if the requirement or policy to which the rationale relates is contained in a published document or if actual notice of that requirement or policy has been given.

(f) The FEDERAL REGISTER, the FCC Reports, and Pike and Fischer Radio Regulations are indexed. If the documents described in paragraphs (a)–(d) of this section are not published, they are neither indexed nor relied upon, except

as provided in paragraph (e) of this section.

(g) There are two Commission staff manuals, the FCC Administrative Manual and the FEB Manual. They have not been published. The FCC Administrative Manual (excepting Part IX, concerning Civil Defense, which contains materials classified under E.O. 10501) is available for inspection in the Office of the Executive Director. Portions of the FEB Manual which pertain to administrative matters are available for inspection in the Field Engineering Bureau. Portions of the FEB Manual which pertain to enforcement matters are not available for inspection. (See, Attorney General's Memorandum on the Public Information Section of the Administrative Procedure Act, June 1967, at pages 16–17.) The manuals are not indexed but are organized by subject, with tables of contents, and the materials contained therein can be located without difficulty.

(h) Subparts A and B of this part describe the functions of the staff and list the matters on which authority has been delegated to the staff. Except as provided in paragraph (g) of this section, all general instructions to the staff and limitations upon its authority are set forth in those subparts. As part of the Commission's rules and regulations, the provisions of these subparts are indexed in the FEDERAL REGISTER and the Code of Federal Regulations. Instructions to the staff in particular matters or cases are privileged and are not published or made available for public inspection.

(i) To the extent required to prevent a clearly unwarranted invasion of personal privacy, the Commission may delete identifying details when it makes available or publishes any document described in this section. The justification for any such deletion will be fully explained in a preamble to the document.

**§ 0.451 Inspection of records.**

(a) *Records which are routinely available for public inspection.* Sections 0.453 and 0.455 list examples of the Commission's records which are routinely available for public inspection, and the places at which those records may be inspected. Subject to the following limitations, and to the provisions of § 0.466, those records will be made available for inspection to any person upon request:

(1) The person desiring to inspect those records must appear at the location specified during the office hours of the Commission and must inspect the records at that location.

(2) The request must be reasonable in scope, and the records in question must be so identified as to permit their location by staff personnel without undue disruption of their regular duties. The information needed to locate the records will vary, depending upon the records requested. Advice concerning the kind of information needed to locate particular records will be furnished in advance upon request. Members of the public will not be given access to the area in which the records are kept and will not be permitted to search the files.

(3) Current records may be in use by the staff when the request is made. Older records may have been forwarded to another location for storage. In these and similar circumstances, there may be a delay in furnishing the records requested. To avoid inconvenience in such circumstances, arrangements may be made in advance, by telephone or correspondence, to make the records available for inspection on a specified date.

(b) *Records not routinely available for public inspection.* (1) Section 0.457 lists records which are not routinely available for public inspection. In some cases, the Commission is prohibited from permitting the inspection of records. In other cases, the records are the property of another agency, and the Commission has no authority to permit their inspection. In still other cases, the Commission is authorized, for reasons of policy, to withhold records from public inspection, but is not required to do so. The statutory basis for withholding records from public inspection and the underlying policy considerations are outlined briefly in § 0.457, with the intent of assisting those who may wish to file requests for inspection under § 0.461. See subparagraph (3) of this paragraph.

(2) Section 0.459 governs requests from members of the public that materials they submit to the Commission not be made available for public inspection.

(3) Except where the disclosure of records by the Commission is prohibited or where the records are the property of another agency, the Commission will consider requests that records withheld from public inspection be made available for inspection, and reach a judgment whether such requests should be granted in the public interest, taking into account the policies of Public Law 89–487, 5 U.S.C. 552. If the records are the property of another agency, the request will be referred to that agency. Procedures governing requests for inspection are set forth in §§ 0.461 and 0.466. Procedures governing demands by competent authority for inspection of records are set forth in § 0.463.

(4) Except as provided in §§ 0.461 and 0.463, no officer or employee of the Commission shall permit the inspection of records which are not routinely available for inspection under § 0.453 or § 0.455, or disclose information contained therein.

(c) *Records not listed in § 0.453 or § 0.455.* To be as helpful as possible to the public, numerous examples of records which are routinely available for inspection are listed in §§ 0.453 and 0.455. Though the examples cover the bulk of the Commission's records and should cover most requests for inspection, the listing is inevitably not complete. If such example listing proves helpful, it may be supplemented from time to time.

(d) *Copies.* Section 0.465 applies to requests for copies of Commission records which are routinely available for public inspection under §§ 0.453 and 0.455 and those which are made available for inspection under § 0.461. Section 0.467 applies to certified copies of Commission records.

**§ 0.453 Public reference rooms.**

The Commission maintains the following public reference rooms at its offices in Washington, D.C.:

(a) *The Broadcast and Dockets Reference Room.* The following documents, files and records are available for inspection at this location:

(1) Files containing the record of all docketed cases. A file is maintained for each hearing case and for each docketed rule making proceeding. Cards summarising the history of such cases are available for inspection in the Dockets Division.

(2) Broadcast applications and related files.

(3) Files containing petitions for rule making and related papers.

(4) Rulings under the fairness doctrine and section 315 of the Communications Act, and related materials.

(b) *The Amateur License Reference Room.* Information concerning amateur radio operators is available for inspection at this location.

(c) *The Library.* Various legal and technical publications, and legislative history compilations, related to communications are available for inspection in the Library.

**§ 0.455 Other locations at which records may be inspected.**

Except as provided in §§ 0.453, 0.457, and 0.459, records are routinely available for inspection in the offices of the Bureau or Office which exercises responsibility over the matters to which those records pertain (see § 0.5), or will be made available for inspection at those offices upon request. Upon inquiry to the appropriate Bureau or Office, persons desiring to inspect such records will be directed to the specific location at which the particular records may be inspected. A list of Bureaus and Offices and examples of the records available at each is set out below.

(a) *Office of Chief Engineer.* (1) Experimental application and license files.

(2) The Master Frequency Records (Standard Form 128).

(b) *Broadcast Bureau.* (1) Applications for broadcast authorizations and related files are available for public inspection in the Broadcast and Dockets Reference Room. See § 0.453(a)(2). Certain broadcast applications, reports and records are also available for inspection in the community in which the main studio of the station in question is located or proposed to be located. See § 1.526 of this chapter.

(2) Ownership reports filed by licensees of broadcast stations pursuant to § 1.615 of this chapter.

(c) *Common Carrier Bureau.* (1) Annual reports filed by carriers and certain affiliates under § 43.21 of this chapter.

(2) Monthly reports filed by carriers under § 43.31 of this chapter.

(3) Reports on pensions and benefits filed by carriers under § 43.42 of this chapter.

(4) Reports of proposed changes in depreciation rates filed by carriers under § 43.43 of this chapter.

(5) Reports regarding division of international telegraph communication charges filed under § 43.53 of this chapter.

(6) Reports regarding services performed by telegraph carriers filed under § 43.54 of this chapter.

(7) Reports of public coast station operators filed under § 43.71.

(8) Valuation reports filed under section 213 of the Communications Act, including exhibits filed in connection therewith, unless otherwise ordered by the Commission, with reasons therefor, pursuant to section 213(f) of the Communications Act. See § 0.457(c)(2).

(9) A list of other reports filed by common carriers.

(10) Contracts and other arrangements filed under § 43.51 and reports of negotiations regarding foreign communication matters filed under § 43.52 of this chapter, except for those kept confidential by the Commission pursuant to section 412 of the Communications Act. See § 0.457(c)(3).

(11) Tariff schedules for all charges for interstate and foreign wire or radio communications filed pursuant to section 203 of the Communications Act, all documents filed in connection therewith, and all communications related thereto.

(12) All applications for common carrier authorizations, both radio and nonradio, and files relating thereto.

(13) All formal and informal complaints against common carriers filed under §§ 1.711–1.735 of this chapter, all documents filed in connection therewith, and all communications related thereto.

(14) Files relating to submarine cable landing licenses, except for maps showing the exact location of submarine cables, which are withheld from inspection under section 4(j) of the Communications Act. See § 0.457(c)(1)(i).

(d) *Safety and Special Radio Services Bureau.* (1) All applications for authorizations in the Safety and Special Radio Services and files relating thereto. These materials are available at the offices of the Divisions of the Bureau which process the applications in question. See § 1.951 of this chapter. Information concerning amateur radio operators is available for inspection at the Amateur License Reference Room (see § 0.453(b)).

(e) *Field Engineering Bureau.* (1) Commercial radio operator application files. See, however, § 0.457(f)(3).

(2) Files pertaining to the certification of plants or equipment under Part 18 of this chapter.

(f) *Office of the Secretary.* (1) All minutes of Commission actions, containing a record of all final votes, except for minutes of actions on classified matters and internal management matters as provided in § 0.457(b)(1) and (c)(1)(ii). These minutes are available for inspection in the Minute and Rules Division.

(2) Files containing information concerning the history of the Commission's rules. These files are available for inspection in the Minute and Rules Division.

(g) *Office of Reports and Information.* See § 0.443.

(h) *The Commission's offices in Gettysburg, Pennsylvania.* (1) Amateur and Citizens Radio Service application files.

(2) Commercial radio operator application files. See, however, § 0.457(f)(3).

(i) *CATV Task Force.* CATV petitions, requests and related files.

### § 0.456 General correspondence files.

Due to the general nature of the Commission's correspondence files, the contents of those files will be made available for inspection under procedures set forth in § 0.461. Before correspondence is made available for inspection under the provisions of that section, it will be reviewed by the Commission's staff to determine whether it should be withheld from inspection under § 0.457. In view of the burden which could be imposed by requests lacking in specificity, persons desiring to inspect materials contained therein will be required to identify those materials with particularity. Requests of a general nature will not be granted. Details of a personal nature, including the name and address of the correspondent, may be deleted from correspondence which is made available for inspection, if their deletion is warranted under § 0.457(f) or (g).

### § 0.457 Records not routinely available for public inspection.

The records listed in this section are not routinely available for public inspection. The records are listed in this section by category, according to the statutory basis for withholding those records from inspection; and under each category, if appropriate, the underlying policy considerations affecting the withholding and disclosure of records in that category are briefly outlined. Except where the records are not the property of the Commission or where the disclosure of those records is prohibited by law, the Commission will entertain requests from members of the public under § 0.461 for permission to inspect particular records withheld from inspection under the provisions of this section, and will weigh the policy considerations favoring non-disclosure against the reasons cited for permitting inspection in the light of the facts of the particular case. In making such requests, it is important to appreciate that there may be more than one basis for withholding particular records from inspection. The listing of records by category is not intended to imply the contrary but is solely for the information and assistance of persons making such requests.

(a) *Materials that are specifically required by executive order to be kept secret in the interest of the national defense or foreign policy, 5 U.S.C. 552(e)(1).* (1) E.O. 10450, "Security Requirements for Government Employees," 18 F.R. 2489, April 27, 1953, 3 CFR, 1949–1953 Comp., p. 936. Pursuant to the provisions of E.O. 10450, reports and other material and information developed in security investigations are the property of the investigative agency. If they are retained by the Commission, it is required that they be maintained in confidence and that no access be given to them without the consent of the investigative agency. Such materials and information will not be made available for public inspection. See also paragraphs (f) and (g) of this section.

(2) E.O. 10501, "Safeguarding Official Information in the Interests of the Defense of the United States," 18 F.R. 7049, November 10, 1953, as amended, 3 CFR, 1965 ed., p. 450. E.O. 10501, as amended, provides for the classification of official information which requires protection in the interests of national defense, and prohibits the disclosure of classified information except as provided therein. Classified materials and information will not be made available for public inspection. See also, E.O. 10033, February 8, 1949, 14 F.R. 561, 3 CFR, 1949–1953 Comp., p. 226, and 47 U.S.C. 154(j).

(b) *Materials that are related solely to the internal personnel rules and practices of the Commission, 5 U.S.C. 552(e)(2).* (1) Materials related solely to internal management matters, including minutes of Commission actions on such matters. Such materials may be made available for inspection under § 0.461, however, unless their disclosure would interfere with or prejudice the performance of the internal management functions to which they relate, or unless their disclosure would constitute a clearly unwarranted invasion of personal privacy (see paragraph (f) of this section).

(2) Materials relating to the negotiation of contracts.

(c) *Materials that are specifically exempted from disclosure by statute, 5 U.S.C. 552(e)(3).* The Commission is authorized under the following statutory provisions to withhold materials from public inspection:

(1) Section 4(j) of the Communications Act, 47 U.S.C. 154(j), provides, in part, that, "The Commission is authorized to withhold publication of records or proceedings containing secret information affecting the national defense." Pursuant to that provision, it has been determined that the following materials should be withheld from public inspection (see also paragraph (a) of this section):

(i) Maps showing the exact location of submarine cables.

(ii) Minutes of Commission actions on classified matters.

(iii) Maps of nation-wide point-to-point microwave networks.

(2) Under section 213(f) of the Communications Act, 47 U.S.C. 213(f), the Commission is authorized to order, with the reasons therefor, that records and data pertaining to the valuation of the property of common carriers and furnished to the Commission by the carriers pursuant to the provisions of that section, shall not be available for public inspection. If such an order has been issued, the data and records will be withheld from public inspection, except under the provisions of § 0.461. Normally, however, such data and information is available for inspection. See § 0.455(c)(8).

(3) Under section 412 of the Communications Act, 47 U.S.C. 412, the Commission may withhold from public inspection certain contracts, agreements and arrangements between common carriers relating to foreign wire or radio communication. Reports of negotiations regarding such foreign communication matters, filed by carriers under § 43.52 of this chapter, may also be withheld from public inspection under section 412. Any person may file a petition requesting that such materials be withheld from public inspection. To support such action, the petition must show that the contract, agreement or arrangement relates to foreign wire or radio communications; that its publication would place American communication companies at a disadvantage in meeting the competition of foreign communication companies; and that the public interest would be served by keeping its terms confidential. If the Commission orders that such materials be kept confidential, they will be made available for inspection only under the provisions of § 0.461.

(4) Section 605 of the Communications Act, 47 U.S.C. 605, provides, in part, that, "no person not being authorized by the sender shall intercept any communication [by wire or radio] and divulge or publish the existence, contents, substance, purport, effect, or meaning of such intercepted communications to any person." In executing its responsibilities, the Commission regularly monitors radio transmissions (see § 0.116). Except as required for the enforcement of the communications laws, treaties and the provisions of this chapter, or as authorized in section 605, the Commission is prohibited from divulging information obtained in the course of these monitoring activities; and such information, and materials relating thereto, will not be made available for public inspection.

(5) Section 1905 of the Criminal Code, 18 U.S.C. 1905, prohibits the unauthorized disclosure of certain confidential information. See paragraph (d) of this section.

(d) *Trade secrets and commercial or financial information obtained from any person and privileged or confidential, 5 U.S.C. 552(e)(4) and 18 U.S.C. 1905.* Section 552(e)(4) is specifically applicable to trade secrets and commercial or financial information but is not limited to such matters. Under this provision, the Commission is authorized to withhold from public inspection materials which would be privileged as a matter of law if retained by the person who submitted them and materials which would not customarily be released to the public by that person, whether or not such materials are protected from disclosure by a privilege. See, Attorney General's Memorandum on the Public Information Section of the Administrative Procedure Act, June 1967, at pages 32–34.

(1) Materials submitted to the Commission which contain trade secrets, or which contain commercial, financial or technical data which would customarily be guarded from competitors by the person submitting it, will not ordinarily be made available for inspection. A persuasive showing as to the reasons for inspection of such materials, and as to the Commission's authority to make disclosure in view of 18 U.S.C. 1905, will be required in requests for inspection submitted under § 0.461. This category includes the following materials:

(i) Financial reports submitted by licensees of broadcast stations pursuant to § 1.611 of this chapter or by radio and television networks.

(ii) Technical data submitted in connection with type acceptance, type approval or certification of equipment, except as set out in the Radio Equipment Lists. See § 0.433.

(2) Prior to July 4, 1967, the rules and regulations provided that certain materials submitted to the Commission would not be made available for public inspection or provided assurance, in varying degrees, that requests for non-disclosure of certain materials would be honored. See, e.g., 47 CFR (1966 ed.) 2.557, 5.204, 5.255, 15.70, 21.406, 81.506, 83.436, 87.153, 89.215, 91.208, 91.605 and 93.208. Materials submitted under these provisions are not routinely available for public inspection. If a request for inspection is submitted under § 0.461, the Commission will then determine whether it is appropriate to withhold the materials in question from public inspection. To the extent that such materials were accepted on a confidential basis under the then existing rules, no disclosure of such materials will be made, absent a most compelling showing. See § 0.461 for provision for comments on a request for disclosure. The rules referred to above are superseded by the provisions of this subpart.

(3) Requests that materials submitted to the Commission on or after July 4, 1967, be withheld from public inspection are governed by § 0.459.

NOTE: Section 1905 of the Criminal Code, 18 U.S.C. 1905, prohibits the unauthorized disclosure of certain confidential information by employees of the United States. That section reads as follows:

Section 1905. *Disclosure of confidential information generally.*

Whoever, being an officer or employee of the United States or of any department or agency thereof, publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; shall be fined not more than $1,000, or imprisoned not more than one year, or both; and shall be removed from office or employment (June 25, 1948, ch. 645, 62 Stat. 791).

(e) *Interagency and intra-agency memorandums or letters, 5 U.S.C. 552(e)(5).* Interagency and intra-agency memorandums or letters and the work papers of members of the Commission or its staff will not be made available for public inspection, except in accordance with the procedures set forth in § 0.461. Only if it is shown in a request under § 0.461 that such a communication would be routinely available to a private party through the discovery process in litigation with the Commission will the communication be made available for public inspection. Normally such papers are privileged and not available to private parties through the discovery process, since their disclosure would tend to restrain the commitment of ideas to writing, would tend to inhibit communication among Government personnel, and would, in some cases, involve premature disclosure of their contents.

(f) *Personnel, medical and other files whose disclosure would constitute a clearly unwarranted invasion of personal privacy, 5 U.S.C. 552(e)(6).* (1) Under Executive Order 10561, 19 F.R. 5963, September 13, 1954, 3 CFR 1954–58 Comp., page 205, the Commission maintains an Official Personnel Folder for each of its employees. Such folders are under the jurisdiction and control, and are a part of the records, of the U.S. Civil Service Commission. Except as provided in the rules of the Civil Service Commission (5 CFR 294.701–294.703), such folders will not be made available for public inspection by the Commission. In addition, other records of the Commission containing private, personal or financial information concerning particular employees will be withheld from public inspection.

(2) [Reserved]

(3) Information submitted to the Commission by applicants for commercial radio operator licenses concerning the character and mental or physical health of the applicant is available for inspection only under procedures set forth in § 0.461. Except in this respect, or where other aspects of a similar private nature warrant nondisclosure, commercial radio operator application files are available for inspection.

(g) *Investigatory files compiled for law enforcement purposes except to the extent available by law to a private party. 5 U.S.C. 552(e)(7).* Papers relating to the institution or the conduct of an investigation are placed in an investigatory file. Such files are not available for public inspection. Information concerning such files and their contents which might prejudice the conduct of an investigation will not be disclosed until it has been determined that an investigation should not be conducted or until the investigation has been completed.

(1) *Complaints.* Except with respect to complaints filed under Section 208 of the Communications Act (see § 0.455(c)), when a complaint is received by the Commission, an initial determination is made as to whether the matters related in the complaint warrant (or may warrant) an investigation. If it is determined that such matters warrant (or may warrant) an investigation, the complaint is placed in a investigatory file. A complaint which is placed in an investigatory file may be made available for inspection upon request if it appears that its disclosure will

not prejudice the conduct of the investigation (e.g., if, information concerning the complaint has otherwise been disclosed). Except as hereinafter provided, the complaint is placed in a public file when it has been determined that no investigation should be conducted or when the investigation has been completed. If the complainant has requested that his identity not be disclosed, or if there is reason to believe that disclosure of complainant's identity could embarrass him or subject him to harrassment, the complaint will not be placed in a public file without his consent. If no investigation is conducted or if the investigation has been completed, however, such complaints will be made available for inspection upon request if, and to the extent that, it is possible to do so without disclosing the complainant's identity.

(2) *Statements and documents.* Statements and documents obtained by Commission investigators in the course of an investigation are handled in the same manner as complaints, under subparagraph (1) of this paragraph.

(3) *Work papers and memoranda.* Personal work papers, memoranda, or reports prepared by Commission personnel relating to the institution, conduct, or outcome of an investigation are placed in an investigatory file and are retained in that file. They are not available for public inspection. Requests for inspection of such materials will be considered under paragraph (e) of this section. Materials of this nature received from other Government agencies are placed and retained in an investigatory file; requests for inspection of such materials will be referred to the agency from which they were received.

**§ 0.459 Requests that materials or information submitted to the Commission be withheld from public inspection.**

(a) Any person submitting information or materials to the Commission may submit therewith a request that such information not be made available for public inspection. A copy of the request shall be attached to and shall cover all of the materials to which it applies and all copies of those materials. If feasible, the materials to which the request applies shall be physically separated from the materials to which the request does not apply; if this is not feasible, the portion of the materials to which the request applies shall be identified.

(b) Each such request shall contain a statement of the reasons for withholding the materials from public inspection (see § 0.457) and of the facts upon which those reasons are based. If the request is that the materials be withheld from public inspection for a limited period of time, that period shall be specified.

(c) If the materials are submitted voluntarily (i.e., absent any request or direction by the Commission), the person submitting them may request the Commission to return the materials without consideration rather than make them available for public inspection. If the request for confidentiality should be denied, the materials will ordinarily be returned (e.g., an application will be returned if it cannot be treated on a confidential basis); only in the unusual instance where the public interest so requires will the material be made public, and then only after an appropriate period for comment by the person affected and judicial review. If the submission of the materials is requested or required by the Commission, and the request for confidentiality is denied, the materials will be made available for public inspection. (As to maintenance of confidentiality of complainants, see § 0.457(g).)

(d) If no request for confidentiality is filed, the Commission assumes no obligation to consider the need for non-disclosure but, in the unusual instance, may determine, on its own motion, that the materials should be withheld from public inspection under § 0.457.

(e) Upon a determination by the appropriate Bureau or Office Chief that a request for confidentiality is well-founded, the materials will not routinely be made available for public inspection. Such person will, however, prepare a brief memorandum generally identifying the materials and specifically stating the reasons for nondisclosure. This memorandum will be placed in the public file in lieu of the materials withheld from inspection.

(f) If the Bureau or Office Chief is unable to make a determination on a request for confidentiality, the request will be referred to the Executive Director for action.

(g) If a request for confidentiality is denied, the materials will not be returned or made available for public inspection until the person who filed the request has been notified of the action and has been afforded an opportunity to file an application for review by the Commission and to petition for judicial review of the Commission's action.

(h) Any person desiring to inspect materials withheld from public inspection under the provisions of this section may submit a request for inspection under § 0.461.

**§ 0.461 Requests for inspection of materials not routinely available for public inspection.**

(a) Any person desiring to inspect documents not open to routine inspection under § 0.456, § 0.457, or § 0.459 may file a request for inspection. An original and one copy shall be submitted. Each such request shall identify, with particularity, the materials to be inspected and shall set forth the reasons for permitting inspection and the facts in support thereof.

(b) In the case of materials not open to routine inspection under § 0.457(d) or § 0.459, or if, in the judgment of the Executive Director, the person who submitted the materials should be afforded an opportunity to file a response, the duplicate copy of the request for inspection will be mailed to the person who submitted the materials, and he will be afforded a reasonable period (normally 15 days) in which to comment on the request and to indicate any objections thereto. If a response is submitted, the respondent shall serve a copy on the person who filed the request for inspection. Except as specifically authorized or directed by the Executive Director, additional pleadings may not be filed.

(c) Requests for inspection will be acted upon by the Executive Director as follows:

(1) If the Commission is prohibited from disclosing the materials in question, the request for inspection will be denied with a statement setting forth the specific grounds for denial.

(2) If the materials are the property of another agency, the request will be referred to that agency and the person who submitted that request will be so advised, with the reasons therefor.

(3) If it is determined that the Commission does not have authority to withhold the materials from public inspection, the request will be granted.

(4) If it is determined that the Commission does have authority to withhold the materials from public inspection, the considerations favoring disclosure and nondisclosure will be weighed in the light of the facts presented, and the request will be granted, either conditionally or unconditionally, or denied.

(d) (1) If the request is granted conditionally or denied and disclosure has not been opposed under paragraph (b) of this section, the person who filed the request may file an application for review by the Commission under § 1.115 of this chapter. Responsive pleadings provided for in § 1.115 of this chapter may not be filed.

(2) If disclosure has been opposed under paragraph (b) of this section, the person who submitted the materials or the person who filed the request for inspection may file an application for review by the Commission within 15 days after the order acting on the request for inspection is released. Responsive pleadings may be filed in accordance with § 1.115(d) of this chapter. No order granting the request for inspection shall be implemented until the opportunities for review by the Commission and judicial review have been afforded, unless the Commission finds, for reasons set forth in the order, that the public interest requires earlier inspection. In the latter event, the order will not be implemented until the opportunity to obtain a judicial stay of the Commission's Order has been afforded.

**§ 0.463 Demand by competent authority for the production of documents or testimony concerning information contained therein.**

(a) In the event that a demand (subpoena, order or other demand) is made by a court or other competent authority outside the Commission, upon any officer or employee of the Commission for the production of records or files or for testimony concerning information contained therein, he shall promptly advise the Executive Director of such demand, the nature of the papers or information sought, and all other relevant facts and circumstances. The Commission will thereupon issue such instructions as it may deem advisable.

(b) Unless specifically authorized to produce such records or files or to testify

with respect thereto, any officer or employee of the Commission who is served with a demand for the production of records or files or his testimony concerning the same, shall appear in response to the demand and respectfully decline to produce such records or files or to testify concerning them, basing his refusal upon this rule.

**§ 0.465 Request for copies of materials which are available, or made available, for public inspection.**

(a) The Commission annually awards a contract to one or more commercial firms to make copies of Commission records and offer them for sale to the public. The contract is awarded on the basis of the lowest cost to the public. Currently, the contractor is Cooper-Trent, Inc., 1130 19th Street NW., Washington, D.C. 20006. Except as provided in paragraphs (b) and (c) of this section and in § 0.467, requests for copies of the records listed in §§ 0.453 and 0.455, and those made available for inspection under § 0.461, should be directed to the contractor. The contractor maintains master files of the following materials specifically for reproduction and sale to the public:

(1) Horizontal directional antenna patterns filed with the Commission since February 1948.

(2) FCC Form 402 microwave applications filed with the Commission since July 1961.

(3) FCC Form 401 applications for common carrier microwave relay stations serving community antenna television (CATV) systems.

(4) Grade A and Grade B contour maps on television broadcast stations filed with the Commission since July 1966.

(b) The Commission annually awards a contract to a commercial firm to transcribe Commission proceedings in which a verbatim record is kept and to offer copies of the transcript for sale to the public. The contract is awarded on the basis of the lowest cost to the public and to the Commission. Except as authorized by the Commission, the firm is required to retain the capacity to furnish copies of the transcript for a period of 5 years, and may retain that capacity for a longer period, even though another firm is currently transcribing Commission proceedings. Requests for copies of the transcript of current proceedings should be directed to the current contractor, C.S.A. Reporting Corp., 300 Seventh Street SW., Washington, D.C. 20004. Requests for transcripts of older proceedings will be forwarded by the Commission to the firm which made the transcript in question; and the names of contracting firms for past years will be furnished upon request. If a transcript cannot be obtained from the reporting firm, it can be obtained from the general duplicating contractor, as provided in paragraph (a) of this section.

(c) (1) This section has no application to printed publications, which may be purchased from the Superintendent of Documents or private firms (see §§ 0.411–420). Nor does it apply to application forms or information bulletins, which are prepared for the use and information of the public and are available upon request (see §§ 0.421 and 0.423).

(2) Contractual arrangements which have been entered into with commercial firms, as described in this section, do not in any way limit the right of the public to inspect Commission records or to extract therefrom whatever information may be desired. Any person may, in addition, make photocopies of Commission records with his own equipment at locations where those records may be inspected. Coin-operated photocopy machines are available for use by the public in the Broadcast and Dockets Reference Room and the Common Carrier Bureau for the duplication of records available for inspection at those locations.

(3) The Commission has reserved the right to make copies of its records for its own use or for the use of other agencies of the U.S. Government. When it serves the regulatory or financial interests of the U.S. Government, the Commission will make and furnish copies of its records free of charge. In other circumstances, however, if it should be necessary for the Commission to make and furnish copies of its records for the use of others, the fee for this service shall be the same as that charged by the general duplicating contractor for copies of those records under contractual arrangements described in paragraph (a) of this section.

(4) Requests for copies by representatives of foreign governments or persons residing in foreign countries shall be submitted to the Commission and will be reviewed by the Commission under criteria established by the Department of Commerce for controlling the export of technical data.

**§ 0.466 Fees.**

NOTE: Provisions relating to private charges for furnishing copies of documents are set forth in §§ 0.465(c)(3) and 0.467. Provisions relating to fees for the location and production of records for inspection are under consideration and will be dealt with at a subsequent time.

**§ 0.467 Certified copies.**

Copies of documents which are available, or made available, for inspection under §§ 0.451–0.465 will be prepared and certified by the Secretary, under seal, on written request specifying the exact documents, the number of copies desired, and the date on which they will be required. The request shall allow a reasonable time for the preparation and certification of copies. The fee for preparing copies shall be the same as that charged by the general duplicating contractor for the same work under contractual arrangements described in § 0.465(a). The fee for certification shall be $1 for each document.

PLACES FOR MAKING SUBMITTALS OR REQUESTS, FOR FILING APPLICATIONS, AND FOR TAKING EXAMINATIONS

**§ 0.471 Miscellaneous submittals or requests.**

Persons desiring to make submittals or requests of a general nature should communicate with the Office of the Secretary of the Commission.

**§ 0.473 Reports of violations.**

Reports of violations of the Communications Act or of the Commission's rules and regulations may be submitted to the Commission in Washington or to any field office.

**§ 0.475 Applications for employment.**

Persons who wish to apply for employment should communicate with the Chief, Personnel Division.

4. Section 0.441 is redesignated § 0.481, and paragraphs (b) and (c) of that section are amended, to read as follows:

**§ 0.481 Place of filing of applications for radio authorizations.**

| Class of station | Method of filing | Number of copies |
|---|---|---|
| • • • | • • • | • • • |
| (b) Amateur | See §§ 0.483 and 0.485. | As specified in form. |
| (c) Interim ship station license. | See § 0.487 | Do. |
| • • • | • • • | • • • |

**§§ 0.483–0.493 [Redesignated]**

5. Section 0.443 is redesignated § 0.483.
6. Section 0.445 is redesignated § 0.485.
7. Section 0.447 is redesignated § 0.487.
8. Section 0.449 is redesignated § 0.489.
9. Section 0.451 is redesignated § 0.491.
10. Section 0.453 is redesignated § 0.493.

[F.R. Doc. 67-8302; Filed, July 18, 1967; 8:47 a.m.]

# Proposed Rule Making

## DEPARTMENT OF AGRICULTURE

### Consumer and Marketing Service

### [ 7 CFR Part 921 ]

### FRESH PEACHES GROWN IN WASHINGTON

### Approval of Expenses and Fixing Rate of Assessment for 1967–68 Fiscal Year

Consideration is being given to the following proposals submitted by the Washington Fresh Peach Marketing Committee, established under the marketing agreement and Order No. 921 (7 CFR Part 921) regulating the handling of fresh peaches grown in designated counties in Washington, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(1) That the expenses that are reasonable and likely to be incurred by said committee, during the period April 1, 1967, through March 31, 1968, will amount to $6,854.

(2) That there be fixed, at $0.60 per ton of fresh peaches, the rate of assessment payable by each first handler in accordance with § 921.41 of the aforesaid marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: July 14, 1967.

ARTHUR E. BROWNE,
*Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.*

[F.R. Doc. 67-8329; Filed, July 18, 1967; 8:49 a.m.]

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### [ 7 CFR Part 922 ]

### APRICOTS GROWN IN WASHINGTON

### Approval of Expenses and Fixing of Rate of Assessment for 1967–68 Fiscal Year

Consideration is being given to the following proposals submitted by the Washington Apricot Marketing Committee, established under the marketing agreement, as amended, and Order No. 922, as amended (7 CFR Part 922), regulating the handling of apricots grown in designated counties in Washington, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(1) That the expenses that are reasonable and likely to be incurred by the Washington Apricot Marketing Committee during the period from April 1, 1967, through March 31, 1968, will amount to $3,646.

(2) That there be fixed, at $0.50 per ton of apricots, the rate of assessment payable by each handler in accordance with § 922.41 of the aforesaid marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated July 14, 1967.

ARTHUR E. BROWNE,
*Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.*

[F.R. Doc. 67-8328; Filed, July 18, 1967; 8:49 a.m.]

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### [ 7 CFR Part 923 ]

### SWEET CHERRIES GROWN IN WASHINGTON

### Approval of Expenses and Fixing of Rate of Assessment for 1967–68 Fiscal Year

Consideration is being given to the following proposals submitted by the Washington Cherry Marketing Committee, established under the marketing agreement and Order No. 923 (7 CFR Part 923) regulating the handling of sweet cherries grown in designated counties in Washington, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(1) That expenses that are reasonable and likely to be incurred by said committee, during the period from April 1, 1967, through March 31, 1968, will amount to $12,484.

(2) That there be fixed, at $0.80 per ton of sweet cherries, the rate of assessment payable by each handler in accordance with § 923.41 of the aforesaid marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: July 14, 1967.

ARTHUR E. BROWNE,
*Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.*

[F.R. Doc. 67-8330; Filed, July 18, 1967; 8:50 a.m.]

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### [ 7 CFR Part 993 ]

[Docket No. AO 201-A6]

### DRIED PRUNES PRODUCED IN CALIFORNIA

### Notice of Recommended Decision and Opportunity To File Written Exceptions With Respect to Proposed Amendment of Marketing Agreement, as Amended, and Order, as Amended

Pursuant to the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk, U.S. Department of Agriculture, of this recommended decision with respect to the proposed amendment 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 (hereinafter collectively referred to as the "order"). The order is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674), hereinafter referred to as the "act," and any amendment which may result from this proceeding also will be effective pursuant to the act.

Interested persons may file written exceptions to this recommended decision with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the close of business on the 15th day after publication

of this recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

*Preliminary statement.* The public hearing on the record of which the proposed amendment is formulated was held in San Francisco, Calif., April 17 through 19, 1967. Notice of the hearing was published in the FEDERAL REGISTER on April 5, 1967 (32 F.R. 5556). The proposals in the notice of hearing were submitted by the Prune Administrative Committee (hereinafter referred to as the "committee"), the agency established pursuant to the order to administer the terms and provisions thereof.

*Material issues.* The material issues presented on the record of the hearing involve amendatory action relating to:

(1) The need and authority for allotment of the quantity of prunes which handlers may purchase from, or handle on behalf of, producers;

(2) The defining of the terms "prune plums," "handle," "handler," "salable prunes," "marketable quantity," "base quantity," "annual allotment," and "leaf";

(3) The modification of the committee's voting procedure to require at least 14 affirmative votes for committee decisions on producer allotments and the control or disposition of surplus prunes;

(4) The requiring of statements of the committee's financial operations with respect to surplus prunes;

(5) The authority to use the average size count of a lot as the basis for computing handler obligation to dispose of prunes with certain defects;

(6) The method for allotting the quantity of prunes which handlers may purchase from, or handle on behalf of, producers, and changes in marketing policy requirements;

(7) Provisions relating to surplus prunes and to transfers of producers' base quantities;

(8) The future termination of authority and methods for optional diversion of prune plums by producers; and

(9) The making of such changes in the order as are necessary to bring the entire order, as amended, into conformity with the amendatory action resulting from the hearing.

*Findings and conclusions.* The findings and conclusions on the aforementioned material issues, all of which are based on the evidence adduced at the hearing and the record thereof, are as follows:

(1) On August 6, 1965, the order was amended (30 F.R. 9797) to authorize volume control, including optional diversion of prune plums through voluntary acts by producers. Evidence adduced at the amendatory hearing, on the basis of which the volume control and optional diversion provisions are effective, was, in part, to the effect that in a particular year the estimated supply of prunes may be in excess of domestic and foreign trade demand and any carryover needs; that the need may then arise to dispose of a portion of the prunes in low-return, noncompetitive outlets such as for animal feed; and that in these circumstances, producers could make a net monetary saving by diverting excess prune plums instead of incurring the costs of harvesting and drying them and delivering the dried product to handlers for subsequent diversion (30 F.R. 6782, 8850). Thus, producers were given the optional opportunity, under certain conditions, to divert prune plums in lieu of delivering excess prunes to handlers.

However, the evidence adduced at the hearing in this 1967 amendatory proceeding is to the effect that means other than or additional to the optional diversion and other order provisions should be available for use in better effectuating the declared policy of the act. Increasing acreage and a gradual shifting of bearing acreage to higher yielding areas mean that California's annual prune production can be expected to average well above the 139,000 ton level of 1959 through 1963. The 1964 crop was almost 180,000 tons and prune production could go as high as 225,000 tons by 1970. The California prune industry does not have reason to believe, based on recent sales, that it can market the larger crops at favorable returns to producers. Hence, in view of the production outlook, the industry should not be required to rely solely on existing order provisions, including voluntary diversion and the possibility of long and short crops, to balance supply with demand. In view of the production potential, the voluntary option to control excessive supplies would be of limited value.

The prune industry should benefit by having authority to use producer allocations pursuant to section 8c(6)(B) of the act (7 U.S.C. 608c(6)(B)), and the industry should have opportunity to adopt such provisions. Pursuant to such authority, handlers would be limited in the quantity of prunes which they may purchase from, or handle on behalf of, producers. As hereinafter discussed, institution of such producer allocations would permit future termination of the voluntary producer diversion provisions (§ 993.62) of the order beginning with the first year in which base quantities are established. Thereafter, producers would be encouraged more directly to remove a potential unmanageable excess from the prune supply at the most economical points—in the orchard or on the ranch—before harvesting and drying costs are incurred in the production of such excess. At the same time, producers would not be precluded, if outlets can be developed, from using excess prune plums in fresh shipping, fresh juice or other outlets not involving dried prunes. Minimizing the potential size of a price-depressing dried prune surplus, providing for the control and disposition of such surplus as may eventuate, eliminating certain costs on surplus (e.g., harvesting, drying, and storing), and the aforesaid possibility of new outlets for prune plums, should tend to improve net returns to producers. Moreover, producer allotments would only need to remain in effect in those years when prune supplies exceed the marketable quantity. In other years, the producer allotments could be suspended for the crop year.

Concern was expressed at the hearing that application of the provisions of section 8c(6)(B) of the act to the California prune industry would short the supply, increase prices in export to such a degree that California prunes could no longer compete in export markets with lower priced foreign prunes, and thereby encourage additional prune production in foreign countries; that this could result in importation of low-priced prunes into the domestic market; that it would reduce competitive factors essential to a healthy and progressive domestic industry; and that research on development of new prune products would thereby be discouraged. However, the amendatory action recommended herein would not permit reduction of supplies below trade demand requirements nor cause, in view of liberal supplies, undue enhancement of price. The basic objective would be to maximize sales and hence farm income while so managing supply that any surplus can be effectively and readily controlled before it becomes a price-depressing factor on the market. Thus, the indicated consequences about which concern was expressed should not materialize as a result of producer allocations under the act.

There was also concern that the quality of prunes tendered by producers to handlers would average lower than otherwise if the proposed amendment were made effective. It was contended that producers would be constrained to deliver "windfalls" and other prunes of low quality during the preallotment period in an effort to build up base quantities. However, minimum standards of quality are established under the order for prunes to be received by handlers from producers and dehydrators. Furthermore, pursuant to the recommendation on Material Issue (6), the weight of foreign material and the weight of prunes with defects of mold, imbedded dirt, insect infestation or decay in excess of tolerances (in any lot received by a handler from a producer or dehydrator during the representative period) would not be credited to the producer's base quantity. Thus, indiscriminate deliveries of prunes, regardless of quality, would not benefit producers and could adversely affect their returns.

Concern was expressed, too, at the hearing that producer allocations would constitute acreage control. However, the basic effect of producer allocations would be to institute poundage allotments and establish producer eligibility for such allotments. Such a plan does not deal with production or acreage controls per se. The act specifically provides for limiting the quantity which handlers may purchase from, or handle on behalf of, producers on the basis of quantities which producers have sold in a representative period. This authorization is the basis of the recommended amendatory action and provision is made to cause prunes in excess of the allotted quantity to be surplus and to be disposed of by the committee or the producer.

Concern was also expressed that allotting the quantity of prunes which handlers may purchase from, or handle on behalf of, producers would cause decreased plantings of prunes and increased plantings of other tree crops, particularly peaches and pears. However, this presumes that a situation wherein a producer needs an allotment to market his prunes as compared with one wherein there are excess prune supplies and depressed prune field prices, will cause a materially different response in the use of additional acreage for prunes. It presumes that allotments will curtail use of additional acreage for prunes but depressed prices will not. The latter would appear to be true only to the extent that real estate speculators plant young trees only for the purpose of land value enhancement and with little or no regard for the salability of the commodity. The agricultural producer would tend to plant in terms of expectations as to prices for the commodity. Hence, it is difficult to conclude that over the long run an allotment program will cause a materially different usage of land than will an unregulated situation which results in excess supplies and low prices. The use of land for tree crops other than prunes can be expected to be in response to their respective prices and demands which often encompass fresh shipment, canning, freezing or drying as compared with California prune plums which basically go to drying, there now being no alternative outlet of significance.

(2) A new section, § 993.4a, should be added to the order to define the term "prune plums" to mean those varieties of plums grown in the area for drying or dehydrating and which are covered by §§ 993.6 and 993.7 (the definitions of Non-French prunes and French prunes). The term "prune plums" identifies the fruit from which prunes are produced, and distinguishes between (a) plums for sun-drying or dehydrating into prunes from plums not suitable for sun-drying or dehydrating into prunes, (b) prune plum trees from other plum trees, (c) producers of prune plums and producers of other plums, and (d) a prune plum producer and a dehydrator, especially where both are not one and the same person. The term is used in connection with provisions hereinafter set forth relative to producer allotments. Although the order regulates the handling of prunes, the dried product of prune plum varieties, base quantities established under the allotment provisions should be assigned, as discussed in Material Issue (6), to the producers of prune plums which became prunes.

Consistent with new § 993.4a defining the term "prune plums," conforming changes should be made in § 993.5, which defines "prunes," § 993.6, which defines "Non-French prunes," § 993.7, which defines "French prunes," § 993.15, which defines "dehydrator," and § 993.16, which defines "producer," by changing "plums" to read "prune plums". The term "prune plums" currently is defined in § 993.62(a) for use in connection with the voluntary producer diversion provisions. In view of new § 994.3a, which provides a new definition of "prune plums" the definition of "prune plums" in § 993.62(a) will no longer be needed and should be deleted.

The definition of "handle" should be revised by inserting a comma after "or in any other way to place prunes" and inserting immediately thereafter the phrase "including surplus prunes", so that performance of any of the acts specified in § 993.13 with respect to any prunes, including surplus prunes, would constitute handling. To enable the committee to administer the allotment control provisions and prevent unauthorized dispositions of surplus prunes, it is necessary that persons, including producers and dehydrators, who dispose of surplus prunes other than pursuant to § 993.46, as hereinafter set forth, and thereby exercise a handling function, should be defined as handlers with respect to such dispositions. Pursuant to paragraph (a) of § 993.46, any producer or dehydrator selling or delivering surplus prunes to other than the committee or its designees or to a producer satisfying a deficiency as provided in that paragraph, is a handler relative to such transaction. Therefore, ", except as provided in § 993.46(a)," should be inserted after "*Provided*, That" in § 993.13. Thus, the proviso, which excludes certain actions by producers and dehydrators from the definition of "handle" would not override acts which are handling pursuant to § 993.46(a).

A further change should be made in § 993.13 by inserting a comma after the phrase "in the current of the commerce within the area", and revising the balance of the definition before the proviso to read "from within the area to any point outside thereof, or from any point outside the area to any other point:". This change should be made so that anyone in the United States who handles prunes produced from prune plums grown in California, regardless of where the prune plums are dried, would be a handler. The present definition limits application of the order regulations to handlers in California. Any person in California, unless he is specifically exempted by the definition, who places prunes produced from prune plums grown in California in the current of commerce, is a handler. Thus, any producer or dehydrator who sells or delivers prunes to anyone other than a producer, dehydrator, or handler within California is a handler subject to all requirements of the order. For example, if a producer or dehydrator sells or delivers prunes to a person outside the area, the producer is a handler because he placed such prunes into the current of commerce. The commodity regulated under the order is "prunes," made from "prune plums." If prune plums are transported from the area by the producer or a buyer of the prune plums, neither person would be a handler. However, if the prune plums are dried or dehydrated into prunes outside the area, the person selling or otherwise handling such prunes should be a handler. This should be to prevent producers and other persons from circumventing the producer allotment provisions whenever annual allotments are in effect by removing prune plums from the area, drying them, and introducing the prunes into the current of commerce without restriction. By making persons outside the area placing the prunes in the current of commerce handlers of such prunes, effective regulation under producer allotment provisions would tend to be assured.

The word "transfers" should be inserted in § 993.13(c) before the phrase "pursuant to § 993.50(f)" to better describe the particular provisions of § 993.50(f) that are involved.

The term "handler," defined in § 993.14, should be revised to mean any person inside or outside of the area who handles prunes. This change would make it clear that persons outside the area, as well as those within the area, would be subject to the regulatory program as handlers.

The term "salable prunes," defined in § 993.21c, should be revised to mean prunes which are free to be handled pursuant to producer allotments and any salable percentage established by the Secretary. The term is currently defined for use in connection with the volume regulation and assessment provisions of the order. The revised term should be sufficiently flexible for application under the producer allotment provisions in situations, such as either of the following four regulatory conditions, that could prevail during a crop year: (a) Producer allotments with a salable percentage and a reserve pool; (b) no producer allotments, a salable percentage, and a reserve pool; (c) no producer allotments, all receipts salable, and no reserve pool; or (d) producer allotments, all receipts salable, and no reserve pool. Hence, prunes purchased by handlers from producers or dehydrators during a crop year would be comprised of "salable prunes" or both "salable prunes" and "reserve prunes," except, of course, for the exclusion of the weight obligation required by § 993.49(c).

This revision would eliminate an inconsistency in the applicability of the assessment provisions of the order. Pursuant to § 993.81 assessments are required of each handler on the basis of all salable prunes handled by him as the first handler thereof. Whenever volume regulations were in effect, "salable prunes" referred to those free to be handled pursuant to any salable percentage established by the Secretary. By operation of § 993.54, any weight obligation incurred pursuant of § 993.49(c) was excluded from the quantity of salable prunes. However, when a reserve percentage of zero was established for a crop year, "salable prunes" comprised all prunes received by a handler from producers and dehydrators during that year, including the weight obligation pursuant to § 993.49(c). As hereinafter set forth, the term "salable prunes" excludes such weight obligation and thus provides for uniform application of the assessment provisions.

A new section, § 993.21e, should be added to the order to define the term "marketable quantity" to mean the

quantity of prunes constituting the total of all producer annual allotments and adequate to meet the estimated total trade demand of a crop year, permit desirable adjustments in carryover, and provide, if deemed desirable, a reserve against a possible short crop in the subsequent crop year. The marketable quantity for a crop year is to be considered by the committee in adopting a marketing policy and in computing the allotment percentage for that crop year pursuant to § 993.44, as hereinafter set forth. The marketable quantity would be the target quantity of prunes of any crop receivable by handlers from producers and dehydrators during a crop year when producer allotments are in effect and, in such crop year, would be the quantity against which salable and reserve percentages would be applied. When producer allotments are in effect, the excess would be surplus prunes.

A new section, § 993.21f, should be added to the order to define the term "base quantity" to mean the number of pounds of prunes, expressed as tons, established by the committee pursuant to § 993.44 for a producer. Another new section, § 993.21g, should be added to the order to define the term "annual allotment" to mean, for a crop year and for each producer, the number of pounds of prunes expressed as tons, determined by multiplying the producer's base quantity by the allotment percentage. These terms are needed for use in connection with producer allotments.

A new section, § 993.21h, should be added to the order to define the term "leaf" to mean the age, in years, of a budded or grafted prune plum variety of tree, with the first leaf (i.e. first year) commencing in the crop year in which the tree is permanently planted and produces leaves. This term should be so defined for use in computing base quantities with respect to immature trees, and in adjusting the annual allotment of a producer with immature trees to reflect reduced productive capacity of those trees.

(3) The proviso in the first sentence of § 993.33 *Voting procedure*, should be revised by inserting "producer allotments," after "pack specifications," and inserting "of surplus prunes," after "control or disposition". The effect of this revision is to require that committee decisions on producer allotments and matters pertaining to control or disposition of surplus prunes be made by at least 14 affirmative votes (two-thirds of the 21-member committee). Without the revision, decisions on these matters, pursuant to § 993.33, would be by a majority of the members present and voting so long as the requisite quorum of 12 is present. However, 14 affirmative votes are now required for committee decisions on other important matters such as marketing policy, grade or size regulations, salable and reserve percentages, and the control or disposition of reserve prunes. This same voting requirement should be applied to committee decisions on allotment controls and the control and disposition of surplus prunes because decisions on these matters could have as significant an economic impact on the prune industry as do the committee decisions on the matters already requiring 14 affirmative votes.

(4) Paragraph (i) of § 993.36 *Duties*, should be revised to require the committee to prepare and submit to the Secretary annually, as soon as practicable after the end of each applicable crop year and at such other times as the committee may deem appropriate or the Secretary may request, a statement of the committee's financial operations with respect to surplus prunes for such crop year, as well as a statement of the committee's financial operations with respect to reserve prunes for such crop year, and to make such statements available at the offices of the committee for inspection by producers, dehydrators, and handlers. Establishment of producer allotments could result in establishment of a surplus pool whenever an allotment percentage and annual allotments are effective for a crop year. In line with sound financial practice, the current duty of the committee with respect to its financial operations on reserve prunes should also apply to statements of the committee's financial operations on surplus prunes. Dispositions of surplus prunes may not occur with regularity and proceeds from such disposition could be received by the committee at various times. Therefore, monthly financial statements would be of little value, especially during the initial months of a crop year before disposition of any surplus prunes has been made. So that monthly financial statements will not be required under the general language of § 993.36(h) of the order, paragraph (h) should be amended by inserting "surplus prunes and" immediately after "exclusive of".

(5) It was proposed that the second sentence of paragraph (c) of § 993.49 *Incoming regulation*, be amended to permit the determination of occurrence of defective prunes by size ranges to be based on the distribution of sizes in the lot as determined by the inspection service. The record shows that there is no significant difference between such a determination based on a size count of the defective prunes and a size count of all prunes in the lot. Therefore, it should not be necessary to continue to require the use of two samples and two analyses as currently provided in the applicable rules and regulations (§ 993.149). It would be practical to accept the size count of the lot for the purposes of § 993.49(c), and this may be permitted by an appropriate revision of such rules and regulations. Therefore, the proposal may be effectuated without revision of the order.

(6) In the light of the recommendations with respect to Material Issue (1), the addition to the order of authority to permit allotment of the quantity of prunes which handlers may purchase from, or handle on behalf of, producers during a crop year, § 993.41 *Marketing policy*, should be revised so as to set forth the estimates and recommendations which need to be made by the committee in its marketing policy deliberations. Therefore, paragraph (a) of the section should be revised so as to provide that on or before the fourth Tuesday of the February preceding the first crop year of allotments, and of subsequent Februarys, the committee shall prepare and submit to the Secretary a report setting forth its recommended marketing policy for the ensuing crop year, except that in the first year it may be later. Allocations among producers of any marketable quantity would not be made before a four-year period, as hereinafter discussed, has elapsed and hence could not begin prior to February 1971. The committee should meet to consider various factors needed in making such allocations, including factors of supply and demand, and to recommend the marketable quantity and allotment percentage for determination and establishment by the Secretary for the ensuing crop year. Submission of the marketing policy report by the fourth Tuesday in February would permit timely issuance of annual allotments to producers so as to allow them to adjust their cultural practices in view of the tons of prunes allotted to them for the ensuing crop year. However, all of the data needed for computation of base quantities may not be available by February preceding the first crop year of allotments. Hence, in the first year the committee should be permitted additional time to submit its report.

The February marketing policy report for the ensuing crop year should include an estimate of the likely carryover of salable prunes as of the beginning (August 1) of such crop year, an estimate of the domestic trade demand by uses of prunes, an estimate of the foreign trade demand by countries or groups of countries, and an estimate of the desirable carryout of salable prunes at the end of the ensuing crop year. These estimates are required in present § 993.41 by July but for allotment purposes they are needed earlier for use in computing the marketable quantity for that crop year. Such quantity should include, when deemed necessary, a quantity of prunes in excess of such crop year's requirements as may be needed to protect against a possible short crop in the subsequent crop year, and hence such an estimate should be included in the report of the committee.

The foregoing estimates comprise the factors needed by the committee in computing, and recommending to the Secretary, the marketable quantity of prunes. However, for any year such quantity may need to be adjusted because the committee, pursuant to § 993.45(b) as hereinafter recommended, is required to reduce annual allotments of producers unable to fill them due to inadequate productive capacity. The adjustment in marketable quantity should also be estimated for use by the committee in recommending the allotment percentage.

The report should contain the recommended allotment percentage for the ensuing crop year, computed by adding the sum of estimated reductions in annual allotments to the marketable quantity and dividing the total by the total of all base quantities. It is visualized that the allotment percentage would be computed

as follows: Assume for illustrative purposes only that the marketable quantity is estimated at 200,000 tons and the total of all base quantities is 250,000 tons. Dividing the marketable quantity (200,000 tons) by the total of all base quantities (250,000 tons) would equal 0.80 or 80 percent. If base quantities on the mature orchards total 220,000 tons and the allotment percentage of 80 percent is applied, the total annual allotments with respect to those base quantities would be 176,000 tons. Assume further that annual allotments with respect to the remaining base quantities (30,000 tons) are subject to reduction averaging one-half of the allotment percentage, because of reduced productive capacity, and would release only 12,000 tons. The total annual allotments of 188,000 tons (176,000+12,000) are 12,000 tons less than the marketable quantity. However, this is correctable by the committee estimating the deficit, adding it to the marketable quantity (200,000 tons) and dividing the total (212,000 tons) by the total of all base quantities (250,000 tons) for a result of about 0.85 or 85 percent. Applying this percentage to the total base quantities (220,000 tons) relative to mature orchards would result in total annual allotments with respect to those base quantities of 187,000 tons. Applying one-half of this percentage to the remaining base quantities would result in annual allotments on these totaling 12,750 tons. The total of all annual allotments would be 199,750 tons (188,000 tons+12,750). It is recognized that the minor difference in the amount so computed and allotted, relative to the objective quantity of 200,000 tons, would be corrected by a slight overestimation of the 200,000 tons marketable quantity.

Since the committee would have little or no information at its February meeting as to the size of the forthcoming prune crop, a recommendation as to salable and reserve percentages for the ensuing crop year would be premature. However, if deemed desirable for market stability, the committee could estimate and include in its report the maximum quantity of prunes that should be made available to handlers as salable prunes from the new crop. This estimate would serve to advise the industry of the quantity of salable prunes to be made available and that any quantity in excess would be subject to being withheld as reserve tonnage.

The report should also include other factors as may have a bearing on the marketing of prunes or the administration of the regulatory program. Some such factors are: Shipments during the crop year up to the time of the February marketing policy meeting, with projections to August 1; the trend and level of consumer demand; information that may influence foreign demand, such as the opening of new markets for prunes; relaxation or tightening of trade barriers, trends in competition, both in foreign countries and in domestic trade outlets; and information concerning the administration of the program.

Conforming changes should be made in paragraph (b) of § 993.41 so as to provide that in July, the committee shall convene for the purpose of recommending, and beginning with the first year of allotments, reviewing and modifying, if necessary, its recommendations as to marketing policy for the ensuing crop year. Paragraph (b) should continue the present requirement that a marketing policy report be submitted to the Secretary before the fourth Tuesday of July. Paragraph (b) would thus serve a twofold purpose. Prior to the first year of allotments, it would provide the basis for the committee's marketing policy deliberations and reports for the ensuing crop year. Beginning with the first year of allotments, paragraph (b) would require the committee to review, and modify if necessary, its February recommendations. For example, the committee would have information on which to estimate the size and quality of the new crop, the need to recommend establishment of salable and reserve percentages, and beginning with the first year of allotments, whether it needs to recommend suspension of the allotment percentage and annual allotments established on the basis of its February marketing policy. Because of this twofold purpose, paragraph (b) should direct the committee to consider and include in its report certain estimates and recommendations, including the four estimates prescribed in paragraph (a) of § 993.41, as hereinafter set forth; namely, the likely carryover of salable prunes as of August 1, the domestic trade demand in the ensuing crop year by uses of prunes, the foreign trade demand in the ensuing crop year by countries or groups of countries, and the desirable carryout of salable prunes at the end of the ensuing crop year. Except as hereinafter provided, items which should be continued in paragraph (b) are currently required to be considered by the committee and included in its marketing policy report. However, for effective administration of the program, certain additional items should be included, and certain modifications should be made.

Beginning in the first year of allotments, the report should include estimates of the production of prunes with allotments and without allotments. Such estimates would provide the committee with a basis for recommending retention or suspension of the annual allotments.

The committee currently is required to consider, and include in its report, an estimate of the probable quality and prune sizes in the crop. This should be changed to require only an estimate of the quality of the prunes in the crop. Previous estimates, at marketing policy meetings, of prune sizes in the pending crop have proven unreliable and of little value.

The committee also is required currently to consider and report the quantity of prunes, dried weight basis, deemed desirable to be diverted pursuant to § 993.62. This should be changed to require the committee to report its estimate of the quantity of prune plums, dried weight basis, likely to be disposed of by diversion or as surplus. This change should be made to provide an estimate of the prune plums, dried weight basis, that may be diverted, pursuant to § 993.62, each year before the first year of allotments. Pursuant to that section, prune plums may be left unharvested or disposed of for non-human consumption. Beginning with the first such allotment year, this estimate should be of the quantity of surplus prunes subject to § 993.46, as hereinafter set forth. This estimate would be helpful to producers and the committee in developing plans for disposition of surplus prunes.

Beginning with the first year of allotments, the committee should include in its July consideration and report any recommendation on suspension of the allotment percentage and annual allotments. Such suspension could be recommended as a result of a modification of the committee's February marketing policy and should be founded basically on information concerning the size of the crop. For example, if the July estimate of the prune crop is significantly less than the total marketable quantity, the allotment percentage and the annual allotments may be suspended by the Secretary to assure maximum availability of prune supplies for handling.

Salable and reserve percentages would be applied in the same manner as now provided in the order except that in years when annual allotments are in effect they should apply to the total of such allotments in lieu of the production delivered to handlers.

A new paragraph (c) should be added to retain the provisions in current § 993.41(a) requiring the committee to modify its marketing policy if it becomes advisable at any time because of changed demand, supply, or other conditions and requiring it to submit a report thereon to the Secretary. Also, notice of the committee's marketing policy, and of any modifications thereof, should continue to be given promptly by reasonable publicity to producers, dehydrators, and handlers. The modification requirement is basically applicable to the July marketing policy as conditions affecting the February marketing policy would have been recognized and considered at the July meeting.

In order to enable the committee to collect data to establish base quantities, and issue annual allotments thereon, a new section, § 993.43 *Preliminary regulation*, should be added to the order. It should provide that beginning with the 1967–68 crop year, or such later year as the committee may recommend and the Secretary establish, and until a representative period has been established, no handler shall handle as the first handler thereof, prunes delivered to him until he has determined the identity of each producer of the prune plums which were dried or dehydrated and so delivered, the county of production, and the quantity of prunes attributable to each such producer. The new section should further require that the handler shall furnish such information to the committee at such times and in such form as the committee

may request. These requirements would provide information needed to identify the persons eligible for base quantities and to determine the respective amounts thereof. The committee must depend upon the handlers to obtain this information, beginning with the first year of the possible representative period, because they have direct contacts with the producers and dehydrators who deliver the prunes. The committee should furnish all handlers with the necessary forms to be used so that the information it needs and obtains will be furnished in a uniform and usable manner.

It is essential for the committee to have the most accurate sales data possible for the establishment and assignment of fair and equitable base quantities to producers (i.e. persons engaged, in a proprietary capacity, in growing prune plums for drying or dehydrating into prunes). Therefore, the section should also provide that all quantities of prunes attributable to each producer shall be based on weights determined by Public Weighmasters, either total graded weight or delivered weight, and shall be the net prune weight exclusive of foreign material and the weight obligation of § 993.49 (c). This recognizes normal receiving operations of handlers. Some handlers determine prune weight after size grading and others before. The program need not require handlers to change these operations. Consistent with the objective of obtaining accurate sales data, foreign material contained in prune deliveries and inedible quality prunes in excess of tolerances for which a handler incurs a weight obligation pursuant to § 993.49(c) should not be credited to a producer's prune weight in computing his base quantity. In the absence of such prohibition, it was testified at the hearing, some producers would, during the preallotment period, in an effort to inflate their base quantities, deliver foreign material and defective prunes that would normally be discarded or not disposed of for human consumption. To the extent necessary to assure accuracy of handler information so furnished to the committee, the committee should audit handlers' records to determine whether their records confirm the documentation submitted to the committee as to the handler's receipts of prunes from producers and dehydrators.

So that producers may qualify for base quantities pursuant to § 993.44, § 993.43 should require the committee to furnish annually, early in each calendar year, to each producer of record a form to be filed with the committee whereon the producer reports the location of his orchard(s), the acreage he intends to harvest for prunes, the maturity of the trees, and such other information the committee needs to establish a base quantity for such producer. This information should be submitted to the committee by producers themselves as the committee will need direct contact with them to have knowledge of their productive capacities for administration of the allotment provisions.

A new section, § 993.44 *Base quantities*, should be added to the order providing that if the Secretary finds that the 1967–68 through 1970–71 crop years, or a period beginning one or more year(s) later than 1967–68, but not less than a 3-year period, constitute a representative period in terms of production of prunes for market and the consequent producer sales, a base quantity shall be established for each producer entitled thereto. That section should also provide that each such base quantity shall be in an amount equal to either (a) the total sales of prunes referable to the producer, credited as net prune weight pursuant to § 993.43, plus the weight shown on diversion certificates pursuant to § 993.62, during the representative period divided by the number of years in the period, or (b) the amount determined pursuant to other applicable provisions of § 993.44 relating to adjustments for immature prune plum trees or rotation (i.e., replacement of old trees with young trees). A 3- or 4-year period provides a means of averaging large and small crops and is deemed sufficiently long to permit each grower to attain a reasonably good average. Each producer should be required to use all years of the period for his base so there would be no transfer of fruit among producers in an effort to obtain bases unrelated to sales of their production. In other words, a producer should not be permitted to have the best years of the representative period, as this would mean that when the producer had a good base, he might transfer a portion of his prunes of the next crop to another producer to improve such producer's base. This would have such adverse effects as inflating the total of all base quantities and causing them to be inconsistent with total productive capacity.

The proposals published in the notice prescribed the 1967–68 through 1970–71 crop years as the 4-year period to which the Secretary should address himself in his finding as to a representative period. At the hearing, concern was expressed about possible damage to the 1967 crop, from inclement weather in the spring, and the possible adverse effect on producer's base quantities. It was, therefore, proposed that the Secretary be authorized to find that a shorter period within those four years would constitute a representative period. However, an unlimited lesser period could be 1, 2, or 3 years and it would be undesirable, in view of the effect of crop fluctuations on base quantities, to use less than a 3-year period. It would endanger the basic objective of a period sufficiently long to assure each producer a reasonably good average base quantity. Hence, there is good reason for a 4-year representative period, but retaining at least a 3-year period. However, should it be impossible to obtain data for the 1967 crop or should a further crop year be unsuitable for inclusion in the representative period, a period beginning later than 1967–68 should be used.

As previously discussed, computation of a producer's base quantity should not include foreign material or the weight obligation pursuant to § 993.49(c). However, net prune weight shown on diversion certificates during the representative period should be regarded the same as sales to handlers and included in the computation of the diverting producer's base quantity. Otherwise, in a year of excessive prune plum production during the representative period, prior to the establishment of allotments, producers would have no alternative but to dry all prune plums and sell and deliver the prunes to handlers in order to establish maximum credit for computation and assignment of their base quantities. This would create unnecessary problems of storage and disposition for handlers and for the committee. Moreover, it would also cause the producers to incur unnecessary harvesting, drying, and delivering costs which present § 993.62 was designed to avoid.

During the representative period, producers with immature prune plum orchards planted by the effective date of the section, or who rotate a bearing orchard to younger trees, would have sales not representative of the sales level of mature trees. Therefore, to enable such producers to have annual allotments reasonably comparable to those of producers with mature trees, § 993.44 should specify how a base quantity is determined for a producer who has immature prune plum trees, in 9th leaf or younger, permanently planted as of the effective date of that section, or is rotating his bearing acreage to younger trees in the same or different locality.

In order to achieve the benefits that may accrue from a producer allotment program and to permit the establishment of a representative period, it is necessary to establish a cutoff point after which any new plantings, other than rotations, should not entitle the person with such plantings to a base quantity thereon. In the circumstances of this program, the cutoff point appropriately should be the effective date of such program so as to avoid the possibility of inflated base quantities, as such would not tend to effectuate the declared policy of the act. Therefore, only producers with permanently planted prune plum trees as of the effective date of the section should be eligible for a base quantity. As hereinafter provided, a producer means any person who is engaged, in a proprietary capacity, in growing prune plums for drying or dehydrating into prunes. For basic eligibility, other than that discussed hereinafter, a person must be so engaged when the section first becomes effective. The base quantity of the producer with eligible immature trees, a block of acreage not containing mature trees, should be established by applying to such acreage the average sales per acre in the representative period of the mature acreage of the producer or that in base quantities for other mature acreage, both in the locality.

If neither is applicable, that of the most representative comparable locality should be used. Applicability thus would

be determined as whichever is more representative of the mature sales level of the immature acreage. Thus, the producer would have an appropriate base without the possibility of undue enhancement of quantity which might result from using current availability or other criteria not subject to limitation. No consideration is to be given, according to the evidence of record, to individual immature trees which have been planted to replace dead, diseased, or missing trees in acreage of mature trees.

The issue of rotation, i.e., the replacement of old trees with young trees on portions or all of a producer's acreage and the adverse effect this has on base quantities, can be satisfied by two approaches: (1) If there is no change of location nor increase of acreage, by applying to the rotated acreage the same determinations as the foregoing on immature trees except that acreage rotated after the effective date of the section should not be a means of obtaining an increase in a producer's base quantity; (2) if there is a change of location, the same principles should apply, i.e., if planted by the effective date of the section the acreage should be treated as immature acreage and if planted thereafter, no increase in the base quantity should be permitted. Only in this way would reasonable equity of allotment be maintained between the small proportion of producers with immature acreage, due to rotation or otherwise, and the large proportion of producer farming mature acreage throughout the representative period. In the event there is expansion of acreage in the course of rotation, the expansion portion should be considered new plantings, not rotation, and should qualify for a base quantity only if permanently planted prior to the effective date of the section. It could, of course, be the productive capacity for a transfer of allotment, as set forth hereinafter. Also, denser planting of trees, without removal of mature trees, should not be considered rotation but interplanting and the hearing evidence does not justify any adjustment of base quantity due to immature trees classified as interplanting.

New § 993.44 should also provide that the committee shall, in accordance with the previous requirements set forth in that section, and based on handler reports, producer's certifications and other information, establish, for use beginning with the first crop year after the representative period, each producer's base quantity and shall, except as hereinafter provided, assign such base quantity to such producer. However, it should be provided that the right of each producer, or his legal successor in interest to the base quantity, to receive or retain all or part of such base quantity shall be dependent on his continuing to be a producer and to make a bona fide effort to produce his annual allotment, and failing to do so for three consecutive allotment years, such base quantity shall be reduced by the committee by a percentage equivalent to the unproduced portion of his annual allotment. However, to avoid possible inequities arising from acts of God or other excusable situations, the committee, with the approval of the Secretary, should have authority to waive this requirement for good cause.

A producer who ceases to be a producer prior to establishment of base quantities should not be issued a base quantity. If there is no producer successor in interest in the producing property, e.g., the land was sold for housing or other usage, the base quantity could be held by the committee and the producer given opportunity to resume operations within a reasonable time. Three years should be considered reasonable, according to the evidence of record, as a lesser period would hardly permit acquisition of land, its preparation and planting.

If a producer removes or disposes of bearing acreage, thereby reducing his productive capacity, or fails to harvest prune plums, to the extent that he fails to fill his annual allotments for three consecutive allotments years, his assigned base quantity should be reduced as aforesaid to avoid causing the total of all base quantities to be inconsistent with productive capacity. Again, a period of 3 years would be adequate to permit the producer to transfer the unused base quantity to another producer capable of using it, or to replant.

In the interest of a sound, workable program and one that can meet the needs of future supply and demand situations for prunes, new § 993.44 should also provide that each year after allotments begin the committee shall consider the need for granting, and if appropriate grant, with the approval of the Secretary, additional base quantities, to either a new producer or an existing producer, for such purposes as satisfying the demand for one or more varieties, or adjusting the total of all base quantities to the trade demand. It is expected that the committee's review generally would occur prior to or at its February marketing policy meeting. Additional base quantities could thus be granted to the extent that their need can be demonstrated, keeping in mind the productive capacity of producers at full maturity of their orchards. Additional base quantities should not be granted merely to accommodate a temporary situation of inadequate supply.

The evidence or record is that a review board of committee members may be desirable to resolve issues of additional base quantities as well as original issuance. Such a board is not precluded by the provisions of this regulatory program but specific provision for one is not made as it would be essentially a subcommittee of the committee and within the prerogative of the committee to establish.

A new section, § 993.45 *Marketable quantity, allotment percentage, and annual allotments*, should be added to the order providing that beginning with the calendar year in which base quantities are first established for producers, and annually each calendar year thereafter if the Secretary finds, on the basis of the committee's recommendation or other information, that limiting the quantity of prunes that handlers may purchase from, or handle on behalf of, producers during the ensuing crop year would tend to effectuate the declared policy of the act, he shall determine the marketable quantity and establish an allotment percentage for such crop year. It should provide further that the allotment percentage shall be determined by dividing the marketable quantity plus the estimate described in § 993.41(a)(7) by the total of all producer base quantities determined pursuant to § 993.44, which may be an estimated total for the first crop year of allotments. These provisions are required to provide a satisfactory procedure for allotting the quantity of prunes that handlers may purchase from or handle on behalf of producers—namely, the marketable quantity which would approximate the sum of all annual allotments issued to producers for a given crop year. The total of all producer base quantities used in computing the allotment percentage for the first crop year of allotments may need to be an estimated total due to the possible time lag in the first year of establishing base quantities and the desirability of issuing annual allotments for the ensuing crop year as early as possible to permit producers to plan accordingly.

For effective regulation and to prevent unauthorized handling of prunes in excess of the marketable quantity, the new section should provide that no handler shall purchase or handle on behalf of any producer prunes not within such producer's annual allotment, except as permitted by the regulatory program.

So as to permit the avoidance of regulation when not needed, new § 993.45 should provide that based on a recommendation of the committee pursuant to § 993.41(b) or other information, the Secretary may suspend the allotment percentage applicable to any crop year and producers' annual allotments. Generally, any suspension would be made on the basis of the committee's July marketing policy report, but later suspensions should be permitted if it subsequently developed that all prunes in the crop were needed for orderly marketing. Whenever such suspensions are effective, handlers would be permitted to purchase prunes from all producers, including any to whom no base quantities were assigned.

The section should also provide that upon determination of the marketable quantity and establishment of an allotment percentage by the Secretary for an ensuing crop year, the committee shall issue to each producer an annual allotment for such ensuing crop year computed, except as hereinafter provided, by applying the allotment percentage established pursuant to this section to the producer's base quantity. This would be the basic determination whereby the total quantity of prunes which handlers may purchase from, or handle on behalf of, producers during that year will be apportioned equitably among producers.

So that allotments are issued only to producers currently producing and to recognize their productive capacity, the section should further provide that such issuance shall be conditioned upon the

producer filing with the committee, within a specified time, a form furnished by the committee whereon the producer states at least where he intends to produce his annual allotment, the acreage he intends to harvest, the maturity of the trees, changes of location, if any, and such other information as is necessary to administer the allotment provisions. Where a producer indicates that due to acreage, immature age of trees or other cause, he will be unable to produce his computed annual allotment, the committee should be required to reduce the annual allotment it issues (to that producer) so as to reflect productive capacity. This should be by applying an appropriate portion of the allotment percentage to the producer's base quantity. The committee should be authorized, with the approval of the Secretary, to establish a schedule of reductions for ages of immature trees or other factors of production. The schedule would aid the committee in reducing annual allotment on like bases in like situations.

As discussed previously, a producer failing to produce his annual allotment has a 3-year period of grace before the base quantity is adjusted because of his failure to make a bona fide effort to produce his annual allotment. During those 3 years, the base quantity would remain at the figure at which it was originally established, but the producer's annual allotment, if any, should be reduced to reflect the reduction in his productive capacity. In recommending the allotment percentage each year, the inability of any producers to produce their annual allotments based on their mature base quantities should be taken into consideration by the committee. The yearly application by the producers would provide the committee with information to make the estimation, for use with the method previously discussed, for the adjustment necessary in the allotment percentage in order to achieve the desired marketable quantity.

New § 993.45 should also provide that, except as provided in § 993.47, no handler, producer, or other person shall be the assignee or transferee of an annual allotment, or portion thereof, except that a person other than a handler may deliver prunes in the stead of the producer holding the allotment but no handler shall receive prunes from such other person except to the extent authorized by the committee. Allowing assignments or transfers of annual allotments would encourage speculation and could thwart the objective of orderly marketing, particularly where the assignment or transfer is the deficit portion of an annual allotment and a handler uses it to obtain surplus prunes from another producer at much less than prevailing field prices. However, there should be means to permit the normal and accepted methods of moving prune plums and prunes from harvest through the various steps that traditionally have been taken to enter them in the current of commerce: for example, from producer to dehydrator to handler. Therefore, while not recognizing assignments or transfers of annual allotments, the committee should permit the prune plum producer to have another person deliver in his stead prunes produced from his prune plums. The committee should maintain controls on such an arrangement to be sure that the transaction does not bypass the prohibition and bring unfavorable results. Hence, the handler receipts permitted by the exception should be only those authorized by the committee.

New § 993.45 should also require that when an allotment percentage is in effect the weight of all prunes shall be based on weights determined by Public Weighmasters. A Public Weighmaster's certificate should be issued to cover every lot of prunes delivered to a handler and to be handled by him. Since an annual allotment is a weight of prunes, it is obviously necessary to prescribe a means for determining the prune weight.

The section should require that any weight obligation pursuant to § 993.49 (c) shall not be a part of the producer's annual allotment. Whenever a lot of prunes is inspected pursuant to the quality requirements of the program, a determination is made whether it contains prunes with defects of mold, imbedded dirt, insect infestation and decay in excess of tolerances. Any quantity of prunes with such defects necessary to be removed from the lot so that the balance of the lot would be within the tolerances is determined, and the handler is required to dispose of a like quantity of prunes affected by such defects in nonhuman consumption outlets. Such prunes do not become part of the salable supply and therefore should not be part of the producer's annual allotment.

(7) To enable the industry to control and dispose of prunes in excess of producers' annual allotments and carry out the objectives of the producer allotment provisions, a new section, § 993.46 *Surplus prunes*, should be added to the order. That section should provide that prunes that are in excess of an effective individual producer annual allotment or the total of such annual allotments to members, delivered pursuant to membership contracts, of a cooperative marketing association, shall be surplus prunes. Prior to January 15 of the crop year, producers of such prunes should be permitted to sell or transfer them to producers capable of using them to satisfy a deficiency of production relative to their annual allotments. As a means of preventing surplus prunes from entering unauthorized outlets, § 993.46 should also provide that no handler shall handle surplus prunes except that any handler who is a packer shall be a designee of the committee, under such conditions as it shall specify as to holding and delivery obligations, with the approval of the Secretary, to receive and hold surplus for the account of the committee. As a further means of controlling surplus prunes, that section should also provide that any producer or dehydrator selling or delivering surplus prunes to other than the committee or its designees or to a producer satisfying a deficiency, shall be a handler relative to such transaction. However, since surplus prunes of a producer's own production do not enter trade channels while on his premises, there should be no restriction on a producer's use of surplus prunes in his own farming operation. Therefore, § 993.46 should also provide that any producer may dispose of surplus prunes of his own production within his own livestock feeding operation or other farming operation and, prior to or after January 15, such prunes may be delivered to the committee or its designees for inclusion in the surplus pool.

Any prunes in excess of an individual producer's annual allotment should be surplus prunes. However, a cooperative marketing association should be permitted, in view of its structure, the provisions of its membership contracts, and its operating as a single producer under the program, to concentrate prunes delivered pursuant to such contracts, and any prunes in excess of the total of such annual allotments to members of the association should be surplus prunes.

It is likely that some producers will have production in excess of their annual allotments while others may not be able to produce enough. So that the industry's marketable quantity may be filled as nearly as practicable, producers of surplus prunes should be permitted to sell or transfer them to producers in an amount necessary to fill a deficiency of production relative to an annual allotment. Since surplus prunes delivered to a handler should be held for the account of the committee any transfer of such prunes should be under such conditions as it may specify as part of the obligations of a "designee" of the committee. All transfers should be made before a cutoff date so that the committee can begin disposition. January 15 should be designated as the cutoff date because normally all but a very small percentage of the crop is delivered and inspected by that time each year. The accounting by the handler and the committee should have progressed sufficiently by that date whereby the eligible transfers can be properly documented and reconciled in the accounting. There must be such a cutoff, for the committee must finalize the pool operation at some point early enough in the crop year to engage in the fulfillment of its obligation to dispose of surplus prunes in noncompetitive outlets. Any surplus prunes delivered after January 15, should not be eligible for transfer and should be relegated to the surplus pool for disposition.

So that there may be an orderly disposition of surplus prunes and no conflict with the marketing of salable prunes or reserve prunes, § 993.46 should provide that the committee shall have the power and authority to sell or dispose of any and all surplus prunes delivered to it or held by handlers for its account, but no such disposition shall be in normal outlets except upon a finding of the committee, approved by the Secretary, that it will not interfere with the demand for salable prunes or reserve prunes.

That section should also provide that the committee may sell and ship, or instruct handlers to ship, surplus prunes for nonhuman consumption purposes, and that the committee may arrange to

store surplus prunes at other than a handler's premises. It is expected that the committee would normally arrange with the handler holding the surplus prunes to ship them for the account of the committee according to its instructions. However, provisions should also be made for the committee to make shipments independent of handlers since, in some cases, surplus prunes may be stored at other than a handler's premises. It may be that a handler cannot or does not want to store surplus prunes for the account of the committee. In that case the committee may have to lease warehouse space to store surplus delivered to such handler. The committee may also need to use such a storage facility to receive surplus prunes delivered directly by a producer unable or unwilling to deliver his surplus to a packer designee of the committee. Under these circumstances, the committee would have to physically prepare for receipt and disposition of any such surplus.

It is only proper that any net proceeds realized by the committee from disposition of surplus prunes should be distributed to equity holders, the persons with beneficial interest in the surplus prunes. Therefore, new § 993.46 should provide that the committee shall account for the disposition of surplus prunes to the equity holders thereof, distributing to them any proceeds received in excess of the costs incurred by the committee for the receiving, handling, holding, or disposing of surplus prunes. The monies received as revenues as well as the expenses incurred, including the administrative and distribution costs, should be treated as pool revenue and expenses. In other words, total costs should be deducted from income and only net income distributed.

It was proposed at the hearing that new § 993.46 include provisions defining surplus as to sizes and types of prunes. Since the surplus provision would not be used at least before the 1971–72 crop year and the exact administration can be studied in the meantime, this matter should be left to rules and procedures to be established by the committee with the approval of the Secretary. Adding such provisions to the order would deny the committee the flexibility needed in the event new ideas or concepts are developed. For instance, means of so controlling delivery of allotments may be found as to permit surplus to be the more economical withholding of field-run loads in lieu of the average marketable content of each producer's deliveries, as was discussed at the hearing. This latter, however, implies that the average marketable content of salable and reserve prunes would be included in the determination of the surplus obligation. However, it is evident that a more suitable result may be obtained through rule making.

Producers occasionally change their orchard location, they sell and purchase orchards, they rent for cash or by sharing the crop, they expand or reduce their orchards, and they go out of business as producers by selling their orchards to other producers or for such purposes as housing developments. The provisions relative to producer allotments should be sufficiently flexible to accommodate these changes of location or status but with limitations so that the basic function of the allotment program, of allotting among producers the prunes which handlers may acquire, will be preserved.

Hence, a new section, § 993.47 *Transfers*, should be added to the order to authorize any producer to transfer, subject to limitations, either (a) from the location(s) where he produces his annual allotment to other land which he farms, or (b) all or part of his assigned base quantity from himself to another producer.

It may happen that a producer desiring to make either type of transfer is not the owner of the original orchard land. With respect to the location type transfer, the new section should provide that no such transfer shall be valid and no further annual allotments referable to such orchard shall be granted to such producer unless the owner consents to the transfer. Likewise, with respect to a transfer to another producer, the section should provide that the transfer shall not be recognized nor shall an annual allotment be granted by the committee to the potential transferee unless the orchard owner consents to the transfer. These limitations would tend to assure outlets for the production of the original orchard and so protect the orchard owner's investment. Otherwise, for example, a cash renter (the producer on the original orchard) could transfer to some other producing location or transfer his base quantity to another producer, with the result that the subsequent producer on the original orchard land, whether he is the owner or a new cash or share renter, would be without an allotment and an ability to sell prunes to handlers. In addition, since the allotment provisions are for the purpose of adjusting excess production to demand, there would be no function served by the original orchard land remaining in production and additional production encouraged by such transfer of location or of base quantity.

With respect to either type of transfer, when the original orchard continues in production and the owner will not consent to the transfer, the base quantity should be held in temporary suspension by the committee so its assignment can be resolved. Assignment should be resolved promptly to avoid absence of annual allotments to producers otherwise eligible for such. The base quantity should be permitted to be assigned by the committee as follows: If the owner has taken over the farming of the orchard and becomes the producer, the base quantity should be assigned to him; if the owner arranges for another person to operate the orchard, such person becomes the producer and the base quantity should be assigned to him; if the owner lets the orchard to a person on a share rental basis, both become producers and the base quantity should be assigned to both either jointly or in proportion to their respective shares in accordance with the terms of their contract.

So that the committee will be assured that any transfer of location is appropriate and it will have the information necessary for allotment operations, the new section should require the committee, by such means as are provided in new § 993.45(b), to obtain information as to the location(s) where each producer intends to produce each annual allotment.

Relative to transfers of base quantities between producers, new § 993.47 should provide that no such transfer shall be recognized by the committee except upon the transferor and transferee notifying the committee in writing with regard thereto and the transferee submitting evidence of capability to produce and harvest the annual allotment referable thereto. This is to provide the committee with information needed for allotment operations and to preclude transfer of a base quantity to a person unable to use it and who might want to acquire it for a speculative purpose.

New § 993.47 should also provide that if any producer disposes of acreage and ceases to be a producer thereon prior to the issuance of base quantities pursuant to new § 993.44(a) and, if the purchaser continues the acreage in production of prune plums, such purchase shall be deemed to authorize issuance of the base quantity, applicable to such acreage to the successor producer. Prior to the establishment of base quantities, a producer may find it necessary or desirable to sell his orchard. If the purchaser continues the orchard in prune plum production, the assignment of the base quantity to him would place the referable annual allotment in the hands of the successor in interest and so permit sale of prunes resulting from the orchard. Furthermore, this base quantity should be computed using the sales from the orchard for all years of the representative period so that the purchasing producer is granted a representative base quantity and appropriate annual allotments.

It was proposed that in authorizing transfers, the committee should give priority to existing producers over new producers, with special priority to those producers who can show that the manner in which their base quantities were established has resulted to their detriment in an extraordinary disparity between their base quantities and their productive capacity. This proposal could adversely affect a transferor by forcing him to find a transferee with such qualifications. Furthermore, it could prevent a transferor from making an intended transfer; for example, a father to a son if the son would fall into the category of a "new" producer. There is the further problem of anticipating, at this point, that some base quantities will not be in line with productive capacity and provision is needed within the program to assist such producer to obtain an additional base quantity. It is probable he can obtain it without assistance. In view

of these circumstances, this proposal is not adopted as a provision hereinafter.

As previously discussed, "surplus prunes," in the aggregate, would be those in excess of the annual allotments established for any crop year after computation and establishment of base quantities. Since salable and reserve percentages would be applied only to the allotment receipts, such surplus prunes should be specifically excluded from applicability of the reserve control provisions. Therefore, the second sentence of § 993.54 should be revised to provide that the salable and reserve percentage when applied to the natural condition weight of prunes received during the crop year by a handler from producers and dehydrators, excluding surplus prunes and excluding the weight obligation of § 993.49(c), plus that diverted tonnage (dried weight natural condition prune basis) on diversion certificates issued pursuant to § 993.62 and credited to or held by him, shall determine the weight of each handler's receipts which are salable prunes and reserve prunes. However, transfers of surplus prunes, authorized by the committee to another producer with a deficiency in his annual allotment, would remove such prunes from the surplus category, and these prunes would become a part of the prunes of the producer to whom transferred, within his annual allotment, and therefore subject to reserve controls.

Section 993.55 currently provides for the application of the salable and reserve percentages established for any crop year to prunes received by handlers from producers and dehydrators in the subsequent crop year and before salable and reserve percentages are established for the new crop year. Since salable and reserve percentages established for a crop year would not be applicable to the weight obligation of § 993.49(c) nor to the weight of any surplus prunes, such percentages should be similarly inapplicable when carried over into the succeeding crop year. Therefore, the first sentence of § 993.55 should be revised accordingly.

Since salable and reserve percentages would not be applicable to surplus prunes, handler's reserve obligation should exclude surplus prunes received by them. Therefore, the first sentence of § 993.56 should be revised to prescribe this exclusion.

Section 993.59 currently requires the committee to pay handlers for the necessary services rendered by them in connection with reserve prunes, including, but not limited to, inspection, receiving, storing, grading, and fumigation. The section further requires that such payment shall be in accordance with a schedule of payments and conditions established by the Secretary after recommendation by the committee. The section should be revised so that its provisions apply to surplus prunes as well as to reserve prunes. It is only fair that handlers be paid for services they perform on pool prunes in which producers or other persons have the beneficial interest. Costs of these services on surplus prunes may change from time to time. Hence, appropriate charges should be established by rule making rather than be specified in the revised section. A handler should not be paid for any such services he might perform in connection with surplus prunes transferred after receipt to fill a deficiency in a producer's annual allotment because the prunes then become salable or reserve prunes for treatment as such. Obviously, a handler should not be paid on any surplus prunes for which he is obligated but fails to deliver.

(8) In view of the new definition of "prune plums" in § 993.4a, the definition of that term in § 993.62(a) should be deleted. In lieu thereof a new paragraph (a) *Termination* should be added providing that beginning with the first year in which base quantities are established, the provisions of § 993.62 shall terminate. As previously discussed herein, any prune plums diverted pursuant to § 993.62 prior to drying or dehydrating during such representative period as may be determined by the Secretary would be construed a sale by a producer for purposes of computing his base quantity. However, after establishment of base quantities, there should be no further need for recognizing voluntary diversion of prune plums by producers because operation of producer allotment and related provisions in any year of surplus would serve as the surplus control. By virtue of early advice on allotments producers could attempt to tailor production to their annual allotments.

(9) Some of the amendatory actions herein cause the need to make certain conforming changes, as hereinafter set forth, in the provisions of the order so that the order, as amended, will be in conformity with those actions. Such changes are discussed herein with the issues to which pertinent. All of such changes should be incorporated herein. Other such changes, for better format and applicability of the provisions, should be to redesignate § 993.48 *Regulation*, as § 993.42, *Regulation*, and to insert a new center heading "Allotment of Marketable Quantity" immediately following redesignated § 993.42. That section provides that no handler shall handle prunes except in accordance with the provisions of this part. Such changes are appropriate because new §§ 993.43 through 993.47 on producer allotments follow immediately thereafter, and the prohibition of unauthorized handling set forth in current § 993.48 needs to be applicable to the new provisions including those on producer allotments as well as to other regulatory provisions of the program.

Rules and procedures to be established by the committee, with the approval of the Secretary, will be necessary for effective and efficient administration of the new provisions resulting from the amendatory proceeding and hereinafter set forth. The authority in present § 993.36(n) of the order for establishing rules and procedures for use relative to the present provisions of the order is construed as extending to the new provisions. Hence, it is not necessary to provide, in the new provisions, express authority to establish rules and procedures in connection with such new provisions.

*Rulings on proposed findings and conclusions.* The Presiding Officer announced at the hearing that interested persons would be allowed to and including May 8, 1967, to file with the Hearing Clerk proposed findings and conclusions, and written arguments or briefs, based on evidence received at the hearing. Briefs were filed by Roger Fleming for the American Farm Bureau Federation; Allan Grant for the California Farm Bureau Federation; R. L. Engell, California Packing Corp.; Charles A. Schmidt, Valley View Packing Co., Inc.; C. J. Olson; John Leonard; and Will W. Lester.

Every point covered in these briefs has been considered carefully in light of the scope of the notice and the evidence in the record, in making the findings and reaching the conclusions herein set forth. To the extent that any suggested findings and conclusions contained in those briefs are inconsistent with the findings and conclusions contained herein, they are denied on the basis of the facts found and stated in connection with this recommended decision.

*General findings.* (a) The findings hereinafter set forth are supplementary, and in addition, to the previous findings and determinations which were made in connection with the issuance of the marketing agreement and order and each previously issued amendment thereto. Except the finding as to the base period for parity computation, and except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed. (For prior findings and determinations see 14 F.R. 5254; 16 F.R. 8437; 19 F.R. 1301; 22 F.R. 8254; 26 F.R. 475; 30 F.R. 9797);

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

(c) The marketing agreement and order, as amended and as hereby proposed to be further amended, regulate the handling of dried prunes produced in California in the same manner as, and are applicable only to persons in the respective classes of industrial or commercial activity specified in, the marketing agreement and order upon which hearings have been held;

(d) There are no differences in the production and marketing of dried prunes in the production area covered by the marketing agreement and order, as amended and as hereby proposed to be further amended, which require different terms applicable to different parts of such area;

(e) The marketing agreement and order, as amended and as hereby proposed to be further amended, are limited in application to the smallest regional production area which is practicable, consistently with carrying out the declared

policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act; and

(f) All handling of dried prunes produced in California is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce.

*Recommended amendment of the order.* The following further amendment of the order is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. A new § 993.4a reading as follows is added immediately after § 993.4:

**§ 993.4a Prune plums.**

"Prune plums" means those varieties of plums grown in the area for drying or dehydrating and which are covered by §§ 993.6 and 993.7.

2. Section 993.5 is revised to read:

**§ 993.5 Prunes.**

"Prunes" means and includes all sun-dried or artificially dehydrated prune plums, of any type or variety, produced from prune plums grown in the area, except: (a) Sulfur-bleached prunes which are produced from yellow varieties of prune plums and are commonly known as silver prunes; and (b) prune plums which have not been dried or dehydrated to a point where they are capable of being stored prior to packaging, without material deterioration or spoilage unless refrigeration or other artificial means of preservation are used, and so long as they are treated by a process which is in conformity with, or generally similar to, the processes for treatment of prune plums of that type which have been developed or recommended by the Food Technology Division, College of Agriculture, University of California, for the specialty pack known as "high moisture content prunes," but this exception shall not apply if and when such prune plums are dried to the point where they are capable of being stored without material deterioration or spoilage, refrigeration or other artificial means of preservation.

3. Section 993.6 is revised to read:

**§ 993.6 Non-French prunes.**

"Non-French prunes" means prunes commonly known as Imperial, Sugar, Robe de Sargent, Burton, Standard, Jefferson, Fellenberg, Italian, President, Giant, and Hungarian (Gross), produced from such varieties of prune plums. This definition may be modified by the committee with the approval of the Secretary.

4. Section 993.7 is revised to read:

**§ 993.7 French prunes.**

"French prunes" means: (a) Prunes produced from the following varieties of prune plums: French (Prune d'Agen, Petite Prune d'Agen), Coates (Cox, Double X, Saratoga); and (b) any other prunes which possess taste, flesh texture, and other characteristics similar to those of the prunes named in this section.

5. Section 993.13 is revised to read:

**§ 993.13 Handle.**

"Handle" means to receive, package, sell, consign, transport, or ship (except as a carrier of prunes owned by another person), or in any other way to place prunes, including surplus prunes, in the current of the commerce within the area, from within the area to any point outside thereof, or from any point outside the area to any other point: *Provided*, That, except as provided in § 993.46(a), this term shall not include: (a) Sales or deliveries of prunes by a producer or dehydrator to a producer, dehydrator, or handler within the area; (b) the receiving of prunes by a producer or dehydrator from a producer or dehydrator; and (c) receipts, sales, or shipments of prunes already handled by another person other than transfers pursuant to § 993.50(f).

6. Section 993.14 is revised to read:

**§ 993.14 Handler.**

"Handler" means any person inside or outside of the area who handles prunes.

7. Section 993.15 is revised to read:

**§ 993.15 Dehydrator.**

"Dehydrator" means any person who produces prunes by drying or dehydrating prune plums by means of sun-drying or artificial heat.

8. Section 993.16 is revised to read:

**§ 993.16 Producer.**

"Producer" means any person who is engaged, in a proprietary capacity, in growing prune plums for drying or dehydrating into prunes.

9. Section 993.21c is revised to read:

**§ 993.21c Salable prunes.**

"Salable prunes" means prunes which are free to be handled pursuant to producer allotments and any salable percentage established by the Secretary.

10. A new § 993.21e reading as follows is added immediately after § 993.21d:

**§ 993.21e Marketable quantity.**

"Marketable quantity" means the quantity of prunes constituting the total of all producer annual allotments and adequate to meet the estimated total trade demand of a crop year, permit desirable adjustments in carryover, and provide, if deemed desirable, a reserve against a possible short crop in the subsequent crop year.

11. A new § 993.21f reading as follows is added immediately after new § 993.21e:

**§ 993.21f Base quantity.**

"Base quantity" means the number of pounds of prunes, expressed as tons, established by the committee pursuant to § 993.44 for a producer.

12. A new § 993.21g reading as follows is added immediately after new § 993.21f:

**§ 993.21g Annual allotment.**

"Annual allotment" means, for a crop year and for each producer, the number of pounds of prunes expressed as tons, determined by multiplying the producer's base quantity by the allotment percentage.

13. A new § 993.21h reading as follows is added immediately after new § 993.21g:

**§ 993.21h Leaf.**

"Leaf" means the age, in years, of a budded or grafted prune plum variety of tree, with the first leaf commencing in the crop year in which the tree is permanently planted and produces leaves.

14. The first sentence of § 993.33 is revised to read:

**§ 993.33 Voting procedure.**

Decisions of the committee shall be by majority vote of the members present and voting and a quorum must be present: *Provided*, That decisions on marketing policy, grade or size regulations, pack specifications, producer allotments, salable and reserve percentages, and on any matters pertaining to the control or disposition of surplus prunes, of reserve prunes, or to prune plum diversion pursuant to § 993.62, including any delegation of authority for action on such matters and any recommendation of rules and procedures with respect to such matters, including any such decision arrived at by mail or telegram, shall require at least 14 affirmative votes. * * *

Section 993.36 is amended as follows:

15. Paragraph (h) is revised.

16. Paragraph (i) is revised.

Paragraphs (h) and (i) of § 993.36 read as follows:

**§ 993.36 Duties.**

* * * * *

(h) To prepare and submit to the Secretary monthly statements of the financial operations of the committee, exclusive of surplus prune and reserve prune operations, and to make such statements, together with the minutes of the meetings of said committee, available for inspection at the offices of the committee by producers, dehydrators, and handlers;

(i) To prepare and submit to the Secretary annually, as soon as practicable after the end of each applicable crop year and at such other times as the committee may deem appropriate or the Secretary may request, a statement of the committee's financial operations with respect to surplus prunes for such crop year, as well as a statement of the committee's financial operations with respect to reserve prunes for such crop year, and to make such statements available at the offices of the committee for inspection by producers, dehydrators, and handlers;

* * * * *

17. Section 993.41 is revised to read:

**§ 993.41 Marketing policy.**

(a) On or before the fourth Tuesday of the February preceding the first crop year of allotments, and of subsequent Februarys, the committee shall prepare

and submit to the Secretary a report setting forth its recommended marketing policy for the ensuing crop year: *Provided*, That in the first year the committee may prepare and submit such report at a later date. In formulating such marketing policy the committee shall consider and shall include in its report to the Secretary, the following estimates (natural condition basis) and recommendations:

(1) The likely carryover of salable prunes as of August 1;

(2) The domestic trade demand in the ensuing crop year by uses of prunes;

(3) The foreign trade demand in the ensuing crop year by countries or groups of countries;

(4) The desirable carryout of salable prunes at the end of the ensuing crop year;

(5) The quantity of prunes in excess of the ensuing crop year's requirements as may be needed to protect against a possible short crop in the subsequent crop year;

(6) The marketable quantity of prunes;

(7) The estimated quantity of prunes that may not be delivered by producers due to productive capacity reductions in annual allotments pursuant to § 993.45(b);

(8) The recommended allotment percentage for the ensuing crop year;

(9) If deemed desirable for market stability, the maximum quantity of prunes to be made available to handlers as salable prunes from the new crop; and

(10) Such other factors as may have a bearing on the marketing of prunes or the administration of this part.

(b) In July, the committee shall convene for the purpose of recommending and beginning with the first year of allotments, reviewing and, if necessary, modifying its marketing policy for the ensuing crop year. A report thereof shall be prepared and submitted on or before the fourth Tuesday of July to the Secretary. In such meeting, the committee shall consider and shall include in its report to the Secretary, in addition to subparagraphs (1) through (4) of paragraph (a) of this section, the following estimates (natural condition basis) and recommendations:

(1) The carryover of reserve prunes as of August 1;

(2) The grade and size composition of the salable and reserve carryovers;

(3) Beginning in the first year of allotments, the production of prunes with allotments and without allotments;

(4) The probable quality of prunes in the crop;

(5) The quantity of prunes to be withheld as reserve prunes so as to protect against errors of estimation and permit orderly marketing of the supply;

(6) The recommended salable and reserve percentages for the ensuing crop year;

(7) The quantity of prune plums and prunes, dried weight basis, likely to be disposed of by diversion or as surplus;

(8) Any recommended change in grade, size or pack regulations pursuant to §§ 993.49 to 993.53 inclusive;

(9) The probable assessable tonnage for the purposes of § 993.81;

(10) The current prices for prunes, the trend and level of consumer income, and whether producer prices are likely to exceed parity; and

(11) Beginning in the first year of allotments, any recommended suspension of the allotment percentage and annual allotments.

(c) The committee shall modify its marketing policy if it becomes advisable at any time because of changed demand, supply, or other conditions and shall report thereon to the Secretary. Notice of the committee's marketing policy, and of any modifications thereof, shall be given promptly by reasonable publicity to producers, dehydrators, and handlers.

§ 993.42 [Redesignated]

18. Section 993.48 *Regulation* is redesignated as § 993.42.

19. A new center heading "Allotment of Marketable Quantity" is inserted immediately following redesignated § 993.42, and new sections reading as follows are added immediately after that heading:

ALLOTMENT OF MARKETABLE QUANTITY

§ 993.43 Preliminary regulation.

Beginning with the 1967–68 crop year, or such later year as the committee may recommend and the Secretary establish, and until a representative period has been determined pursuant to § 993.44, no handler shall handle as the first handler thereof, prunes delivered to him until he has determined the identity of each producer of the prune plums which were dried or dehydrated and so delivered, the county of production, and the quantity of prunes attributable to such producer. The handler shall furnish such information to the committee at such times and in such form as the committee may request. All such quantities of prunes shall be based on weights determined by Public Weighmasters, either total graded weight or delivered weight, and shall be net prune weight exclusive of foreign material and the weight obligation of § 993.49(c). So that each producer may qualify for a base quantity pursuant to § 993.44, the committee shall furnish each producer of record, early in each calendar year, a form to be filed with the committee whereon the producer reports the location of his orchard(s), the acreage he intends to harvest for prunes, the maturity of the trees, and such other information as the committee needs to establish a base quantity for such producer.

§ 993.44 Base quantities.

(a) *Computation and establishment.* (1) If the Secretary finds that the 1967–68 through 1970–71 crop year, or a period beginning one or more year(s) later than 1967–68, but not less than a three-year period, constitute a representative period in terms of production of prunes for market and the consequent producer sales, a base quantity shall be established for each producer entitled thereto. Each base quantity shall be in an amount equal to either (i) the total sales credited as net prune weight pursuant to § 993.43, plus the weight shown on diversion certificates, of such producer during the representative period divided by the number of years in the period, or (ii) that determined or adjusted pursuant to the applicable provisions of subparagraphs (2), (3), and (4) of this paragraph.

(2) If a producer has immature prune plum trees, in 9th leaf or younger permanently planted as of the effective date of this section, in blocks of acreage not containing mature trees, his base quantity on such acreage shall be established by applying to the acreage the average sales per acre in the representative period from mature acreage of the producer in the locality or the average sales per acre in base quantities for other mature orchards in the locality (if none, the most representative comparable locality), whichever is more representative of the mature sales level for the immature acreage.

(3) If a producer is engaged in a rotation program of replacing old trees with young trees, by the removal and replanting of all or portions of his acreage, without change of location or increase of acreage, whether begun prior to or during the representative period, but the rotation adversely affects his base quantity, such producer shall have such portions of his base quantity as are referable to the rotated acreage established consistent with the provisions of subparagraph (2) of this paragraph: *Provided*, That any such adjustment of a base quantity due to rotation occurring after the effective date of this section shall not cause the producer's base quantity to exceed his approximate base quantity in the absence of such rotation.

(4) If a producer is engaged in a rotation from existing acreage to a new location, that portion of his base quantity attributable to acreage permanently planted prior to the effective date of this section shall be established consistent with subparagraph (2) of this paragraph. However, the base quantity referable to such acreage planted after the effective date of this section shall not exceed the approximate base quantity for the original acreage.

(5) In accordance with subparagraphs (1) and (2) of this paragraph, and based on reports of handlers, producers' certifications and other information, the committee shall establish for use beginning with the first crop year after the representative period, each producer's base quantity and, except as hereinafter provided, shall assign such base quantity to such producer. The right of each producer, or his legal successor in interest to the base quantity, to receive or retain all or part of such base quantity shall be dependent upon his continuing to be a producer and to make a bona fide effort to produce his annual allotment, and failing to do so for three consecutive allotment years, such base quantity shall be reduced by the committee by a percentage equivalent to the unproduced portion

of his annual allotment: *Provided*, That the committee, with the approval of the Secretary, may waive this requirement for good cause.

(b) *Additional base quantities.* Each year after allotments begin the committee shall consider the need for granting, and if appropriate grant, with the approval of the Secretary, additional base quantities, to either a new producer or an existing producer, for such purposes as satisfying the demand for one or more varieties, or adjusting the total of all base quantities to the trade demand.

**§ 993.45 Marketable quantity, allotment percentage, and annual allotments.**

(a) *Marketable quantity and allotment percentage.* Beginning with the calendar year in which base quantities are first established for producers, and annually each calendar year thereafter if the Secretary finds, on the basis of the committee's recommendation or other information, that limiting the quantity of prunes that handlers may purchase from, or handle on behalf of, producers during the ensuing crop year would tend to effectuate the declared policy of the act, he shall determine the marketable quantity and establish an allotment percentage for such crop year. The allotment percentage shall be determined by dividing the marketable quantity plus the estimate described in § 993.41(a)(7) by the total of all producer base quantities determined pursuant to § 993.44 which may be an estimated total for the first crop year of allotments. Except as provided in this part, no handler shall purchase or handle on behalf of any producer prunes not within such producer's annual allotment. Based on a recommendation of the committee pursuant to § 993.41(b) or other information, the Secretary may suspend the allotment percentage applicable to any crop year and producers' annual allotments.

(b) *Annual allotments.* Upon determination of the marketable quantity and establishment of an allotment percentage by the Secretary for an ensuing crop year, the committee shall issue to each producer an annual allotment for such ensuing crop year computed except as otherwise provided in this paragraph, by applying the allotment percentage established pursuant to paragraph (a) of this section to the producer's base quantity. Such issuance shall be conditioned upon the producer filing with the committee, within a specified time, a form furnished by the committee whereon the producer states at least where he intends to produce his annual allotment, the acreage he intends to harvest, the maturity of the trees, changes of location, if any, and such other information required by the committee to administer this part. If the committee determines that due to acreage, immature age of trees, or other cause, the producer will be unable to produce his computed annual allotment, the committee shall apply to his base quantity an appropriate portion of the allotment percentage so as to reduce the annual allotment it issues to reflect productive capacity. The committee may, with the approval of the Secretary, establish a schedule of reductions for ages of immature trees or for other factors of production. Except as provided in § 993.47, no handler, producer, or other person shall be the assignee or transferee of an annual allotment, or portion thereof, except that a person other than a handler may deliver prunes in the stead of the producer holding the allotment but no handler shall receive prunes from such other person except to the extent authorized by the committee. When an allotment percentage is in effect, the weight of all prunes shall be based on weights determined by Public Weightmasters, and any weight obligation pursuant to § 993.49(c) shall not be a part of a producer's annual allotment.

**§ 993.46 Surplus prunes.**

(a) *General.* Prunes that are in excess of an effective individual producer annual allotment or the total of such annual allotments to members, delivered pursuant to membership contracts, of a cooperative marketing association, shall be surplus prunes. Prior to January 15 of the crop year, producers of such prunes may sell or transfer them to producers capable of using them to satisfy a deficiency of production relative to their annual allotment. No handler shall handle surplus prunes except that any handler who is a packer shall be a designee of the committee, under such conditions as it shall specify as to holding and delivery obligations, with the approval of the Secretary, to receive and hold surplus prunes for the account of the committee. Any producer or dehydrator selling or delivering surplus prunes to other than the committee or its designees or to a producer satisfying a deficiency, as provided in this paragraph, shall be a handler relative to such transaction. Any producer may dispose of surplus prunes of his own production within his own livestock feeding or other farming operation and, prior to or after January 15, such prunes may be delivered to the committee or its designees for inclusion in the surplus pool.

(b) *Committee's right of disposition.* The committee shall have the power and authority to sell or dispose of any and all surplus prunes delivered to it or held by handlers for its account, but no such disposition shall be in normal outlets except upon a finding of the committee, approved by the Secretary, that it will not interfere with the demand for salable prunes or reserve prunes. The committee may sell and ship, or instruct handlers to ship, surplus prunes for nonhuman consumption purposes. The committee may arrange to store surplus prunes at other than a handler's premises.

(c) *Distribution of proceeds.* The committee shall account for the disposition of surplus prunes to the equity holders thereof, in distributing to them any proceeds received in excess of the costs incurred by the committee for the receiving, handling, holding, or disposing of surplus prunes. The monies received as revenues as well as the expenses incurred, including the administrative and distribution costs, shall be treated as surplus pool revenue and expenses.

**§ 993.47 Transfers.**

(a) *Of location.* A producer owning the orchard(s) determining the base quantity may transfer from the location(s) where he produces his annual allotment to other land which he farms. If a producer does not own the original orchard land no such transfer shall be valid and no further annual allotments referable to such orchard shall be granted by the committee to such producer unless the orchard owner consents to the transfer. The committee shall, by such means as are provided in § 993.45(b), obtain information as to the location(s) where such producer intends to produce each annual allotment.

(b) *To another producer.* A producer owning the orchard(s) determining the base quantity may transfer all or part of a base quantity from himself to another producer. If the transferor is not the owner of the orchard land, the transfer shall not be valid nor shall an annual allotment be granted by the committee to the potential transferee unless the orchard owner consents to the transfer. No transfer shall be recognized by the committee except upon the transferor and transferee notifying the committee in writing and the transferee submitting evidence of capability to produce and harvest the annual allotment referable thereto. If any producer disposes of acreage and ceases to be a producer thereon prior to the issuance of base quantities pursuant to § 993.44(a) and, if the purchaser continues the acreage in production of prune plums, such purchase shall be deemed to authorize issuance of the base-quantity, applicable to such acreage to the successor producer.

**§ 993.54 [Amended]**

20. The second sentence of § 993.54 is revised to read: "The salable and reserve percentages when applied to the natural condition weight of prunes received during the crop year by a handler from producers and dehydrators, excluding surplus prunes and excluding the weight obligation of § 993.49(c), plus that diverted tonnage (dried weight natural condition prune basis) on diversion certificates issued pursuant to § 993.62 and credited to or held by him, shall determine the weight of each handler's receipts which are salable prunes and reserve prunes."

**§ 993.55 [Amended]**

21. The first sentence of § 993.55 is revised to read: "The salable and reserve percentages established for any crop year shall also apply to prunes received by handlers in the subsequent crop year, excluding surplus prunes and excluding the weight obligation of § 993.49(c), and before salable and reserve percentages are established for that crop year."

**§ 993.56 [Amended]**

22. The first sentence of § 993.56 is revised to read: "Whenever salable and reserve percentages are in effect for a crop

year, the reserve obligation of a handler shall approximate the average marketable content of the handler's receipts and shall be a weight of natural condition prunes equal to the reserve percentage applied to the natural condition weight of prunes such handler receives during the crop year from producers and dehydrators, excluding surplus prunes and excluding the weight obligation of § 993.49(c), plus that diverted tonnage (dried weight natural condition prune basis) on diversion certificates credited to or held by him which were issued pursuant to § 993.62."

23. Section 993.59 is revised to read:

**§ 993.59 Payment to handlers for services.**

The committee shall pay handlers for necessary services rendered by them in connection with reserve prunes or surplus prunes including, but not limited to, inspection, receiving, storing, grading, and fumigation, in accordance with the respective reserve or surplus schedules of payments and conditions established by the Secretary after recommendation by the committee.

24. Paragraph (a) *Prune plums* of § 993.62 is deleted and a new paragraph (a) *Termination* added to read:

**§ 993.62 Diversion privileges.**

(a) *Termination.* Beginning with the first year in which base quantities are established, the provisions of this section shall terminate.

* * * * *

Dated: July 14, 1967.

CLARENCE H. GIRARD,
*Deputy Administrator,*
*Regulatory Programs.*

[F.R. Doc. 67-8293; Filed, July 18, 1967; 8:47 a.m.]

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## [ 7 CFR Part 1004 ]

[Docket No. AO 160-A34]

## MILK IN DELAWARE VALLEY MARKETING AREA

### Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Philadelphia, Pa., on June 12-13, 1967, pursuant to notice thereof issued on May 29, 1967 (32 F.R. 7976), and a supplemental notice thereto issued June 2, 1967 (32 F.R. 8176).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on June 30, 1967 (32 F.R. 9836; F.R. Doc. 67-7735), filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision (32 F.R. 9836; F.R. Doc. 67-7735) are hereby approved and adopted and are set forth in full herein.

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

1. Providing a base and excess plan for payment of producers and need for emergency action with respect to this plan.

2. Diversion of milk to other Federal order plants for Class II use.

3. Modification of the point of pricing of diverted milk.

4. Shipping requirements for supply plants to attain pool plant status.

This decision deals only with issue No. 1. All the remaining material issues will be considered in a further decision on the record.

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

*Issue No. 1. Base and excess producer payment plan.* The order should provide for the payment of producers under a base and excess plan as a means of encouraging a uniform level of production throughout the year.

The base-excess plan proposed by one of the major cooperatives in the market and included herein, is identical with minor exceptions to the plans contained in the Washington, D.C., and Upper Chesapeake Bay markets.

Effective May 1, 1967, the Class I seasonal pricing plan was removed from the Delaware Valley order. The base-excess plan was then proposed in recognition of the problems involved in inducing producers to maintain a desirable pattern of production throughout the year. With the discontinuance of seasonal pricing there is no longer adequate financial incentive for producers to maintain production patterns that meet the seasonal needs of the market.

In the Delaware Valley market production usually reaches its high during the March through June period and its low during the July through December period. On the other hand, Class I sales hold relatively even during the year. When production and sales patterns are considered together the greatest need for production is during the July through December period and the least need for production is during the March through June period.

The base-excess plan herein proposed will provide added incentive for the producers to maintain the needed production pattern. This is accomplished by providing that each producer's base shall be based on his deliveries of milk during the low production months. Hence, each producer's returns during the high production months reflect the degree of conformity of his production during such period with that of the low production months.

Base-excess plans have been operated in various forms in the market by the proponent cooperative since as early as 1920. In recent years the cooperative has operated base plans in conjunction with several handlers for which its members were the sole suppliers. These base plans have apparently been readily accepted by the producers involved. The proponent also indicated that many of its members who had not been under base-excess plans were also interested in a base-excess plan for the market.

Under the plan herein adopted bases will be determined annually. Bases so computed will reflect each individual producer's average daily deliveries during the months of July through December to the extent that deliveries were made on 154 or more days. These bases will be effective for the subsequent months of March through June. Each producer will receive payment at the base price for milk delivered during the March–June period which is not in excess of his established base. Milk delivered in such months in excess of his established base will be paid for at the excess price.

The computation of a daily base for each producer would be made by the market administrator who should be required to notify producers of their established bases on or before the 20th day of February each year.

The market administrator cannot compute the bases earned by individual producers until after the end of the base-forming period on December 31 of each year. On the other hand, a producer needs to know the size of his daily base prior to the March 1 beginning of the base-paying period. Provision for notification of the producer of his daily base by February 20 of each year will allow the market administrator sufficient time to compute the bases and yet give the producers advance notice of the size of their bases so that they may make any needed adjustments in their operations.

The daily base of each producer will be determined by dividing his total deliveries of milk during the base-forming months by the number of days of delivery but by not less than 154 days.

The calendar period from July through December is 184 days. Therefore, a producer delivering during the entire period should have his deliveries divided by 184 in determining his base. Where a producer is on every-other-day delivery and a delivery is made on July 1, the delivery would, in fact, include production from the last day of June. Therefore, in such case the divisor for the entire period of delivery should be 185 which would be the total number of days of production included in his deliveries. When he delivers on less than 184 days his deliveries should also be divided by the number of days of production included in his deliveries except that the divisor should in no case be less than 154.

A base-excess plan is adopted to encourage a uniform production pattern throughout the year. Therefore, a producer should be required to deliver his milk regularly to the market during the months of short production (the base-forming period) in order to earn a full base on which he would be paid a higher price during the flush production months

(the base-paying period). However, by providing a minimum divisor of 154, a 30-day allowance is made which will accommodate unusual circumstances which might prevent deliveries of production from each day during the full period.

Definitions of "base milk" and "excess milk" should be provided to implement the base-excess plan as herein proposed. The amount of base milk to which a producer may be entitled during each of the base-paying months of March through June should be computed by multiplying the number of days in such months on which the producer's milk is received by the daily base determined for such producer. In the case of every-other-day delivery the order should provide that the day of nondelivery prior to a day of delivery, although such prior day is in the preceding month, be considered as a day of delivery in determining the amount of base milk to which the producer is entitled during the month.

The amount of a producer's deliveries up to the amount of base milk to which he is entitled during the month will be base milk. Any deliveries by the producer above the amount of base milk to which he is entitled will be excess milk.

Because of the recent change in the Delaware Valley order to a marketwide pooling arrangement and in light of the necessity for instituting this base-excess plan on such short notice the first base-forming period should not begin until August 1, 1967. This will insure greater equity among all producers by allowing time for adjustments to be made to the changed market structure without a reduction in the size of the producer's base.

The first base-forming period should be August through December 1967. The number of calendar days during this period, therefore, would be 153 and in the case of every-other-day delivery beginning on August 1, the total days delivered would be 154. Bases would be computed in the same manner as otherwise provided except that the minimum divisor should be reduced by the previously discussed 30-day contingency period. During this first base-forming period, therefore, the minimum divisor will be 123.

With respect to provisions hereinafter discussed relating to bases for producers transferring from either the Washington, D.C., or Upper Chesapeake Bay markets during the base-forming period and for producers delivering to plants which become pool plants after the beginning of the base-forming period, it is concluded that such bases formed during the initial base-forming period should be computed from deliveries during August through December the same as for the other producers. This will provide each affected producer equal treatment under these provisions.

Bases are applicable only during the months of March through June which are the months of highest production and of least need for additional supplies. Any producer who does not establish a base during the months of July through December has not, in fact, served the market when his milk was needed; therefore, he should not appropriately share in the Class I sales during the four flush production months when his milk would not be needed for Class I use. However, provision should be made to cover a situation in which a producer transfers from the Washington, D.C., or Upper Chesapeake Bay markets to the Delaware Valley market during the base-forming period.

There is a close interrelationship between the three markets, To a large degree they draw upon the same supply area and producers should not be unduly inhibited from shifting between the markets in response to the varying needs of the markets.

Such a provision should allow a producer who has delivered to either of the other two markets during the July through September period and then to the Delaware Valley market during the October through December period to establish a base under the Delaware Valley order computed from total deliveries to all three orders during the entire July through December base-forming period.

Both the Washington, D.C., and Upper Chesapeake Bay orders contain base-excess plans essentially identical to the plan herein proposed for the Delaware Valley order. Therefore, producers delivering to these markets during the base-forming period are in fact operating under a base-excess plan and are producing accordingly for a fluid market. However, providing that they can form a full base under the Delaware Valley order only if they delivered to the Delaware Valley market during the last 3 months of the base-forming period assures that they have been associated with that market when the supplies are most needed.

The Washington, D.C., and Upper Chesapeake Bay orders now have similar provisions for transfer of producers between those two orders. Although, these two orders do not presently provide for similar transfers from the Delaware Valley market, the interrelationship of these markets and the similarity of base plans requires that the Delaware Valley order provide for such transfers.

Producers and producer representatives associated with the New York-New Jersey market proposed that similar treatment be provided for producers who might wish to transfer from the New York-New Jersey market which operates a seasonal incentive (Louisville) plan. Similar treatment in such case would be unjustified since the two types of plans are not compatible for the purposes of transferring base-forming rights. If similar provisions were made, a producer could associate himself with a pay-back market until October 1 and then form a base on the Delaware Valley market which includes deliveries to the other market for which the producer would have shared in part in payments under the seasonal incentive plan. Then in the flush months such producer would benefit by drawing a base price under the Delaware Valley order while his counterparts under the "Louisville" plan were receiving a lower price during the take-out period. Such treatment would allow the producer a decided financial advantage under both orders without commitment to either market. Therefore, this modification is denied.

Provision also should be made for computing bases for dairy farmers delivering to a plant which first achieves pool plant status after the beginning of the base-forming period. For such farmers bases should be computed from records of deliveries to the plant during the applicable base-forming period. Also, provision should be made for a producer who delivered to a pool plant during September through December but was considered as a "dairy farmer for other markets" during the immediately preceding months of July and August to have his base computed from his total deliveries to the pool and nonpool plants of the handler during the entire July through December period. These two provisions will permit such producers to share equitably with all other producers in the returns for milk.

Operation of the base-excess plan for paying producers requires certain rules in connection with the establishment and transfer of bases to provide reasonable administrative workability of the plan.

In general these rules herein adopted are identical to those contained in the Washington, D.C., and Upper Chesapeake Bay orders. Because the three markets to a large extent draw from a common supply area it was considered desirable to provide a base-excess plan for the Delaware Valley order essentially identical to those contained in the other two orders. Since these rules have worked well in the other two orders and because of the interrelationship of the Delaware Valley market's supply with their supply these rules are concluded to be equally appropriate for Delaware Valley.

The order should provide that a base may be transferred in its entirety upon proper application to the market administrator for such transfer signed by the parties involved. Such application is to be made on or before the second day of the month following the month of transfer. It is also necessary for administrative reasons to provide a procedure for assignment of bases in cases of joint ownership where the order provides for the allotment of only one base. In such cases the rules should provide for division of a base among joint holders upon termination of partnership if certain conditions are met. If a copy of the partnership agreement setting forth the percentage of the total interest of the partners in the base is filed with the market administrator before the end of the base-making period then, upon termination of the partnership agreement, each partner would be entitled to his stated share of the base.

When a producer operates more than one farm selling milk eligible for forming a base a separate base should be established for each farm.

During the months of March through June, separate uniform prices will be computed for base milk and excess milk. Base milk of each producer is that quantity of milk delivered by him during the

month up to his average daily base multiplied by the number of days of production delivered by him to handlers during the month. Milk delivered in addition to this quantity by the producer will be excess milk.

The uniform price for excess milk would be computed first and is generally the Class II price. However, if the total Class I sales exceed the total quantity of base milk the excess uniform price is a blend of the Class I and Class II usage of excess milk.

The uniform price for base milk is determined by dividing the total volume of base milk into the remaining value of milk of all producers after subtracting the value of excess milk.

In some cases, due to audit adjustment or inventory classification, the normal procedure for calculation of base and excess prices might result in a base price higher than the Class I price. If this should occur, such additional value over the Class I prices should be assigned first to excess milk until the value of excess milk per hundredweight is brought up to the Class I price and any remaining additional value should be prorated between base and excess milk.

The order presently provides for location differentials to producers at the Class I rate applicable to handlers. Such differentials should continue to apply to all producer milk during July through February and to producer base milk during March through June. However, application of the Class I rate to excess milk during March through June could result in the excess price at certain locations being lower than the Class II use value of the milk at such locations. Therefore, the order should provide that excess milk be subject to the same location differential rate as the handler Class II location differential rate.

*Emergency action.* The notice of hearing stated that consideration would be given to the economic and emergency marketing conditions relating to this proposed amendment. Producer representatives requested emergency action in order that the plan be made effective as soon as possible. This was to provide as close to a full initial base-forming period as possible so as to properly affect production decisions during the 1967 base-forming period and the 1968 base-paying period.

It is concluded that these ends can be achieved without the omission of the recommended decision. Therefore, the request to eliminate the issuance of the recommended decision and the opportunity to file exceptions thereto is denied.

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

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

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

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

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

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

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

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

*Referendum order; Determination of representative period; and designation of referendum agent.* It is hereby directed that a referendum in which each individual producer shall have one vote be conducted to determine whether the issuance of the base and excess plan of payment to producers as specified in the attached order, amending the order, as amended, regulating the handling of milk in the Delaware Valley marketing area, is separately approved or favored by the producers, as defined under the terms of the order, as amended and as so proposed to be amended, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The month of June 1967 is hereby determined to be the representative period for the conduct of such referendum.

L. S. Iverson is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders (7 CFR 900.300 et seq.), such referendum to be completed on or before the 30th day from the date this decision is issued.

Signed at Washington, D.C., on July 13, 1967.

ORVILLE L. FREEMAN,
*Secretary.*

*Order[1] Amending the Order Regulating the Handling of Milk in the Delaware Valley Marketing Area*

**§ 1004.0 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 Delaware 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

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met and for the provisions relating to the base and excess plan, unless and until the requirements of section 608c(5)(b)(ii)(d) of the Agricultural Marketing Agreement Act of 1937, as amended, have been met.

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.

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

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on June 30, 1967, and published in the FEDERAL REGISTER on July 6, 1967 (32 F.R. 9836; F.R. Doc. 67-7735), shall be and are the terms and provisions of this order, and are set forth in full herein.

1. In § 1004.16, the period at the end of paragraph (c) is changed to a semicolon and new paragraphs (d) and (e) are added to read as follows:

**§ 1004.16 Milk and milk products.**

* * * * *

(d) "Base milk" means milk received from a producer by a pool handler during any of the months of March through June of each year which is not in excess of such producer's daily base computed pursuant to § 1004.63 multiplied by the number of days in such months on which such producer's milk was so received: *Provided*, That with respect to any producer on every-other-day delivery, the day of nondelivery prior to a day of delivery, although such prior day is in the preceding month, shall be considered as a day of delivery for the purpose of this paragraph;

(e) "Excess milk" means milk received from a producer by a pool handler during any of the months of March through June which is in excess of base milk received from such producer during such month.

2. In § 1004.22, subparagraph (2) of paragraph (j) is revised and a new paragraph (o) is added, both to read as follows:

**§ 1004.22 Duties.**

* * * * *

(j) * * *

(2) The 13th day of each month, the uniform price(s) computed pursuant to §§ 1004.71 and 1004.72 and the butterfat differential to producers computed pursuant to § 1004.81, both for the preceding month;

* * * * *

(o) On or before February 20 of each year notify:

(1) Each cooperative association of the daily base established by each producer member of such association; and

(2) Each nonmember producer of the daily base established by such producer.

3. A new § 1004.63 is added to read as follows:

**§ 1004.63 Computation of base for each producer.**

For each of the months of March through June each year the market administrator shall compute, subject to the rules set forth in § 1004.64, a base for each producer described in paragraphs (a) through (d) of this section by dividing the applicable quantity of milk receipts specified in such paragraph by 184 (by 185, in the case of a producer on every-other-day delivery schedule who delivered July 1) less the number of days, if any, during the immediately preceding base-forming period of July through December for which it is shown that the day's production of milk of such producer was not received by a pool handler as described in the applicable paragraphs (a), (b), (c), or (d) of this section under which such producer's base is computed: *Provided*, That in no event shall the number of days used to compute a producer's base pursuant to this part be less than 154; except that with respect to this paragraph and paragraphs (a), (b), and (c) of this section the initial base-forming period shall be August through December 1967 and the minimum number of days used to compute the producer's base which will be applicable during the March through June 1968 base-paying period shall be not less than 123:

(a) For any producer, except as provided in paragraphs (b), (c), and (d) of this section, the quantity of milk receipts shall be the total pounds of producer milk received by all pool handlers from such producer during the preceding months of July through December;

(b) For any producer whose milk was received during the preceding months of July through December at a plant which became a pool plant after the beginning of such base-earning period, the quantity of milk receipts shall be the total pounds of milk received from such dairy farmer during such July–December period by pool handlers as producer milk or at the plant as a nonpool plant;

(c) For any producer who, during any of the three base-earning months July through September the preceding year (two base-earning months of August and September 1967 during the initial base-earning period), qualified under Order 3 (Washington, D.C.) or Order No. 16 (Upper Chesapeake Bay) as a producer and was a producer under Order No. 4 during all of each of the three remaining base-earning months of October, November, and December, the quantity of milk receipts shall be the total pounds of milk received from such farmer during all of the months of July through December by pool handlers under each of the orders; or

(d) For any producer not described in paragraphs (b) or (c) of this section but whose milk was received by a handler as producer milk during the months of September, October, November, and December of the preceding year at a pool plant at which receipt of his milk in the immediately preceding months of July and August would have qualified or did qualify him as a "dairy farmer for other markets" pursuant to § 1004.14(b), the quantity of milk receipts shall be the total pounds of milk received from such producer by pool handlers during such months of July through December and verified receipts at the nonpool plant of the handler, affiliate of the handler or any person who controls or is controlled by the handler during such months of July through September.

4. A new § 1004.64 is added to read as follows:

**§ 1004.64 Base rules.**

The following rules shall apply in connection with the establishment of bases:

(a) A base computed pursuant to § 1004.63 or as designated pursuant to paragraph (c) of this section may be transferred in its entirety to any other person upon written application to the market administrator on or before the second day of the month following the month of transfer. Such application shall be on a form approved by the market administrator and shall be signed by the base holder, or his heirs, or assigns and by the person to whom such base is to be transferred: *Provided*, That if a base is held jointly, the entire base shall be transferable only upon receipt of such application signed by all joint holders or their heirs, or assigns;

(b) If a producer operates more than one farm, and milk is received from each at a pool plant or by a cooperative association in its capacity as a handler pursuant to § 1004.10 (b) or (c), he shall establish a separate base with respect to producer milk delivered from each such farm;

(c) Only one base shall be allotted with respect to milk produced by one or more persons where the dairy farm is jointly owned or operated: *Provided*, That in the case of a base established jointly, if a copy of the partnership agreement setting forth as a percentage of the total the interests of the partners in the base is filed with the market administrator before the end of the base-making period, then upon termination of the partnership agreement each partner will be entitled to his stated share of the base to hold in his own right, or to transfer as provided in paragraph (a) of this section (including transfer to a partnership of which he is a member) such division with respect to any member of the partnership to be effective as of the end of any month during which an application for such division signed by each member is received by the market administrator.

5. In § 1004.71, the introductory paragraph and paragraph (f) are revised to read as follows:

**§ 1004.71 Computation of uniform price.**

For each month the market administrator shall compute the weighted average price and for each of the months of July through February the uniform price per hundredweight of milk received from producers as follows:

* * * * *

(f) Subtract not less than four cents or more than five cents per hundredweight. The result shall be the single "weighted average price" and also the "uniform price" per hundredweight for milk of 3.5 percent butterfat received from producers in the months of July through February.

6. A new § 1004.72 is added to read as follows:

**§ 1004.72 Computation of uniform prices for base milk and excess milk.**

For each of the months of March through June the market administrator shall compute the uniform prices per hundredweight for base milk and excess milk received from producers, each of 3.5 percent butterfat content, f.o.b. market, as follows:

(a) Compute the aggregate value of excess milk for all handlers included in the computations pursuant to § 1004.71 (a) as follows:

(1) Multiply the hundredweight quantity of such milk which does not exceed the total quantity of producer milk received by such handlers assigned to Class II milk by the Class II milk price;

(2) Multiply the remaining hundredweight quantity of excess milk by the Class I milk price; and

(3) Add together the resulting amounts;

(b) Divide the total value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk and round to the nearest cent. The resulting figure shall be the uniform price for excess milk;

(c) From the amount resulting from the computations of § 1004.71 (a) through (d) subtract an amount computed by multiplying the hundredweight of milk specified in § 1004.71(e)(2) by the weighted average price;

(d) Subtract the total value of excess milk determined by multiplying the uniform price obtained in paragraph (b) of this section by the hundredweight of excess milk, from the amount computed pursuant to paragraph (c) of this section;

(e) Divide the amount calculated pursuant to paragraph (d) of this section by the total hundredweight of base milk for handlers included in these computations: *Provided*, That if the resulting price should exceed the Class I price by more than the amount deducted pursuant to paragraph (f) of this section the aggregate amount in excess thereof shall be included in the computation of the excess price pursuant to paragraph (a) of this section, except that if by such addition the excess price should exceed the base price then the aggregate amount of the excess shall be prorated to the aggregate values of base milk and excess milk on the basis of the respective volumes of base and excess milk; and

(f) Subtract not less than four cents nor more than five cents from the price computed pursuant to paragraph (e) of this section. The resulting figure shall be the uniform price for base milk.

7. In § 1004.80, paragraph (a) and subparagraph (2) of paragraph (d) are revised to read as follows:

**§ 1004.80 Time and method of payment.**

(a) Except as provided in (b) and (d) of this section, each pool handler shall make payment as specified in subparagraph (1) and (2) of this paragraph to each producer from whom milk is received.

(1) On or before the last day of each month at not less than the Class II price for the preceding month per hundredweight for his deliveries of producer milk during the first 15 days of the months of July through February and for his deliveries of base milk during the first 15 days of the months of March through June; and

(2) On or before the 20th of the following month at not less than the uniform price computed pursuant to § 1004.71 for the month of July through February and at not less than the price for base milk computed pursuant to § 1004.72 (c) through (f) with respect to base milk received from such producer and not less than the excess price determined pursuant to § 1004.72 (a) and (b) for excess milk received from such producers for the months of March through June subject to the following adjustments:

(i) Proper deductions authorized in writing by such producers;

(ii) Partial payments made pursuant to subparagraph (1) of this paragraph;

(iii) The butterfat differential computed pursuant to § 1004.81; and

(iv) Less the location differential received pursuant to § 1004.82: *Provided*, That if by such date such handler has not received full payment from the market administrator pursuant to § 1004.85 for such month he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator;

* * * * *

(d) * * *

(2) A final payment equal to the value of such milk at the uniform price(s) adjusted by the applicable differentials pursuant to §§ 1004.81 and 1004.82, less the amount of partial payment on such milk.

8. Section 1004.82 is revised to read as follows:

**§ 1004.82 Location differential to producers.**

(a) For milk received from producers and from cooperative association handlers pursuant to § 1004.10(c), subject to the exception contained in § 1004.15(d):

(1) The uniform price computed pursuant to § 1004.71 during any month(s) of July through February and the uniform price for base milk computed pursuant to § 1004.72 for base milk received from producers during any month(s) of March through June at a pool plant located at least 45 miles from the nearest of the city halls, in Philadelphia, Pennsylvania; Atlantic City or Trenton, New Jersey, by the shortest highway distance as determined by the market administrator shall be reduced 23 cents plus one and one-half cent for each additional 10 miles.

(2) The uniform price for excess milk computed pursuant to § 1004.72 for excess milk received from producers during any month(s) of March through June at a pool plant at which a location differential applies shall be reduced by a location differential computed pursuant to § 1004.52(c).

(b) For purposes of computations pursuant to §§ 1004.84 and 1004.85 the weighted average price shall be reduced at the rates set forth in paragraph (a)(1) of this section applicable at the location of the plant(s) at which the milk was received with respect to other source milk for which a value is computed pursuant to § 1004.70(e)(1) and at the location of the nonpool plant(s) from which the milk was received with respect to other source milk for which a value is computed pursuant to § 1004.70(e)(2).

9. In § 1004.84, paragraph (b) is revised to read as follows:

**§ 1004.84 Payments to the producer-settlement fund.**

* * * * *

(b) The sum of:

(1) The value of milk received by such handler from producers and from cooperative association handlers pursuant to § 1004.10(c) at the applicable uniform price(s) pursuant to § 1004.71 and § 1004.72 adjusted by producer butterfat and location differentials, less in the case of a cooperative association on milk for which it is a handler pursuant to § 1004.10(c), the amount due from other handlers pursuant to § 1004.80(d); and

(2) The value at the weighted average price adjusted by the producer butterfat differential pursuant to § 1004.81 and the location differential on nonpool milk pursuant to § 1004.82(b) (not to be less than the value at the Class II price) with respect to other source milk for which values are computed pursuant to § 1004.70(e).

[F.R. Doc. 67-8287; Filed, July 18, 1967; 8:46 a.m.]

[ 7 CFR Part 1032 ]

## MILK IN SOUTHERN ILLINOIS MARKETING AREA

### Notice of Proposed Suspension of Certain Provision of Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of a certain provision of the order regulating the handling of milk in the Southern Illinois marketing area is being considered for the month of August 1967.

The provision proposed to be suspended is in § 1032.14(b)(2) and reads as follows, "during the months of May and June and in any month for not more than 8 days of production of producer milk by such producer", relating to diversion of producer milk to nonpool plants.

This suspension action was requested by a handler and several cooperative associations. It is contended that without this action it would be necessary during August 1967 for large quantities of producer milk to be received at pool plants before being transferred to nonpool plants for manufacturing. This suspension is requested to enhance the efficient movement of producer milk direct from farms of producers to nonpool manufacturing plants.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 3 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in duplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Signed at Washington, D.C., on July 13, 1967.

CLARENCE H. GIRARD,
*Deputy Administrator,*
*Regulatory Programs.*

[F.R. Doc. 67-8290; Filed, July. 18, 1967; 8:46 a.m.]

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[ 7 CFR Part 1076 ]

[Docket No. AO 260-A10]

## MILK IN EASTERN SOUTH DAKOTA MARKETING AREA

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

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Eastern South Dakota marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 10th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

*Preliminary statement.* The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Sioux Falls, S. Dak., on April 20, 1967, pursuant to notice thereof which was issued April 3, 1967 (32 F.R. 5638).

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

1. The pool status of a stand-by plant operated by a cooperative association;
2. Revising the diversion provisions;
3. Accounting for route returns;
4. Replacing the "base-excess" plan with a "Louisville" plan of seasonal price adjustment; and
5. The administrative assessment.

The notice of hearing contained a proposal to remove Walworth County, S. Dak., from the marketing area. No one appeared at the hearing to support this proposal. Since no evidence was presented with respect to it, it will receive no further consideration in this decision.

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

1. *The pool plant status of a plant operated by a cooperative association.* A plant, other than a distributing plant operated by a cooperative association should be a pool plant regardless of the volume of milk which moves from such plant to the pool plants of other handlers if more than 50 percent of the total milk supply of producers who are members of such cooperative association is shipped to pool distributing plants of other handlers either directly from the farm or by transfer from the plant of the cooperative association. A distributing plant operated by a cooperative association should continue to be required to meet the same performance standards as all other distributing plants to qualify for pool status.

The major cooperative association in the market operates a plant at Sioux Falls, S. Dak., where the major portion of the reserve supply of the market is manufactured into dairy products, primarily butter and nonfat dry milk. Milk is also received from manufacturing grade producers.

In addition to its manufacturing facilities, this plant has limited storage facilities for the handling of Grade A milk. These have been approved by the appropriate health authorities as a source of Grade A milk for both the local market and for interstate shipment. In the past, this plant has not served as a regular source of supply for pool plants, although occasional deliveries of fluid milk products are made to pool plants to supplement direct farm receipts. Occasionally in the past milk has also been shipped from the cooperative plant to markets to the south for fluid use.

Because of the limited volume of milk which moves through the plant en route to pool plants, this plant is unable to qualify as a pool plant. The producer milk received at such plant retains its pool status only as diverted milk.

At the present time, the market is undergoing a substantial change in the pattern of milk distribution. Several mergers and consolidations of distribution plants have already taken place, with the resultant closing of plants and the concentration of the bottling operation in a few large plants. This trend is expected to continue.

Throughout the marketing area there are several population centers, each of which had its own bottling plants and a local supply of milk. As these bottling plants close, it becomes increasingly necessary to receive the milk of the producers who supplied these plants at a central point where it can readily be moved to the remaining plants for fluid use or manufactured into dairy products when not needed for fluid uses.

The cooperative plant in addition to serving as the principal outlet for the reserve supply of the market, is taking on the function of a balancing plant for the handlers in the market. Even with an increased demand from pool distributing plants for milk from the cooperative plant as a result of the changing market situation, it is unlikely that it will meet the pooling standards in the immediate future. Since it may become necessary to receive the milk of some producers at this plant almost every day, the diversion provisions alone no longer provide a satisfactory means of retaining the milk of such producers in the pool.

The cooperative plant acts as the surplus disposal plant not only for the milk of its own members, but also for the milk of the smaller local bargaining cooperatives in the market, whenever requested to do so. This plant is being called on to handle more and more of the milk of the smaller organizations. As a result of the consolidation of plants described elsewhere in this decision, some of these cooperatives find it difficult to dispose of milk in the immediate vicinity of the producers' farms and the cooperative plant at Sioux Falls becomes the logical outlet for such milk.

The proposal of the cooperative associations was to grant pool plant status to a plant operated by a cooperative association whose members constitute the majority of the producers on the market. While such a provision would accommodate the situation in the market at the present time, it would not be appropriate if conditions were to change to the point that the major cooperative no

longer represented a majority of the producers on the market. Similarly, it would not apply if it became necessary for one of the other cooperative associations to acquire a plant to handle the reserve supplies of the market.

Therefore, the order should provide that a plant operated by a cooperative association whose primary function is supplying milk to pool distributing plants of other handlers should be a pool plant. This will accommodate the efficient and orderly handling of the market's supply at the present time and prevent hardship resulting from further changes in the distribution pattern of the market that could take place in the future.

2. *Revision of the diversion provisions.* The volume of milk permitted to be diverted should be based on a percentage of total deliveries by all producers who are members of a cooperative association or whose milk is received at a pool plant. To be eligible for diversion a producer's milk should be received at a pool plant at least three days during a month.

The order currently provides that during the months of July through March the milk of an individual producer may be diverted to a nonpool plant for as many days during the month as it is received at a pool plant. With the closing of plants noted above, it has become necessary to divert increasing quantities of milk at some localities in the milkshed. Because of the location of certain farms in relation to the manufacturing plants, it is more economical to divert some loads than others.

In order to permit the most economical movement of milk and eliminate the extensive recordkeeping necessary to insure that each individual farmer's milk be received at a pool plant on at least half the days of delivery, the diversions should be based on a percentage of total deliveries of member producer milk. For the months of July through February a cooperative should be permitted to divert milk in an amount equal to 35 percent of its member producer milk received at all pool plants during the month.

Any handler operating a pool plant would likewise be permitted to divert up to 35 percent of the receipts at the plant from producers who were not members of a cooperative association which was diverting member milk in the same month. In both cases, diversions in excess of the amount permitted would not be producer milk. The cooperative association or the plant operator who diverted the milk would be required to designate the dairy farmers whose milk would be ineligible as producer milk. In the event the diverting cooperative association or plant operator failed to designate those producers whose milk was ineligible, all of the milk diverted to a nonpool plant by such cooperative association or plant operator would forfeit its producer milk status for the month.

No percentage limitation should be placed on the percentage of milk which may be diverted during the months of March through June. The present order permits unlimited diversion in April, May and June. However, the production pattern has changed in recent years to the point where the spring flush begins in March and tapers off in June. Thus, it is now necessary to divert substantial quantities of milk in March.

The present order provides no standard for identifying a producer's association with the market during the months of unlimited diversion. In order to insure a producer's association with the market, during these months as well as during the remainder of the year, it is provided that milk must be received at a pool plant from a producer at least three days each month in order for his milk to be eligible to be considered diverted milk if caused to be delivered to a nonpool plant during the remainder of the month.

3. *Accounting for route returns.* One handler proposed that the definition of a Class I product be changed to designate fluid milk products "sold" rather than "disposed of," from the plant as now required.

The purpose of his proposal was to obtain a Class II classification for packaged fluid milk products which were not sold—specifically route returns, leakers, etc. At the present time such items must be returned to the bottling plant so that the market administrator may physically verify the fact that they were dumped or disposed of as livestock feed. It was the contention of the handler that the handling and return to the plant of such items, particularly the leakers, created unsanitary conditions as well as being a nuisance.

While we sympathize with the position of the handler, the opportunity for physical verification of the return to the plant of items which left it as Class I is necessary to establish their subsequent reclassification as Class II.

The order specifically provides that any skim milk and butterfat shall be Class I unless the handler can establish to the satisfaction of the market administrator that such milk should be classified otherwise. The market administrator may reclassify a product once classified only upon verification of the fact that the original classification was incorrect. The only way the market administrator can verify that products which left a plant as packaged Class I items were subsequently utilized in a Class II classification is by a physical check of such items. Since handlers have numerous distribution points scattered over a very wide area, the only practical point for such a check is the plant at which the product originated and was originally classified as Class I.

A notation on the record of a distribution point that so many items were thrown away because of spoilage or leakage does not constitute a verifiable record. Hence, the proposal must be denied.

4. *Elimination of the base plan and the substitution of a "Louisville" plan.* The "base-excess" plan of distributing returns to producers should be replaced with a take-out and pay-back incentive plan. The latter is often referred to as the "Louisville" plan.

Witnesses testified that the base and excess plan recently has become a cause of dissatisfaction to producers, particularly among members of the largest cooperative on the market. In recent months manufacturing plants in the area where these producers are located have been paying for manufacturing grade milk prices which are in excess of the average of the Minnesota-Wisconsin price series. This price series is used under the order for pricing Class II milk. It is also the price which producers receive for milk delivered in excess of base milk.

This price disparity is further aggravated by the fact that the average charge for hauling milk from the more distant farms to plants in Sioux Falls approximates 35 cents per hundredweight while the average charge from the farm to manufacturing plants is only 20 cents per hundredweight.

Producers object to receiving for their Grade A excess milk a lesser price than is being paid for manufacturing milk. Some producers have attempted to ship part of their milk to manufacturing plants and ship only their base milk to market. This practice, if increased, could disrupt the orderly marketing of milk and result in shortages of milk for the fluid market if many producers chose the same day to sell to a manufacturing plant.

Another consideration for terminating the base plan is the dislocation of producers that has occurred in some areas because of the plant consolidation discussed above and the resulting necessity of diverting substantial quantities of milk to nonpool plants. The fear was expressed that some producers might be overdiverted during the base-forming period. Since the overdiverted milk could not be included in establishing a producer's base, such producers would be seriously penalized through no fault of their own.

While all of the cooperative associations on the market favored the termination of the base plan, they felt that some seasonal adjustment of producer prices was necessary to maintain a favorable pattern of production.

The plant adopted herein provides that 15 cents per hundredweight be deducted in the computation of the uniform price in each of the months of March, April, May, and June. One-third of the amount so deducted would be added back in the uniform price computation for each of the months of September, October, and November.

This plan is necessary to provide the seasonal variation in prices to producers that will furnish them the incentive to maintain or improve the present seasonal pattern of production, thus insuring an adequate supply of pure and wholesome milk at all times. During the 4 months of heaviest production the uniform price will be reduced 15 cents per hundredweight. During the three months of shortest production the uniform price will be enhanced approximately 22 cents as a result of the payback's being made in the three months when production is lowest. The difference between spring

and fall prices will be further accentuated by the fact that utilization in the short months is somewhat higher than in the spring as well as by the fact that class prices normally reach their peak at that time. It is estimated that the total difference between uniform prices in spring and fall will average approximately 45 cents per hundredweight.

The amount of the take-out and payback is less than that provided in a similar provision of the adjoining Sioux City, Iowa, order. The cooperative associations are confident, however, that the amounts provided herein will provide sufficient seasonal variation in price to maintain the present level production pattern.

5. *The administrative assessment.* No change should be made either in the maximum rate of the administrative assessment or in the manner of its application to partially regulated distributing plants.

It was proposed by a handler representative that the maximum rate of the administrative assessment be reduced from 5 cents to 4 cents, the amount presently being deducted to defray the costs of administering the order.

Although the 4-cent deduction is providing sufficient funds for the operations of the order at the present time, it is not impossible that at some time in the future additional expenses might be incurred which would require an increase in the amount of the assessment. While such an eventuality is not anticipated, in the event it should occur the market administrator should be in a position to secure the necessary funds without the formality of an amendment to the order. Hence, the maximum rate of assessment permissable should be maintained at five cents.

The same handler proposed that the monthly administrative assessment charged to a partially regulated distributing plant should be not less than the actual cost incurred by the market administrator in verifying the records of such plant.

No change should be made in the order in this respect. A uniform program for applying the administrative assessment to partially regulated plants was made effective by amendment to all orders which were in effect on July 1, 1967, following the decision of the Assistant Secretary of June 19, 1964 (29 F.R. 9214). The findings of that decision as they applied to the Eastern South Dakota and Sioux Falls-Mitchell orders, since merged into the present Eastern South Dakota order, are still applicable to the present marketing area. Therefore, official notice is taken of the pertinent portions of the decision of June 19, 1964.

The question was also raised as to application of the administrative assessment when milk is purchased from the cooperative association as a handler. We believe the present order provisions are clear that the receiving handler is responsible for the administrative assessment when he receives milk from producers who are members of a cooperative association which is the handler for their milk. Hence, no amendment of the order in this respect is necessary.

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

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

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

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

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

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

**§ 1076.12 [Amended]**

1. In the introductory text preceding paragraph (a) of § 1076.12, the phrase "in paragraph (a) or (b)" is changed to read "in paragraph (a), (b), or (c)".

2. Section 1076.12 is revised by adding thereto a new paragraph (c) to read as follows:

(c) A plant, other than a distributing plant, operated by a cooperative association if more than 50 percent of the total milk supply of producer members of such cooperative association is shipped to pool distributing plants of other handlers during the month, either directly from the farm or by transfer from the plant of the cooperative association: *Provided*, That if a portion of such association's plant is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section.

3. In § 1076.14, paragraph (c) is revised to read as follows:

**§ 1076.14 Producer milk.**

* * * * *

(c) With respect to diversions to nonpool plants pursuant to paragraphs (a) (2) and (b) (1) of this section:

(1) A cooperative handler may divert for its account the milk of any member producer, whose milk is delivered to a distributing pool plant on at least 3 days during the month during the other days of such month. The total quantity of milk so diverted may be without limit during the months of March, April, May, and June, but shall not exceed 35 percent of its member producer milk received at all pool plants during any other month of the year. Diversions in excess of such percentage shall not be considered producer milk, and the diverting cooperative shall specify the dairy farmers whose milk is ineligible as producer milk. If the cooperative association fails to designate such dairy farmers whose milk is ineligible, producer milk status shall be forfeited with respect to all milk diverted to a nonpool plant by such cooperative association; and

(2) A handler in his capacity as the operator of a distributing pool plant may divert for his account the milk of any producer, other than a member of a cooperative association which has diverted milk pursuant to subparagraph (1) of this paragraph, whose milk is received at a pool plant on at least 3 days during the month, without limit during the other days of such month. The total quantity of milk so diverted may be without limit during the months of March, April, May, and June, but during any other month of the year shall not exceed 35 percent of the milk received from producers who are not members of a cooperative association which has diverted milk pursuant to subparagraph (1) of this paragraph. Diversions in excess of such percentage shall not be considered producer milk, and the diverting handler shall specify the dairy farmers whose milk is ineligible as producer milk. If the handler fails to designate such dairy farmers whose milk is ineligible, producer milk status shall be forfeited with respect to all milk diverted to a nonpool plant by such handler; and

(3) For the purpose of location adjustments pursuant to §§ 1076.53 and 1076.75, milk so diverted shall be priced at the location of the plant from which diverted.

**§§ 1076.19, 1076.20 [Revoked]**

4. Sections 1076.19 and 1076.20 are revoked.

5. In § 1076.27 paragraph (j)(2) is revised and (j)(3) is revoked as follows:

**§ 1076.27 Duties.**

* * * * *

(j) * * *

(2) The 12th day of each month the uniform price computed pursuant to § 1076.72 and the producer butterfat differential computed pursuant to § 1076.74;

(3) [Revoked]

* * * * *

6. In § 1076.30, paragraph (a)(1)(i) is revised to read as follows:

**§ 1076.30 Reports of receipts and utilization.**

* * * * *

(a) * * *

(1) * * *

(i) Producer milk,

* * * * *

7. In § 1076.31, paragraph (b) is revised to read as follows:

**§ 1076.31 Payroll reports.**

* * * * *

(b) The pounds of milk received and the average butterfat content thereof;

* * * * *

8. In § 1076.72 the heading "Computation of weighted average price" is changed to "Computation of uniform price," paragraph (b) is revised, and new paragraphs (c) through (g) are added to read as follows:

**§ 1076.72 Computation of uniform price.**

* * * * *

(b) Subtract not less than four cents nor more than five cents from the price computed pursuant to paragraph (a) of this section. The result shall be known as the "weighted average price", and except for the months of March through June and September through October, shall be the uniform price for milk received from producers;

(c) For the months specified in paragraphs (d) and (e) of this section, subtract from the amount resulting from the computations pursuant to § 1076.71 an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(2) of this section by the weighted average price;

(d) Subtract during each of the months of March, April, May and June an amount computed by multiplying the total hundredweight of producer milk for such month by 15 cents;

(e) Add during each of the months of September, October and November one-third of the amount subtracted pursuant to paragraph (d) of this section;

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

(g) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the uniform price for milk received from producers.

**§ 1076.73 [Revoked]**

9. Section 1076.73 is revoked.

10. In § 1076.75, paragraph (a) is revised to read as follows:

**§ 1076.75 Location differentials to producers and on nonpool milk.**

(a) The uniform price computed pursuant to § 1076.72 for producer milk received at a pool plant shall be reduced according to the location of the pool plant, at the rates set forth in § 1076.53; and

* * * * *

11. In § 1076.76, paragraph (b) is revised to read as follows:

**§ 1076.76 Notification of handlers.**

* * * * *

(b) The uniform price computed pursuant to § 1076.72.

* * * * *

**§ 1076.80 [Amended]**

12. In paragraph (a)(2) of § 1076.80, the word "prices" is changed to "price" and the phrase "and 1076.73" is deleted.

**§§ 1076.90–1076.92 [Revoked]**

13. Sections 1076.90, 1076.91, and 1076.92 and the centerhead applicable thereto are revoked.

Signed at Washington, D.C., on July 13, 1967.

CLARENCE H. GIRARD,
*Deputy Administrator,*
*Regulatory Programs.*

[F.R. Doc. 67-8292; Filed, July 18, 1967; 8:46 a.m.]

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## [ 7 CFR Part 1133 ]

[Docket No. AO275-A17]

## MILK IN INLAND EMPIRE MARKETING AREA

### Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held at the Ridpath Hotel, West 510 Sprague Avenue, Spokane, Wash., beginning at 9:30 a.m., local time, on July 25, 1967, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Inland Empire marketing area.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Spokane Milk Producers Association:

*Proposal No. 1.* In § 1133.12(c) revise subparagraphs (1) and (2) to read as follows:

**§ 1133.12 Producer milk.**

* * * * *

(c) * * *

(1) A cooperative association may divert for its account, pursuant to paragraph (b)(1) of this section, the milk of a member producer eligible for diversion. The total quantity of milk so diverted however may not exceed the amount of milk delivered directly from the farm to pool distributing plants by member producers. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed in writing with the market administrator a request for such computation;

(2) A handler operating a pool distributing plant may divert for his account, pursuant to paragraph (a)(2) of this section, the milk of any producer eligible for diversion other than a member of a cooperative association which diverts milk pursuant to subparagraph (1) of this paragraph. The total quantity of milk so diverted however may not exceed the amount of milk delivered directly to the handler's pool distributing plant by producers who are not members of a cooperative association which diverts milk pursuant to subparagraph (1) of this paragraph;

* * * * *

*Proposal No. 2.* In § 1133.41, revise paragraphs (b) and (c) to read as follows:

**§ 1133.41 Classes of utilization.**

* * * * *

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat used to produce any product other than a fluid milk product or a Class III product.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce butter, whole or skim milk powder and Cheddar cheese.

*Proposal No. 3.* In § 1133.51, revise paragraph (b), the introductory text of (c), and (c)(3) to read as follows:

**§ 1133.51 Class prices.**

* * * * *

(b) *Class II milk.* The price for Class II milk shall be the basic formula price for the month, plus 25 cents; and

(c) *Class III milk.* The price of Class III milk shall be that computed by the market administrator from the formula set forth in subparagraphs (1), (2), and (3) of this paragraph: *Provided,* That this price shall be effective during the period from the effective date of this

order through March 31, 1968. Thereafter the price for Class III milk shall be the basic formula price for the month.

* * * * *

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph, subtract $1, plus five times the butterfat differential computed pursuant to § 1133.52(b), and round to the the nearest cent.

* * * * *

Proposed by Inland Empire Dairy Association:

*Proposal No. 4.* Revise § 1133.7 to read as follows:

§ 1133.7 Plant.

"Plant" means the land, buildings, facilities and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment which is maintained and operated primarily for receiving, processing or packaging of milk and milk products: *Provided*, That a separate establishment used only for the purpose of transferring bulk milk from one tank truck to another shall not be a plant under this definition.

*Proposal No. 5.* In § 1133.8(a) revise subparagraph (1) to read as follows:

§ 1133.8 Pool plant.

* * * * *

(a) * * *

(1) Disposition of fluid milk products on routes within the marketing area equals or exceeds the lesser of 100,000 pounds or 10 percent of the total receipts of Grade A milk from dairy farmers, cooperative associations pursuant to § 1133.15(d), and from supply pool plants and other plants forwarding the applicable percentage of receipts specified in paragraph (b) of this section to such plant and other pool distributing plants; and

* * * * *

*Proposal No. 6.* In § 1133.8 revise paragraph (b) to read as follows:

§ 1133.8 Pool plant.

* * * * *

(b) Any plant, hereinafter referred to as a "supply pool plant", from which there is forwarded to a pool distributing plant(s) 50 percent or more each of the skim milk and butterfat in its dairy farm supply of Grade A milk during the current month during the period of September through January, or 20 percent or more during the current month during the period February through August. Any such plant which has forwarded more than 50 percent of such receipts for the entire period September through January shall be a pool plant for the months of February through August immediately following unless the operator of such plant files with the market administrator, prior to the first day of any month(s), a written request to withdraw such plant from pool plant status for such month(s); and

* * * * *

Proposed by Dairy Division, Consumer and Marketing Service:

*Proposal No. 7.* Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, James A. Burger, North 811 Jefferson, Room 115, Spokane, Wash. 99201, or from the Hearing Clerk, Room 112–A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

Signed at Washington, D.C., on July 13, 1967.

CLARENCE H. GIRARD,
*Deputy Administrator, Regulatory Programs.*

[F.R. Doc. 67-8291; Filed, July 18, 1967; 8:46 a.m.]

# DEPARTMENT OF LABOR

## Wage and Hour Division

## [ 29 CFR Part 526 ]

## COTTONSEED PROCESSING INDUSTRY

### Handling, Storing, Preparing, and Seasonal Peaks of Perishable Agricultural Commodities

Pursuant to Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), General Order No. 45–A of the Secretary of Labor (15 F.R. 3290), and 29 CFR Part 526 (32 F.R. 5775), I propose to make the determinations and the amendment to 29 CFR 526.11 which will result in application of the partial overtime compensation exemption provided in section 7(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(d)) to the cottonseed processing industry.

The procedure for making these determinations (including their effect, and the meaning of the words used to frame the issues) will be governed by 29 CFR Part 526 (32 F.R. 5775). The issues to be considered are:

(a) Is the industry engaged in the handling, storing, preparing or first processing of perishable agricultural commodities in their raw or natural state?

(b) Is the industry characterized by marked annually recurring seasonal peaks of operation at the places of first marketing or first processing of perishable agricultural commodities from farms?

For the purpose of this proposal, the cottonseed industry consists of the following operations only: The receiving, handling, and storing of cottonseed; the processing of cottonseed during the period when the seed is being received, and any operations necessary and incident to the foregoing during this period.

Interested persons are invited to participate in the proceedings through the submission of pertinent written data, views, or argument to the Administrator, Wage and Hour and Public Contracts Divisions, U.S. Department of Labor, 14th Street and Constitution Avenue NW., Washington, D.C. 20210, within 30 days after this document is published in the FEDERAL REGISTER.

Signed at Washington, D.C., this 14th day of July 1967.

CLARENCE T. LUNDQUIST,
*Administrator, Wage and Hour and Public Contracts Divisions, U.S. Department of Labor.*

[F.R. Doc. 67-8331; Filed, July 18, 1967; 8:50 a.m.]

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Saint Elizabeths Hospital

## [ 42 CFR Part 306 ]

## FEES AND CHARGES FOR COPYING, CERTIFICATION, SEARCH OF RECORDS, AND RELATED SERVICES

### Notice of Proposed Rule Making

Notice is hereby given that it is proposed to amend Chapter III, Title 42, Code of Federal Regulations by adding Part 306 establishing fees to be charged for the furnishing of abstracts of medical records and related services.

The regulation will become effective upon republication.

Interested persons may submit written data, views, or arguments in regard to the proposed regulation to the Superintendent, Saint Elizabeths Hospital, Washington, D.C. 20032. All relevant material received not later than 30 days after publication of this notice will be considered.

Chapter III of Title 42 is amended by adding a new Part 306 reading as follows:

§ 306.1 Fees and charges for copying, certification, search of records, and related services.

A prescribed fee, in accordance with the schedule in paragraph (c) of this section, shall be collected for each of the listed services.

(a) *Application for services.* Any person requesting (1) a copy of a clinical record, clinical abstract, or other document; or (2) a certification of a clinical record or other document; or (3) a search of clinical or other records, shall make written application therefor to the Hospital. Such application shall state specifically the particular record or document requested. The application shall be accompanied by a deposit in an amount equal to the prescribed charge for the service requested. Where it is not known if a clinical record or other document requested is in existence, the application shall be accompanied by a minimum deposit of $2.50.

(b) *Authorization for disclosure.* The furnishing of copies or abstracts of Hospital records must comply with the requirements of Part 300, Title 42, Code of

Federal Regulations, governing authorization for the disclosure of such information.

(c) *Schedule of fees.*

(1) Photocopy reproduction of a clinical record or other document (through use of Hospital equipment):

| | |
|---|---|
| (a) Processing (searching, preparation, and use of equipment), first page | $3.25 |
| (b) Each additional page | .25 |
| (2) Certification, per document | .25 |
| (3) Unsuccessful searching, per hour or part thereof (minimum charge 1 hour) | 2.50 |
| (4) Clinical abstracts, per request | 3.00 |
| (5) Arranging commercial duplication of a clinical record or other document, per request | 5.50 |

(The private concern which duplicates records for an applicant will make a separate charge therefor and will bill the applicant directly.)

(6) If the requested material is to be transmitted by certified mail, registered mail, airmail, or special delivery mail, the postal fees therefor shall be added to the other fees provided above, unless the applicant has included proper postage or stamped return envelopes for this purpose

(d) *Waiver of fee.* The prescribed fee may be waived, at the discretion of the Superintendent, under the following circumstances:

(1) When the service or document is requested by another agency of the Federal Government, by an agency of the District of Columbia or by an agency of a state, county or municipal government, for use in carrying out official business.

(2) When a clinical record, clinical abstract, or other document is requested for the purpose of providing continued medical care to a person currently or previously enrolled as a patient of the Hospital, by a non-Hospital physician, clinic, or hospital, in which case the record will be forwarded only to the physician, clinic, or hospital concerned.

(3) When the service or document is requested by, and furnished to, a Member of Congress for official use.

(4) When the service or document is requested by, and furnished to, a court in lieu of the personal court appearance of an employee of the Hospital.

(5) When the service or document is required to be furnished free in accordance with a Federal statute or an Executive order.

(6) When the furnishing of the service or document requested without charge would be an appropriate courtesy to a foreign country or international organization.

(7) When the request does not fall into any of the foregoing categories, but the furnishing of the service or document without charge is determined by the Superintendent to be in the interest of and contributing to the program of the Hospital.

(5 U.S.C. 22; 5 U.S.C. 140)

Dated: July 3, 1967.

[SEAL] DALE C. CAMERON,
*Superintendent,*
*Saint Elizabeths Hospital.*

Approved: July 12, 1967.

WILBUR J. COHEN,
*Acting Secretary.*

[F.R. Doc. 67-8324; Filed, July 18, 1967; 8:49 a.m.]

# DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## [ 14 CFR Parts 23, 91 ]

[Docket No. 8281; Notice No. 67-30]

## INSTALLATION AND OPERATING REQUIREMENTS FOR OXYGEN EQUIPMENT AND SUPPLY

### Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Parts 23 and 91 of the Federal Aviation Regulations to include requirements pertaining to the installation and use of oxygen equipment. This amendment would provide appropriate oxygen system standards for airplanes certificated under Part 23 and at the same time set forth regulations for the use of oxygen in all aircraft governed by the general operating and flight rules of Part 91.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before October 16, 1967, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

In a study concerning the physiological requirements for oxygen entitled "Oxygen in General Aviation" dated December 1964, the Office of Aviation Medicine of the FAA reported that, while individual oxygen requirements may be influenced by factors such as fatigue, age, use of drugs and tobacco, night, etc., nevertheless supplemental oxygen, dependent on altitude, is a physiological necessity for all humans. For this reason and because of the increasing number of small airplanes having high altitude capability, there appears to be a need for airplane airworthiness standards and for general operating rules relating to oxygen system requirements.

In the past, type certification of small airplanes with oxygen equipment installed has been handled on a case-by-case basis either by application of special conditions or under the general operating limitations of § 23.1501. This amendment proposes uniform airworthiness standards for oxygen equipment and supply. It also proposes performance standards relating to oxygen mass flow and equipment standards for oxygen dispensing units.

In connection with the standards for minimum mass flow of supplemental oxygen, the proposed § 23.1443 contains requirements for continuous flow but not for demand flow oxygen equipment. The requirements of the more commonly used continuous flow systems are thus covered, while the mass flow of demand systems, where such systems are used, would be approved on a case-by-case basis as before.

Parts 121 and 135 of the Federal Aviation Regulations currently prescribe oxygen requirements for pilots and passengers. For consistency in the interest of safety, all other aircraft operating in the same airspace and environmental conditions should be under comparable standards. The FAA, therefore, considers it appropriate to propose general operating and flight rules governing the use of supplemental oxygen in pressurized and unpressurized cabin aircraft.

FAA studies have indicated that for any person in a pressurized cabin subjected to decompression at the higher altitudes, the short time available to don an oxygen mask before losing consciousness may be critical. In such case, the smaller the cabin volume, the more aggravated the situation becomes. As an added operational consideration, the FAA, therefore, believes it necessary for safety, at flight altitudes above 35,000 feet, that at least one pilot at the controls be required to wear an oxygen mask. The corresponding altitude for Part 121 operations had originally been established at 35,000 feet. However, it was subsequently raised, in steps, to 41,000 feet, on the basis of the extensive operating experience with the large transport-category airplanes. This satisfactory operating experience is attributable, in part, to the stringent Part 121 crew training and maintenance requirements. Such compensating conditions do not presently exist for operations conducted under Part 91 and the proposed cutoff altitude has been accordingly set at 35,000 feet.

A new § 91.32 would be added to the general operating rules of Part 91 to regulate the use of supplemental oxygen throughout the range of cabin altitudes and specify the oxygen supply to be carried, including the oxygen necessary for emergency descent. Supplemental oxygen refers to any oxygen, by whatever means supplied, that is furnished in addition to the oxygen normally present in the air.

In consideration of the foregoing, it is proposed to amend the Parts 23 and 91 of the Federal Aviation Regulations as follows:

1. By amending Part 23 by adding the following new sections to Subpart F:

**§ 23.1441 Oxygen equipment and supply.**

(a) If certification with supplemental oxygen equipment is requested, the equipment must meet the requirements of this section and §§ 23.1443 through 23.1449.

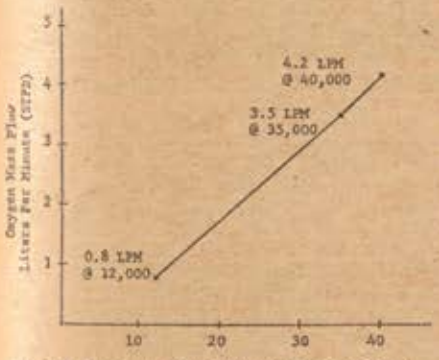
(b) The oxygen system must be free from hazards in itself, in its method of operation, and in its effect upon other components.

(c) There must be a means to allow the crew to readily determine, during flight, the quantity of oxygen available in each source of supply.

(d) Demand flow oxygen equipment and oxygen equipment for use above 40,000 feet must be approved.

**§ 23.1443 Minimum mass flow of supplemental oxygen.**

If continuous flow oxygen equipment is installed for use by occupants of the airplane, the mass flow of supplemental oxygen required for each user must be at a rate not less than that shown in the following figure:




CABIN PRESSURE ALTITUDE, THOUSANDS OF FEET

**§ 23.1447 Equipment standards for oxygen dispensing units.**

If oxygen dispensing units are installed, the following apply:

(a) There must be an individual dispensing unit for each occupant for whom supplemental oxygen is to be supplied. Each dispensing unit must:

(1) Provide for effective utilization of the oxygen being delivered to the unit.

(2) Cover the nose and mouth of the user.

(3) Be capable of being readily placed into position on the face of the user.

(4) Be equipped with a suitable means to retain the unit in position on the face.

(b) If the airplane is designed to operate at flight altitudes up to and including 25,000 feet, an oxygen supply terminal and unit of oxygen dispensing equipment must be within reach of each member of the required minimum flight crew to provide for the immediate use of oxygen by that crewmember.

(c) If the airplane is designed to operate at flight altitudes above 25,000 feet, an oxygen dispensing unit connected to an oxygen supply terminal must be immediately available to each occupant, wherever seated.

**§ 23.1449 Means for determining use of oxygen.**

There must be a means to allow the crew to determine whether oxygen is being delivered to the dispensing equipment.

2. By amending Part 91 by adding the following new section:

**§ 91.32 Supplemental oxygen.**

(a) *General.* No person may operate a civil aircraft—

(1) At cabin pressure altitudes above 12,000 feet (MSL) up to and including 14,000 feet (MSL) for that part of the flight at those altitudes that is of more than 30 minutes duration, unless the required minimum flight crew is provided with, and uses, supplemental oxygen;

(2) At cabin pressure altitudes above 14,000 feet (MSL), unless the required minimum flight crew is provided with, and uses, supplemental oxygen during the entire flight time at those altitudes; and

(3) At cabin pressure altitudes above 15,000 feet (MSL), unless each occupant of the aircraft is provided with, and uses, supplemental oxygen.

(b) *Pressurized cabin aircraft.* No person may operate a civil aircraft with a pressurized cabin—

(1) At flight altitudes above 25,000 feet (MSL), unless at least a 10-minute supply of supplemental oxygen, in addition to any oxygen required to satisfy paragraph (a) of this section, is available for each occupant of the aircraft for use in the event that a descent is necessitated by loss of cabin pressurization; and

(2) At flight altitudes above 35,000 feet (MSL), unless at least one pilot at the controls is wearing, secured and sealed, an oxygen mask supplying oxygen.

(Sec. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, and 1423)

Issued in Washington, D.C. on July 11, 1967.

R. S. SLIFF,
*Acting Director,*
*Flight Standards Service.*

[F.R. Doc. 67-8229; Filed, July 18, 1967; 8:45 a.m.]

# INTERSTATE COMMERCE COMMISSION

## [ 49 CFR Part 281 ]

[No. 32156]

## UNIFORM SYSTEM OF ACCOUNTS FOR CLASS I COMMON AND CONTRACT MOTOR CARRIERS OF PASSENGERS

### Notice of Proposed Rule Making

JUNE 30, 1967.

Notice is hereby given pursuant to the provisions of section 4(a) of the Administrative Procedure Act that the Commission has under consideration proposed amendments of the Uniform System of Accounts for Class I Common and Contract Motor Carriers of Passengers, to be effective as of January 1, 1967, with regard to the accounting treatment of extraordinary and prior period items in the determination of net income.

The proposed regulations would (a) generally require that items affecting net income be recorded in appropriate profit and loss accounts, rather than by direct entry to earned surplus account, and (b) explain, define and provide accounts and categories for ordinary income, extraordinary items, prior period items and applicable income taxes.

The revised rules herein proposed will have several notable advantages over current regulations which conditionally permit direct entry to earned surplus. Moreover, in asserting more objective criteria with respect to determination of materiality than presently exist, the proposed changes are intended to minimize the need to interpret existing regulations.

The detailed statement of proposed rule set forth below completely states the proposed revisions to the applicable parts of the Uniform System of Accounts for Class I Common and Contract Motor Carriers of Passengers, considered necessary to accomplish the stated objectives.

All carriers affected by the proposed rules and other interested parties who desire to do so should submit written views and comments for consideration, as soon as possible, and not later than August 26, 1967. The Commission will consider all such responses and representations before deciding this matter, after which such order as may be found appropriate will be entered. An original and three copies of any such response should be submitted.

Notice shall be given Class I Common and Contract Motor Carriers of Passengers hereby affected and to the general public by depositing this notice in the office of the Secretary of the Commission at Washington, D.C., and by filing this notice with the Director, Office of the Federal Register.

(49 Stat. 546, as amended; 563, as amended; 564, as amended; 49 U.S.C. 304, 320, 322)

By the Commission, division 2.

[SEAL] H. NEIL GARSON,
*Secretary.*

DETAILED STATEMENT OF PROPOSED RULE

I. Instructions amended:

*Item No. 1.* Instruction "7 Delayed items" is revised to read as follows:

**§ 281.02–7 Extraordinary and prior period items.**

(a) All items of profit and loss recognized during the year are includable in ordinary income except nonrecurring items which in the aggregate for the same class are both material in relation to operating revenues and ordinary income for the year and are clearly not identified with or do not result from the usual business operations of the year. Important items of the kind which occur from time to time and which, when material in amount, are to be excluded from ordinary income are those

resulting from unusual sales of property and investment securities other than temporary cash investments; from wars, earthquakes and similar calamities and catastrophies, which are not a recurrent hazard of the business and which are not usually covered by insurance; from change in application of accounting principles; and from prior period items (other than ordinary adjustments of a recurring nature). Material items are those which unless excluded from ordinary income, would distort the accounts and impair the significance of ordinary income for the year. Items so excludable from ordinary income are to be entered in the income accounts provided for extraordinary and prior period items upon approval or direction of the Commission.

(b) In determining materiality, items of a smilar nature should be considered in the aggregate; dissimilar items should be considered individually. As a general standard, an item to qualify for inclusion as an extraordinary or prior period item shall exceed 1 percent of total operating revenues and 10 percent of ordinary income for the year.

(c) Adjustments constituting items of a character typical of customary business activities or corrections or refinements resulting from the natural use of estimates inherent in the accounting process, including those arising from disposal of a unit of property sold or retired in the regular course of business operations, shall not be considered extraordinary or prior period items regardless of amount.

*Item No. 2.* Instruction "10 Current assets" is amended by revising paragraph (b) as follows:

**§ 281.02–10 Current assets.**

* * * * *

(b) Adjustments to accomplish the writing down of items of doubtful value not covered by reserves shall be made through account 4680, Uncollectible Revenues, account 7500, Other Deductions, or other appropriate ordinary income account.

*Item No. 3.* Instruction "12 Discount; expense and premium on capital stock" is amended by revising paragraph (c) as follows:

**§ 281.02–12 Discount; expense and premium on capital stock.**

* * * * *

(c) General levies or assessments against stockholders shall be credited to the premium account for the particular class and series of capital stock so assessed, except that assessments with respect to nonpar stock without stated value shall be credited to the capital stock account.

* * * * *

*Item No. 4.* Instruction "13 Discount; expense and premium on long-term obligations" is amended by revising the second sentence of paragraph (e) as follows:

**§ 281.02–13 Discount; expense and premium on long-term obligations.**

* * * * *

(e) * * * At that time (unless otherwise ordered by the Commission in the case of an exchange of securities) the portion of the balances in these accounts, or subdivision for the particular class of long-term debt reacquired, shall be transferred to account 6500, Other Non-operating Income, or account 7500, Other Deductions, as appropriate. * * *

* * * * *

*Item No. 5.* Instruction "14 Company securities owned" is amended by revising the second and last sentences of paragraph (b) (1) and all of paragraph (b) (2) as follows:

**§ 281.02–14 Company securities owned.**

* * * * *

(b) (1) * * * The difference between the face value and the amounts actually paid for the reacquired obligations shall be included in account 6500, Other Non-operating Income, or account 7500, Other Deductions, as appropriate. (See § 281.02–7.) Likewise, any unamortized debt discount, expense or premium, applicable to the reacquired obligations, shall be adjusted through account 6500 or account 7500, as appropriate.

(2) When reacquired equipment and other long-term obligations are resold by the carrier, the amount included in account 1920, Reacquired Securities, shall be credited thereto and any difference between the total amount realized from the sale (less related commissions and expenses) and the credit to account 1920 shall be included in account 6500 or account 7500, as appropriate, unless otherwise ordered by the Commission.

*Item No. 6.* Instruction "15 Book cost of securities owned" is amended by revising the last sentence of paragraph (b) and adding paragraph (e) as follows:

**§ 281.02–15 Book cost of securities owned.**

* * * * *

(b) * * * A reserve may be provided against declines in the value of securities by charges to account 7500, Other Deductions, or account 9010, Extraordinary Items, as appropriate. (See § 281.02–7.)

* * * * *

(e) Profits and losses resulting from the sale of securities of others shall be included in accounts 6500, Other Non-operating Income, or 7500, Other Deductions, as appropriate; or, when qualifying as extraordinary pursuant to instruction 7, shall be included in account 9010, Extraordinary Items.

*Item No. 7.* Instruction "21 Operating property retired" is amended by deleting paragraph (h) and revising paragraphs (d), (f), and the last sentence of paragraph (g) as follows:

**§ 281.02–21 Operating property retired.**

* * * * *

(d) *Land.* When land is sold, the book cost shall be credited to the land account and any difference between the book cost and the sales price, less commissions and expenses on the sale, shall be adjusted through account 6500, Other Non-operating Income, or account 7500, Other Deductions, as appropriate. However, when the amount constitutes an extraordinary item pursuant to instruction 7, it shall be included in account 9010, Extraordinary Items.

* * * * *

(f) *Intangibles.* The accounting for the retirement of items included in account 1511, Franchises, account 1541, Patents, and intangible elements with limited terms included in account 1201, Land and Land Rights, shall be as provided in the texts of account 2600, Reserve for Amortization—Carrier Operating Property, and account 5100, Amortization of Carrier Operating Property.

(g) *Sale of property.* * * * The difference, if any, between (1) the net amount of such debit and credit items, and (2) the consideration received for the property, shall be included in account 6500, Other Non-operating Income, or account 7500, Other Deductions, as appropriate. (See § 281.02–7.)

* * * * *

(h) [Deleted]

*Item No. 8.* Instruction "31 Amortization of intangibles" is amended by revising paragraph (a) as follows:

**§ 281.02–31 Amortization of intangibles.**

(a) When it becomes reasonably evident that the term of existence of an intangible, the cost of which is included in account 1550, Other Intangible Property, has become limited or its value impaired, its cost shall be amortized or entirely written off by charges to account 7500, Other Deductions, depending on the remaining estimated period of usefulness; or the entire cost, when qualifying as extraordinary pursuant to instruction 7, may be written off by debiting account 9010, Extraordinary Items, with concurrent credit to account 2600, Reserve for Amortization—Carrier Operating Property.

* * * * *

II. Texts of balance sheet accounts amended:

*Item No. 1. Account 1511 Franchises* is amended by revising the first sentence of paragraph (c) as follows:

**§ 281.1511 Franchises.**

* * * * *

(c) When any franchises, permits, consents or certificates have expired, and are not immediately renewed, are sold or otherwise disposed of, credits to this account shall be made representing the amounts at which such items (including expenses of acquisition) are carried herein. Concurrent charges shall be made to account 2600, Reserve for Amortization—Carrier Operating Property, or to account 5100, Amortization of Carrier Operating Property, as appropriate. * * *

* * * * *

*Item No. 2. Account 1541 Patents* is amended by revising the second sentence of paragraph (b) as follows:

**§ 281.1541 Patents.**

* * * * *

(b) * * * Concurrent charge shall be made to account 2600, Reserve for Amortization—Carrier Operating Property, or to account 5100, Amortization of Carrier Operating Property, as appropriate. * * *

*Item No. 6. Account 1550 Other intangible property* is amended by revising paragraph (b) as follows:

§ 281.1550 **Other intangible property.**

* * * * *

(b) The carrier may amortize or write off the balance carried in this account by credits hereto and concurrent charges to account 7500, Other Deductions, or the entire amount carried herein for any item may be written off to account 9010, Extraordinary Items, pursuant to instruction 31.

*Item No. 4. Account 1890 Other deferred debits* is amended by revising the last sentence of paragraph (a) and deleting paragraph (b) as follows:

§ 281.1890 **Other deferred debits.**

(a) * * * If projects in connection with which such preliminary costs were incurred are abandoned, the expense shall be charged to account 7500, Other Deductions, or account 9010, Extraordinary Items, as appropriate.

(b) [Deleted]

* * * * *

*Item No. 5. Account 2000 Notes payable* is amended by revising "Note B" as follows:

§ 281.2000 **Notes payable.**

* * * * *

NOTE B: Unmatured equipment obligations shall be included in account 2190, Equipment Obligations and Other Debt Due Within One Year, or account 2300, Equipment Obligations, as appropriate.

§ 281.2500 [Amended]

*Item No. 6. Account 2500 Reserve for depreciation—Carrier operating property* is amended by deleting paragraph (a) (2).

*Item No. 7. Account 2600 Reserve for amortization—Carrier operating property* is amended by deleting the last sentence of paragraph (d) and revising paragraph (a) and the second sentence of paragraph (b) as follows:

§ 281.2600 **Reserve for amortization; carrier operating property.**

(a) This account shall be credited with amounts charged to account 5100, Amortization of Carrier Operating Property, or other appropirate account, for amortization of the cost of acquiring leaseholds, franchises, consents, privileges, patents, and other intangible property having a fixed term life. This account shall also be credited with amounts charged to account 7500, Other Deductions, or account 9010, Extraordinary Items, as appropriate, for the amortization or writeoff of cost of acquiring perpetual leaseholds and of intangible property which does not have a fixed term life.

(b) * * * The difference between the proceeds realized and the net book cost (see definition 29 and instruction 21) of the property retired shall be included in account 5100, Amortization of Carrier Operating Property.

* * * * *

*Item No. 8. Account 2930 Earned surplus* is amended by revising the first sentence of paragraph (a) and paragraph (b) as follows:

§ 281.2930 **Earned surplus.**

(a) This account shall include the balance of the amounts included in accounts 2932 to 2946, inclusive, either debit or credit, of unappropriated surplus arising from earnings. * * *

(b) The balance of all earned surplus accounts (2932 to 2946, inclusive) shall be closed to this account at the end of each calendar year.

III. Texts of earned surplus accounts deleted and amended:

§§ 281.2931, 281.2941 [Deleted]

*Item No. 1.* The following accounts are deleted:

2931 Surplus credits applicable to prior years.

2941 Surplus debits applicable to prior years.

*Item No. 2. Account 2933 Other credits to surplus* is amended to read as follows:

§ 281.2933 **Other credits to surplus.**

(a) This account shall include other credit adjustments, net of assigned income taxes, not provided for elsewhere in this system but only after such inclusion has been authorized by the Commission.

(b) The records supporting entries in this account shall be so maintained that an analysis thereof may be readily made available.

§ 281.2946 [Amended]

*Item No. 3. Account 2946 Other debits to surplus* is amended as follows:

(a) The "Note" is designated account 2999.

(b) The account is revised to read as follows:

(a) This account shall include (1) charges which reduce or write off discount on capital stock issued by the company, and (2) in pooling of equity interests situations, the excess of the value of the surviving company's capital stock over the aggregate total of the capital stock of the separate companies before such merger or consolidation, but only to the extent that unearned surplus is not available for such purposes. (See §§ 281.02–21(d) and 281.02–20(a)(2)(ii).)

(b) This account shall include other debit adjustments, net of assigned income taxes, not provided for elsewhere in this system but only after such inclusion has been authorized by the Commission.

(c) The records supporting entries in this account shall be so maintained that an analysis thereof may be readily made available.

IV. Form of balance sheet statement amended:

§ 281.2999 [Amended]

*Item No. 1. Account 2999 Form of balance sheet statement* is amended by deleting the following line items from the Asset Side:

1920, Reacquired Securities:
(a) Pledged.
(b) Unpledged.
1990, Nominally Issued Securities:
(a) Pledged.
(b) Unpledged.

V. Texts of income accounts deleted and amended:

*Item No. 1. Account 4652 Employees' welfare expenses* is amended by revising the first sentence of paragraph (c) as follows:

§ 281.4652 **Employees' welfare expenses.**

* * * * *

(c) Upon the adoption of the accrual plan of accounting, pension payments to employees retired before the adoption of such plan shall be charged to an existing pension reserve, this account 4652 or account 9010, Extraordinary Items, as appropriate. * * *

§ 281.5100 [Deleted]

*Item No. 2. Account 5100 Amortization chargeable to operations* is deleted.

§ 281.5100 [Redesignated]

*Item No. 3. Account 5110 Amortization of carrier operating property* is redesignated account 5100.

§ 281.5120 [Deleted]

*Item No. 4. Account 5120 Property loss chargeable to operations* is deleted.

*Item No. 5. Account 5200 Operating taxes and licenses* is amended by revising paragraph (a) as follows:

§ 281.5200 **Operating taxes and licenses.**

(a) This account shall include the amount of Federal, State, county, municipal and other taxing district taxes, which relate to motor carrier operations and property used therein (except taxes provided for in account 8000, Income Taxes on Ordinary Income).

* * * * *

*Item No. 6 Account 8000 Provision for income taxes* is amended by revising the title and paragraph (a) as follows:

§ 281.8000 **Account 8000 Income taxes on ordinary income.**

(a)(1) Monthly accruals for Federal, State or other income taxes applicable to ordinary income shall be included in this account. See texts of account 9050, Income Taxes on Extraordinary and Prior Period Items, account 2933, Other Credits to Surplus, and account 2946, Other Debits to Surplus, for recording other income tax consequences.

(2) Details pertaining to the tax consequences of other unusual and significant items and also cases where the tax consequences are disproportionate to the related amounts included in income accounts, shall be submitted to the Commission for consideration and decision as to proper accounting.

(3) Income taxes which are refundable or reduced as the result of carry-back or carry-forward of operating loss shall be credited to this account, if a carry-back, in the year in which the loss occurs or, if a carry-forward, in the year in which such loss is applied to reduce taxes. However, when the amount constitutes an extraordinary item pursuant to instruction 7, it shall be included in account 9030, Prior Period Items.

* * * * *

*Item No. 7.* In the text of the system of accounts, after account 8000, Income taxes on ordinary income, add the following:

* * * * *

EXTRAORDINARY AND PRIOR PERIOD ITEMS

**§ 281.9010 Extraordinary items (net).**

(a) This account shall include extraordinary items accounted for during the current accounting year in accordance with instruction 7, upon approval of the Commission. Among the items which shall be included in this account are:

Net gain or loss on sale of land used for transportation purposes.
Net gain or loss on sale of securities acquired for long term investment purposes.
Loss on retirement of transportation property because of abandonment or other cause for which depreciation reserve has not been provided.
Change in application of accounting principles.

(b) Income tax consequences of charges and credits to this account shall be included in account 9050, Income Taxes on Extraordinary and Prior Period Items.

(c) This account shall be maintained in a manner sufficient to identify the nature and gross amount of each debit and credit.

**§ 281.9030 Prior period items (net).**

(a) This account shall include unusual delayed items accounted for during the current accounting year in accordance with the text of instruction 7, upon approval of the Commission. Among the items which shall be included in this account are:

Unusual adjustments, refunds or assessments of income taxes of prior years.
Similar items representing transactions of prior years which are not identifiable with or do not result from business operations of the current year.

(b) Income tax consequences of charges and credits to this account shall be included in account 9050, Income Taxes on Extraordinary and Prior Period Items.

(c) This account shall be maintained in a manner sufficient to identify the nature and gross amount of each debit and credit.

**§ 281.9050 Income taxes on extraordinary and prior period items.**

This account shall include the estimated income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which, for accounting purposes, are classified as unusual and extraordinary and are includible in account 9010, Extraordinary Items, or account 9030, Prior Period Items, as appropriate.

**§ 281.9999 Form of income statement.**

ORDINARY ITEMS

I. CARRIER OPERATING INCOME

| | |
|---|---|
| Revenues: | |
| 3000. Operating Revenues | ------ |
| Expenses: | |
| 4000. Operation and Maintenance Expenses | ------ |
| 5000. Depreciation Expense | ------ |
| 5100. Amortization of Carrier Operating Property | ------ |
| 5200. Operating Taxes and Licenses | ------ |
| 5300. Operating Rents—Net | ------ |
| Total Expenses | ------ |
| Net Operating Revenue | ------ |
| 5400. Rent for Lease of Carrier Property—Debit | ------ |
| 5500. Income from Lease of Carrier Property—Credit | ------ |
| Net Carrier Operating Income | ------ |

II. OTHER INCOME

| | |
|---|---|
| 6000. Net Income from Noncarrier Operations | ------ |
| 6100. Net Income from Nonoperating Property | ------ |
| 6200. Interest Income | ------ |
| 6300. Dividend Income | ------ |
| 6400. Income from Sinking and Other Funds | ------ |
| 6500. Other Nonoperating Income | ------ |
| Total Other Income | ------ |
| Gross Income | ------ |

III. INCOME DEDUCTIONS

| | |
|---|---|
| 7000. Interest on Long-Term Obligations | ----- |
| 7100. Other Interest Deductions | ----- |
| 7200. Taxes Assumed on Interest | ----- |
| 7300. Amortization of Debt Discount and Expense | ----- |
| 7400. Amortization of Premium on Debt—Credit | ----- |
| 7500. Other Deductions | ----- |
| Total Income Deductions | ----- |
| Ordinary Income Before Income Taxes | ----- |
| 8000. Income Taxes on Ordinary Income | ----- |
| Ordinary Income | ----- |

EXTRAORDINARY AND PRIOR PERIOD ITEMS

| | |
|---|---|
| 9010. Extraordinary Items (Net) | ----- |
| 9030. Prior Period Items (Net) | ----- |
| 9050. Income Taxes on Extraordinary and Prior Period Items | ----- |
| Total Extraordinary and Prior Period Items | ----- |
| Net Income (or Loss) Transferred to Earned Surplus | ----- |

VI. Miscellaneous amendments:

*Item No. 1.* The list of instructions and accounts in the Code of Federal Regulations, Part 281, is amended by making the following revisions:

(a) The entry reading 281.02–7 Delayed items, is changed to:

281.02–7 Extraordinary and prior period items.

(b) The following are deleted:

281.2931 Surplus credits applicable to prior years.

281.2941 Surplus debits applicable to prior years.

(c) Directly below "Income Accounts" the following is added:

ORDINARY ITEMS

(d) The entry reading "281.5100 Amortization chargeable to operations" is changed to:

281.5100 Amortization of carrier operating property.

(e) The following are deleted:

281.5110 Amortization of carrier operating property.
281.5120 Property loss chargeable to operations.

(f) The entry reading "281.8000 Provisions for income taxes" is changed to:

281.8000 Income taxes on ordinary income.

(g) The following are added after 281.8000 Income taxes on ordinary income:

EXTRAORDINARY AND PRIOR PERIOD ITEMS

281.9010 Extraordinary items (net).
281.9030 Prior period items (net).
281.9050 Income taxes on extraordinary and prior period items.

*Item No. 2.* In the text of the system of accounts, after account 2999, Form of balance sheet statement, the following is added directly below Income Accounts:

ORDINARY ITEMS

[F.R. Doc. 67-8250; Filed, July 18, 1967; 8:45 a.m.]

# FEDERAL COMMUNICATIONS COMMISSION

## [ 47 CFR Part 73 ]

[FCC 67-819; Docket No. 11279]

## SUBSCRIPTION TELEVISION SERVICE

### Notice of Report of Subscription Television Committee

The Commission has before it the report of its Subscription Television Committee, dated July 3, 1967, transmitting a proposed Fourth Report and Order and a Second Further Notice of

Proposed Rule Making.[1] The Commission believes that its study and resolution of this important matter would be aided by oral argument, and further that such argument would be most useful, if addressed to the report. Accordingly, it is releasing the report at this time, and will specify by subsequent order a date for oral argument to be held in early fall. Parties may also submit written comments or outlines of their arguments, not to exceed 50 pages, on or before September 15, 1967. An original and 14 copies should be filed. (See § 1.419 of the Commission's rules.)

*It is ordered*, That, the interested parties may file written comments or outlines or oral arguments, not to exceed 50 pages, on or before September 15, 1967.

Adopted: July 12, 1967

Released: July 14, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[2]

[SEAL] BEN F. WAPLE, *Secretary.*

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[1] Filed as part of the original document. Copies may be obtained from the Federal Communications Commission, Washington, D.C. The proposed amendment to 47 CFR Part 73 contained therein reads as follows:

Part 73 of the Commission Rules and Regulations is amended by adding the following new sections thereto:

OVER-THE-AIR SUBSCRIPTION TELEVISION OPERATIONS

§ 73.641 *Definitions.*

(a) *Subscription television.* A system whereby subscription television broadcast programs are transmitted and received.

(b) *Subscription television broadcast program.* A television broadcast program intended to be received in intelligible form by members of the public only for a fee or charge.

§ 73.642 *Licensing policies.*

(a) Subscription television service may be provided only upon specific authorization therefore by the Commission. Such authorization will be issued only to:

(1) The licensee of a commercial television broadcast station;

(2) The holder of a construction permit for a new commercial television broadcast station; or

(3) An applicant for a construction permit for a new commercial television broadcast station: *Provided, however,* That such authorization will not be issued prior to issuance of the construction permit for the new station.

Moreover, such an authorization will be issued only for a station the principal community of which is located entirely within the Grade A contours of five or more commercial television broadcast stations (including the station of the applicant), whether the principal community each station is authorized to serve is the same as that of the applicant, or is a nearby community. Only one such authorization will be granted in any community. No such authorization will be granted unless, not counting the station of the applicant, at least four of the stations which include the community of the applicant within their Grade A contours are operating stations.

(b) Application for such authorizations shall be made in the manner and form prescribed by the Commission. If the Commission, upon consideration of such application finds that the public interest, convenience and necessity would be served by the granting thereof, it will grant such application. In the event it is unable to make such a finding, the Commission will then formally designate the application for subscription television authorization for hearing and proceed pursuant to the provisions of section 309(e) of the Communications Act and the Commission's rules and regulations applicable thereto. The Commission may impose such conditions upon the grant as may be appropriate.

NOTE: No applications will be accepted for filing until such time as rules concerning equipment and system performance capability have been adopted in section 73.644. At that time, the manner of filing such applications, the form, and the content thereof with regard to equipment, technical, and all other matters will be announced.

(c) Holders of subscription television authorizations shall complete construction of subscription television transmitting facilities within a period of eight months after issuance of the authorization unless otherwise determined by the Commission upon proper showing in any particular case. During the process of construction of the subscription television facilities, the holder of the authorization, after notifying the Commission and the Engineer in Charge of the radio district in which the station is located, may, without further authority of the Commission, conduct equipment tests for the purpose of such adjustments and measurements as may be necessary to assure compliance with the terms of the authorization, the technical provisions of the application therefor, and the rules and regulations. The Commission may notify the holder of the authorization not to conduct tests if such tests appear to be contrary to the public interest, convenience, and necessity. Upon completion of the construction, the holder of the authorization shall submit a detailed showing that compliance with the terms of the authorization, the technical provisions of the application therefor, and the rules and regulations has been achieved. No subscription television operation shall commence until requirements of this paragraph have been fulfilled and operation has been specifically authorized by the Commission.

(d) A subscription television authorization will not be issued or renewed for a period longer than the regular license period of the applicant's television broadcast authorization. Renewals of such authorizations will usually be considered together with renewals of the regular station authorizations.

(e) No subscription television authorization or renewal thereof shall be granted to a party having any contract, arrangement, or understanding express or implied, which:

(1) Prevents or hinders it from rejecting or refusing any subscription television broadcast program which it reasonably believes to be unsatisfactory or unsuitable or contrary to the public interest; or substituting a subscription or conventional program which in its opinion is of greater local or national importance; or

(2) Delegates to any other person the right to schedule the hours of transmission of subscription programs: *Provided, however,* That this rule shall not prevent a licensee, permittee, or applicant from entering into an agreement or arrangement whereby it agrees to schedule a specific subscription television broadcast program at a specific time or to schedule a specific number of hours of subscription programs during the broadcast day (or segments thereof) or week subject to Commission approval; or

(3) Prevents or hinders it from, or penalizes it for, making a free choice of subscription programs, whatever their source: *Provided, however,* That upon making a satisfactory showing to the Commission that the public interest would be served by permitting the licensee, permittee, or applicant to enter into an agreement or arrangement whereby it agrees to obtain all or a specified portion of its programming from one or more sources, this rule may be waived; or

(4) Deprives it of the right of ultimate decision concerning the maximum amount of any subscription program charge or fee.

(f) No subscription television authorization or renewal thereof shall be granted to a party having any contract, arrangement, or understanding, express or implied, with other parties the provisions of which do not comply with the following policies of the Commission:

(1) Unless a satisfactory signal is unavailable at the location where service is desired, subscription television service shall be provided to all persons desiring it within the Grade A contour of the nonsubscription television service provided by the station broadcasting subscription programs: *Provided, however,* That geographic or other reasonable patterns of installation for new subscription services shall be permitted: *And provided further,* That, for good cause, service may be terminated.

(2) Charges, terms and conditions of service to subscribers shall be applied uniformly: *Provided, however,* That subscribers may be divided into reasonable classifications approved by the Commission, and the imposition of different sets of terms and conditions may be applied to subscribers in different classifications: *And provided further,* That within such classifications deposits to assure payment may, for good cause, be required of some subscribers and not of others; and, also for good cause, if a subscription system generally uses a credit-type decoder cash operated decoders may be installed for some subscribers.

(3) Subscription television decoders shall be leased, and not sold, to subscribers.

(g) All applications for subscription television authorization or renewal shall set forth, in such detail as the Commission may require, the terms of agreements and arrangements the applicant has or intends to have with other parties concerning the supplying of subscription television programs, including specifically any provision that such programs shall be presented at a particular time or during a certain number of hours during the day (or segments thereof) or week, any arrangement or understanding which might hinder or prevent the presentation of programs from different sources, or penalize the applicant for so doing, and, as to any arrangement or understanding with a party other than the producer of the program, any other arrangement or understanding of which the applicant has knowledge, between such other party and third parties, which prevents or hinders such other party from obtaining programs from different sources. The applicant shall use due diligence to ascertain the existence and nature of arrangements to which it is not a party.

§ 73.643 *General operating requirements.*

(a) No commercial advertising announcements shall be carried during subscription television operations except for promotion of subscription television broadcast programs before and after such programs.

(b) Subscription television broadcast programs shall comply with the following requirements:

(1) Feature films shall not be broadcast which have had general release in theaters anywhere in the United States more than 2 years prior to their subscription broadcast:

[2] Commissioners Bartley, Cox, and Loevinger absent.

*Provided, however,* That during 1 week of each calendar month one feature film the general release of which occurred more than 10 years previously may be broadcast, and more than a single showing of such a film may be made during that week.

NOTE: As used in this subparagraph, "general release" means the first run showing of a feature film in a theater or theaters in an area, on a nonreserved seat basis, with continuous performances. For first run showings of feature films on a nonreserved seat basis which are not considered to be "general release" for purposes of this subparagraph, see note 45 in Fourth Report and Order in Docket No. 11279, 8 F.C.C. 2d ——).

(2) Sports events shall not be broadcast which have been televised live on a nonsubscription, regular basis in the community during the 2 years preceding their proposed subscription broadcast: *Provided, however,* That if the last regular occurrence of a specific event (e.g., summer Olympic games) was more than 2 years before proposed showing on subscription television in a community, and the event was at that time televised on conventional television in that community, it shall not be broadcast on a subscription basis.

NOTE 1: In determining whether a sports event has been televised in a community on a nonsubscription basis, only commercial television broadcast stations which place a Grade A contour over the entire community will be considered. Such stations need not necessarily be licensed to serve that community.

NOTE 2: The manner in which this subparagraph will be administered and in which "sports," "sports events," and "televised live on a nonsubscription regular basis" will be construed is explained in paragraphs 253–270 of the Fourth Report and Order in Docket No. 11279, 8 F.C.C. 2d ——).

(3) No series type of program with interconnected plot or substantially the same cast of principal characters shall be broadcast.

(4) Not more than 90 percent of the total subscription programing hours shall consist of feature films and sports events combined. The percentage calculations may be made on a yearly basis, but, absent a showing of good cause, the percentage of such programing hours may not exceed 95 percent of the total subscription programing hours in any calendar month.

(c) Any television broadcast station licensee or permittee authorized to broadcast subscription programs shall broadcast, in addition to its subscription broadcasts, at least the minimum hours of nonsubscription programing required by section 73.651.

(d) Except as they may be otherwise waived by the Commission in authorizations issued hereunder, the rules and policies applicable to regular television broadcast stations are applicable to subscription television operations.

§ 73.644 *Equipment and system performance requirements.*

(a) No subscription television authorization will be granted unless the system to be used has been type accepted in advance by the Commission pursuant to the type acceptance procedures established by Part 2, Subpart F—Equipment Type Approval and Type Acceptance—of this chapter.

NOTE: Additional rules concerning equipment and system performance capability for subscription television systems will be adopted after a rule making proceeding in Docket No. 11279.

[F.R. Doc. 67-8444; Filed, July 18, 1967; 9:42 a.m.]

# Notices

## DEPARTMENT OF THE TREASURY

### Bureau of the Mint

### STATEMENT OF ORGANIZATION, FUNCTIONS AND PROCEDURES

In compliance with 5 U.S.C. 552, this notice provides a statement, for the guidance of the public, of the central and field office organization of the Bureau of the Mint; the established places at which, the employees from whom and the methods whereby the public may secure information, make submittals or requests or obtain decisions; and the general course and method by which the Bureau of the Mint's functions are channeled and determined, including the nature and requirements of all formal and informal procedures available. The prior statement of organization, functions and procedures of the Bureau of the Mint, which appears in 18 F.R. 3237 (1953) is revised to read as follows:

Sec.



SECTION 1. *Office of the Director.*

(a) The chief officer of the Bureau of the Mint is the Director of the Mint, who is under the general direction of the Secretary of the Treasury. The Director is appointed by the President, by and with the advice and consent of the Senate, and holds office for the term of 5 years.

(b) The Director administers and supervises the activities of the Bureau of the Mint. These activities are the production of coin, both domestic and foreign; the manufacture of medals of a national character; the custody, processing, and movement of bullion; the disbursing of gold and silver for authorized monetary, industrial, professional, and artistic purposes; the distribution of coins from the Mints to the Federal Reserve Banks and Branches; the analysis and compilation of general data of worldwide scope relative to gold, silver, and coins.

(c) The Director's office, divisions, and special staffs are located in the Main Treasury Building, 15th Street and Pennsylvania Avenue NW., Washington, D.C. 20220.

(d) The divisions and special staffs are enumerated in sections 2 through 7 inclusive of this Notice.

SEC. 2. *Budget and Finance Division.*

The Budget and Finance Division is responsible for devising, establishing and administering accounting, auditing, budgeting and financial reporting policies and procedures for the Bureau of the Mint. This division also administers the Bureau's procurement and property control activities and exercises financial control over program activities in the execution of the budget.

SEC. 3. *Coin Management and Public Information Division.*

This division is responsible for extensive studies and surveys to develop current and future coinage estimates for the United States, and for translating the results of these studies into estimated coinage requirements for budgetary and financial planning purposes. It is also responsible for the distribution of domestic coin to Federal Reserve Banks, and for functions related to the purchase and sale of gold and silver. Public relations and information service functions of the Mint also fall within the responsibility of this division.

SEC. 4. *Management Analysis and Production Division.*

This division is responsible for management planning, improvement, and analysis; the installation of integrated systems of manpower, space, equipment, and materials; the formulation of long range operational plans for the Mint; and overall planning, coordinating, integrating and controlling of industrial production in the Mint.

SEC. 5. *Personnel Division.*

The Personnel Division is responsible for the coordination of a comprehensive personnel program for the Bureau of the Mint. The personnel program includes recruitment, appointments, training, transfers, promotions, performance ratings, awards, grievances, adverse actions, pay administration, classification, and employee-management cooperation.

SEC. 6. *Technical Division.*

The Technical Division develops and installs new and improved methods for metallurgical and manufacturing operations; conducts metallurgical and chemical investigations; coordinates technical functions and operations; and provides quality assurance on all Mint products.

SEC. 7. *Special Staffs.*

(a) *Legal Staff.* The legal staff is responsible for rendering legal advice, opinions, counseling and services for the Bureau of the Mint.

(b) *Security Staff.* The security staff is responsible for developing and administering the security program for the physical protection of Mint facilities and property, and the safeguarding of monetary assets.

(c) *Statistical Staff.* The statistical staff is responsible for a continuing statistical reporting and research program which includes preparation and publication of the Annual Report of the Director of the Mint, required under provisions of 17 Stat. 424; 31 U.S.C. 253.

SEC. 8. *Field Organization and Functions.*

The Bureau of the Mint has five field facilities. A description of the field supervision and functions of each of the facilities is given in the remainder of this section.

(a) The chief officer of each coinage mint and the New York Assay Office is a superintendent, each appointed by the President, by and with the advice and consent of the Senate. The chief officer of the assay office at San Francisco, and the depository at Fort Knox is the Officer In Charge, each appointed pursuant to normal Civil Service procedures.

(b) The chief officer of each field facility of the Bureau of the Mint administers and supervises the activities of the facility, subject to the direction of the Director of the Mint.

(c) Mint at Philadelphia, Pa.: The Philadelphia Mint performs the following functions: (1) The manufacture of domestic coin and coin for foreign governments; (2) the receipt of gold and silver bullion deposits; (3) the authorized sale of gold; (4) the assay of gold and silver bullion; (5) the redemption of uncurrent and mutilated coin; (6) the production, packaging, and shipping of medals and coin sets; and (7) the safeguarding of all monetary assets in its custody.

(d) Mint at Denver, Colo.: The Denver Mint performs the following functions: (1) The manufacture of domestic coin and coin for foreign governments; (2) the receipt of gold and silver bullion deposits; (3) the authorized sale of gold; (4) the assay of gold and silver bullion and ores; (5) the redemption of uncurrent and mutilated coin; and (6) the safeguarding of all monetary assets in its custody.

(e) Assay Office at New York, N.Y.: The New York Assay Office performs the following functions: (1) The receipt of gold and silver bullion deposits; (2) the authorized sale of gold and silver; (3) the assay of gold and silver bullion; (4) the refining of gold and silver bullion; and (5) the safeguarding of all monetary assets in its custody including those at the Silver Bullion Depository at West Point, whose function is the storage of silver and other monetary assets.

(f) Assay Office at San Francisco, Calif.: The San Francisco Assay Office performs the following functions: (1) The manufacture of domestic coin and coin for foreign governments; (2) the receipt of gold and silver bullion deposits; (3) the authorized sale of gold and silver; (4) the assay of gold and silver bullion; (5) the production, packaging, and shipping of coin sets; and (6) the safeguarding of all monetary assets in its custody.

(g) Bullion Depository at Fort Knox, Ky.: The Fort Knox Bullion Depository is responsible for the storage and safeguarding of gold bullion and other monetary assets in its custody.

SEC. 9. *Public Information—requests for information and records.*

(a) Opinions and orders, statements of policy and interpretations which have been adopted and which have precedential significance, administrative staff manuals and instructions to the staff that affect a member of the public, as well as identifiable records of the Bureau of the Mint will be available to the public for inspection and copying subject to the regulations in 31 CFR Part 92.

(b) Written requests for information or for identifiable records or copies thereof are to be addressed to the Director of the Mint, Main Treasury Building, Washington, D.C. 20220.

(c) Any applicant appearing in person for information or records should go to the public reading room of the Treasury Department, Main Treasury Building, 15th Street and Pennsylvania Avenue NW., Washington, D.C. 20220.

(d) Certain charges will be made in connection with making records or information available to the public as provided in 31 CFR Part 92.

SEC. 10. *Submittals: Requests: Decisions—formal and informal procedures.*

(a) The public may make submittals or requests, or obtain decisions by writing to the Director of the Mint, Main Treasury Building, 15th Street and Pennsylvania Avenue NW., Washington, D.C. 20220.

(b) The public should refer to 31 CFR Part 92 for specific information concerning the procedures followed by the Bureau of the Mint and for other regulations governing submittals, requests, and decisions.

[SEAL] EVA ADAMS,
*Director of the Mint.*

Approved: July 14, 1967.

ROBERT A. WALLACE,
*Assistant Secretary of the Treasury.*

[F.R. Doc. 67-8308; Filed, July 18, 1967; 8:48 a.m.]

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## Office of the Secretary

## REVISED RECOMMENDED AMENDMENTS TO THE PROPOSED INTEREST EQUALIZATION TAX EXTENSION ACT OF 1967

### Exemption for Prior American Ownership; Due Date of Interest Equalization Tax

On July 14, 1967, the Treasury Department recommended that the Senate act favorably on H.R. 6098, 90th Congress, 1st Session (the proposed Interest Equalization Tax Extension Act of 1967) as passed by the House of Representatives but with amendments, effective with respect to acquisitions of stock or debt obligations made after July 14, 1967. The recommended amendments to the proposed Act, as revised July 17, 1967, would:

(a) Replace the exemption for prior American ownership with an exemption for "prior American ownership and compliance". The new exemption would apply to the acquisition of stock or a debt obligation of a foreign issuer or obligor if it is established that the person from whom such stock or debt obligation was acquired (the "seller") (i) was a U.S. person throughout the period of his ownership or continuously since July 18, 1963, (ii) had not acquired such stock or debt obligation under an exemption which made him ineligible to sell such stock or debt obligation as a U.S. person, and (iii) had complied with his interest equalization tax obligations with respect to such stock or debt obligation (i.e., the seller acquired such stock or debt obligation in an acquisition which was not subject to the interest equalization tax or the seller paid the tax).

(b) Provide that if stock of a foreign issuer or a debt obligation of a foreign issuer or obligor was acquired by a U.S. person in a transaction subject to the interest equalization tax, the U.S. person is required to file an Interest Equalization Transaction Tax Return accompanied by proper payment prior to any disposition of the stock or debt obligation if the acquisition had not been reported on the appropriate Interest Equalization Quarterly Tax Return accompanied by proper payment.

(c) Specify the manner, described below, under which the exemption for prior American ownership and compliance can be established.

(d) Amend the provisions with respect to "regular market" trading on certain national securities exchanges and "clean comparison" trading in the over-the-counter market set forth in section 4918 of the Internal Revenue Code so that they are applicable only to those members and member organizations of national securities exchanges or national securities associations registered with the Securities and Exchange Commission, which have agreed to comply, and do comply, with the amended statutory provisions and with the documentation, recordkeeping, and reporting requirements established by the Secretary or his delegate (referred to in this Notice as "Participating Firms"). During the period beginning July 15, 1967, and until a notice or notices to the contrary are published by the Internal Revenue Service, it will be presumed that (i) all members or member organizations of the New York Stock Exchange, (ii) all members or member organizations of the American Stock Exchange, and (iii) those members or member organizations of the National Association of Securities Dealers, Inc., which either reported a net capital (as defined in Rule 15c3-1 under the Securities Exchange Act of 1934) of $750,000 in the latest financial statement filed with the Securities and Exchange Commission on Form X-17A-5 prior to July 13, 1967, or which have effected 300 or more transactions in foreign securities during either the week commencing July 2 or commencing July 9, 1967 (which members or member organizations of the National Association of Securities Dealers, Inc., are listed below) have agreed to comply, and are complying, with such amended statutory provisions and with the documentation, recordkeeping, and reporting requirements and shall be participating firms.

*Participating Firms as of July 18, 1967.* The Participating Firms as of July 18, 1967, are as follows:

All members and member organizations of the New York Stock Exchange.

All members and member organizations of the American Stock Exchange.

The following members and member organizations of the National Association of Securities Dealers, Inc., not members or member organizations of the New York Stock Exchange or the American Stock Exchange:

1. A. E. Ames Co., Inc., New York, N.Y.
2. Allen & Co., New York, N.Y.
3. Allison-Williams Co., Minneapolis, Minn.
4. B. C. Ziegler & Co., West Bend, Wis.
5. Baer Securities Corp.
6. Bankers Securities Corp., Philadelphia, Pa.
7. Barrow, Leary & Co., Shreevport, La.
8. Calvin, Bullock Ltd., New York, N.Y.
9. Carl Marks & Co., Inc., New York, N.Y.
10. Cartwright, Valleau & Co., Chicago, Ill.
11. Childress & Co., Jacksonville, Fla.
12. City Securities Corp., Indianapolis, Ind.
13. Collett & Co., Inc., Indianapolis, Ind.
14. Cumberland Securities Corp., Nashville, Tenn.
15. Dayton Bond Corp., Dayton, Ohio.
16. Dempsey & Co., Chicago, Ill.
17. Distributors Group, Inc., New York, N.Y.
18. Donald B. Litchard, Boston, Mass.
19. Dreyfus Corp., New York, N.Y.
20. E. L. Villareal Co., Inc., Little Rock, Ark.
21. E. M. Warburg & Co., Inc., New York, N.Y.
22. Eaton & Howard, Inc., Boston, Mass.
23. Equitable Securities Corp., Nashville, Tenn.
24. Excelsior Option Corp., Boston, Mass.
25. F. I. du Pont, A. C. Allyn, Inc., New York, N.Y.
26. First Boston Corp., New York, N.Y.
27. First Investors Corp. of New York, New York, N.Y.
28. First Southwest Co., Dallas, Tex.
29. Glover & MacGregor Inc., Pittsburgh, Pa.
30. Gordon B. Hanlon & Co., Boston, Mass.
31. Grace Canadian Securities, Inc., New York, N.Y.
32. Gross & Co., Los Angeles, Calif.
33. H. S. Kipnis & Co., Chicago, Ill.
34. Halsey, Stuart & Co., Inc., Chicago, Ill.
35. Hamilton Management Corp., Denver, Colo.
36. Henry Spiegel, New York, N.Y.
37. Hettleman & Co., New York, N.Y.
38. Hickey & Co., Chicago, Ill.
39. IDS Securities Corp., Minneapolis, Minn.
40. Insurance Securities, Inc., Corp., Houston, Tex.
41. J. S. Strauss & Co., San Francisco, Calif.
42. John Nuveen & Co., Inc., Chicago, Ill.
43. John W. Clarke & Co., Chicago, Ill.
44. Kalman & Co., Inc., St. Paul, Minn.
45. Kenower, MacArthur & Co., Detroit, Mich.
46. Loomis, Sayles & Co., Inc., Boston, Mass.
47. M. A. Schapiro & Co., New York, N.Y.
48. National Securities & Research Corp., New York, N.Y.
49. National Variable Annuity Co. Fla., Jacksonville, Fla.
50. Nikko Securities Co. International, Inc., New York, N.Y.
51. Nomura Securities Co., Ltd., New York, N.Y.
52. Parsons & Co., Cleveland, Ohio.

53. Paul Revere Variable Annuity Insurance Co., Worcester, Mass.
54. Pflueger & Baerwald, San Francisco, Calif.
55. R. S. Dickson & Co., Inc., Charlotte, N.C.
56. Richard W. Clark Corp., New York, N.Y.
57. Second District Securities Co., New York, N.Y.
58. Singer and Mackie, Inc., New York, N.Y.
59. Stephens, Inc., Little Rock, Ark.
60. Stern Brothers & Co., Kansas City, Mo.
61. Stetson Securities Corp., Fairfield, Conn.
62. Stone & Youngberg, San Francisco, Calif.
63. Stryker & Brown, New York, N.Y.
64. The Crosby Corp., Boston, Mass.
65. Thomas, Haab & Botts, New York, N.Y.
66. Thomas McDonald & Co., Chicago, Ill.
67. Troster, Singer & Co., New York, N.Y.
68. Vance, Sanders & Co., Inc., Boston, Mass.
69. Waddell & Reed, Inc., Kansas City, Mo.
70. Weedon & Co., San Francisco, Calif.
71. Wellington Management Co., Philadelphia, Pa.
72. Wheeler, Munger & Co., Los Angeles, Calif.
73. William C. McDonnell, New York, N.Y.
74. William E. Pollack & Co., Inc., New York, N.Y.
75. Wood, Gundy & Co., Inc., New York, N.Y.
76. Wood, Struthers & Co., Inc., New York, N.Y.
77. Yamaich Securities Co., of New York, Inc.

*Changes In List Of Participating Firms.* Any other member or member organization of a national securities exchange or a national securities association registered with the Securities and Exchange Commission may become a Participating Firm if it files with the Commissioner of Internal Revenue, Washington, D.C. 20224 (Attention: CP) a letter signed by the member, a partner or an officer (i) requesting designation as a Participating Firm, (ii) agreeing to comply with the documentation, recordkeeping and reporting requirements established by the Internal Revenue Service (whether established prior or subsequent to the date of the letter), (iii) agreeing that its books and records no matter where located may be examined by any employee of the Internal Revenue Service, and (iv) if the letter is filed with the Commissioner of Internal Revenue on or after August 15, 1967, stating that such documentation, recordkeeping and reporting requirement procedures are operational. The Internal Revenue Service will from time to time publish the names of those members or member organizations which have become Participating Firms subsequent to July 17, 1967.

Any member or member organization which became a Participating Firm prior to August 15, 1967, shall cease to be a Participating Firm unless on or before August 15, 1967, it files with the Commissioner of Internal Revenue a letter signed by the member, a partner, or an officer setting forth each of the items (i) to (iv), inclusive, of the preceding paragraph. A Participating Firm may terminate its status as such by filing a request with the Commissioner of Internal Revenue. In addition, if the Commissioner of Internal Revenue has reasonable cause to believe that a Participating Firm is not complying with such statutory provisions, or with the documentation, recordkeeping and reporting requirements, or any part thereof, he may cause the removal of such firm from the list of Participating Firms.

The effective date on which a member or member organization shall become or cease to be a Participating Firm shall be the date specified in a notice issued by the Internal Revenue Service, which date shall not be prior to the date following the date on which the notice was made available to financial publications and wire services.

*Establishment of exemption for prior American ownership and compliance.* The Treasury recommended that the amendments to H.R. 6098 authorize the following procedures, effective July 15, 1967, for the establishment of the exemption for prior American ownership and compliance:

1. If a U.S. person acquiring stock of a foreign issuer or a debt obligation of a foreign obligor directly from or through a Participating Firm receives in good faith from the Participating Firm an "IET Clean Confirmation" (meeting the requirements described below) applicable to the particular stock or debt obligation acquired, the exemption for prior American ownership and compliance shall be deemed to have been established.

2. If a U.S. person acquiring stock of a foreign issuer or a debt obligation of a foreign obligor receives in good faith copies 1 and 2 of a Validation Certificate issued by the Internal Revenue Service to the seller or to himself applicable to the particular stock or debt obligation acquired and, in the case where the Validation Certificate was issued to the seller, completes and files copy 2 of the certificate with the Internal Revenue Service, the exemption for prior American ownership and compliance shall be deemed to have been established.

3. If a U.S. person acquiring stock of a foreign issuer or a debt obligation of a foreign obligor establishes that there is reasonable cause for an inability to establish prior American ownership and compliance in accordance with one of the foregoing, prior American ownership and compliance may be established by other evidence which satisfies the Internal Revenue Service that the person from whom such acquisition was made was a complying U.S. person not ineligible to sell as a U.S. person.

*Sales effected by Participating Firms.* The Treasury further recommended that the amendments to H.R. 6098 provide that Participating Firms are required to sell stock of a foreign issuer or a debt obligation of a foreign obligor as stock or a debt obligation not exempt from the interest equalization tax by reason of the exemption for prior American ownership and compliance except in the following cases:

1. The Participating Firm (i) at the close of business on July 14, 1967 (trade date), carried in its records for the account of the seller the stock or debt obligation being sold, (ii) has in its possession and relies in good faith on a certificate of American ownership with respect to the stock or debt obligation being sold, or a blanket certificate of American ownership with respect to such account, and (iii) included the stock or debt obligation in the Transition Inventory of the Participating Firm duly filed on or before the due date (whether it occurs prior to or subsequent to the sale) with the Internal Revenue Service as hereinafter provided.

2. The Participating Firm purchased on or after July 15, 1967, for, or sold to, the seller the stock or debt obligation being sold if the exemption for prior American ownership and compliance applied to the seller's acquisition and if the Participating Firm continuously carried in its records for the account of the seller such stock or debt obligation.

3. The Participating Firm purchased for, or sold to, the seller the stock or debt obligation being sold if the exemption for prior American ownership or the exemption for prior American ownership and compliance applied to the acquisition and if the Participating Firm on or after July 15, 1967, received from the seller the identical stock certificates or evidence of indebtedness which it had previously delivered to the seller in respect of the purchase.

4. The Participating Firm received the stock or debt obligation being sold from another Participating Firm or from a Participating Custodian with a Transfer of Custody Certificate meeting the requirements described below.

5. The Participating Firm has received from the seller copies 1 and 2 of a Validation Certificate issued by the Internal Revenue Service applicable to the stock or debt obligation being sold and on or before the business day following the delivery of the security by the seller or the day of the sale, whichever is later, completes and files copy 2 of the certificate with the Internal Revenue Service. For this purpose timely mailing is treated as timely filing if in accordance with section 7502 of the Internal Revenue Code.

6. If the sale involves stock, the Participating Firm received from the seller proof that the seller is a U.S. person (until otherwise announced a Certificate of American ownership with respect to the stock being sold is acceptable proof) and the stock certificate is registered in the name of the seller by a United States transfer agent which is a bank or trust company and dated prior to July 19, 1963.

7. The Participating Firm withholds the amount of Interest Equalization Tax which would be imposed had the seller purchased in a taxable acquisition the stock or debt obligation being sold on the day of the sale. Information on withholding procedures will be published shortly.

*IET Clean Confirmation.* A Participating Firm is authorized to issue an "IET Clean Confirmation" to a customer with respect to stock or a debt obligation of a foreign issuer or obligor in the following circumstances:

1. In a case where the Participating Firm purchased the stock or debt obligation as broker for the customer from or through another Participating Firm in the regular market (in the case of a purchase on a national securities exchange referred to in section 4918(c) of

the Internal Revenue Code) or received a clean comparison or confirmation from another Participating Firm under the procedures referred to in section 4918(d) of the Internal Revenue Code.

2. It sold the stock or debt obligation as dealer to the customer and it was a complying U.S. person not ineligible to sell as a U.S. person.

Each IET Clean Confirmation shall state the date of acquisition, the number of shares or the face amount of obligations purchased, the description of the stock or debt obligations, the price paid, and the market on or through which the purchase was effected. Only an original document may constitute an IET Clean Confirmation and each copy or duplicate shall be marked as such. All other confirmations issued by Participating Firms with respect to stock or debt obligations of foreign issuers or obligors shall be clearly marked in ink, by typewriter or by business machine so as to be distinguishable from IET Clean Confirmations.

*Issuance of Validation Certificates.* Validation Certificates will be issued by all District Directors of Internal Revenue commencing Monday, July 17, 1967, upon proof that the United States person on whose behalf the Validation Certificate is requested has complied with his interest equalization tax obligations with respect to the securities to be covered by the Validation Certificate. The Internal Revenue Service will shortly announce the procedures for obtaining Validation Certificates. Each District Director will reissue Validation Certificates in different denominations upon request.

*Interim procedures.* Where the stock of a foreign issuer or a debt obligation of a foreign obligor is sold by a Participating Firm prior to the close of business on July 21, 1967, a Validation Certificate will be deemed to have been issued with respect to such securities if the Participating Firm effecting such sale files a letter, in duplicate, with the District Director, on or before August 2, 1967, certifying that: (i) To the best of its knowledge and belief the seller for whom it sold such foreign securities was a resident of the United States at the time of the sale and the Participating Firm had reason to believe that the seller had been a resident of the United States for the preceding 18 months, (ii) to the best of its knowledge and belief the seller is the beneficial owner of such securities, (iii) that during the calendar week ending July 21, 1967, the Participating Firm had not sold (or by selling such securities did not sell) securities in an amount in excess of $50,000 for the seller which were subject to the interest equalization tax and which could not be sold regular way on a national securities exchange or under the clean confirmation procedures over-the-counter pursuant to section 4918 (c) and (d) of the Internal Revenue Code without a Validation Certificate, and (iv) the seller had had previous brokerage relations as a customer with the Participating Firm. In addition, such letter shall contain, with respect to each stock of a foreign issuer or debt obligation of a foreign obligor sold, the name and address of the seller, the Social Security number of the seller, the number of shares or face amount of the security or the debt obligation, the name of the issuer or obligor, the class of stock or description of the debt obligation, the total amount for which the stock or debt obligation was sold, and the settlement date. The letter must be signed by a partner or officer of the Participating Firm.

During the calendar week ended July 21, 1967, a Participating Firm may accept an order from or deal with another Participating Firm or a U.S. bank or trust company (excluding a U.S. branch or agency of a foreign bank) in any amount without special documentation, except to indicate transfers subject to the interest equalization tax.

*Transition Inventory.* The Transition Inventory shall be filed with the Commissioner of Internal Revenue no later than August 15, 1967. Each Participating Firm and each Participating Custodian filing a Transition Inventory (Participating Custodians are described below) shall list those stocks and debt obligations of foreign issuers and obligors carried on its records at the close of business July 14, 1967 (trade date), and shall show (i) the aggregate amount of each such security carried for the accounts of U.S. persons, (ii) the aggregate amount of each such security carried for the accounts of other persons, and (iii) the aggregate amount of each such security not in the physical custody of the Participating Firm or Participating Custodian.

*Participating Custodians.* During the period beginning July 15, 1967, and until a notice or notices to the contrary are published by the Internal Revenue Service, the Participating Custodians are the Federal Reserve Member Banks which are classified as reserve city banks.

A bank or trust company insured by the Federal Deposit Insurance Corporation may become a Participating Custodian if it files with the Commissioner of Internal Revenue, Washington, D.C. 20224 (Attention: CP), a letter signed by an officer (i) requesting designation as a Participating Custodian, (ii) agreeing to comply with the documentation, recordkeeping, and reporting requirements established by the Internal Revenue Service (whether established prior or subsequent to the date of the letter), (iii) agreeing that its books and records no matter where located may be examined by any employee of the Internal Revenue Service, and (iv) if the letter is filed with the Commissioner of Internal Revenue on or after August 15, 1967, stating that such documentation, recordkeeping, and reporting requirement procedures are operational. The Internal Revenue Service will from time to time publish the names of those members or member organizations which have become Participating Custodians subsequent to July 15, 1967.

Any bank or trust company which became a Participating Custodian prior to August 15, 1967, shall cease to be a Participating Custodian unless on or before August 15, 1967, it files with the Commissioner of Internal Revenue a letter signed by an officer setting forth each of the items (i) to (iv), inclusive, of the preceding paragraph. A Participating Custodian may terminate its status as such by filing a request with the Commissioner of Internal Revenue. In addition, if the Commissioner of Internal Revenue has reasonable cause to believe that a Participating Custodian is not complying with the statutory provisions related to the interest equalization tax applicable to it, or with the documentation, recordkeeping, and reporting requirements, or any part thereof, he may cause the removal of such firm from the list of Participating Custodians.

The effective date on which a bank or trust company shall become or cease to be a Participating Custodian shall be the date specified in a notice issued by the Internal Revenue Service, which date shall not be prior to the date following the date on which the notice was made available to financial publications and wire services.

*Transfer of Custody Certificates.* Transfer of Custody Certificates shall be issued only by Participating Firms and Participating Custodians and only in connection with a transfer from the account of a customer of a Participating Firm or Participating Custodian to the account of the same customer with a different Participating Firm or Participating Custodian in the following circumstances:

1. The Participating Firm or Participating Custodian on July 14, 1967 (trade date), carried in its records for the account of the customer the stock or debt obligation referred to in the Transfer of Custody Certificate and acquired and holds in good faith a certificate of American ownership with respect to such stock or debt obligation or a blanket certificate of American ownership with respect to such account, if it included such stock or debt obligation in the Transition Inventory duly filed on or before the due date (whether it occurs prior to or subsequent to the sale) by it with the Commissioner of Internal Revenue.

2. The Participating Firm or Participating Custodian received a like amount of the stock or debt obligation referred to in a Transfer of Custody Certificate from another Participating Firm or Participating Custodian accompanied by a Transfer of Custody Certificate.

3. The Participating Firm purchased for the transferor the stock or debt obligation referred to in the Transfer of Custody Certificate and in connection with the purchase either received (i) a Validation Certificate issued by the Internal Revenue Service, or (ii) was authorized to issue an IET Clean Confirmation, and in either case continuously carried for the account of the transferor the stock or debt obligation so purchased, or received back from the purchaser the identical securities or evidence of indebtedness previously delivered to the purchaser.

*Recordkeeping requirements.* The recordkeeping requirements for Participating Firms are, until further notice,

identical to the recordkeeping requirements for broker-dealers issued pursuant to the Securities Exchange Act of 1934 with the following required modifications:

1. Records of original entry (in most cases the purchase and sale blotter) shall be prepared and maintained separately for all purchases and sales of stock and debt obligations of foreign issuers and obligors. All entries shall clearly designate those transactions which involved foreign-owned securities. All entries reflecting a purchase of securities, the acquisition of which is exempt from the tax under the exemption for prior American ownership and compliance, shall clearly designate the documentation received establishing such exemption. All entries reflecting a sale of securities regular way on a national securities exchange referred to in section 4918(c) of the Internal Revenue Code or under the clean comparison procedure established by section 4918(d) of the Code shall clearly designate the documentation authorizing such sale.

2. The securities record or ledger reflecting separately for each stock or debt obligation of a foreign issuer or obligor all "long" or "short" positions (including such securities in safekeeping) carried by such firm or custodian for its account or for the account of customers (commonly known as stock record sheets) shall be prepared and maintained apart from those prepared and maintained for all other securities. All entries in such record or ledger, and in each customer's account, shall clearly designate those of such securities with respect to which the firm or custodian can issue a Transfer of Custody Certificate without obtaining further documentation.

3. The ledger account itemizing separately the accounts of such firm or custodian reflecting all purchases, sales, receipts, and deliveries of stock or debt obligations of a foreign issuer or obligor for the firm's own investment and trading accounts shall be prepared and maintained apart from those prepared and maintained for all other securities. All entries shall clearly designate those transactions which involve securities on which the firm or custodian can issue a Transfer of Custody Certificate. Appropriate files for each of said dealer-owned foreign securities shall be maintained, in readily accessible form, to hold all relevant information and evidence to substantiate tax free nature of the acquisitions pursuant to which such securities were acquired or, if acquired in a taxable transaction, the retained copies of the tax returns filed with respect to such acquisitions.

4. Separate files shall be maintained for all interest equalization tax reports filed with the Internal Revenue Service (both for information and tax-paying purposes) including copies of all documents filed with the Internal Revenue Service and summaries and supporting schedules. In addition, such files shall contain substantiation of the Transition Inventory filed with the Commissioner of Internal Revenue.

*Certain debt obligations.* The foregoing procedures would not apply to those debt obligations of foreign obligors which are neither convertible nor listed or traded in domestic or foreign markets. In such cases, the exemption for prior American ownership and compliance will, until other procedures are announced, be established if the United States person acquiring the obligation receives in good faith a letter from the seller certifying to the exemption together with a copy thereof and files the copy with the Internal Revenue Service.

[SEAL] STANLEY S. SURREY,
*Assistant Secretary.*

[F.R. Doc. 67-8468; Filed, July 18, 1967; 12:02 a.m.]

# DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

[Montana 2641]

### MONTANA

### Order Providing for Opening of Public Lands

JULY 10, 1967.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1272), as amended June 26, 1936 (49 Stat. 1976; 43 U.S.C. 315g), the following lands have been reconveyed to the United States:

PRINCIPAL MERIDIAN, MONTANA

T. 14 N., R. 47 E.,
Sec. 17, All.

The area described contains 640 acres.

2. The above described lands are located in Prairie County, 25 miles northwest of Terry, Mont. The topography is generally rolling prairie with some areas rather rough. The lands are presently used for grazing livestock. The lands are not suited to cultivation due to topography, soils, and low rainfall.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands are hereby open to application, petition, location and selection. All valid applications received at or prior to 10 a.m., August 11, 1967, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The mineral rights in the lands were not exchanged. Therefore, the mineral status of the lands are not affected by this order.

5. Inquiries concerning the lands should be addressed to the Land Office Manager, Bureau of Land Management, Billings, Mont. 59101.

EUGENE H. NEWELL,
*Land Office Manager.*

[F.R. Doc. 67-8279; Filed, July 18, 1967; 8:46 a.m.]

[Utah 0145998]

### UTAH

### Notice of Offering of Land for Sale

JULY 10, 1967.

Notice is hereby given that, under the provisions of the Act of September 19, 1964 (78 Stat. 988) and pursuant to an application from the city of St. George, Utah, the Secretary of the Interior will offer for sale the SE¼SE¼NE¼SW¼ and SW¼SW¼NW¼SE¼ Section 13, T. 42 S., R. 16 W., SLM, Utah.

The land has been classified as chiefly valuable for the orderly growth and development of the city of St. George, Utah, as a site for recreation and public buildings to be a part of a large recreation complex presently under development. The tract is zoned RP-1, Residence Park Zone, which permits certain specific uses. The land is located on the outskirts of St. George, just northwest of the city.

It is the intention of the Secretary to enter into an agreement with authorized city officials to permit the city of St. George to purchase the land at the appraised market value.

Patent to the land issued under the Act of September 19, 1964, supra, shall contain a reservation to the United States of rights-of-way for ditches and canals under the Act of August 30, 1890 (43 U.S.C. sec. 945), and of all mineral deposits which shall thereupon be withdrawn from appropriation under the public land laws including the mining and mineral leasing laws. The land will be sold subject to all valid existing rights and reservations for rights-of-way.

R. D. NIELSON,
*State Director.*

[F.R. Doc. 67-8280; Filed, July 18, 1967; 8:46 a.m.]

# DEPARTMENT OF AGRICULTURE

## Office of the Secretary

### ECONOMIC RESEARCH SERVICE

### Statement of Organization and Delegation

Pursuant to the authority contained in 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, section 135 of Secretary's order dated November 27, 1964 (29 F.R. 16210), as amended, is further amended to read as follows:

SEC. 135 *Assignment of functions.* The following assignment of functions is made to the Economic Research Service:

a. Farm economics research dealing with the economic problems of agricultural production and resource use, but excluding forest economics research; farm production economics research including analyses of farm production costs and efficiency, use of capital and labor in agriculture profitable adjustments in farming, and financial problems of farmers; natural resource economics research studies on the extent, use and

management of land and water resources and resource institutions, and on watershed and river basin development problems; economic development research including a broad program on economic development of rural areas, opportunities and employment of rural people and factors affecting them, including local governments and their organizations. Title I and Title II of the Act of 1946 (7 U.S.C. 427, 1621–1627), except as otherwise assigned in Secretary's order of November 27, 1964, as amended.

b. Marketing economics research, including economic and cost analyses relating to the marketing of specific agricultural commodities; the organizational structure and practices of commodity markets; costs, measurement of margins, and efficiency involved in the marketing of agricultural products; farmers' bargaining power; the economics of product quality and grade; market potentials, distribution and merchandising of agricultural products; and the economics of transportation of agricultural products. Title II of the Act of 1946 (7 U.S.C. 1621–1627), except as otherwise assigned in Secretary's Order of November 27, 1964, as amended.

c. Domestic and foreign economic research, including economic and statistical analyses of agricultural prices, farm income, commodity outlook and situation, the supply and consumption of farm products, and agricultural history. Foreign economic analyses include economic studies of supply of, demand for, and trade in farm products in foreign countries and their effect on prospects for U.S. exports; analyses of farm export programs, progress in economic development and its relationship to sales of farm products; assembly and analysis of agricultural trade statistics; and analysis of international financial monetary programs and policies, as they affect the competitive position of U.S. farm products, but exclude specific commodity investigations relating to foreign market developments, competition and reporting, as assigned to Foreign Agricultural Service. Section 601 of the Act of August 28, 1954 (7 U.S.C. 1761).

d. Supervision, direction and operation of the Outlook and Situation Board which is responsible for technical review and approval of all economic outlook and situation reports and statements prepared within the Department.

e. Authority to make grants under section 2 of the Act of August 4, 1965 (7 U.S.C. 450i), and the Act of September 6, 1958 (42 U.S.C. 1891–1893).

f. Economic research under P.L. 83–480, Title 1, section 104(a) with funds administered by the Foreign Agricultural Service, and under section 104(k) with funds administered by the Agricultural Research Service.

Signed at Washington, D.C., this 13th day of July 1967.

ORVILLE L. FREEMAN,
*Secretary of Agriculture.*

[F.R. Doc. 67-8294; Filed, July 18, 1967; 8:47 a.m.]

## MISSOURI, NEBRASKA, AND OKLAHOMA

### Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the States of Missouri, Nebraska, and Oklahoma natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

MISSOURI

| | |
|---|---|
| Adair. | Lafayette. |
| Andrew. | Lewis. |
| Atchison. | Linn. |
| Boone. | Livingston. |
| Buchanan. | Macon. |
| Butler. | Mercer. |
| Caldwell. | Mississippi. |
| Callaway. | Moniteau. |
| Carroll. | Montgomery. |
| Chariton. | New Madrid. |
| Clark. | Nodaway. |
| Clay. | Osage. |
| Clinton. | Pemiscot. |
| Cole. | Platte. |
| Cooper. | Putnam. |
| Daviess. | Randolph. |
| De Kalb. | Ray. |
| Dunklin. | Ripley. |
| Gasconade. | Saline. |
| Gentry. | Schuyler. |
| Grundy. | Scotland. |
| Harrison. | Scott. |
| Holt. | Shelby. |
| Howard. | Stoddard. |
| Jackson. | Sullivan. |
| Johnson. | Worth. |
| Knox. | |

NEBRASKA

| | |
|---|---|
| Hamilton. | Platte. |
| Nance. | York. |

OKLAHOMA

Stephens.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1968, 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 14th day of July 1967.

ORVILLE L. FREEMAN,
*Secretary.*

[F.R. Doc. 67-8326; Filed, July 18, 1967; 8:49 a.m.]

## Packers and Stockyards Administration

## FLORENCE TRADING POST ET AL.

### Proposed Posting of Stockyards

The Chief, Registrations, Bonds and Reports Branch, Packers and Stockyards Administration, U.S. Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

Florence Trading Post, Florence, Alabama.
Jack Sivils Sale Company, Butler, Missouri.
Holdrege Commission Company, Holdrege, Nebraska.
Aberdeen Livestock Sales Company, Inc., Aberdeen, South Dakota.
Hub City Livestock Sales, Inc., Aberdeen, South Dakota.

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. et seq.), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the Act, as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule, may do so by filing them with the Chief, Registrations, Bonds and Reports Branch, Packers and Stockyards Administration, U.S. Department of Agriculture, Washington, D.C. 20250, within 15 days after publication in the FEDERAL REGISTER.

All written submissions made pursuant to this notice shall be made available for public inspection at such times and places in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 13th day of July 1967.

EDWARD L. THOMPSON,
*Registrations, Bonds, and Reports Branch, Packers and Stockyards Administration.*

[F.R. Doc. 67-8327; Filed, July 18, 1967; 8:49 a.m.]

# DEPARTMENT OF COMMERCE

## Maritime Administration

## LYKES BROS. STEAMSHIP CO., INC.

### Notice of Application

Notice is hereby given that Lykes Bros. Steamship Co., Inc., has applied for a temporary increase of two sailings per month in the maximum number of subsidized sailings permitted on its Trade Route No. 22—Freight Service (Line D—Orient Line), with such increase to be effective for the duration of disruption of normal commercial relations with certain Arab countries in the area of Lykes' Trade Route No. 13, Freight Service (Line C—Mediterranean Line).

In connection with said application it is noted that U.S.-flag participation in commercial cargo traffic carried by ships in liner service on Trade Route No. 22 (U.S. Gulf/Far East) was less than 30 percent of outbound and 15 percent of inbound in each of the last 3 years, and is decreasing. The following table shows liner carryings of commercial cargo on Trade Route No. 22 during calendar years 1964, 1965, and 1966 and U.S.-flag participation therein:

TRADE ROUTE NO. 22—COMMERCIAL CARGO CARRIED BY SHIPS IN LINER SERVICE

| Calendar year | Outbound | | | Inbound | | |
|---|---|---|---|---|---|---|
| | Total United States and foreign | U.S. flag | U.S. percent | Total United States and foreign | U.S. flag | U.S. percent |
| 1964 | 2,332,195 | 657,777 | 28 | 560,450 | 72,417 | 13 |
| 1965 | 2,269,977 | 536,074 | 23 | 670,001 | 57,732 | 9 |
| 1966 | 2,112,284 | 408,916 | 19 | 725,727 | 64,900 | 9 |

Source: U.S. Department of Commerce, Bureau of the Census.

Any person, firm or corporation having any interest in such application and desiring a hearing on issues pertinent to section 605(c) of the Merchant Marine Act, 1936, as amended, 46 U.S.C. 1175, should by the close of business on July 31, 1967, notify the Secretary, Maritime Subsidy Board in writing, in triplicate, and file petition for leave to intervene in accordance with the rules of practice and procedure of the Maritime Subsidy Board.

In the event petitions to intervene are received from party or parties having standing to be heard, an expedited hearing on the section 605(c) statutory issues will be held because of the emergency conditions obtaining and the temporary nature of the service being proposed.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

Dated: July 14, 1967.

By order of the Maritime Subsidy Board.

JOHN M. O'CONNELL,
*Acting Secretary.*

[F.R. Doc. 67-8316; Filed, July 18, 1967; 8:48 a.m.]

## UNITED STATES LINES, INC.

### Notice of Application for Approval of Certain Cruises

Notice is hereby given that United States Lines, Inc., acting pursuant to Public Law 87-45, has applied to the Maritime Administration for approval of the following cruises by the SS "United States":

Sails New York—February 3, 1968; returns New York—March 2, 1968; itinerary—Curacao, Rio de Janeiro, Dakar, Tenerife, Gibraltar, Lisbon, Punchal.

Sails New York—April 6, 1968; returns New York—April 15, 1968; itinerary—Cristobal, Curacao, St. Thomas.

Any person, firm or corporation having any interest, within the meaning of Public Law 87-45, in the foregoing who desires to offer data, views and arguments should submit the same in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20235, by the close of business on July 31, 1967.

In the event an opportunity to present oral argument is also desired, specific reason for such request should also be included. The Maritime Subsidy Board will consider these comments and views and take such action with respect thereto as in its discretion it deems warranted.

Dated: July 14, 1967.

By order of the Maritime Subsidy Board.

JOHN M. O'CONNELL,
*Acting Secretary.*

[F.R. Doc. 67-8317; Filed, July 18, 1967; 8:48 a.m.]

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Food and Drug Administration

## UNION CARBIDE CORP.

### Notice of Establishment of Temporary Tolerance

Notice is given that at the request of the Union Carbide Corp., Post Office Box 8361, South Charleston, W. Va. 25303, a temporary tolerance of 0.1 part per million is established for total residues of the insecticides 2-*sec*-butyl-4,6-dinitrophenyl isopropyl carbonate and its metabolite 2-*sec*-butyl-4,6-dinitrophenol in or on apples and pears from the application of the insecticide to the growing crops. The Commissioner of Food and Drugs has determined that this temporary tolerance will protect the public health.

A condition under which this temporary tolerance is established is that the insecticide will be used in accord with the temporary permit issued by the U.S. Department of Agriculture.

This temporary tolerance expires July 11, 1968.

This action is taken pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346 a(j)) and delegated by him to the Commissioner (21 CFR 2.120).

Dated: July 11, 1967.

J. K. KIRK,
*Associate Commissioner for Compliance.*

[F.R. Doc. 67-8298; Filed, July 18, 1967; 8:47 a.m.]

## MONSANTO CO.

### Notice of Filing of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), notice is given that a petition (PP 7F0617) has been filed by Monsanto Co., 800 North Linbergh Boulevard, St. Louis, Mo. 63166, proposing the establishment of a tolerance of 0.3 part per million for residues of the herbicide α-chloro-*N*,*N*-diallylacetamide in or on the raw agricultural commodities: Cabbage, castor beans, celery, corn (field, sweet, and popcorn), lima beans, onions, peas, potatoes, snap beans, sorghum (grain and forage), soybeans, sugarcane, sweet potatoes, and tomatoes.

The analytical method proposed for determining residues of the herbicide is based upon hydrolysis by caustic to release diallylamine. This amine is reacted with carbon disulfide and copper sulfate in the presence of alkali to produce copper diallyldithiocarbamate, which is measured spectrophotometrically.

Dated: July 11, 1967.

J. K. KIRK,
*Associate Commissioner for Compliance.*

[F.R. Doc. 67-8299; Filed, July 18, 1967; 8:47 a.m.]

[Docket No. FDC-D-103; NDA No. 12-268 et al.]

## PUREX CORP.

### Cutitone Acne Cream and All Other Drugs for Human Use Containing Bithionol; Notice of Opportunity for Hearing

Notice is hereby given to the Purex Corp., Wilmington, Calif. 90746, and to any interested person who may be adversely affected, that the Commissection 505(e) (21 U.S.C. 355(e)) of the issue an order under the provisions of section 505(e) (21 U.S.C. 355(e)) of the Federal Food, Drug, and Cosmetic Act (1) withdrawing approval of new-drug application No. 12-268 and all amendments and supplements thereto held by the Purex Corp. for the drug Cutitone Acne Cream, which contains bithionol as an active ingredient, and (2) withdrawing approval of all other new-drug applications and all amendments and supplements thereto for drugs for human use containing any bithionol, for which the applicants have waived opportunity for a hearing on this proposal, on the grounds that:

Evaluation of (1) new evidence of clinical experience not contained in such application or not available to the Commissioner until after such application was approved, (2) tests by methods not deemed reasonably applicable when the application was approved, and (3) the evidence available when the application was approved indicates that bithionol,

a component of the drug, is not shown to be safe for use under the conditions of use for which the application was approved. Specifically, such new evidence and photo-patch tests show that the use of bithionol will cause photosensitivity and that in some instances the photosensitization may persist for prolonged periods as severe reactions without further contact with sensitizing articles. Further, there is evidence to indicate that bithionol may produce cross-sensitization with other commonly used chemicals such as certain halogenated salicylanilides and hexachlorophene.

In accordance with the provisions of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the applicant and any interested person who would be adversely affected by an order withdrawing such approval an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of new-drug application No. 12-268 should not be withdrawn. Promulgation of the proposed order will cause all drugs for human use containing any bithionol to be new drugs for which no approval is in effect.

Within 30 days from the date of publication of this notice in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Office of the General Counsel, Food and Drug Division, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing the approval of the new-drug application.

Failure of such persons to file such a written appearance of election within 30 days following the date of publication of this notice in the FEDERAL REGISTER will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process that the Commissioner finds is entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing by filing a timely written appearance of election, a hearing examiner will be named by the Commissioner and he shall issue a written notice of the time and place for the hearing.

This notice is issued under the authority contained in the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052, as amended; 21 U.S.C. 355), and delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120).

Dated: July 12, 1967.

JAMES L. GODDARD,
*Commissioner of Food and Drugs.*

[F.R. Doc. 67-8300; Filed, July 18, 1967; 8:47 a.m.]

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[Docket No. FDC-D-99; NDA No. 16-579]

## TYLER PHARMACAL DISTRIBUTORS, INC.

### Pro-Forma; Final Order Refusing Approval of New-Drug Application

In the FEDERAL REGISTER of January 11, 1967 (32 F.R. 286), a notice of opportunity for hearing was published extending to Tyler Pharmacal Distributors, Inc., 36 West Van Buren Street, Chicago, Ill. 60605, referred to herein as the "respondent," an opportunity for a hearing on the proposal of the Commissioner of Food and Drugs to refuse to approve, under section 505(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(d)), new-drug application No. 16-579 submitted by the respondent November 15, 1966, for marketing the drug Pro-Forma. The grounds for the proposed order were set forth in the notice.

The respondent elected to avail itself of the opportunity for a hearing. Pursuant to notices published in the FEDERAL REGISTER (Mar. 3, 1967, 32 F.R. 3716; Mar. 10, 1967, 32 F.R. 3950), a prehearing conference and a hearing were held before a duly designated hearing examiner.

On April 14, 1967, the hearing examiner issued tentative findings of fact, tentative conclusions of law, and tentative order based on the substantial evidence of record adduced at the hearing.

In accordance with § 130.25 (21 CFR 130.25), the respondent was given the opportunity to file exceptions to the tentative order. No exceptions were filed.

Therefore, by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the provisions of the act (sec. 505(d), 52 Stat. 1052, as amended; 21 U.S.C. 355(d)) and delegated to him by the Secretary (21 CFR 2.120), the Commissioner hereby issues this final order refusing to approve new-drug application No. 16-579 on the grounds that it does not meet the requirements of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130) necessary for approval.

The tentative findings of fact and conclusions of law, dated April 14, 1967, filed by the hearing examiner in this matter in Docket File No. FDC-D-99, are hereby specifically adopted and incorporated by reference into this final order. Said findings and conclusions were served on the respondent by certified mail and are available for inspection at the Office of the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201.

Dated: July 11, 1967.

JAMES L. GODDARD,
*Commissioner of Food and Drugs.*

[F.R. Doc. 67-8301; Filed, July 18, 1967; 8:47 a.m.]

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## ACTING DEPUTY ASSISTANT REGIONAL ADMINISTRATOR FOR METROPOLITAN DEVELOPMENT; REGION IV (CHICAGO)

### Designation

Paul R. Kaup, Region IV (Chicago), is hereby designated to serve as Acting Deputy Assistant Regional Administrator for Metropolitan Development, Region IV, during the present vacancy in the position of Deputy Assistant Regional Administrator for Metropolitan Development with all the powers, functions, and duties redelegated or assigned to the Deputy Assistant Regional Administrator for Metropolitan Development, Region IV.

(Secretary's delegation effective November 16, 1966)

Effective as of the 21st day of May 1967.

DWIGHT A. INK,
*Assistant Secretary for Administration.*

[F.R. Doc. 67-8325; Filed, July 18, 1967; 8:49 a.m.]

# ATOMIC ENERGY COMMISSION

[Docket No. 50-293]

## BOSTON EDISON CO.

### Notice of Receipt of Application for Construction Permit and Facility License

Boston Edison Co., 800 Boylston Street, Boston, Mass. 02199, pursuant to section 104(b) of the Atomic Energy Act of 1954, as amended, has filed an application, dated June 23, 1967, for authorization to construct and operate a single cycle, forced circulation, boiling water nuclear reactor. The proposed reactor, designated by the applicant as the Pilgrim Nuclear Power Station, will be located on the applicant's approximately 517-acre site about 36 miles southeast of Boston, in the town of Plymouth, Plymouth County, Mass. The reactor is designed for initial operation at approximately 1,912 thermal megawatts with a net electrical output of approximately 687 megawatts.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 12th day of July 1967.

For the Atomic Energy Commission.

PETER A. MORRIS,
*Director,*
*Division of Reactor Licensing.*

[F.R. Doc. 67-8267; Filed, July 18, 1967; 8:45 a.m.]

[Docket No. 50-276]

## GEORGIA INSTITUTE OF TECHNOLOGY

### Notice of Application for License To Receive, Possess, and Store Nuclear Reactor Components and Fuel

Please take notice that Georgia Institute of Technology, pursuant to section 104c of the Atomic Energy Commission Act of 1954, as amended, has submitted an application dated June 14, 1967, for necessary licenses to receive, possess, and store, but not to assemble, components and fuel of the AGN-201, serial No. 104, nuclear reactor presently located on the University of Akron's campus in Akron, Ohio. The components and fuel are to be stored on the campus of Georgia Institute of Technology in Atlanta, Ga., until applications for authority to assemble and operate are filed with and acted upon by the Commission. A copy of the application is available for public inspection at the AEC Public Document Room, located at 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 12th day of July 1967.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
*Assistant Director for Reactor Operations, Division of Reactor Licensing.*

[F.R. Doc. 67-8268; Filed, July 18, 1967; 8:45 a.m.]

[Docket No. 50-290]

## UNITED NUCLEAR CORP.

### Notice of Proposed Issuance of Construction Permit

The Atomic Energy Commission ("the Commission") is considering the issuance of a construction permit, substantially as set forth below, to United Nuclear Corp. The permit would authorize construction of a zero-power critical experiment facility (designated by the applicant as "Proof Test Facility") to be located at United Nuclear Corp.'s Remote Experimental Station site about 4 miles west of Pawling, N.Y. The Proof Test Facility is to be used to perform physics tests on fuel of the type used in central station nuclear power reactors.

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for hearing, and any person whose interest may be affected by the issuance of this construction permit may file a petition for leave to intervene. Requests for hearing and petitions to intervene shall be filed in accordance with the provision of the Commission's rules of practice, 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, a notice of hearing or an appropriate order will be issued.

For further details with respect to this proposed license, see (1) the application dated April 28, 1967, and amendment thereto dated June 9, 1967, and (2) a related Safety Evaluation prepared by the Division of Reactor Licensing, both of which are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the safety evaluation may be obtained at the Commission's Public Document Room or upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 14th day of July 1967.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
*Assistant Director for Reactor Operations, Division of Reactor Licensing.*

PROPOSED CONSTRUCTION PERMIT

1. By application dated April 28, 1967, and amendment thereto dated June 9, 1967 (hereinafter referred to as "the application"), United Nuclear Corp. requested a Class 104 license authorizing construction and operation of a critical experiment facility (designated the Proof Test Facility and hereinafter "PTF") at its site near Pawling, N.Y.

2. The Atomic Energy Commission ("the Commission") has found that:

A. The application complies with the requirements of the Atomic Energy Act of 1954, as amended ("the Act"), and the Commission's regulations set forth in Title 10, Chapter 1, CFR;

B. The PTF will be a utilization facility as defined in the Commission's regulations contained in Title 10, Chapter 1, CFR, Part 50, "Licensing of Production and Utilization Facilities";

C. The PTF will be used in the conduct of research and development activities of the types specified in Section 31 of the Act;

D. United Nuclear Corp. is financially qualified to construct the PTF in accordance with the regulations contained in Title 10, Chapter 1, CFR, and to engage in the proposed activities for a reasonable period of time;

E. United Nuclear Corp. is technically qualified to design and construct the PTF;

F. United Nuclear Corp. has submitted sufficient technical information concerning the proposed facility to provide reasonable assurance that the proposed facility can be constructed and operated at the proposed location without endangering the health and safety of the public; and

G. The issuance of the proposed construction permit will not be inimical to the common defense and security or to the health and safety of the public.

3. Pursuant to the Act and Title 10, CFR, Part 50, "Licensing of Production and Utilization Facilities," the Commission hereby issues a construction permit to United Nuclear Corp. to construct the PTF in accordance with the application and this construction permit. This permit shall be deemed to contain and be subject to the conditions specified in sections 50.54 and 50.55 of said regulations; is subject to all applicable provisions of the Act and rules, regulations and orders of the Commission now or hereinafter in effect, and is subject to the additional conditions specified below:

A. The earliest completion date of the facility is September 1, 1967. The latest completion date of the facility is November 1, 1967. The term "completion date," as used herein, means the date on which construction of the facility is completed except for the introduction of the fuel material.

B. The PTF shall be constructed on the applicant's Remote Experimental Station site located near Pawling, N.Y., as specified in the application.

4. Upon completion of the construction of the PTF in accordance with the terms and conditions of this permit, upon finding that the facility authorized has been constructed and will operate in conformity with the application and the provisions of the Act and of the rules and regulations of the Commission, upon execution of the indemnity agreement as required by section 170 of the Act, and in the absence of any good cause being shown to the Commission why the granting of a license would not be in accordance with the provisions of the Act, the Commission will issue a Class 104 license to United Nuclear Corp. pursuant to section 104c of the Act, which license shall expire approximately ten (10) years from the date of issuance of this permit, unless sooner terminated.

Date of issuance:

For the Atomic Energy Commission,

DONALD J. SKOVHOLT,
*Assistant Director for Reactor Operations, Division of Reactor Licensing.*

[F.R. Doc. 67-8402; Filed, July 18, 1967; 8:50 a.m.]

# CIVIL AERONAUTICS BOARD

## EMERY AIR FREIGHT CORP.

### Notice of Application for Tariff-Filing Authority Pickup and Delivery Zone

JULY 14, 1967.

In accordance with Part 222 (14 CFR, Part 222) of the Board's Economic Regulations (effective June 12, 1964), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 18786, from Emery Air Freight Corp., Post Office Box 322, Wilton, Conn., for authority to provide true pickup and delivery service of air freight shipments between the Greater Buffalo International Airport and Batavia, N.Y.

Under the provisions of § 222.3(c) of Part 222, interested persons may file an answer in opposition to or in support of this application within fifteen (15) days after publication of this notice in the FEDERAL REGISTER. An executed original and 19 copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and include such economic data and facts as are relied upon, and shall be served upon the applicant and state the date of such service.

[SEAL] HAROLD R. SANDERSON,
*Secretary.*

[F.R. Doc. 67-8312; Filed, July 18, 1967; 8:48 a.m.]

[Docket Nos. 18722, etc.; Order No. E-25417]

## FRONTIER AIRLINES, INC.

### Order of Investigation and Suspension Regarding Military Wives and Mothers Fare

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of July 1967.

By tariff [1] posted June 15, 1967, and marked to become effective August 1, 1967, Frontier Airlines, Inc. (Frontier), has proposed Military Wives and Mothers fares, applicable over its entire system, at a discount of 40 percent from its standard fare, subject to a $10 minimum. Eligibility for these reduced fares is limited to the wives and mothers of persons on active duty status with one of the U.S. military agencies. The tariff bears an expiration date of January 31, 1968.

In its letter of justification accompanying the tariff transmittal, Frontier states that the purpose of the discount fare is to enable wives and mothers of service personnel to visit their husbands and sons at a price which they can afford. Frontier further asserts that the proposed fares are intended to stimulate air travel and attract a substantial volume of new traffic to air transportation. In this regard, the carrier estimates that the proposed fares will produce added revenues of $188,000, and additional servicing costs of $91,000, and that as a result, Frontier's subsidy would be reduced by $97,000 annually.

Complaints requesting investigation and suspension of the proposal have been filed by Western Air Lines, Inc. (Western), Northwest Airlines, Inc. (Northwest), and Continental Air Lines, Inc. (Continental).[2] In general, these complaints assert that the instant proposal is unjustly discriminatory in the following respects: (1) The limitation of the fare to women violates the rule of equality that a reduced fare must be reasonably open to all who apply, free of any restrictions based on the passengers' mission, business or status; (2) the proposed service is not sufficiently differentiated from standard service, to warrant a special fare, since there is no space-available, off-peak, or other meaningful restriction upon its availability; (3) nothing in the proposal prevents wives and mothers from visiting anyone at any city on Frontier's system regardless of where their husbands and sons may be stationed; (4) Frontier's proposal is almost completely immune from effective policing since no documentation is available, nor proposed, which would authoritatively evidence the wife's or mother's status with respect to her serviceman husband or son; (5) this lack of positive identification could lead to widespread abuse of the fare; (6) Frontier has failed to justify the discrimination on grounds of either cost savings or competitive considerations; and (7) the proposed tariff would dilute revenues and divert traffic from competing carriers.

In its answer, Frontier compares establishment of these fares with military furlough fares and the reduced fares available to wives to visit their husbands while on rest and recuperation leave in Hawaii. On this basis, they contend that the instant proposal is in the national interest and not unjustly discriminatory.

On the basis of all facts and information before it, the Board concludes that Frontier's proposed fares for Military Wives and Mothers should be investigated. The tariff, in restricting the availability of the reduced fares to wives and mothers of service personnel, is inherently discriminatory in several respects. We have heretofore ordered investigations and suspended the effectiveness of tariffs proposing similar reduced fares for women [3] because of the patent discrimination between the sexes and the absence of any distinction in the transportation of men and women. The instant proposal raises the same basic problem in that it would establish special fares for wives and mothers of service personnel, but not for their husbands and fathers. This proposal goes further, however, and would discriminate between men and women in service in that the reduced fares proposed would be available for the spouses of servicemen but not servicewomen. In addition, while the reduced fares proposed would be available for wives and mothers to visit service personnel they would not be restricted to such travel and these fares would be applicable to transportation unrelated to a son, daughter or husband serving in the armed forces. Thus this proposal also results in a discrimination among women upon the basis of this status and we perceive no justification for the discrimination inherent in singling out this group to receive special fares for any air transportation that may be provided.

With regard to Frontier's contention that the proposed fare is similar to the reduced fares available to wives to visit their husbands while on rest and recuperation leave in Hawaii, we do not agree that a valid basis for this comparison exists. In those tariffs the reduced fares are available only for travel to visit a relatively restricted group of servicemen in Hawaii under unusual circumstances. These factors are not present in the instant proposal and the reduced fares would be made available without restriction for travel unrelated to having family members in the service.

In essence we view the instant proposal as discriminatory upon the basis of sex, as discriminatory between the families of men and women in service, and as discriminatory among women. Neither the promotional advantages alleged by Frontier nor the inherent characteristics of the persons involved appear sufficient to justify these discriminatory aspects of this proposal. In view of the serious nature of the discrimination involved in this proposal, the Board will suspend the tariff pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

*It is ordered*, That:

1. An investigation be instituted to determine whether the fares and provisions in Rule 22 on 2d Revised Page 36 of tariff CAB No. 101 issued by Airline Tariff Publishers, Inc., agent, and rules, regulations, and practices affecting such fares and provisions, are or will be unjust or unreasonable, unjustly discriminatory, unruly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, or practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions in Rule 22 on 2d Revised Page 36 of tariff CAB No. 101 issued by Airline Tariff Publishers, Inc., agent, are suspended and their use deferred to and including January 31, 1968, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding ordered herein be assigned for hearing before an Examiner of the Board at a time and place hereafter to be designated;

4. Except to the extent granted herein, the complaints of Western Airlines, Inc., in Docket 18722, Northwest Airlines, Inc., in Docket 18728, and Continental Air Lines, Inc., in Docket 18729 be dismissed; and

5. Copies of this order be filed with the aforesaid tariff and be served upon Western Air Lines, Inc., Northwest Airlines, Inc., and Continental Air Lines, Inc., which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 67-8313; Filed, July 18, 1967; 8:48 a.m.]

[1] Rule 22 of Airline Tariff Publishers, Inc., agent, Local and Joint Passenger Fares Tariff No. PF-7, CAB No. 101.

[2] American Airlines, Inc., submitted a letter dated June 23, 1967, commenting on the subject proposal. The letter will be placed in the correspondence file of the docket.

[3] Orders E-24563 and 25169, dated Dec. 27, 1966, and May 19, 1967, respectively.

# FEDERAL MARITIME COMMISSION

## STATES MARINE LINES, INC., ET AL.

### Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW.,

Room 609; or may inspect agreements at the office of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

States Marine Lines, Inc., Global Bulk Transport, Inc., and Isthmian Lines, Inc.

Notice of agreement filed for approval by:

J. D. Kenny, Counsel, States Marine-Isthmian Agency, Inc., 90 Broad Street, New York, N.Y. 10004.

Agreement 9641, between States Marine Lines Inc., Global Bulk Transport, Inc., and Isthmian Lines, Inc., provides for the establishment of a joint cargo service to and from ports of the United States (including territories and possessions) and ports of Japan, Korea, Taiwan (Formosa), Siberia, Manchuria, Vietnam, Thailand, the Republic of the Philippines as well as ports on the Mediterranean Sea, on the Sea of Marmara, on the Black Sea and on the Atlantic Coast of Morocco under terms and conditions as set forth in the agreement.

Dated: July 14, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
*Secretary.*

[F.R. Doc. 67-8296; Filed, July 18, 1967; 8:47 a.m.]

## ALASKA CRUISE LINES, LTD., ET AL.

### Application for Certificate of Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Casualty Certificate

Notice is hereby given that pursuant to the provisions of section 2, Public Law 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20 (46 CFR Part 540), that a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or other Persons on voyages has been issued to the following (all effective on August 7, 1967):

Alaska Cruise Lines, Ltd., Certificate No. C-1,010.

Canadian Pacific Railway Co. (Canadian Pacific), Certificate No. C-1,011.

Companhia Colonial De Navegacao (C.C.N. The Portuguese Line), Certificate No. C-1,012.

Giacomo Costa Fu Andrea (Costa Line) (Linea "C"), Certificate No. C-1,013.

Oceanic Special Shipping Co., Ltd., Certificate No. C-1,014.

Europa-Canada Linie G.m.b.H., Bremen (Europe-Canada Line) (ECL Shipping Co.), Certificate No. C-1,015.

"Holland-Amerika Lijn", N.V. Nederlandsch-Amerikaansche Stoomvaart-Maatschappij (Netherlands American Steamship Co.) (Holland-America Line), Certificate No. C-1,016.

N.V. Mailschip Rotterdam (Mailship Rotterdam, Inc.) (Holland-America Line), Certificate No. C-1,017.

Zim Israel Navigation Co. Ltd. (Zim Line), Certificate No. C-1,018.

The Cunard Steam-Ship Co., Ltd. (Cunard), Certificate No. C-1,019.

Transatlantic Shipping Corp. (Greek Line), Certificate No. C-0,020.

Transoceanic Navigation Corp. (Greek Line), Certificate No. C-0,021.

Compagnie Generale Transatlantique (French Line), Certificate No. C-1,022.

Victoria Steamship Co., Ltd. (Incres Line), Certificate No. C-1,023.

Rederiaktiebolaget Clipper (Clipper Steamship Company) (Clipper Line), Certificate No. C-1,024.

Norddeutscher Lloyd (North German Lloyd) (NDL, NGL), Certificate No. C-1,025.

Den norske Amerikalinje A/S (Norwegian America Line), Certificate No. C-1,026.

Aktiebolaget Svenska Amerika Linien (Swedish American Line), Certificate No. C-1,027.

"Italia" Societa' per Azioni Di Navigazione ("Italia" Steamship Corp.) (Italian Line), Certificate No. C-1,028.

Mitsui O.S.K. Lines, Ltd., and/or Nippon Sangyo Junko Mihonichi Ky okai (Mitsui O.S.K. Lines), Certificate No. C-1,029.

Mitsui O.S.K. Lines, Ltd., and/or Nihon Injusen K.K. (Mitsui O.S.K. Lines).

Compagnie Francaise De Navigation—Paquet Lines (Paquet Lines) (Compagnie Francaise De Navigation), Certificate No. C-1,030.

Dated: July 14, 1967.

THOMAS LISI,
*Secretary.*

[F.R. Doc. 67-8309; Filed, July 18, 1967; 8:48 a.m.]

## ATLANTIC FAR EAST LINES, INC.

### Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Application for Casualty Certificate

Notice is hereby given that pursuant to the provisions of section 2, Public Law 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, Amendment 2 (46 CFR Part 540) the following persons have applied to the Federal Maritime Commission for a Certificate of Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages:

Atlantic Far East Lines, Inc. (Orient Overseas Line).

Dated: July 14, 1967.

THOMAS LISI,
*Secretary.*

[F.R. Doc. 67-8310; Filed, July 18, 1967; 8:48 a.m.]

## CITIZENS & SOUTHERN NATIONAL BANK

### Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Performance Certificate

Notice is hereby given that pursuant to the provisions of section 3, Public Law 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20 (46 CFR Part 540) that a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation has been issued to the following:

The Citizens & Southern National Bank ("The C & S National Bank"), certificate No. P-56, effective date: July 12, 1967.

Dated: July 14, 1967.

THOMAS LISI,
*Secretary.*

[F.R. Doc. 67-8311; Filed, July 18, 1967; 8:48 a.m.]

# INTERSTATE COMMERCE COMMISSION

[Notice 455]

## MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JULY 14, 1967.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission, under the Commission's Deviation Rules Revised, 1957 (49 CFR 211.1 (c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1(d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(e)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 1824 (Deviation No. 6), PRESTON TRUCKING COMPANY, INC., 151 Easton Boulevard, Preston, Md. 21655, filed July 10, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between junction Interstate Highway 80 and U.S. Highway 15, near Whitedeer, Pa., and junction Interstate Highway 80 and U.S. Highway 611, near

Stroudsburg, Pa., over Interstate Highway 80, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Baltimore, Md., over Interstate Highway 83 to Lemoyne, Pa., thence over U.S. Highway 15 to junction U.S. Highway 20, thence over U.S. Highway 20 to junction New York Highway 130, thence over New York Highway 130 to Buffalo, N.Y., (2) from Lemoyne, Pa., over U.S. Highway 11 to Syracuse, N.Y., and (3) from Jersey City, N.J., over U.S. Highway 22 to junction New Jersey Highway 69, thence over New Jersey Highway 69 to junction U.S. Highway 46, thence over U.S. Highway 46 to junction U.S. Highway 611, thence over U.S. Highway 611 to junction Pennsylvania Highway 307, thence over Pennsylvania Highway 307 to Scranton, Pa., and return over the same routes.

No. MC 1824 (Deviation No. 7), PRESTON TRUCKING COMPANY, INC., 151 Easton Boulevard, Preston, Md. 21655, filed July 10, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Harrisburg, Pa., over U.S. Highway 22 to junction Interstate Highway 78, thence over Interstate Highway 78 to Allentown, Pa., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From junction U.S. Highway 22 and New Jersey Highway 69 over U.S. Highway 22 to junction U.S. Highway 222, thence over U.S. Highway 222 to junction U.S. Highway 30, thence over U.S. Highway 30 to Chambersburg, Pa., and (2) from junction U.S. Highways 222 and 422 over U.S. Highway 422 to junction U.S. Highway 322, thence over U.S. Highway 322 to Harrisburg, Pa., and return over the same routes.

No. MC 1824 (Deviation No. 8), PRESTON TRUCKING COMPANY, INC., 151 Easton Boulevard, Preston, Md. 21655, filed July 10, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction U.S. Highway 11 and New York Highway 17 over New York Highway 17 to junction New York Highway 14, thence over New York Highway 14 to junction U.S. Highway 20, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Philadelphia, Pa., over U.S. Highway 309 to junction U.S. Highway 11, thence over U.S. Highway 11 to junction U.S. Highway 20, and (2) from junction U.S. Highway 11 and 20 over U.S. Highway 20 to junction U.S. Highway 15, and return over the same routes.

No. MC 17803 (Deviation No. 1), PREMIER TRUCKING SERVICE CO., Post Office Box 156 Downtown Station, Omaha, Nebr. 68101, filed July 5, 1967. Carrier's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, Ill. 60603. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities* with certain exceptions, over deviation routes as follows: (1) From Chicago, Ill., over Interstate Highway 55 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction Interstate Highway 80N, thence over Interstate Highway 80N to junction Interstate Highway 29, thence over Interstate Highway 29 to Omaha, Nebr., and (2) from Chicago, Ill., over Interstate Highway 55 to junction Interstate Highway 80, thence over Interstate Highway 80 to Omaha, Nebr., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Omaha, Nebr., over city streets across the Missouri River bridge to junction Iowa Highway 92, thence over Iowa Highway 92 to junction Iowa Highway 48, thence over Iowa Highway 48 to junction U.S. Highway 6, thence over U.S. Highway 6 to junction Interstate Highway 55, thence over Interstate Highway 55 to Chicago, Ill., and (2) from Omaha, Nebr., over U.S. Highway 75 to junction U.S. Highway 30, thence over U.S. Highway 30 to junction Illinois Highway 56, thence over Illinois Highway 56 to junction Alternate U.S. Highway 30, thence over Alternate U.S. Highway 30 to junction Interstate Highway 90, thence over Interstate Highway 90 to Chicago, Ill., and return over the same routes.

No. MC 75651 (Deviation No. 1), R. C. MOTOR LINES, INC., 2500 Laura Street, Post Office Box 2501, Jacksonville, Fla. 32203, filed July 3, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: (1) From Atlanta, Ga., over Interstate Highway 75 to junction Interstate Highway 10, thence over Interstate Highway 10 to Jacksonville, Fla., and (2) from Atlanta, Ga., over Interstate Highway 75 to junction Interstate Highway 475 (bypass around Macon, Ga.), thence over Interstate Highway 475 to junction Interstate Highway 75, thence over Interstate Highway 75 to junction Interstate Highway 10, thence over Interstate Highway 10 to Jacksonville, Fla., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Savannah, Ga., over U.S. Highway 80 to Macon, Ga., thence over Georgia Highway 87 to junction U.S. Highway 23, thence over U.S. Highway 23 to Atlanta, Ga., and (2) from Jacksonville, Fla., over U.S. Highway 17 via Savannah, Ga., to Pocataligo, S.C., and return over the same routes.

No. MC 104004 (Deviation No. 33), ASSOCIATED TRANSPORT, INC., 380 Madison Avenue, New York, N.Y. 10017, filed June 30, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Greenville, S.C., over Interstate Highway 85 to junction Interstate Highway 285 (near Atlanta, Ga.), thence over Interstate Highway 285 to junction Interstate Highway 75, thence over Interstate Highway 75 to Chattanooga, Tenn., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Greenville, S.C., over U.S. Highway 25 to Asheville, N.C., thence over U.S. Highway 70 to Knoxville, Tenn., thence over U.S. Highway 129 to junction U.S. Highway 411, thence over U.S. Highway 411 to Cleveland, Tenn., thence over U.S. Highway 11 to Chattanooga, Tenn., and return over the same route.

### Motor Carrier of Passengers

No. MC 8742 (Deviation No. 2), CONTINENTAL PANHANDLE LINES, INC., 400 Monroe Street, Amarillo, Tex. 79101, filed June 30, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: Between Oklahoma City, Okla., and Sayre, Okla., over Interstate Highway 40, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Oklahoma City, Okla., over U.S. Highway 277 to junction Oklahoma Highway 152 (formerly Oklahoma Highway 41), thence over Oklahoma Highway 152 to Sayre, Okla., and return over the same route.

No. MC 102764 (Deviation No. 2), A.B.C., Inc., 120 Plympton Street, North Providence, R.I. 02904, filed July 3, 1967. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers*, in the same vehicle with passengers, over a deviation route as follows: From junction Interstate Highway 195 and Milliken Boulevard exit in Fall River, Mass., over Interstate Highway 195 to junction with Penniman and Purchase Streets in New Bedford, Mass., thence over Penniman and Purchase Streets to the Almeida Bus Terminal in New Bedford, Mass. (a distance of 13.6 miles), and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Providence, R.I., over U.S. Highway 6 to junction U.S. Highway 44 in East Providence, R.I., thence over Waterman Avenue in East Providence, R.I., and Fall River Avenue in Seekonk, Mass., to U.S. Highway 6, thence over U.S. Highway 6 via Fall

River, Mass., to New Bedford, Mass., and return over the same route.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-8303; Filed, July 18, 1967; 8:47 a.m.]

[Notice 1085]

## MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JULY 14, 1967.

The following publications are governed by Special Rule 1.247 of the Commission's Rules of Practice, published in the FEDERAL REGISTER issue of April 20, 1966, which became effective May 20, 1966.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 95540 (Sub-No. 698) (Republication), filed May 10, 1967, published in FEDERAL REGISTER Issue of May 25, 1967, and republished this issue. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, Fla. Applicant's representative: Alan E. Serby, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Candy and confectionery products*, from Dunn, N.C., to points in Michigan, Ohio, Indiana, Illinois, Missouri, Oklahoma, Kansas, Florida, and North Dakota. NOTE: Common control may be involved. This republication is to reflect the hearing information.

*HEARING:* August 8, 1967, before Examiner Robert L. Irwin, at the offices of the Interstate Commerce Commission, Washington, D.C.

No. MC 105813 (Sub-No. 150) (Republication), filed May 31, 1967, published in FEDERAL REGISTER Issue of June 29, 1967, and republished this issue. Applicant: BELFORD TRUCKING CO., INC., 3500 Northwest 79th Avenue, Post Office Box 1542, M.I.A. Station, Miami, Fla. 33148. Applicant's representative: James T. Moore (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery*, from Dunn, N.C., to points in Alabama, Georgia, Florida, and South Carolina. This republication is to reflect the hearing information.

*HEARING:* August 8, 1967, before Examiner Robert L. Irwin, at the offices of the Interstate Commerce Commission, Washington, D.C.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-8304; Filed, July 18, 1967; 8:47 a.m.]

[Notice 1086]

## MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JULY 14, 1967.

The following publications are governed by Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER issue of April 20, 1966, which became effective May 20, 1966.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC 16872 (Sub-No. 13) (Republication), filed November 30, 1966, published FEDERAL REGISTER issue of December 22, 1966, and republished this issue. Applicant: WILLIAM MIRRER, doing business as MIRRER'S TRUCKING CO., 38 Alan Avenue, Glen Rock, N.J. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. By application filed November 30, 1966, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of glass bottles and containers, from Washington, Pa., to Paterson, N.J., and New York, N.Y. An order of the Commission, Operating Rights Board No. 1, dated June 29, 1967, and served July 10, 1967, as amended, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of *glass bottles and plastic containers*, from Washington, Pa., to Paterson, N.J., and New York, N.Y., restricted to the transportation of traffic originating at Washington, Pa., and destined to Paterson, N.J., and New York, N.Y., that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 22046 (Sub-No. 14) (Republication), filed January 4, 1967, published FEDERAL REGISTER issue of January 26, 1967, and republished this issue. Applicant: W. M. (BILLY) WALKER, INC., 129 South Grimes Street, Hobbs, N. Mex. 88240. Applicant's representative: W. D. Girand, P.O. Box 1290, Room 221, New Mexico Bank & Trust Co. Building, Hobbs, N. Mex. By application filed January 4, 1967, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of commodities, the transportation of which, because of size or weight, requires the use of special equipment (except retired railroad cars and buildings), and related machinery parts, and related contractors' materials and supplies when their transportation is incidental to the transportation of commodities which, because of size or weight, require the use of special equipment, between points in Lea, Eddy, Chaves, Roosevelt, and Curry Counties, N. Mex., and Loving, Winkler, and Andrews Counties, Tex. An order of the Commission, Operating Rights Board No. 1, dated June 23, 1967, and served July 10, 1967, as amended finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of *commodities* the transportation of which because of size or weight requires the use of special equipment, between points in Lea, Eddy, Chaves, Roosevelt, and Curry Counties, N. Mex., and Loving, Winkler, and Andrews Counties, Tex., subject to the restriction that such authority shall not be tacked or joined with any other authority held by applicant for the purpose of providing a through service from or to points not authorized to be served herein; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 29647 (Sub-No. 40) (Republication), filed February 23, 1967, published FEDERAL REGISTER issue of March 9, 1967, and republished this issue. Applicant: CHARLTON BROS. TRANSPORTATION COMPANY, INC., Post Office Box 2097, 552 Jefferson Street, Hagerstown, Md. 21740. Applicant's representative: Spencer Money, Park Lane Building, 2025 Eye Street NW., Washington, D.C. 20006. By application filed February 23, 1967, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of sawdust and wood-chips, in bulk, in specially constructed trailers, from Martinsburg, W. Va., to Williamsburg and Tyrone (Blair County), Pa. An Order of the Commission, Operating Rights Board No. 1, dated June 23, 1967, and served July 10, 1967, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce as a common carrier by motor vehicle, over irregular routes, of *sawdust and wood chips*, in bulk, from Martinsburg, W. Va., to Williamsburg and Tyrone (Blair County), Pa.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 30844 (Sub-No. 229) (Republication), filed January 6, 1967, published FEDERAL REGISTER issue of January 26, 1967, and republished this issue. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Post Office Box 5000, Waterloo, Iowa 50704. Applicant's representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, Colo. 80202. By application filed January 6, 1967, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of (1) fresh, cured, and smoked meats, frozen and unfrozen, and (2) buckwheat flour, maple syrup, and cheese when mixed in the same vehicle with commodities specified in (1), from Fort Atkinson, Wis., to points in Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, with traffic to Ohio restricted to shipments moving in the same vehicle and in conjunction with shipment destined to points east of the Ohio-Pennsylvania State lines, and further restricted to traffic originating at the plantsite and facilities utilized by Jones Dairy Farm at or near Fort Atkinson, Wis. An order of the Commission, Operating Rights Board No. 1, dated June 23, 1967, and served July 10, 1967, as amended, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of (1) *meats*, and (2) *buckwheat flour, maple syrup, and cheese* in mixed loads with meats, from Fort Atkinson, Wis., to points in Connecticut, Delaware, Maine, Maryland, Massachusets, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, and restricted to the transportation of traffic originating at the plantsite and facilities utilized by Jones Dairy Farm located at or near Fort Atkinson, Wis.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings of this order a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 107002 (Sub-No. 333) (Republication), filed February 17, 1967, published FEDERAL REGISTER issue of March 9, 1967, and republised this issue. Applicant: HEARIN-MILLER TRANSPORTERS, INC., Post Office Box 1123, U.S. Highway 80 West, Jackson, Miss. 39205. Applicant's representatives: Harry C. Ames, Jr., 529 Transportation Building, Washington, D.C. 20006, and Harold D. Miller, Jr., Post Office Box 1250, Jackson, Miss. 39205. By application filed February 17, 1967, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier, by motor vehicle, over irregular routes, of (1) cement, from Lowndes, Lee, Hinds, and Rankin Counties, Miss., to points in Louisiana, Alabama, Tennessee, and Arkansas, and (2) sulphuric acid, in bulk, in tank vehicles, from Bossier Parish, La., to points in Mississippi. By letter, filed June 1, 1967, applicant seeks to amend part (1) of the application by substituting the origin point of Madison County, Miss., in lieu of Hinds County, Miss. An order of the Commission, Operating Rights Board No. 1, dated June 21, 1967, and served July 10, 1967, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of (1) *cement*, from points in Lowndes, Lee, Madison, and Rankin Counties, Miss., to points in Louisiana, Alabama, Tennessee, and Arkansas, and (2) *Sulphuric acid*, in bulk, in tank vehicles, from points in Bossier Parish, La., to points in Mississippi; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 112582 (Sub-No. 29) (Republication), filed December 19, 1966, published FEDERAL REGISTER issue of January 6, 1967, and republished this issue. Applicant: T. M. ZIMMERMAN COMPANY, a corporation, Post Office Box 380, Chambersburg, Pa. Applicant's representative: John M. Musselman, 400 North Third Street, Harrisburg, Pa. 17108. By application filed December 19, 1966, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of bakery products requiring refrigeration from Cincinnati, Ohio, to the plant site of Pet, Inc., at Allentown and Chambersburg, Pa. An order of the Commission, Operating Rights Board No. 1 dated June 21, 1967, and served July 7, 1967, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of *bakery products*, in vehicles equipped with mechanical refrigeration, from Cincinnati, Ohio, to the plantsites of the Frozen Food Division of Pet, Inc. (of St. Louis, Mo.), at Allentown and Chambersburg, Pa., that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding

will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 113963 (Republication of modification of certificate). Applicant: HEAVY & SPECIALIZED HAULERS, INC., 190 Polk Avenue, Nashville, Tenn. 37211. Applicant's representative: Robert M. Pearce, Central Building, 1033 State Street, Bowling Green, Ky. A certificate was issued to applicant dated December 9, 1963, which authorizes the transportation of "industrial plants, and in connection therewith, machinery, equipment, and bulk stocks." A report of the Commission, division 1, decided May 5, 1967, and served May 15, 1967, finds that on and continuously since June 1, 1935, applicant and its predecessors-in-interest have engaged in bona fide operation, in interstate or foreign commerce, as common carriers by motor vehicle, of *commodities* which because of size or weight require the use of special equipment or handling, between points within 175 miles of Chattanooga, Tenn., including Chattanooga, that unless otherwise ordered, a certificate authorizing a continuance of such operation, in substitution for that heretofore authorized, should be granted to applicant. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a modified certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 114989 (Sub-No. 9) (Republication), filed February 9, 1967, published FEDERAL REGISTER issue of March 2, 1967, and republished this issue. Applicant: BRACEY & MARTIN, INC., 1910 South Walnut Street, Hopkinsville, Ky. 42240. Applicant's representative: James C. Havron, 513 Nashville Bank and Trust Building, Nashville, Tenn. 37201. By application filed February 9, 1967, applicant seeks a permit authorizing operations, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of malt beverages, in containers, (1) from South Bend, Ind., to Hopkinsville, Ky., (2) from Cincinnati, Ohio, to points in Christian County, Ky., and empty malt beverage containers and rejected shipments, on return, in (1) and (2) above, under contract with Kentucky Ace Beverage Distributors, Inc., and Cravens Distributing Co. Applicant seeks to amend part (1) of the application by substituting the origin point of Evansville, Ind., in lieu of South Bend, Ind. An Order of the Commission, Operating Rights Board No. 1 dated June 23, 1967, and served July 10, 1967, finds that the operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle over irregular routes, of *malt beverages*, in containers, (1) from Evansville, Ind., to Hopkinsville, Ky., and (2) from Cincinnati, Ohio, to points in Christian County, Ky., under continuing contracts with Kentucky Ace Beverage Distributors, Inc., of Hopkinsville, Ky., and Cravens Distributing Co. of Pembroke, Ky., that the holding by applicant of the permit authorized to be issued in this proceeding and the holding by applicant of certificates heretofore issued in No. MC 115762 and Sub-No. 1 thereunder will be consistent with the public interest and the national transportation policy; and that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 115331 (Sub-No. 191) (Republication), filed April 12, 1966, published FEDERAL REGISTER issue of April 28, 1966, and republished this issue. Applicant: TRUCK TRANSPORT, INCORPORATED, 707 Market Street, St. Louis, Mo. 63101. Applicant's representative: Thomas F. Kilroy, Colorado Building, 1341 G Street NW., Washington, D.C. By application filed April 12, 1966, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of clay, in containers, from points in Pulaski County, Ill., to points in Illinois, Indiana, Kentucky, Iowa, Michigan, Minnesota, Missouri, North Dakota, Ohio, South Dakota, and Wisconsin. The application was referred to Examiner James Anton for hearing and the recommendation of an appropriate order thereon. Hearing was held on January 31, 1967, at Chicago, Ill. A Report and Order of the Commission, division 1, served May 31, 1967, which became effective June 30, 1967, and served July 11, 1967, as amended, finds that the present and future public convenience and necessity require operation by applicant as a common carrier by motor vehicle, in interstate or foreign commerce, over irregular routes, of *clay*, in bulk, from points in Pulaski County, Ill., to points in Illinois, Indiana, Kentucky, Iowa, Michigan, Minnesota, Missouri, North Dakota, Ohio, South Dakota, and Wisconsin; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 117698 (Sub-No. 3) (Republication), filed November 28, 1966, published FEDERAL REGISTER Issues of December 15, 1966, and February 24, 1967, are republished this issue. Applicant: LEO H. SEARLES, doing business as L. H. SEARLES, South Worcester, N.Y. Applicant's representative: Harold C. Vrooman, 140 Main Street, Oneonta, N.Y. 13820. By application filed November 28, 1966, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of (1) frozen foods, and processed meats, from and to the points indicated below; (2) cheese and processed cottage cheese products, from St. Albans, Vt., to the points indicated below; (3) silos and wood laminated beams, saddles, arches, decking, and fixtures for construction of buildings having wood laminated arches and beams, from Sidney and Unadilla, N.Y., to the construction job site of the designated consignees at the points indicated below; and (4) ice cream, ice cream products, ice confections and ice mix, such as ice cream, in bulk or in small containers, fudgsicles, popsicles, cones, candied ice cream, and sherbets, in bulk or in small containers or in sticks, from Suffield, Conn., to the points indicated below. An Order of the Commission, Operating Rights Board No. 1, dated June 29, 1967 and served July 12, 1967, as amended, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of (1) (a) *frozen foods and processed meats*, and (b) *fish and frozen seafood products* in mixed shipments with frozen foods and processed meats, from New York, N.Y., to Oneonta, N.Y.; (2) *dairy products*, (a) from St. Albans, Vt., to Auburn, Norwich, Saratoga, Syracuse, Cortland, Ithaca, Elmira, Waverly, Owego, Binghamton, Sidney, and Oneonta, N.Y., and (b) from Suffield, Conn., to Lake George, Ravena, Utica, and Buffalo, N.Y., Pittsburgh, Pa., and Boston, Mass.; and (3) *silos and laminated wood products, and accessories* used in the erection and construction of silos and laminated wood products, from Sidney and Unadilla, N.Y., to points in

Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, Pennsylvania, New Jersey, Maryland, Delaware, Virginia, West Virginia, Indiana, Michigan, and Ohio; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder.

Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

APPLICATION FOR BROKERAGE LICENSE

PASSENGER

No. MC 12483 (Sub-No. 1) (Republication), filed January 9, 1967, published FEDERAL REGISTER issue of January 26, 1967, and republished this issue. Applicant: FARLOW TRAVEL BUREAU, INC., 210 North Jackson Street, Frankfort, Ind. 46041. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. By application filed January 9, 1967, applicant seeks a license authorizing operation as a broker of transportation by motor vehicle of passengers and their baggage in the same vehicle, in interstate or foreign commerce, between points in the United States, including Alaska and Hawaii. An order of the Commission, Operating Rights Board No. 1, dated June 21, 1967, and served July 7, 1967, as amended, finds that operation by applicant, at Frankfort and South Bend, Ind., as a broker in arranging transportation by motor vehicle in interstate or foreign commerce, of *passengers and their baggage* in the same vehicle with passengers, in all-expense round-trip special and charter sightseeing and pleasure tours, beginning and ending at points in Indiana, Cook County, Ill., and Berrien, Cass, Kalamazoo, and St. Joseph Counties, Mich., and extending to points in the United States (except Alaska and Hawaii); will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder; that a license authorizing such operations should be granted subject (a) to the coincidental cancellation at applicant's written request of its license in No. MC 12483, issued October 20, 1960; (b) the right of the Commission, which is hereby expressly reserved, to impose, after final determination of the proceeding in ex parte No. MC 29 (Sub-No. 2), such terms and conditions, if any, as may be deemed necessary to issue that the operations of applicant are limited to bona fide operations as a broker of transportation, by motor vehicle of passengers and their baggage in special or charter operations, in round-trip tours. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a license in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

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 54567 (Sub-No. 5), filed June 26, 1967. Applicant: RELIANCE TRUCK COMPANY, a corporation, 2500 North 24th Avenue, Phoenix, Ariz. 85009. Applicant's representative: Bertram S. Silver, 140 Montgomery Street, San Francisco, Calif., and A. Michael Bernstein, 1237 Guaranty Bank Building, Phoenix, Ariz. 85012. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, (1) between points in Los Angeles, Calif., commercial zone, points in the Los Angeles Harbor, Calif., commercial zone, and San Bernardino, Riverside, Colton, and Corona, Calif., (a) from Los Angeles over U.S. Highway 66 to San Bernardino, (b) from Los Angeles over Interstate Highway 10 to Colton, (c) from Los Angeles over U.S. Highway 60 to Riverside, and (d) also between Corona and San Bernardino, over U.S. Highway 91, serving all intermediate points; (2) between Colton, Riverside, and Beaumont, Calif., (a) from Riverside over U.S. Highway 60 to Beaumont, and (b) from Colton over Interstate Highway 10 to Beaumont, serving no intermediate points; (3) between Beaumont and Blythe, Calif., over Interstate Highway 10, serving all intermediate points and the off-route points of Midland and Kaiser Mine, Calif.; (4) between Whitewater and Mecca, Calif., over California Highway 111, serving all intermediate points and the off-route points of Garnet, North Palm Springs, and Desert Hot Springs, Calif.; (5) between Desert Center and Parker Dam, Calif., over unnumbered highway through Freda, Rice, Grommet, Vidal Junction, and Earp to Parker Dam, serving all intermediate points and the off-route point of Vidal, Calif.; (6) between Whitewater and Amboy, Calif., from Whitewater eastward over U.S. Highway 10 approximately four miles to junction unnumbered highway, thence over unnumbered highway through Yucca Valley and Twenty Nine Palms to Amboy, Calif., serving all intermediate points and the off-route point of the Marine Corps Field Artillery and Antiaircraft Training Center, Calif.; (7) between San Bernardino and Yermo, Calif., over Interstate Highway 15, serving all intermediate points; (8) between Barstow and Needles, Calif., from Barstow over Interstate 40 to junction U.S. Highway 66, thence over U.S. Highway 66 to Needles, serving all intermediate points; (9) between San Bernardino and Inyokern, Calif., over U.S. Highway 395, serving all intermediate points and the off-route points of Ridgecrest, Searles, Randsburg, Rademacher, Theresea, China Lake, and West End, Calif.; (10) between Johannesburg and Trona, Calif., over unnumbered highway through Argus to Trona, serving all intermediate points. Restriction: The service proposed herein above shall be subject to the following conditions: (1) Service shall not be rendered between the Los Angeles commercial zone and the Los Angeles Harbor commercial zone, and (2) Service shall not be rendered where both pickup and delivery of shipments is east of Irwindale Avenue and west of U.S. Highway 91. NOTE: This application is a matter directly related to MC-F-9788, published in FEDERAL REGISTER issue of June 28, 1967. The present application seeks to convert the certificate of registration issued to the Millage Trucking, Inc., under docket No. MC-121319, Sub 1, as set forth in Nos. (1) through (10) above, to a common carrier certificate. If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz.

No. MC 108158 (Sub-No. 55), filed July 10, 1967. Applicant: MID-CONTINENT FREIGHT LINES, INC., 2711 North Fairview Avenue, St. Paul, Minn. 56113. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *General commodities*, (1) between Chicago, Ill., and points within a 50-mile radius thereof, and (2) between Chicago, Ill., on the one hand, and, on the other points in Illinois, and (B) *household goods, pianos, personal effects, musical instruments, new and used furniture and office furniture, store fixtures, and equipment and commodities general*, between points in Illinois. NOTE: This application is a matter directly related to Docket No. MC-F-9802 published FEDERAL REGISTER issue of July 6, 1967. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

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–9808. Authority sought for control by ENCINAL TERMINALS, Post Office Drawer A, Alameda, Calif. 94506, of NEEDHAM'S MOTOR SERVICE, INC., Post Office Box 138, Hightstown, N.J. 08520, and for acquisition by DEL MONTE CORPORATION, 215 Fremont Street, San Francisco, Calif. 94119, of control of NEEDHAM'S MOTOR SERVICE, INC., through the acquisition by ENCINAL TERMINALS. Applicants' attorneys: Donald Macleay, 1625 K Street NW., Washington, D.C. 20006, and H. Charles Ephraim, 1411 K Street NW., Washington, D.C. 20005. Operating rights sought to be controlled: *General commodities*, excepting among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Philadelphia, Pa., and Atlantic City, N.J., serving the off-route points of Hammonton, N.J., those in Pennsylvania and New Jersey within 20 miles of city hall, Philadelphia, and those in that part of New Jersey bounded by a line beginning at Townsends Inlet, N.J., and extending west to Clermont, N.J., thence along U.S. Highway 9 to Oceanville, N.J., thence east to Brigantine, N.J., and thence along the shore of the Atlantic Ocean to point of beginning, including points on the indicated portion of the highway specified, between Philadelphia, Pa., and New York, N.Y., serving the off-route points of New Brunswick, N.J., those in New York and New Jersey within 25 miles of city hall, New York, N.Y., those in Pennsylvania and New Jersey within 20 miles of city hall, Philadelphia, between Atlantic City, N.J., and New York, N.Y., serving off-route points in New York and New Jersey within 25 miles of city hall, New York; serving all intermediate points on the above-specified routes; *general commodities*, with exceptions as indicated above, over irregular routes, between Philadelphia, Pa., on the one hand, and, on the other points in that part of New Jersey bounded by a line beginning at Bordentown, N.J., and extending along the Delaware River Shore to Camden, N.J., thence along New Jersey Highway 45 to junction New Jersey Highway 46, thence along New Jersey Highway 46 to Bridgeton, N.J., thence south to the Delaware Bay, thence along New Jersey shores to Delaware Bay, thence along New Jersey shores of Delaware Bay and the Atlantic Ocean to Atlantic City, N.J., thence along U.S. Highway 30 to junction U.S. Highway 206, and thence along U.S. Highway 206 to Bordentown and point of beginning; *ice cream*, in vehicles, equipped with mechanical refrigeration, from Woodbridge, N.J., to Mount Kisco, N.Y.; and *pallets* and *damaged or rejected shipments* of ice cream, from Mount Kisco, N.Y., to Woodbridge, N.J. ENCINAL TERMINALS is authorized to operate as a *common carrier* in California. Application has been filed for temporary authority under section 210a(b).

No. MC–F–9809. Authority sought for control by CANADIAN FREIGHTWAYS, LIMITED, 411 Meredith Road, Calgary, Alberta, Canada, of HANSEN TRANSPORT COMPANY, LIMITED, 401 Woodward Avenue, Hamilton, Ontario, Canada, and for acquisition by CONSOLIDATED FREIGHTWAYS, INC., 235 Montgomery Street, San Francisco, Calif., and, in turn by CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif., of control of HANSON TRANSPORT COMPANY, LIMITED, through the acquisition by CANADIAN FREIGHTWAYS, LIMITED. Applicants' attorney: Eugene T. Liipfert, 1035 Universal Building North, Washington, D.C. 20009. Operating rights sought to be controlled: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and livestock, as a *common carrier*, over irregular routes, between Buffalo, N.Y., on the one hand, and, on the other, points within 20 miles of the city hall of Buffalo. CANADIAN FREIGHTWAYS, LIMITED, is authorized to operate as a *common carrier*, in Alaska and Montana. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–9810. Authority sought for purchase by THE SQUAW TRANSIT COMPANY, 5121 South 49th West Avenue, Tulsa Okla. 74107, of a portion of the operating rights of L. C. JONES TRUCKING CO., 4300 Block Southeast 29th Street, Post Office Box 94368, Oklahoma City, Okla., and for acquisition by COMMODORE STONE, and RALEIGH W. BEATTY, also of Tulsa, Okla., of control of such rights through the purchase. Applicants' attorney: Joe G. Fender, 802 Houston First Savings Building, Houston, Tex. 77002. Operating rights sought to be transferred: *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their products and by-products, and *machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, except the stringing and picking up of pipe in connection with main or truck pipelines, as a *common carrier*, over irregular routes, between points in Colorado, on the one hand, and, on the other, ports of entry at or near the United States-Canada boundary line in Montana and North Dakota. Vendee is authorized to operate as a *common carrier* in Oklahoma, Colorado, Kansas, Nebraska, Arkansas, Illinois, Indiana, Kentucky, Louisiana, Missouri, New Mexico, Ohio, Texas, and Michigan. Application has not been filed for temporary authority under section 210a(b). NOTE: See also MC–F–9785 (MARY ELLEN STIDHAM ET AL.—Purchase (portion)—L. C. JONES TRUCKING CO.), MC–F–9787 (H. J. JEFFRIES TRUCK LINE, INC.—Purchase (portion)—L. C. JONES TRUCKING CO.), and MC–F–9790 (GREAT FALLS TRANSFER & STORAGE CO.—Purchase (portion)—L. C. JONES TRUCKING CO.), all published in the June 28, 1967, issue of the FEDERAL REGISTER, on pages 9189 and 9160.

No. MC–F–9812. Authority sought for purchase by WHEATLEY TRUCKING, INC., Cambridge, Md. 21613, of a portion of the operating rights of ELKTON TRUCKING COMPANY, North Bridge Street, Elkton, Md. 21921, and for acquisition by MARION L. WHEATLEY, also of Cambridge, Md., of control of such rights through the purchase. Applicants' attorney: M. Bruce Morgan, 201 Azar Building, Glen Burnie, Md. 21061. Operating rights sought to be transferred: *Canned goods*, as a *common carrier*, over irregular routes, from points in Adams, York, and Lancaster Counties, Pa., those in Delaware and Maryland on the Del-Mar-Va Peninsula, those in Carroll County, Md., and those in Frederick and Washington Counties, Md., on, north and east of a line beginning at the intersection of U.S. Highway 40 and the Carroll County, Md.-Frederick County, Md., boundary, thence along U.S. Highway 40 to Frederick, Md., thence along U.S. Highway 40 Alternate to Middletown, Md., thence along Maryland Highway 17 to intersection Maryland Highway 153 (formerly Maryland Highway 77), thence along Maryland Highway 153 to Cavetown, Md., and thence along Maryland Highway 64 to the Maryland-Pennsylvania State line, to points in Delaware, Maryland, New York, New Jersey, Pennsylvania, Virginia, and the District of Columbia. Vendee is authorized to operate as a *common carrier*, in Virginia, Maryland, Delaware, Connecticut, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Florida, Georgia, North Carolina, Ohio, Michigan, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–9814. Authority sought for purchase by BILYEU REFRIGERATED TRANSPORT CORPORATION, 2105 East Dale, Springfield, Mo. 65803, of a portion of the operating rights of KROBLIN REFRIGERATED XPRESS, INC., Post Office Box 5000, Waterloo, Iowa 50704, and for acquisition by BILYEU MOTOR CORP., and in turn, by BILL BILYEU, both also of Springfield, Mo., of control of such rights through the purchase. Applicants' attorneys: David D. Brunson, Post Office Box 671, Oklahoma City, Okla., and Truman Stockton, Jr., The 1650 Grant Street Building, Denver, Colo. Operating rights sought to be transferred: *Canned goods* and *groceries*, as a *common carrier*, over irregular routes, from Chicago, Ill., to Norfolk, Omaha, and Lincoln, Nebr., Topeka, Manhattan, Pittsburg, and Wichita, Kans., Kansas City and Joplin, Mo., Tulsa, Oklahoma City, and Bristow, Okla., Denver, Colo., and Amarillo, Lubbock, Dallas, San Antonio, Corpus Christi, San Angelo, Arlington, and Brenham, Tex. Vendee is authorized to operate as a *common carrier*, in Kansas, Missouri, Louisiana, Alabama, Iowa, Florida, Georgia, Oklahoma, Minnesota, Arkan-

sas, Nebraska, Massachusetts, Maine, Connecticut, Vermont, New Hampshire, Rhode Island, New York, New Jersey, Delaware, Maryland, Pennsylvania, West Virginia, Virginia, South Carolina, North Carolina, Illinois, Colorado, Indiana, Kentucky, Michigan, Mississippi, Ohio, Wisconsin, North Dakota, South Dakota, Tennessee, Texas, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-9815. Authority sought for merger into EASTERN FREIGHT WAYS, INC., Eastern and Moonachie Avenues, Carlstadt, N.J. 07072, of the operating rights and property of VICTOR LYNN LINES, INC., Eastern and Moonachie Avenues, Carlstadt, N.J. 07072, and for acquisition by NANTAM SYSTEM, INC., and, in turn by DANIEL E. SHEVELL and MYRON P. SHEVELL, all also of Carlstadt, N.J., of control of such rights and property through the transaction. Applicants' attorney: Maxwell A. Howell, 1120 Investment Building, 1511 K Street, NW., Washington, D.C. 20005. Operating rights sought to be merged: *General commodities*, except household goods in use, and except loose bulk commodities, livestock, dangerous explosives (except small arms ammunition), currency, bullion, articles of virtu, commodities which are contaminating and injurious to lading, and commodities exceeding ordinary equipment and loading facilities, as a *common carrier*, over regular routes, between New York, N.Y., and Chincoteague Island, Va., between Laurel, Del., and Milford, Del., between Greenwood, Del., and Dover, Del., between Hares Corner, Del., and Trenton, N.J., and New York, N.Y., between Chester, Pa., and New York, N.Y., between Philadelphia, Pa., and Trenton, N.J., and New York, N.Y., between New York, N.Y., and Baltimore, Md., between Philadelphia, Pa., and Baltimore, Md., between Bel Air, Md., and Aberdeen, Md., between Baltimore and Cambridge, Md., and Milford, Del., between Baltimore, Md., and Washington, D.C., serving all intermediate and certain off-route points; between Oak Hill, Va., and Exmore, Va., and all intermediate points; *general commodities*, with exceptions as above specified, over irregular routes, between Baltimore, Md., on the one hand, and, on the other, points in the Washington, D.C., commercial zone, as defined in 3 M.C.C. 243, and those in Maryland within 15 miles of the District of Columbia; *general commodities*, excepting, among others, household goods and commodities in bulk, between Cambridge and Mount Vernon, Md., on the one hand, and, on the other, points in Northampton and Accomac Counties, Va., except Greenbackville, Franklin City, Chincoteague Island, Wattsville, and New Church, Va.; *piece goods*, from Dover, N.J., to Chincoteague Island, Va.; and *shirts*, from Chincoteague Island, Va., to Dover, N.J. EASTERN FREIGHT WAYS, INC., is authorized to operate as a *common carrier* in Vermont, New York, New Jersey, Pennsylvania, Connecticut, and Massachusetts. Application has not been filed for temporary authority under section 210a(b). NOTE: EASTERN FREIGHT WAYS, INC., controls VICTOR LYNN LINES, INC., through ownership of capital stock pursuant to authority granted in Docket No. MC-F-7847, effective April 4, 1962. No. MC-59194 Sub-9, simultaneously filed.

No. MC-F-9816. Authority sought for purchase by TATUM-DALTON TRANSFER COMPANY, 311 East Washington Street, Greensboro, N.C., of a portion of the operating rights and property of DISHER TRANSFER & STORAGE CO., 215 North Liberty Street, Winston-Salem, N.C., and for acquisition by WALTON McNAIRY, also of Greensboro, N.C., of control of such rights and property through the purchase. Applicants' attorney and representative: A. W. Flynn, Jr., Post Office Box 127, Greensboro, N.C., and J. Archie Cannon, Post Office Box 2307, Greensboro, N.C. Operating rights sought to be transferred: *Household goods* as defined by the Commission, as a *common carrier*, over irregular routes, between Winston-Salem, N.C., and points in North Carolina within 50 miles of Winston-Salem, on the one hand, and, on the other, points in New Jersey, South Carolina, Virginia, West Virginia, Maryland, Delaware, Pennsylvania, Tennessee, and the District of Columbia, and points in New York south of New York Highway 23 from the Massachusetts-New York State line to Stamford, N.Y., and New York Highway 10 from Stamford to Deposit, N.Y., and east of New York Highway 17 from Deposit, N.Y., to Hale Eddy, N.Y., near the New York-Pennsylvania State line. Vendee is authorized to operate as a *common carrier*, in North Carolina, South Carolina, Virginia, West Virginia, Maryland, Pennsylvania, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-8306; Filed, July 18, 1967; 8:48 a.m.]

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[Notice 421]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 14, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protest must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

### MOTOR CARRIERS OF PROPERTY

No. MC 2428 (Sub-No. 22 TA), filed July 12, 1967. Applicant: H. PRANG TRUCKING CO., INC., 112 New Brunswick Avenue (Hopelawn), Perth Amboy, N.J. 08861. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Nonferrous scrap metal*, in dump vehicles, unloaded by dumping, between plantsites of Phelps Dodge Corp. and its subsidiaries at Laurel Hill, N.Y., and South Brunswick, N.J.; for 180 days. Supporting shipper: Phelps Dodge Corp., 300 Park Avenue, New York, N.Y. 10022 (B. Ponessa, general traffic manager). Send protests to: Robert S. H. Vance, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1060 Broad Street, Newark, N.J. 07102.

No. MC 52579 (Sub-No. 77 TA), filed July 11, 1967. Applicant: GILBERT CARRIER CORP., 441 Ninth Avenue, New York, N.Y. 10001. Applicant's representative: Aaron Hoffman (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials and supplies used in the manufacture of wearing apparel*, between Herkimer, N.Y., and points in the New York, N.Y., commercial zone, as defined by the Commission; for 150 days. Supporting shipper: Juniorite, Inc., 1407 Broadway, New York, N.Y. 10018. Send protests to: Paul W. Assenza, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 346 Broadway, New York, N.Y. 10013.

No. MC 115180 (Sub-No. 43 TA), filed July 11, 1967. Applicant: ONLEY REFRIGERATED TRANSPORTATION, INC., 408 West 14th Street, New York, N.Y. 10014. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* (except bananas and commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from East Rutherford, N.J., points in the New York, N.Y., commercial zone and points in Union County, N.J., to points in Illinois (except points in the Chicago, Ill., commercial zone), Indiana (except points in the Chicago, Ill., commercial zone), Michigan, Ohio (except points in the Cleveland, Ohio, commercial zone), and Wisconsin; for 180 days. Supporting shippers: There are seven shippers' supporting statements attached to application, which may be examined at the Interstate Commerce

Commission in Washington, D.C., or at the field office named below. Send protests to: Paul W. Assenza, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 346 Broadway, New York, N.Y. 10013.

No. MC 116282 (Sub-No. 17 TA), filed July 12, 1967. Applicant: NEIL'S BAKERY PRODUCTS TRANSPORTATION CO., 246 Broad Street, Auburn, Maine 04210. Applicant's representative: Mary Kelley, 10 Tremont Street, Boston, Mass. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products*, from Middleton, Mass., to Portsmouth, N.H.; and Bangor, Fryeburg, Lewiston, and Portland, Maine; and *returned containers and bakery products* on return; for 150 days. Supporting shipper: Pepperidge Farm, Inc., Norwalk, Conn. 06852. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 76 Pearl Street, Room 307, Portland, Maine 04112.

No. MC 117815 (Sub-No. 126 TA), filed July 12, 1967. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, Iowa 50317. Applicant's representative: William L. Fairbank, 610 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by wholesale and retail grocery and food business houses*, and in connection therewith, *equipment, materials, and supplies* used in the conduct of such business houses, from Chicago, Ill., to Burlington and Fairfield, Iowa; for 150 days. Supporting shippers: Maynard Ulm, Mayn's Super Market, Fairfield, Iowa; and Rudy Naifeh, Naifeh's Super Market, Burlington, Iowa. Send protests to: Ellis L. Annett, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 227 Federal Office Building, Des Moines, Iowa 50309.

No. MC 129167 (Sub-No. 2 TA), filed July 12, 1967. Applicant: MICHAEL A. TOKARSKY, JR., 624 Shady Lane, Windber, Pa. 15963. Applicant's representative: Arthur J. Diskin, 302 Frick Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, from points in Somerset and Cambria Counties, Pa., to the plant of Potomac Edison Power & Light Co., Williamsport, Washington County, Md.; for 150 days. Supporting shippers: B & H Coal Co., 40 Strayer Street, Central City, Pa.; Heshbon Coal Co., Inc., 1309 Midway, Windber, Pa.; and Shuster Coal Co., 400 Eighth Street, Windber, Pa. Send protests to: Frank L. Calvary, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2109 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 129231 TA, filed July 11, 1967. Applicant: ROUTED THRU-PAC, INC., 350 Broadway, New York, N.Y. 10013. Applicant's representative: Alan F. Wohlstetter, 1 Farragut Square South, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Hawaii; restricted to the handling of traffic originating at or destined to out-of-state points; for 180 days. Supporting shippers: UNIVAC, division of Sperry Rand Corp., Post Office Box 8100, Philadelphia Pa. 19101; Deere & Co., John Deere Road, Moline, Ill. 61265; Stone & Webster Service Corp., 90 Broad Street, New York, N.Y. 10004; and Headquarters, Defense Traffic Management Service, Washington, D.C. Send protests to: Paul W. Assenza, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 346 Broadway, New York, N.Y. 10013.

No. MC 129232 TA, filed July 11, 1967. Applicant: WEST FORDHAM TRANSPORTATION CORP., 439 West 203d Street, New York, N.Y. 10034. Applicant's representative: Samuel B. Zinder, 160–16 Jamaica Avenue, Jamaica, N.Y. 11432. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers*, between Mount Vernon, N.Y., and Paramus, N.J.; for 150 days. Supporting shipper: Philips Broadcast Equipment Corp., North American Phillips Co., Inc., care of Patrick J. Hannan, 125 Park Avenue, New York, N.Y. 10017. Send protests to: Stephen P. Tomany, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 346 Broadway, New York, N.Y. 10013.

No. MC 129233 TA, filed July 12, 1967. Applicant: AIRFRATE, INC., James M. Cox Municipal Airport, Vandalia, Ohio 45377. Applicant's representatives: Richard A. Bishop, 711 14th Street NW., Washington, D.C. 20005, and Gregory C. Karas, Suite 701, Third National Bank Building, Dayton, Ohio 45402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between the Weir Cook Municipal Airport, Marion County, Ind., on the one hand, and, on the other, points in Wayne County, Ind., and Hamilton and Montgomery Counties, Ohio; (2) between James M. Cox Municipal Airport, Montgomery County, Ohio, near Vandalia, on the one hand, and, on the other, points in Butler, Clinton, Greene, Hamilton, Montgomery, Preble, and Warren Counties, Ohio; (3) between the Greater Cincinnati Airport, Boone County, Ky., on the one hand, and, on the other, points in Butler, Clinton, Greene, Hamilton, Montgomery, Preble, and Warren Counties, Ohio; (4) between the James M. Cox Municipal Airport in Montgomery County, Ohio, near Vandalia, on the one hand, and, on the other, Weir Cook Municipal Airport in Marion County, Ind.; (5) between the Greater Cincinnati Airport, Boone County, Ky., on the one hand, and, on the other, Weir Cook Municipal Airport, Marion County, Ind.; (6) between the James M. Cox Municipal Airport in Montgomery County, Ohio, near Vandalia, on the one hand, and, on the other, the Greater Cincinnati Airport, Boone County, Ky.; and (7) between the Greater Cincinnati Airport, Boone County, Ky., on the one hand, and, on the other, the James M. Cox Municipal Airport in Montgomery County, Ohio, near Vandalia; restricted to the transportation of property having a prior or subsequent movement by air, in (1) through (7) above; for 180 days. Supporting shippers: There are 36 shippers' supporting statements attached to application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or at the field office named below. Send protests to: Emil P. Schwab, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1010 Federal Building, 550 Main Street, Cincinnati, Ohio 45202.

No. MC 129234 TA, filed July 12, 1967. Applicant: EVERETT W. BALLEW AND WALTER H. SHOWN, a partnership, doing business as NEW MOON EXPRESS, 1208 Frederick Road, Ellicott City, Md. 21043. Applicant's representative: Charles McD. Gillan, Jr., 315 Glen Rae Drive, Baltimore, Md. 21228. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metals*, nonferrous, in shipper-owned returnable steel trays on flat-bed equipment, and *empty returned used trays*, between Baltimore, Md., and Bristol, Chambersburg, Columbia, Mechanicsburg, Philadelphia, and York, Pa.; Carteret, Newark, North Arlington, Perth Amboy, and Trenton, N.J.; New York, N.Y.; Wilmington, Del.; and Petersburg, Va.; for 180 days. Supporting shipper: B. Shapiro & Co., Inc., 802–832 South Eutaw Street, Baltimore, Md. 21230. Send protests to: William L. Hughes, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Federal Building, Charles Center, 31 Hopkins Plaza, Baltimore, Md. 21201.

By the Commission.

[SEAL] H. NEIL GARSON,
*Secretary.*

[F.R. Doc. 67-8307; Filed, July 18, 1967; 8:48 a.m.]

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