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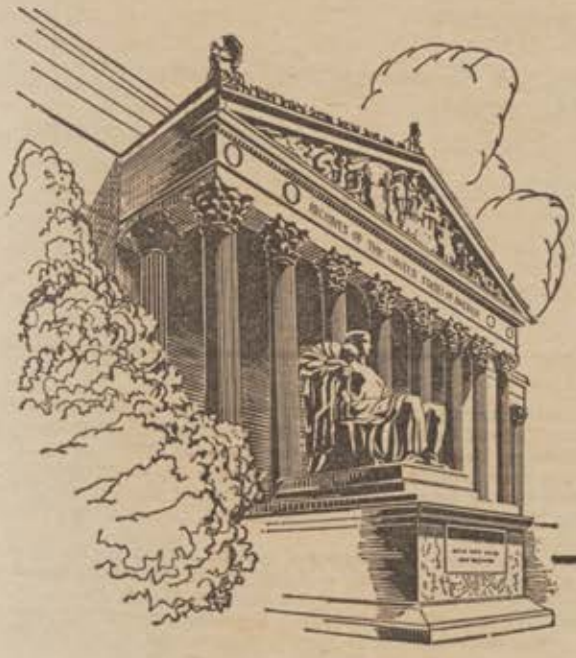
**Agencies in this issue—**



**Detailed list of Contents appears inside.**



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# Contents



*(Continued on next page)*

# List of CFR Parts Affected

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

**A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1970, and specifies how they are affected.**

# Presidential Documents

## Title 3—THE PRESIDENT

### Proclamation 4015

### NATIONAL FARM-CITY WEEK, 1970

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

**A Proclamation**

With two-thirds of our population crowded onto only two percent of the land, many of our people are denied economic opportunities, adequate living space, health, cultural fulfillment, and those spiritual values without which no nation can achieve greatness.

The time for action is at hand—for careful plans to be formulated, and for decisions to be made at local governmental levels, to foster the improved distribution of population and accompanying economic activity needed during the decade of the 1970's and beyond. The Government can provide assistance, but the effort will succeed only as all Americans take part in developing a policy of sound national growth.

In this effort, city dwellers and rural people alike have reason to work together toward common goals. The well-being of urban America and the welfare of rural America will increasingly intertwine as our total population expands. Better living in the one depends on better living in the other.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate the week of November 20 through November 26, 1970, as National Farm-City Week and call upon all citizens to participate in this observance.

I request that leaders of agricultural organizations, business groups, labor unions, youth and women's clubs, civic and fraternal associations, schools and others join in noting not only the interdependent roles of producers and consumers of America's agricultural abundance but also their opportunities for cooperation in building for the future.

I urge the Department of Agriculture, land-grant educational institutions, and all appropriate organizations and Government officials to carry out programs to mark the new significance of National Farm-City Week, including public meetings and exhibits, and presentations in the press and on radio and television.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of October, in the year of our Lord nineteen hundred and seventy, and of the Independence of the United States of America the one hundred and ninety-fifth.

Richard Nixon

[F.R. Doc. 70-13597; Filed, Oct. 7, 1970; 8:52 a.m.]

## Executive Order 11564

### TRANSFER OF CERTAIN PROGRAMS AND ACTIVITIES TO THE SECRETARY OF COMMERCE

By virtue of the authority vested in me by section 12 of the Act of February 14, 1903, as amended (15 U.S.C. 1517) and section 12(d) of the Act of October 15, 1966 (49 U.S.C. 1651 note), as President of the United States, and in further implementation of Reorganization Plan No. 4 of 1970 transferring certain functions to the Secretary of Commerce and establishing the National Oceanic and Atmospheric Administration in the Department of Commerce, it is ordered as follows:

SECTION 1. (a) The following programs and activities are hereby transferred to the Secretary of Commerce:

(1) The National Oceanographic Instrumentation Center of the Department of the Navy, Department of Defense.

(2) The National Oceanographic Data Center of the Department of the Navy, Department of Defense.

(3) The Ocean Station Vessel Meteorological Program of the Department of the Navy, Department of Defense.

(4) The Trust Territories Upper Air Observation Program of the Department of the Navy, Department of Defense.

(5) The Hydroclimatic Network Program of the Corps of Engineers of the Department of the Army, Department of Defense.

(6) The National Data Buoy Development Project of the Coast Guard, Department of Transportation.

(b) All of the power and authority of the transferor Departments conferred by law which is related to or incidental to, in support of, or necessary for, the operation of the programs and activities transferred by subsection (a) above, may be utilized by the Secretary of Commerce for the operation of those programs and activities.

SEC. 2. (a) Such personnel and positions and so much of the property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, authorized, affected, available, or to be made available in connection with the operation of the programs and activities transferred by section 1 hereof from the Department of Defense and the Department of Transportation as the Director of the Office of Management and Budget shall determine shall be transferred from those Departments to the Department of Commerce at such time or times as the Director shall direct.

(b) Subject to the direction of the Director of the Office of Management and Budget, the appropriate officers of the Government shall make necessary administrative arrangements for the assumption by the Secretary of Commerce of the programs and activities so transferred.

Richard Nixon

THE WHITE HOUSE,
*October 6, 1970.*

[F.R. Doc. 70-13596; Filed, Oct. 7, 1970; 8:52 a.m.]

# Rules and Regulations

## Title 5—ADMINISTRATIVE PERSONNEL

### Chapter I—Civil Service Commission

### PART 771—EMPLOYEE GRIEVANCES AND ADMINISTRATIVE APPEALS

#### Allegations of Discrimination; Correction

In the FEDERAL REGISTER of September 25, 1970, F.R. Doc. 70-12724, under Miscellaneous Amendment to Chapter I of Title 5, Code of Federal Regulations on page 14917, in § 771.216(a) the reference to "§ 213.216" in the ninth line should read "§ 713.216."

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

[F.R. Doc. 70-13491; Filed, Oct. 7, 1970; 8:51 a.m.]

## Title 7—AGRICULTURE

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

[Valencia Orange Reg. 334]

### PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

#### Limitation of Handling

§ 908.634 Valencia Orange Regulation 334.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on October 6, 1970.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period October 9, 1970, through October 15, 1970, are hereby fixed as follows:

(i) District 1: 276,000 cartons;
(ii) District 2: 324,000 cartons;
(iii) District 3: Unlimited.

(2) As used in this section, "handler", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: October 7, 1970.

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

[F.R. Doc. 70-13638; Filed, Oct. 7, 1970; 11:40 a.m.]

## Title 12—BANKS AND BANKING

### Chapter VI—Farm Credit Administration

SUBCHAPTER B—FEDERAL FARM LOAN SYSTEM

### PART 610—FEDERAL LAND BANKS GENERALLY

#### Registration

Chapter VI of Title 12 of the Code of Federal Regulations is amended by revising § 610.125-51(b) to read as follows:

§ 610.125-51 Registration.

* * * * *

(b) *Restrictions.* The registration of Farm Credit Investment Bonds issued by Federal land banks is restricted to members of Federal land bank associations and production credit associations, and to employees of any corporation supervised by the Farm Credit Administration and of the Farm Credit Administration who are not prohibited by regulations of the Farm Credit Administration from purchasing such bonds so issued. Such members may be natural persons, partnerships, corporations, and fiduciaries. Only a member who is a natural person, or an employee may designate a coowner (one) or a beneficiary (one). The coowner or beneficiary also must be a natural person but need not be such a member or employee.

* * * * *

(Sec. 6, 47 Stat. 14, as amended; 12 U.S.C. 665)

E. A. JAENKE,
*Governor, Farm Credit Administration.*

[F.R. Doc. 70-13434; Filed, Oct. 7, 1970; 8:46 a.m.]

## Title 14—AERONAUTICS AND SPACE

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

[Docket No. 70-EA-83; Amdt. 39-1085]

### PART 39—AIRWORTHINESS DIRECTIVES

#### General Electric Aircraft Engines

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to amend AD 67-1-2 (Amdt. 39-536) applicable to General Electric CT58 Type Aircraft Engines. As part of a continuing program FAA has determined a need to further reduce life limits on certain rotating parts of the CT58 engine. Since the life limits

affect the safety and airworthiness of the engine, a situation exists which requires immediate adoption of the regulation and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by amending AD 67-1-2 as follows:

(1) Insert in the applicability paragraph the following additional numbers—"CT58-110-2, CT58-140-1, CT58-140-2, T58-GE-1, T58-GE-5".

(2) Insert in the compliance paragraph where appropriate the following additional part numbers: 3920T11P01, 3920T11P02, 5013T06P01, 5001T20P01, 5001T20P02, 37D400218P102.

(3) Delete in sections (a) and (b) the number "10,800" and insert in lieu thereof "9700". Delete in section (b) the number "11,000" and insert in lieu thereof "9900".

This amendment is effective October 15, 1970.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on September 25, 1970.

LOUIS J. CARDINALI,
*Acting Director, Eastern Region.*

[F.R. Doc. 70-13456; Filed, Oct. 7, 1970; 8:48 a.m.]

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[Docket No. 70-EA-84; Amdt. 39-1086]

## PART 39—AIRWORTHINESS DIRECTIVES

### General Electric Aircraft Engines

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to amend AD 69-23-2 applicable to General Electric CT58 Type Aircraft Engines.

As part of a continuing program FAA has determined a need to further reduce life limits on certain parts of the CT58 engine. Since the life limits affect the safety and airworthiness of the engine, a situation exists which requires immediate adoption of this regulation and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by amending AD 69-23-2 as follows:

(1) Delete in the compliance paragraph the phrase "To prevent cracking and possible failure of * * *" and insert in lieu thereof "To ensure adequate life limit margin for * * *".

(2) Delete the third part number schedule and insert in lieu thereof

| Part No. | Previous life limits | | Revised life limits | | Above 5,150 hours 8,400 cycles remove within* |
|---|---|---|---|---|---|
| | Hours | Cycles | Hours | Cycles | |
| 5005T34P01 | 5,000 | 10,000 | 5,200 | 8,500 | 50hours100 cycles. |
| 5005T34P03 | 5,000 | 10,000 | 5,200 | 8,500 | 50hours100 cycles. |
| 5008T79P02 | 5,000 | 10,000 | 5,200 | 8,500 | 50hours100 cycles. |

This amendment is effective October 15, 1970.

(Sec. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on September 25, 1970.

LOUIS J. CARDINALI,
*Acting Director, Eastern Region.*

[F.R. Doc. 70-13457; Filed, Oct. 7, 1970; 8:48 a.m.]

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[Airspace Docket No. 70-SW-40]

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

### Alteration of Control Zone and Transition Area

*Correction*

In F.R. Doc. 70-12476 appearing at page 14650 in the issue of Saturday, September 19, 1970, the reference to "Riverdale Airport" in the fifth line of the Tulsa, Okla., transition area (§ 71.181) should read "Riverside Airport".

# Title 16—COMMERCIAL PRACTICES

## Chapter I—Federal Trade Commission

[Docket No. C-1786]

## PART 13—PROHIBITED TRADE PRACTICES

### American Tire Co. and Robert Mirman

Subpart—Advertising falsely or misleadingly: § 13.70 *Fictitious or misleading guarantees;* § 13.140 *Old, reclaimed or reused product being new;* § 13.155 Prices: 13.155-5 Additional charges unmentioned; 13.155-10 Bait; § 13.155-15 *Comparative;* § 13.155-100 *Usual as reduced, special, etc.;* § 13.175 *Quality of product or service;* § 13.245 *Specifications or standards conformance.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1647 *Guarantees;* Misrepresenting oneself and goods—Prices: § 13.1778 *Additional costs unmentioned.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1882 *Prices;* § 13.1886 *Quality, grade or type.* Subpart—Using misleading name—Goods: § 13.2330 *Quality.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, American Tire Co. et al., Sepulveda, Calif., Docket C-1786, Aug. 26, 1970]

*In the Matter of American Tire Co., a Corporation, and Robert Mirman, Individually and as an Officer of Said Corporation*

Consent order requiring a Sepulveda, Calif., retailer of automobile tires, batteries and other automotive accessories, to cease using the term "6 ply rated" in any advertising without disclosing the basis of comparison, using "ultra premium" or "1st line" without disclosing that no industrywide ratings exists, misrepresenting retreaded tires as new, failing to disclose that advertised price does not include tax, misrepresenting the brand name or price of any tire, advertising products to gain access to prospective purchasers of other products, and using deceptive guarantees.

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

*It is ordered,* That respondents American Tire Co., a corporation, and its officers and Robert Mirman, 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 tires, batteries or any other automotive parts or accessories or any other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Referring, in consumer advertising, to the cord material in a tire unless such material is identified by its generic name and respondents clearly and conspicuously disclose in immediate conjunction with each such reference that it is only the cord that is of the designated material.

(2) Using, in consumer advertising, the terms "6 ply rated," "6 ply rating," or any other representation, direct or by implication, that a tire has any numerical ply rating without disclosing clearly and conspicuously the actual number of plies in the tire so described and (a) that there is no industrywide definition of ply rating and (b) the basis of comparison of the claimed rating.

(3) Using, in consumer advertising, the terms "ultra premium," "1st Line," or any other designation of grade, line, level or quality to describe or designate a tire without disclosing clearly and conspicuously that (a) no industrywide or other accepted system of quality standards or other accepted system of grading of industry products currently exists and (b) representations as to grade, line, level or quality relate only to the private standard of the marketer of the tire so designated or described.

(4) Advertising or offering for sale used tires which have been retreaded without clearly and conspicuously describing or designating such tires as retreaded or retreads; misrepresenting, in any manner, that used tires are new.

(5) Failing to include the applicable Federal excise tax in the advertised price of a tire, or in the alternative, failing to disclose clearly and conspicuously that such advertised price does not include the Federal excise tax and failing to set forth the applicable amount of such tax clearly and conspicuously with such advertised price; misrepresenting, in any manner, the actual selling prices of respondents' tires or other merchandise.

(6) Using the terms "Famous Brand," "Nationally Advertised," "Famous Manufacturer's Brand," or any other words or phrases of similar import or meaning to describe or designate tires unless respondents disclose clearly and conspicuously in immediate conjunction with any such description or designation the brand name of such tires and the name of the manufacturer thereof; misrepresenting, in any manner, the brand name or the manufacturer of tires or any other merchandise offered for sale by respondents.

(7) (a) Representing, in any manner, that by purchasing any of respondents' tires or other merchandise, customers are afforded savings amounting to the difference between respondents' stated price and respondents' former price unless such tires or other merchandise have been sold at the former price by respondents for a reasonably substantial period of time in the recent regular course of their business.

(b) Representing, in any manner, that by purchasing any of respondents' tires or other merchandise, customers are afforded savings amounting to the difference between respondents' stated price and a compared price for said tires or other merchandise in respondents' trade area unless a substantial number of the principal retail outlets in the trade area regularly sell said tires or other merchandise at the compared price or some higher price.

(c) Representing, in any manner, that by purchasing any of respondents' tires or other merchandise, customers are afforded savings amounting to the difference between respondents' stated price and a compared value for comparable tires or other merchandise, unless substantial sales of tires or other merchandise of like grade and quality are being made in the trade area at the compared price or higher and unless respondents have in good faith conducted a market survey or obtained a similar representative sample of prices in their trade area which establishes the validity of said compared price and it is clearly and conspicuously disclosed that the comparison is with tires or other merchandise of like grade and quality.

(d) Representing, directly or by implication, that respondents have, through an independent survey, or in any other manner, determined the prices being charged, in the trade area in which the representation is made, for merchandise identical to that being advertised by respondents unless respondents, prior to making such representation, have determined, or caused to be determined, that the identical merchandise is being sold by the principal retail outlets in the trade area wherein the advertisement is published at the represented prices and respondents maintain adequate records supporting such determination.

(8) Failing to maintain adequate records (a) which disclose the facts upon which any savings claims, including former pricing claims and comparative value claims and similar representations of the type described in paragraph 7 of this order are based, and (b) from which the validity of any savings claims and similar representations of the type described in paragraph 7 of this order can be determined.

(9) (a) Representing, directly or by implication, that any product or service is offered for sale when such offer is not a bona fide offer to sell said product or service.

(b) Using any advertising, sales plan or promotional scheme involving the use of false, misleading or deceptive statements or representations to obtain leads or prospects for the sale of any product.

(c) Making representations purporting to offer merchandise for sale when the purpose of the representation is not to sell the offered merchandise but to obtain leads or prospects for the sale of other merchandise.

(d) Disparaging, in any manner, or discouraging the purchase of any product advertised.

(10) (a) Representing, directly or by implication, that tires or any other articles of merchandise are guaranteed unless the nature and extent of the guarantee, the manner in which the guarantor will perform and the identity of the guarantor are clearly and conspicuously disclosed.

(b) Representing, directly or by implication, that guarantee adjustments will be made on a pro rata basis unless the allowance to the customer for the replacement tire is proportionately equal to the unused portion of the guarantee period.

(c) Failing to disclose in any statement of a tire guarantee that customers will be required to pay the applicable Federal excise tax on the replacement tire.

*It is further ordered*, That corporate respondent distribute a copy of this order to each of its operating divisions and departments and to the manager of each of its retail outlets.

*It is further ordered*, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

*It is further ordered*, That respondents herein 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: August 26, 1970.

By the Commission.

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

[F.R. Doc. 70-13428; Filed, Oct. 7, 1970; 8:46 a.m.]

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[Docket No. C-1789]

## PART 13—PROHIBITED TRADE PRACTICES

### Commodore Import Corp.

Subpart—Advertising falsely or misleadingly: § 13.245 *Specifications or standards conformance.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1595 *Condition of goods;* § 13.1680 *Manufacture or preparation;* § 13.1720 *Quantity.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Commodore Import Corp., Brooklyn, N.Y., Docket C-1789, Sept. 2, 1970]

*In the Matter of Commodore Import Corp., a Corporation*

Consent order requiring a Brooklyn, N.Y., importer of transistorized radios from foreign manufacturers to cease and desist from overstating the number of transistors in the radios which it sells.

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

*It is ordered*, That respondent Commodore Import Corp., a corporation, and its officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the manufacturing, advertising, offering for sale, sale or distribution of radio receiving sets, including transceivers, 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, through the use of the terms transistor or "Solid State" or any other word or phrase that any radio set contains a specified number of transistors when one or more such transistors: (1) Are dummy transistors; (2) do not perform the recognized and customary functions of radio set transistors in the detection, amplification and reception of radio signals; or (3) are used in parallel or cascade applications which do not improve the performance capabilities of such sets in the reception, detection and amplification of radio signals: *Provided, however*, That nothing herein shall be construed to prohibit in connection with a statement as to the actual transistor count (computed without inclusion of transistors which do not perform the functions of detection, amplification and reception of radio signals), a further statement to the effect that the sets in addition contain one or more transistors acting as diodes or performing auxiliary or other functions when such is the fact.

2. Misrepresenting, in any manner, the number of transistors or other components in respondent's products or the functions of any such component.

*It is further ordered,* That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

*It is further ordered,* That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

*It is further ordered,* That the respondent 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: September 2, 1970.

By the Commission.

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

[F.R. Doc. 70-13430; Filed, Oct. 7, 1970; 8:46 a.m.]

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[Docket No. C-1499]

## PART 13—PROHIBITED TRADE PRACTICES

### Consumers Food, Inc., and George Sharkey

Subpart—Advertising falsely or misleadingly: § 13.155 *Prices:* 13.155-15 Comparative; 13.155-100 Usual as reduced, special, etc.; § 13.230 *Size or weight.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1743 *Size or weight;* Misrepresenting oneself and goods—Prices: § 13.1785 *Comparative;* § 13.1805 *Exaggerated as regular and customary.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1905 *Terms and conditions.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Modified order to cease and desist, Consumers Food, Inc., et al., Washington, D.C., Docket C-1499, Sept. 1, 1970]

*In the Matter of Consumers Food, Inc., a Corporation, and George Sharkey, Individually and as an Officer of Said Corporation*

Order modifying an earlier consent order dated February 25, 1969, 34 F.R. 6039, by adding a paragraph thereto which forbids respondents from failing to maintain adequate records which disclose the facts on which its prices and savings to customers are based.

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

*It is ordered,* That this proceeding be, and it hereby is reopened.

*It is further ordered,* That the Commission's order of February 25, 1969, be and it hereby is, modified by adding thereto as paragraph 9 of Part I the following:

9. Failing to maintain adequate records which disclose the facts upon which representations as to former prices, comparative prices, and the usual and customary retail prices of merchandise, and as to savings afforded to purchasers, and similar representations of the type dealt with in paragraphs 1, 2, and 6 of Part I of this order, are based and from which the validity of any such claim can be established.

Issued: September 1, 1970.

By the Commission.

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

[F.R. Doc. 70-13469; Filed, Oct. 7, 1970; 8:49 a.m.]

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[Docket No. C-1783]

## PART 13—PROHIBITED TRADE PRACTICES

### Coro, Inc.

Subpart—Advertising falsely or misleadingly: § 13.45 *Content;* § 13.130 *Manufacture or preparation.* Subpart—Using misleading name—Goods: § 13.2310 *Manufacture or preparation.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Coro, Inc., New York, N.Y., Docket C-1783, Aug. 18, 1970]

*In the Matter of Coro, Inc., a Corporation*

Consent order requiring a New York City distributor of costume jewelry, including earrings, to cease and desist from using the term "Karatclad" or any other word or words implying that the article referred to has a gold plated surface.

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

*It is ordered,* That respondent, Coro, Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of costume jewelry or any other product in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the term "Karatclad" or any other word or words implying that the article referred to has a surface plating of gold or gold alloy applied by a mechanical bonding process to describe any jewelry product which is "gold electroplated" or "heavy gold electroplated" unless said designation is accompanied by either the term "gold electroplated" or "heavy gold electroplated," whichever is applicable; or misrepresenting, in any manner, the content or manner of application of any gold or gold alloy plating, covering, or coating on the surface of any jewelry product or part thereof.

*It is further ordered,* That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

*It is further ordered,* That respondent notify the Commission at least 30 days prior to any proposed change such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

*It is further ordered,* That the respondent 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: August 18, 1970.

By the Commission.

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

[F.R. Doc. 70-13470; Filed, Oct. 7, 1970; 8:49 a.m.]

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[Docket No. C-1787]

## PART 13—PROHIBITED TRADE PRACTICES

### DeJur-Amsco Corp.

Subpart—Coercing and intimidating: § 13.358 *Distributors.* Subpart—Cutting off supplies or service: § 13.615 *Exclusive contracts with suppliers;* § 13.635 *Refusing sales to, or same terms and conditions.* Subpart—Maintaining resale prices: § 13.1140 *Cutting off supplies;* § 13.1155 *Price schedules and announcements;* § 13.1160 *Refusal to sell;* § 13.1167 *Trade-in restrictions.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, DeJur-Amsco Corp., Queens, N.Y., Docket C-1787, Aug. 27, 1970]

*In the Matter of DeJur-Amsco Corp., a Corporation*

Consent order requiring a New York City distributor of magnetic tape recording dictation and transcription devices, principally under the trademark "Stenorette," to cease fixing its retail dealers' resale prices, imposing customers and territorial restrictions, and imposing on its dealers exclusive dealing requirements and other anticompetitive restraints.

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

I. *It is ordered,* That respondent DeJur-Amsco Corporation, a corporation, its subsidiaries, successors, assigns, officers, directors, agents, representatives, and employees, individually or in concert, directly or through any corporate or other device, in connection with the distribution, offering for sale, or sale

of respondent's products ("respondent's products" shall be understood to mean the office dictating and transcribing machine equipment and accessories, parts and supplies therefor which respondent has sold or may hereafter sell) in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Engaging in any one or more of the following acts or practices:

(1) Limiting, allocating, or restricting the geographic area in which any of its dealers may solicit sales for, sell, advertise, or deliver respondent's products.

(2) Preventing, restricting, regulating, or hindering in any manner, any of its dealers from selling or delivering respondent's products to, or soliciting sales or procuring orders for such products from, any customer or class of customers or any prospective customer or class of customers including but not limited to Federal, State, and local government agencies, the military, educational institutions, corporations, partnerships, private individuals or other of respondent's customers.

(3) Preventing, restricting or hindering any of its dealers from buying, or acquiring, respondent's products from any other dealer, whether or not such other dealer is a dealer of respondent, or from any source whatsoever.

(4) Preventing, restricting or hindering any of its dealers from selling, advertising, servicing, purchasing, stocking, delivering, or dealing in the office dictating and transcribing machine equipment, accessories, parts and supplies therefor of any manufacturer, other than the manufacturer of respondent's products, or any supplier or dealer therein.

(5) Fixing, establishing, controlling or maintaining the prices at which its dealers may sell, advertise or promote respondent's products or the trade-in allowances which its dealers may give for any used dictation equipment of the respondent.

B. Including in its own advertising, or in any advertising or promotional aids and material supplied or sold to its dealers, any price or prices at which its products may or must be resold by its dealers, or publishing, disseminating or circulating to any dealer, any price list, price book or other document indicating any price or prices at which its products may or must be resold by its dealers, unless it is clearly and conspicuously stated that such resale prices are the respondent's "suggested prices only."

C. Entering into, continuing or enforcing, or attempting to enforce any contract, agreement, understanding, or arrangement or any provisions therein, which is prohibited in paragraph A above.

D. Convening meetings of, or meeting with, its dealers for the purpose of obtaining their compliance with the acts and practices prohibited in paragraph A above.

E. Harassing, intimidating, coercing, threatening or otherwise exerting pressure on its dealers, either directly or indirectly, to comply with any of the acts or practices prohibited in paragraph A above.

F. Terminating, discriminating or taking reprisals against any of its dealers because such dealer has failed to comply with any of the acts or practices prohibited in paragraph A above.

*Provided, however,* That nothing contained in this order shall prevent respondent from establishing primary geographic areas of responsibility for each of its dealers; expecting its dealers to be diligent in their efforts to promote the sale of respondent's products within their respective areas of primary responsibility, and terminating a dealer whom it reasonably and in good faith feels has failed to adequately represent respondent in the sale of its products.

II. *It is further ordered,* That respondent DeJur-Amsco Corp. shall reinstate any former dealer terminated since January 1, 1966, for failure to comply with one or more of the acts and practices prohibited in paragraph A, above, if any such dealer desires reinstatement.

III. *It is further ordered,* That respondent shall:

A. Forthwith serve a copy of this order by mail on each of its dealers.

B. Within thirty (30) days after service upon it of this order: Serve a copy of this order by registered mail on each dealer terminated since January 1, 1966, together with a letter advising that such dealer, if within the provisions of Part II of this order, may apply within thirty (30) days from receipt thereof for reinstatement as one of respondent's dealers.

C. Within one hundred and twenty (120) days after service upon it of this order submit to the Commission: (1) a list of all dealers terminated since January 1, 1966; (2) a list of all dealers who have been reinstated pursuant to paragraph B, above; and (3) a list of all dealers who have not been reinstated and the reason or reasons therefor.

IV. *It is further ordered,* That respondent notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

*It is further ordered,* That the respondent 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 they have complied with this order.

Issued: August 27, 1970.

By direction of the Commission.

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

[F.R. Doc. 70-13429; Filed, Oct. 7, 1970; 8:46 a.m.]

[Docket No. 8761]

## PART 13—PROHIBITED TRADE PRACTICES

### Household Sewing Machine Co., Inc., and William R. Clark

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections:* 13.15–195 Nature; § 13.70 *Fictitious or misleading guarantees;* § 13.90 *History of product or offering;* § 13.15 *Premiums and prizes:* 13.150–35 Prizes; § 13.155 *Prices:* 13.155–10 Bait; 13.155–40 Exaggerated as regular and customary. Subpart—Misrepresenting oneself and goods—Goods: § 13.1647 *Guarantees;* § 13.1650 *History of product;* Misrepresenting oneself and goods—Prices: § 13.1779 *Bait;* § 13.1805 *Exaggerated as regular and customary.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1892 *Sales contract, right-to-cancel provision.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Modified order to cease and desist, Household Sewing Machine Co., Inc., et al., Arlington, Va., Docket No. 8761, Sept. 1, 1970]

*In the Matter of Household Sewing Machine Co., Inc., a Corporation, and William R. Clark, Individually and as an Officer of Said Corporation*

Order modifying an earlier consent order dated August 6, 1969, 34 F.R. 15348, by adding a paragraph thereto which forbids respondent from failing to maintain adequate records upon which its prices and savings to customers are based.

The modified order to cease and desist is as follows:

*It is ordered,* That this proceeding be, and it hereby is reopened.

*It is further ordered,* That the Commission's order of August 6, 1969, be and it hereby is modified by adding thereto as paragraph 17 of Part I the following:

17. Failing to maintain adequate records which disclose the facts upon which representations as to former prices, comparative prices, and the usual and customary retail prices of merchandise, and as to savings afforded to purchasers, and similar representations of the type dealt with in paragraphs 7 through 10, 14 and 15 of Part I of this order, are based, and from which the validity of any such claim can be established.

Issued: September 1, 1970.

By the Commission.

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

[F.R. Doc. 70-13471; Filed, Oct. 7, 1970; 8:49 a.m.]

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[Docket No. C-1785]

## PART 13—PROHIBITED TRADE PRACTICES

### James B. Lansing Sound, Inc.

Subpart—Cutting off supplies or service: § 13.635 *Refusing sales to, or same*

*terms and conditions.* Subpart—Maintaining resale prices: § 13.1125 *Combination;* § 13.1160 *Refusal to sell;* § 13.1165 *Systems of espionage:* 13.1165–80 Requiring information of price cutting.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, James B. Lansing Sound, Inc., Los Angeles, Calif., Docket C–1785, Aug. 24, 1970]

*In the Matter of James B. Lansing Sound, Inc., a Corporation*

Consent order requiring a Los Angeles, Calif., manufacturer and distributor of high fidelity loudspeaker equipment to cease fixing the resale price of its products, preventing retailers from selling to customers of their own choosing, and preventing retailers from soliciting sales outside their market areas.

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

I. *It is ordered,* That respondent James B. Lansing Sound, Inc., and its subsidiaries, successors, assigns, officers, directors, agents, representatives, and employees, individually or in concert with others, directly or indirectly, or through any corporate or other device, in connection with the manufacture, distribution, offering for sale, or sale of high fidelity equipment in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Entering into, maintaining or enforcing any contract, agreement, combination, understanding or course of conduct which has as its purpose or effect the fixing, establishing or setting of the prices at which its independent dealers or distributors may resell their products; provided, however, that nothing contained herein shall be construed to prevent respondent from engaging in a legitimate fair trade program in those States having fair trade laws.

2. Preventing or prohibiting any independent dealer or distributor from reselling his products to any person or group of persons, business or class of businesses, except as may be expressly provided herein.

3. Preventing or prohibiting any independent dealer or distributor from soliciting sales outside of his market area.

4. Requiring its independent dealers or distributors to make their sales records available to respondent for inspection.

II. *It is further ordered,* That respondent, within sixty (60) days from the effective date of this order, shall:

1. Mail a conformed copy of this order to all dealers or distributors of its JBL high fidelity equipment, and to all JBL dealers terminated since January 1, 1966.

2. Notify each of its operating divisions of the substance of the complaint and order herein.

3. Offer to reinstate any dealer or distributor who may have been terminated by respondent for having violated any of the policies of respondent which this order seeks to prohibit: *Provided, however,* That respondent need not offer to reinstate any dealers in States having fair trade laws, who in fact were terminated by respondent for violating any fair trade agreement only.

4. File with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

*It is further ordered,* That respondent notify the Commission at least 30 days prior to any proposed change in its corporate structure such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

Issued: August 24, 1970.

By direction of the Commission.

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

[F.R. Doc. 70–13472; Filed, Oct. 7, 1970; 8:49 a.m.]

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[Docket No. C–1784]

## PART 13—PROHIBITED TRADE PRACTICES

### Leonard F. Porter, Inc., and Leonard F. Porter

Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1680 *Manufacture or preparation.* Subpart—Using misleading name—Goods: § 13.2345 *Source or origin:* 13.2345–65 Place: 13.2345–65(a) Domestic product as imported.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Leonard F. Porter, Inc., et al., Seattle, Wash., Docket C–1784, Aug. 24, 1970]

*In the Matter of Leonard F. Porter, Inc., a Corporation, and Leonard F. Porter, Individually and as an Officer of Said Corporation*

Consent order requiring a Seattle, Wash., manufacturer of carvings, jewelry and curios to cease claiming that they are handmade, hand-carved or "Eskimo made."

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

*It is ordered,* That respondents Leonard F. Porter, Inc., a corporation, and its officers, and Leonard F. Porter, 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, labeling, offering for sale, sale, or distribution of carvings, jewelry, curios, or other products 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 a product or part thereof is hand-made or hand-carved unless such product or part has been shaped and formed from raw materials exclusively through the use of hand labor and manually controlled methods of production; or misrepresenting in any manner the techniques or methods used in the manufacture of any product.

2. Using the term "Eskimo made," or any term of similar import and meaning, to designate, describe, or refer to any product or part thereof unless such product or part has been shaped and formed from raw materials exclusively through the use, by Eskimos, of hand labor and manually controlled methods of production; or misrepresenting in any manner the national origin or racial or ethnic background of any person engaged in the manufacture of respondents' products.

3. Placing in the hands of retailers or others the means and instrumentalities by and through which they may deceive or mislead the purchasing public concerning any product or part thereof in the respects set out in paragraphs 1 and 2, above.

*It is further ordered,* That respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

*It is further ordered,* That respondent corporation notify the Commission at least thirty (30) days prior to any proposed change in its corporate structure such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this order.

*It is further ordered,* That respondents 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: August 24, 1970.

By the Commission.

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

[F.R. Doc. 70–13473; Filed, Oct. 7, 1970; 8:49 a.m.]

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[Docket No. C–1566]

## PART 13—PROHIBITED TRADE PRACTICES

### Life Electronics Corp., Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.70 *Fictitious or misleading guarantees;* § 13.140 *Old, reclaimed or reused product being new;* § 13.155 *Prices;* 13.155–15 Comparative; 13.155–40 Exaggerated as regular and customary; 13.155–70 Percentage savings Subpart—Misrepresenting oneself and goods—Goods: § 13.1647 *Guarantees;* § 13.1695 *Old, secondhand, reclaimed or reconstructed as new;* Misrepresenting oneself and goods—Prices: § 13.1785

*Comparative;* § 13.1805 *Exaggerated as regular and customary;* Misrepresenting oneself and goods—Services: § 13.1835 *Cost;* § 13.1843 *Terms and conditions.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Modified order to cease and desist, Life Electronics Corp., Inc., et al., Washington, D.C., Docket C-1566, Sept. 1, 1970]

*In the Matter of Life Electronics Corp., Inc., a Corporation, Trading and Doing Business as Lite Electronics, Inc., and Lite Radio & TV Repair, and Andrew C. Neidinger, Individually and as an officer of said Corporation*

Order modifying an earlier consent order dated July 28, 1969, 34 F.R. 13866, by adding a paragraph thereto which forbids respondent from failing to maintain adequate records upon which its prices and savings to customers are based.

The modified order to cease and desist is as follows:

*It is ordered,* That this proceeding be, and it hereby is reopened.

*It is further ordered,* That the Commission's order of July 28, 1969, be and it hereby is, modified by adding thereto as paragraph 11 the following:

11. Failing to maintain adequate records which disclose the facts upon which representations as to former prices, comparative prices, and the usual and customary retail prices of merchandise, and as to savings afforded to purchasers, and similar representations of the type dealt with in paragraphs 6, 7, and 8 of this order, are based, and from which the validity of any such claim can be established.

Issued: September 1, 1970.

By the Commission.

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

[F.R. Doc. 70-13474; Filed, Oct. 7, 1970; 8:49 a.m.]

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[Docket No. C-1790]

## PART 13—PROHIBITED TRADE PRACTICES

### Mar-Lin Radio Corp. and Morris Dweck

Subpart—Advertising falsely or misleadingly: § 13.245 *Specifications or standards conformance.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1680 *Manufacture or preparation.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Mar-Lin Radio Corp. et al., New York, N.Y., Docket C-1790, Sept. 2, 1970]

*In the Matter of Mar-Lin Radio Corp., a Corporation, and Morris Dweck, Individually and as an Officer of Said Corporation*

Consent order requiring a New York City importer of transistorized radios from foreign manufacturers to cease and desist from overstating the number of transistors in the radios which it sells.

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

*It is ordered,* That respondent Mar-Lin Radio Corp., a corporation, and its officers, and Morris Dweck, 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 manufacturing, advertising, offering for sale, sale or distribution of radio receiving sets, including transceivers, 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, through the use of the terms transistor or "Solid State" or any other word or phrase that any radio set contains a specified number of transistors when one or more such transistors: (1) Are dummy transistors; (2) do not perform the recognized and customary functions of radio set transistors in the detection, amplification and reception of radio signals; or (3) are used in parallel or cascade applications which do not improve the performance capabilities of such sets in the reception, detection and amplification of radio signals: *Provided, however,* That nothing herein shall be construed to prohibit in connection with a statement as to the actual transistor count (computed without inclusion of transistors which do not perform the functions of detection, amplification and reception of radio signals), a further statement to the effect that the sets in addition contain one or more transistors acting as diodes or performing auxiliary or other functions when such is the fact.

2. Misrepresenting, in any manner, the number of transistors or other components in respondents' products or the functions of any such component.

*It is further ordered,* That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

*It is further ordered,* That respondent corporation notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

*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: September 2, 1970.

By the Commission.

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

[F.R. Doc. 70-13431; Filed, Oct. 7, 1970; 8:46 a.m.]

[Docket No. C-1490]

## PART 13—PROHIBITED TRADE PRACTICES

### Sanitary Carpet and Rug Cleaning Co., Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.30 *Composition of goods:* 13.30-75 Textile Fiber Products Identification Act; § 13.73 *Formal regulatory and statutory requirements:* 13.73-90 Textile Fiber Products Identification Act; § 13.155 *Prices:* 13.155-15 Comparative; 13.155-40 Exaggerated as regular and customary; 13.155-70 Percentage savings. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185-80 Textile Fiber Products Identification Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212-80 Textile Fiber Products Identification Act. Subpart—Misrepresenting oneself and goods—Prices: § 13.1785 *Comparative.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-70 Textile Fiber Products Identification Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 72 Stat. 1717; 15 U.S.C. 45, 70) [Modified order to cease and desist, Sanitary Carpet and Rug Cleaning Co., Inc., et al., Rockville, Md., Docket C-1490, Sept. 1, 1970]

*In the Matter of Sanitary Carpet and Rug Cleaning Co., Inc., a Corporation, Trading and Doing Business as Carpetland, and Aram Sakayan and Edward Turmanian, Individually and as Officers of Said Corporation, and George Sakayan, Individually and as General Manager of Said Corporation*

Order modifying an earlier consent order dated February 3, 1969, 34 F.R. 3658, by adding a paragraph thereto which forbids respondents from failing to maintain adequate records upon which its prices and savings are based.

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

*It is further ordered,* That the Commission's order of February 3, 1969, be and it hereby is, modified by adding thereto as paragraph 8 the following:

8. Failing to maintain adequate records which disclose the facts upon which representations as to former prices, comparative prices, and the usual and customary retail prices of merchandise, and as to savings afforded to purchasers, and similar representations of the type dealt with in paragraphs 1, 2, 3, 4, and 5 of the "It is further ordered * * * " portion of this order, are based, and from which the validity of any such claim can be established.

Issued: September 1, 1970.

By the Commission.

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

[F.R. Doc. 70-13475; Filed, Oct. 7, 1970; 8:49 a.m.]

[Docket No. C-1791]

## PART 13—PROHIBITED TRADE PRACTICES

### T & T Chinchilla, Inc., and Norman E. Taylor

Subpart—Advertising falsely or misleadingly: § 13.50 *Dealer or seller assistance;* § 13.60 *Earnings and profits;* § 13.70 *Fictitious or misleading guarantees;* § 13.85 *Government approval, action, connection or standards:* 13.85–35 Government endorsement; § 13.175 *Quality of product or service.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1608 *Dealer or seller assistance;* § 13.1615 *Earnings and profits;* § 13.1632 *Government endorsement or recommendation;* § 13.1647 *Guarantees;* § 13.1715 *Quality.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, T & T Chinchilla, Inc., et al., Council Bluffs, Iowa, Docket C-1791, Sept. 3, 1970]

*In the Matter of T & T Chinchilla, Inc., a Corporation, and Norman E. Taylor, Individually and as an Officer of Said Corporation*

Consent order requiring a Council Bluffs, Iowa, distributor of chinchilla breeding stock to cease making exaggerated earning claims, misrepresenting the quality of its stock, deceptively guaranteeing the fertility of its stock, claiming that it has the approval of any governmental agency, and misrepresenting its services to purchasers.

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

*It is ordered,* That respondents T & T Chinchilla, Inc., a corporation, and its officers, and Norman E. Taylor, 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 chinchilla breeding stock or any other products, in commerce, as "commerce" as defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, that:

1. It is commercially feasible to breed or raise chinchillas in homes, basements, garages or spare buildings, or other quarters or buildings unless in immediate conjunction therewith it is clearly and conspicuously disclosed that the represented quarters or buildings can only be adaptable to and suitable for the breeding and raising of chinchillas on a commercial basis if they have the requisite space, temperature, humidity, ventilation and other environmental conditions.

2. Breeding chinchillas as a commercially profitable enterprise can be achieved without previous knowledge or experience in the breeding, caring for, and raising of such animals.

3. Chinchillas are hardy animals or are not susceptible to disease.

4. Purchasers of respondents' chinchilla breeding stock will receive top quality chinchillas or any other quality or grade of chinchillas unless purchasers receive animals of the quality or grade represented.

5. Each female chinchilla purchased from respondents and each female offspring will produce two to three litters per year averaging one to four offspring per litter.

6. The number of litters or sizes thereof produced per female chinchilla is any number or range thereof; or representing in any manner, the past number or range of numbers of litters or sizes produced per female chinchilla from respondents' breeding stock unless, in fact, the past number or range of numbers represented are those of a substantial number of purchasers and accurately reflect the number or range of numbers of litters or sizes thereof produced per female chinchilla of these purchasers under circumstances similar to those of the purchaser to whom the representation is made.

7. Each female chinchilla purchased from respondents and each female offspring will produce at least three live young per year.

8. The number of live offspring produced per female chinchilla is any number or range of numbers; or representing, in any manner, the past number or range of numbers of live offspring produced per female chinchilla from repondents' breeding stock unless, in fact, the past number or range of numbers represented are those of a substantial number of purchasers and accurately reflect the number or range of numbers of live offspring produced per female chinchilla of these purchasers under circumstances similar to those of the purchaser to whom the representation is made.

9. Pelts from the offspring of respondents' chinchilla breeding stock sell for an average price of $20 to $25 per pelt.

10. Chinchilla pelts from the offspring of respondents' breeding stock will sell for any price, average price, or range of prices; or representing, in any manner, the past price, average price or range of prices of pelts from chinchillas of respondents' breeding stock unless, in fact, the past price, average price or range of prices represented are those of a substantial number of purchasers and accurately reflect the price, average price or range of prices realized by these purchasers under circumstances similar to those of the purchaser to whom the representation is made.

11. A purchaser starting with seven females and one male of respondents' chinchilla breeding stock under their "T & T Educational and Investment Plan" will have income at the end of five years ranging from $8,140 on the basis of their "Double Mixed String" quality to $14,362.50 on the basis of their "'AA' String" quality breeding stock.

12. Purchasers of respondents' breeding stock will realize earnings, profits or income in any amount or range of amounts; or representing, in any manner, the past earnings, profits or income of purchasers of respondents' breeding stock unless, in fact, the past earnings, profits or income represented are those of a substantial number of purchasers and accurately reflect the average earnings, profits or income of these purchasers under circumstances similar to those of the purchaser to whom the representation is made.

13. Breeding stock purchased from respondents is guaranteed or warranted without clearly and conspicuously disclosing in immediate conjunction therewith the nature and extent of the guarantee, the manner in which the guarantor will perform thereunder and the identity of the guarantor.

14. Purchasers of respondents' chinchilla breeding stock will receive service calls from respondents' service personnel once a month or at any other interval or frequency unless purchasers do, in fact, receive the represented number of service calls at the represented interval or frequency.

15. Respondents own and operate a successful fur garment manufacturing facility providing a ready market for pelts produced by purchasers of their chinchillas.

16. Respondents' business operation has the approval of the Federal Trade Commission or other governmental regulatory agencies.

B. Misrepresenting, in any manner, the assistance, training, services or advice supplied by respondents to purchasers of their chinchilla breeding stock.

C. Misrepresenting, in any manner, the earnings or profits of purchasers of respondents' chinchilla breeding stock.

D. Misrepresenting in any manner, the approval of respondents' business or business practices by banks, credit bureaus, the New York Auction or by any other organization, agency or business establishment.

E. 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' products or services and failing to secure from each such salesman or other person a signed statement acknowledging receipt of said order.

*It is further ordered,* That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

*It is further ordered,* That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

*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: September 3, 1970.

By the Commission.

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

[F.R. Doc. 70-13432; Filed, Oct. 7, 1970; 8:46 a.m.]

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[Docket No. C-1788]

## PART 13—PROHIBITED TRADE PRACTICES

### White Drug Co. of Jamestown, Inc., et al.

Subpart—Discriminating in price under section 2, Clayton Act—Knowingly inducing or receiving discriminating price under 2(f): § 13.855 *Inducing and receiving discriminations.* Subpart—Discriminating in price under section 5, Federal Trade Commission Act: § 13.892 *Knowingly inducing or receiving discriminating payments.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 2, 49 Stat. 1526; 15 U.S.C. 45, 13) [Cease and desist order, White Drug Co. of Jamestown, Inc., et al., Jamestown, N. Dak., Docket C-1788, Sept. 1, 1970]

*In the Matter of White Drug Co. of Jamestown, Inc., a Corporation; Capital Drug Co., a Corporation; White's, Inc., a Corporation; White Drug Co. of Grand Forks, a Corporation; White University Drug, Inc., a Corporation; White Drug of Minot, Inc., a Corporation; White Drug Co. of Fergus Falls, Inc., a Corporation; White Plaza Drug, Inc., a Corporation; White Drug of Aberdeen, Inc., a Corporation; White Drug of Dickinson, Inc., a Corporation; White Drug of Huron, Inc., a Corporation; White Drug Co. of Willmar, Inc., a Corporation; White Drug of Detroit Lakes, Inc., a Corporation; Max A. Retzlaff, Individually and as an Officer of Each of Said Corporations; The Lutheran Charity Association, a North Dakota Corporation*

Consent order requiring a chain of retail drug stores with headquarters in Jamestown, N. Dak., to cease violation of section 2(f) of the Clayton Act by knowingly inducing and receiving discriminatory prices from pharmaceutical suppliers.

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

*It is ordered,* That respondents White Drug, including each of the following:

White Drug Co. of Jamestown, Inc., a North Dakota corporation.
Capital Drug Co., a North Dakota corporation.
White's, Inc., a North Dakota corporation.
White Drug Co. of Grand Forks, a North Dakota corporation.
White University Drug, Inc., a North Dakota corporation.
White Drug of Minot, Inc., a North Dakota corporation.
White Drug Co. of Fergus Falls, Inc., a Minnesota corporation.
White Plaza Drug, Inc., a North Dakota corporation.
White Drug of Aberdeen, Inc., a South Dakota corporation.
White Drug of Dickinson, Inc., a North Dakota corporation.
White Drug of Huron, Inc., a South Dakota corporation.
White Drug Co. of Willmar, Inc., a Minnesota corporation.
White Drug of Detroit Lakes, Inc., a North Dakota corporation.

Max A. Retzlaff, individually and as an officer of all said corporations and the Lutheran Charity Association doing business as Jamestown Hospital, a North Dakota corporation, their respective successors and assignees, officers, agents, representatives, employees, and members, directly or through any corporate or other device in connection with the offering to purchase or purchase of any prescription drugs and other related pharmaceutical supplies and equipment in "commerce," as commerce is defined in the Clayton Act, as amended, and the Federal Trade Commission Act, to forthwith cease and desist from:

1. Directly or indirectly inducing and receiving, receiving or accepting any discrimination in the price of such products by accepting from any seller a net price respondents know or should know is below the net price at which said products of like grade and quality are being sold by such seller to other purchasers where respondents are competing with the purchaser paying the higher price or with a customer of the purchaser paying the higher price.

For the purpose of determining the "net price" under the terms of this order, there shall be taken into account all discounts, rebates, allowances, deductions or other terms and conditions of sale by which net prices are effected.

2. Maintaining any arrangement, agreement or concerted action between a nonprofit institution and a commercial enterprise operated for profit which would result in a diversion of prescription drugs from any such nonprofit institution or passing on or making available to the commercial enterprise a preferential price offered by pharmaceutical manufacturers only to nonprofit institutions.

*It is further ordered,* That the respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

*It is further ordered,* That respondents notify the Commission at least thirty (30) days prior to any proposed change in their corporate structures such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in their corporations which may affect compliance obligations arising out of the order.

*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 of their compliance with this order.

Issued: September 1, 1970.

By the Commission.

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

[F.R. Doc. 70-13433; Filed, Oct. 7, 1970; 8:46 a.m.]

# Title 21—FOOD AND DRUGS

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

### SUBCHAPTER C—DRUGS

## PART 138—DRUGS; OFFICIAL NAMES

### New Names

*Correction*

In F.R. Doc. 70-12147 appearing at page 14450 in the issue of Tuesday, September 15, 1970, in the alphabetical listing of drugs under § 138.2, the entry reading "Clintazone" should read "Cintazone".

# Title 47—TELECOMMUNICATION

## Chapter I—Federal Communications Commission

[Docket No. 18345; FCC 70-1061]

## PART 73—RADIO BROADCAST SERVICES

### FM Broadcast Stations; Table of Assignments, Bay Shore, N.Y.

*Memorandum opinion and order.* In the matter of amendment of § 73.202, *Table of Assignments,* FM Broadcast Stations (Bay Shore, N.Y.; Lake Havasu City, Ariz.; Eupora, Miss.; Sledge, Miss.; South Haven, Mich.; Marksville, La.; Waverly, Tenn.; Livermore and Hayward, Calif.; North East, Pa.; Lawrenceburg, Ky.; and Bardstown, Ky.), Docket No. 18345; RM-1236, RM-1320, RM-1321, RM-1322, RM-1325, RM-1327, RM-1328, RM-1329, RM-1331, RM-1333, RM-1334, RM-1336.

1. On January 8, 1970, in the third report and order in the above-captioned proceeding (FCC 70-41), the Commission amended the FM Table of Assignments by adding Channel 276A at Bay Shore, N.Y. A timely petition for reconsideration was filed by WTFM, Inc., licensee of Station WTFM(FM), Lake Success, N.Y., which had vigorously opposed the assignment during the proceeding. On April 20, 1970, the U.S. Department of the Interior, on behalf of the National Park Service, also filed a petition for reconsideration, which, while not timely filed so as to be eligible for

consideration as such, may be considered in support of the WTFM petition.[1]

2. Much of the controversy during the proceeding over the assignment, and all of that at the reconsideration stage, related to the fact that a station using the channel must be located on Fire Island, a strip of land off the southern shore of Long Island, in order to meet the minimum mileage separations of the rules. The pertinent portion of Fire Island lies within the "Fire Island National Seashore," established by Act of Congress in 1964 and under the jurisdiction, at least to some extent, of the Department of the Interior.

3. For reasons set forth below, we are of the view that our decision making the assignment was erroneous, and that it should be rescinded and the assignment removed from the Table. We take these actions herein.

*Background.* 4. Bay Shore, N.Y., is an unincorporated but substantial community on the southern shore of Long Island, some 40 miles from New York City, in Suffolk County. The Channel 276A assignment was strictly a "drop-in," with no changes required in other assignments and no impact on other possible assignments. The channel can be used, consistent with mileage separation rules, only in a very limited area, because of the proximity to stations in New York City (including WTFM) to the west, and Hartford, Conn., to the north-northeast. It appears that this location must be in a very small area on Fire Island, some 5 miles from Bay Shore.[2]

5. The assignment was originally requested by WGLI, Inc., the licensee of a full-time station at Babylon, Long Island, N.Y., near Bay Shore, which specified an exact location within the area and had obtained a building permit. WTFM opposed the proposal, both at the petition stage and later in the rule making, on a number of grounds including the allegedly unsuitable character of the site in relation to the natural and esthetic values of the Fire Island Seashore area. Its opposition was echoed in nearly 200 letters from Fire Island residents, property owners and visitors, as well as two letters from acting officials of the National Park Service (November 1968, before formal rule-making on the WGLI petition was begun), and the Chairman of the Fire Island National Seashore Advisory Commission, set up in the 1964 Act to advise the Secretary of the Interior. However, there was no other participation by that Department until the April 1970 petition for reconsideration mentioned.

*The Docket 18345 decision.* 6. In the Docket 18345 decision making the Bay Shore assignment (20 FCC 2d 988, 18 R.R. 2d 1510), it was made clear that it was done as an allocations matter, a decision as to the use of frequencies, without attempting to decide the questions raised as to the extent of the Secretary's jurisdiction over the location in question or how it may be exercised, or broader questions of the possible impact on the unspoiled, natural values of the Fire Island National Seashore from a 300-foot radio tower. It was stated that such questions are beyond the Commission's authority or particular expertise, and could be raised again—before the Commission, the Secretary, the authorities of the town of Islip (the local zoning authority involved) or the courts—in connection with an application for use of the channel when assigned. See FCC 70-41, paragraphs 14-16, 20 FCC 2d 994-996.

7. One of the arguments urged by WTFM during the proceeding was the provisions of § 73.208(a)(4) of the rules, under which, if a proposed assignment will not meet the prescribed minimum mileage separations with respect to the reference point of the community involved, it must be shown that "a transmitter site is available" which will meet these separation requirements. WTFM argued that, in view of all the problems involved, this showing had not been made. We held that petitioner WGLI, in obtaining a building permit for a tower at the location in question, had made a prima facie case of availability sufficient to meet this requirement of the rules (FCC 70-41, paragraph 14).

*The later pleadings.* 8. WTFM's petition for reconsideration is essentially an argument to the effect that the January 1970 decision, on the basis discussed above, is much too narrow, not taking proper account of the strong national policy expressed by Congress (in the 1964 Fire Island National Seashore Act) of preserving the unspoiled, natural character of the Fire Island area. It is asserted that we cannot properly ignore the fact that erection of a 318-foot tower therein—a "necessary consequence" of the assignment action—is plainly inconsistent with this; and that we must observe national policy in non-communications matters here just as we did in adopting rules against discrimination in employment, in Docket 18244.

9. The petition of the Department of the Interior is to much the same effect. It specifically calls attention to the National Environmental Policy Act of 1969, Public Law 91-190, signed into law and effective January 1, 1970, to two Presidential Executive orders in this area, and its own Statement of Management Objectives for the Fire Island National Seashore, adopted in April 1970. It urges that more weight should have been given to the 1968 expressions of the two National Park Service officials referred to above. It asserts that we should have taken into account the 1969 Act and its policy (discussed below) in reaching our decision, and that the National Park Service, which has gained special expertise in conserving visual esthetics and has responsibility for protecting the quality of the Fire Island Seashore environment, is of the view (as is the Department) that the proposed tower would "seriously degrade visual and aesthetic values within the Seashore", and be a "visual and scenic adversity" contrary to the intent of the 1964 Fire Island National Seashore Act. The Department also claims that under its rules (36 CFR Part 28), and the zoning ordinances of the town of Islip, as amended in January 1969, the construction of a radio tower requires a special permit granted by the town board, and is thus a variance or exception which requires the Secretary's approval, which of course will not be given. The property then becomes subject to condemnation. It is stated that "to grant the frequency allocation would seriously frustrate the management and objectives of the National Park Service of this Department, and would also necessitate the expenditure of Federal land acquisition funds to condemn the tower site." It is pointed out that the United States has already invested more than $13,500,000 in acquiring land in the Seashore, and that if necessary the Department can acquire this property the same way; but it is suggested that instead the Commission act to remove the need for such expenditure. Noting that the WGLI building permit for the proposed tower expires in June 1970, the Department states that it has asked the town of Islip to refuse renewal.

10. WGLI filed oppositions to both of these petitions, which need not be discussed at length since this party has now withdrawn the application of a wholly owned subsidiary (filed Mar. 25, 1970) for the Bay Shore assignment, and thus is no longer an interested party.[3]

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[1] This is particularly true since the matters raised in the Department's filing are generally those of which the Commission should have been informed in reaching its decision, and of which it is required to take notice when brought to its attention from whatever source.

[2] Location south is impossible because of the Atlantic Ocean. Location either east or west on Fire Island would involve short separations, and also either location in a New York State Park (to the west) or an even more serious impingement on the character of the National Seashore to the east. Location to the north, on the mainland in or close to Bay Shore, would involve a very substantial short separation.

In a letter of August 8, 1970, requesting dismissal of the application later filed for the channel, counsel for WGLI stated that it could have pursued two other alternatives: (1) Location on a Coast Guard radio tower roughly a mile west of the proposed location, or (2) location on one of the small islands (not specified) between Fire Island and the mainland of Long Island. The first, as counsel states, is out of the question because the Coast Guard will not give permission. The second, it appears, would probably involve a short separation and, since such islands also appear to be within the National Seashore boundaries, there is no reason to assume that this would be any more acceptable from the Department's standpoint.

[3] See footnote 2, above. The dismissal request was occasioned by the fact that WGLI and its subsidiary have, instead of pursuing the Bay Shore FM assignment, chosen to seek acquisition of an FM station at Patchogue, New York, applying therefor on July 31. It might be noted that any application by WGLI for a Bay Shore station would contravene the new "one-to-a-market" rules adopted in Docket 18110, in view of its ownership of a Babylon full-time regional AM station.

In general, the arguments made (aside from the lateness of the Department's petition and expression of position) are that the petitioners have shown nothing new, any problems of the kind mentioned can be dealt with at the local level, and that it has (as of the spring of 1970) a valid building permit, with an option to seek renewal, and therefore may be assumed to have an available site. It is asserted that it is up to the town authorities to determine whether renewal should be granted, with the Department entitled to participate if it can show a valid interest; and that the Commission should not, at this stage, set aside its decisionmaking the first assignment to Bay Shore, in which other parties besides WGLI might be interested and which it may be possible to use.

*Additional matters raised by these pleadings.* 11. These pleadings raise at least three highly pertinent matters, which bear on our decision herein and, to the extent they occurred before January 8, 1970, should have been considered. These are as follows:

(a) The WGLI building permit for a radio tower in Kismet Park on Fire Island expired in June 1970; it has not been renewed and apparently would never be renewed (even if WGLI pursued it) without a public hearing including the Department of Interior. According to the August 8, 1970, letter mentioned, the building permit was issued in June 1968 for 1 year, renewed as of right for another year, but a second renewal will not be granted without a hearing where construction has not commenced, under the local ordinance.

(b) It does not appear that WGLI ever held the "Special Permit" from the town board which is now required under the amendment to the town of Islip zoning ordinance adopted in January 1969, mentioned above.[4]

(c) The Department of the Interior, which had not previously formally indicated its position, has now stated that it is "unalterably opposed" to the proposed tower, for reasons stated above. As noted, it does not appear that putting the FM antenna on the Coast Guard tower—which might meet some of the Department's objections—is a realistic possibility.[5]

(d) In addition to these local matters, just before our Docket 18345 decision the National Environmental Policy Act of 1969 was enacted and became effective, on January 1, 1970 (Public Law 91-190, 83 Stat. 852). This statute sets forth in very strong terms the congressional concern as a matter of national policy with the quality of the environment and protection of it. It sets forth (section 101(b)) the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential policy considerations, to improve and coordinate Federal plans, functions, programs, and resources so that the Nation may:

> (2) Assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings,
>
> and
>
> (4) preserve important historic, cultural, and natural aspects of our natural heritage * * *

Section 102 directs all agencies of the Federal Government to

> (A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences * * *
>
> and
>
> (C) Include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—
>
> (i) The environmental impact of the proposed action,
>
> (ii) Any adverse environmental effects which cannot be avoided should the proposal be implemented,
>
> (iii) Alternatives to the proposed action,
>
> (iv) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
>
> (v) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should be implemented.
>
> Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved.

12. At the time of our January decision in Docket 18345, we were unaware of the exact provisions of this statute, which had just been enacted. Therefore there was no consultation with the Department of the Interior or the National Park Service prior to the action. While this Commission has not yet completed the review of its obligations and responsibilities under the new law, or the scope of its application to our activities generally, we assume for present purposes that where a proposed transmitter location must be within a national preserve falling within the jurisdiction of these agencies, they are to be regarded as "having jurisdiction by law or special expertise", so that prior consultation should be undertaken, as it was not here, at least where it is claimed that there will be an impact on the environment from an esthetic standpoint.

*Conclusions.* 13. In light of all of the matters mentioned above, we are of the view that we have no choice but to rescind the decision reached in January and remove from § 73.202(b) of the rules the assignment of Channel 276A to Bay Shore, N.Y. We are reluctant, of course, to remove the opportunity of the public to receive increased broadcast service, particularly where, as here, the station would represent the first local outlet in a community of substantial size. But the problems involved are too great to warrant retaining the channel in the table.

14. In connection with our own rules, in view of the matters noted in paragraph 11 (a) and (b) above, there is now no outstanding authorization to build a radio tower at any site in the area where it would comply with our separation rules, nor does it appear at all likely that one will be issued in the future. Therefore, we cannot make, even on a prima facie basis, the finding that a suitable transmitter site is shown to be available, within the requirement of § 73.208(a)(4) of the rules.

15. With respect to the broader question, it is not necessary to decide this in view of the determination reached in the previous paragraph in terms of our own rules and requirements. We do conclude, as indicated above, that there should have been prior consultation with representatives of the Department of the Interior or the National Park Service, under the circumstances of this case and the provisions of the new law, before our action was taken, and therefore it was, to a degree, improper and must be further considered. Now that consultation has been held, in a sense, we have a firm formal expression by the Department that it is "unalterably opposed" to the proposed assignment insofar as it would require construction of a 300-foot tower at the location in question. While the new law does not spell out specifically what is to happen when the agency with which consultation is had disagrees with the proposed action, at the least the expression of the Department's position is entitled to considerable weight.

16. Since there appears little or no possibility that a satisfactory site can be found for a station using the Bay Shore assignment, one meeting the mileage separation requirements of the rules, leaving the channel in the Table would indicate that we would consider a waiver of these rules, which is not the case. Accordingly, the assignment must be withdrawn. Authority for this action is found in section 403 of the Communications Act of 1934, as amended.[6]

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[4] In its reply to WGLI's opposition, the Department points out that the June 1969 renewal of permit was granted in normal course, on a "stock" form, and therefore does not constitute the special permit issued by the town board contemplated by the January 1969 ordinance.

[5] It is conceivable that the same objections might also not run against a tower of substantially less height than 300 feet. However, a tower of this height is necessary to provide the signal strength required by the rules for coverage of the principal city, over all of Bay Shore.

[6] Since the assignment was strictly a "drop in", and in view of the crowded state of the FM band in the general area, it is highly unlikely that any additional FM assignments will be made precluding use of Channel 276A to any greater extent than it is now precluded. If parties can show in the future a means by which a satisfactory site can be found, they are of course free to petition for rule making to make the assignment again.

In its petition for reconsideration WTFM directs attention to Footnote 11 of our third report and order in this proceeding, which acknowledged an informal inquiry between the Commission and the Department. It suggests that the communication was improper in this closed proceeding. As our footnote clearly stated, the inquiry dealt solely with the possibility of a new zoning ordinance having been adopted by the town of Islip. In light of this fact we are of the view that the inquiry in no way, directly or indirectly, affected justice or the right of any party participating in this proceeding.

17. In view of the foregoing: *It is ordered*, That, effective November 9, 1970,

(a) The petition for reconsideration filed in Docket 18345 by WTFM, Inc., on February 16, 1970, is granted; and

(b) The ordering clause of the third report and order in Docket 18345, FCC 70–41 (paragraph 20), is rescinded; and

(c) Section 73.202(b) of the rules, the FM Table of Assignments, is amended by deletion of the entry for Bay Shore, N.Y.

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

Adopted: September 30, 1970.

Released: October 5 ,1970.

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

[F.R. Doc. 70–13479; Filed, Oct. 7, 1970; 8:50 a.m.]

[Docket No. 18431; FCC 70–1074]

## PART 73—RADIO BROADCAST SERVICES

### Television Broadcast Stations; Table of Assignments, Williamsport, Pa.

*Memorandum opinion and order.* In the matter of amendment of the table of assignments for television channels, § 73.606(b) of the rules and regulations, to substitute Channel 20 for Channel 66 at Williamsport, Pa.

1. The Commission has before it for consideration (a) its report and order of September 4, 1969 in this docket (FCC 69–954, 19 RR 2d 1547), amending the television Table of Assignments to assign UHF Channel 20 in place of UHF Channel 66 to Williamsport, Pa.; (b) petitions, filed October 6, 1969, by the Land Mobile Communications Council (LMCC), for reconsideration of that action insofar as the assignment of Channel 20 to Williamsport is concerned, and stay of the effective date of that assignment pending disposition of its petition for reconsideration; and (c) pleadings opposing the LMCC petitions, filed by Scranton Broadcasters, Inc., licensee of UHF Station WDAU–TV, Scranton, Pa., and WGAL Television, Inc., licensee of VHF Station WGAL–TV, Lancaster, Pa., both of whom filed comments supporting the action taken when it was under consideration and open for comments of interested parties. The LMCC, which describes itself as a non-profit association, formed to achieve an allocation of radio frequencies for the Land Mobile Radio Service sufficient to meet immediate and long term requirements, has not heretofore participated in this proceeding.

2. The Commission's primary purpose in replacing the unused Channel 66 Williamsport assignment with Channel 20 was to free additional channels in the upper UHF television band (Channels 70–83) for translator use in the Williamsport area. With Channel 66 at Williamsport, no more than four channels above Channel 69 could be so used because of mileage separation requirements, and applications on file indicated that more were needed to satisfy current demand. Since Williamsport, a community with a 1960 population of 41,967, located west of Wilkes-Barre (57 miles) and Scranton (70 miles), and northwest of Harrisburg (68 miles) and Lancaster, Pa. (90 miles) is without a regular local television station, and, from all present indications, without prospect for one in the near future, we considered it in the public interest and in furtherance of our television goals to replace the sole Channel 66 Williamsport assignment with one which would not similarly impede UHF growth and expansion of television service by means of translators in the area.[1]

3. In selecting Channel 20 as the "most satisfactory" replacement for Channel 66, all customary assignment criteria were considered. Consideration was also given to the impact a Williamsport Channel 20 assignment might have on the proposal the Commission was then considering in Docket No. 18261 for some shared use of the lower UHF broadcast channels (Channels 14–20) with the land mobile radio services in some 25 major urban areas. Since it appeared that the assignment would have potential for but a minimal restrictive effect upon possible land mobile use of Channel 20 frequencies in the Philadelphia-New Jersey urbanized area, about 130 miles southeast of Williamsport, we did not view the pendency of the Docket No. 18261 proceeding as a justifiable reason for barring the assignment of Channel 20 to Williamsport.

4. With the foregoing background, we consider the LMCC petition for reconsideration, for, inasmuch as action thereon moots its petition for stay, the latter need not be discussed. Upon consideration, we find the petition for reconsideration procedurally inadequate and lacking in merit. It shows no good reason for LMCC's failure to avail itself of the opportunity to make its views known on the Channel 20 assignment proposal for Williamsport in the earlier stages of this proceeding when it was open for public comment, as required by § 1.106(b) of our rules. Nor, in raising the matter of the impact of a Channel 20 Williamsport assignment upon proposals in Docket No. 18261 for land mobile use of Channel 20 frequencies in the Philadelphia area, does it present any new factor which the Commission was not aware of or did not consider in making that asignment. Also, aside from general disagreement with the Commission's determination that the assignment should not be withheld because of that possible land mobile impact factor and the belief that other assignment possibilities for Williamsport having no such impact should be reexamined, LMCC presents nothing in the way of new facts, technical data, or arguments of substance not previously considered or which would demonstrate error in that determination.

5. However, since making the Channel 20 Williamsport assignment and the filing of the LMCC petitions, we have reached decisions and taken action in Docket No. 18261 to permit shared use by the land mobile services of a maximum of two of the lower seven UHF television channels in the 10 top urbanized areas where the need for short-range land mobile relief is the most urgent.[2] To effectuate this sharing plan effectively, we decided it necessary, among other things, to "freeze" and withdraw from the television service, for the near future, all unoccupied television assignments on Channels 14 through 20 that might affect the use of channels being made available in those urban areas for land mobile usage. The Philadelphia urban area is one of the 10 areas affected, and the channels contemplated for shared land mobile use in that area are Channels 19 and 20. Consequently, under the criteria given in paragraph 51 of the noted decision in Docket No. 18261, the freeze applies to all unoccupied Channel 19 and 20 television assignments within 212 miles of Philadelphia, as well as to channels adjacent to those channels which are assigned within 140 miles of Philadelphia. Since the Williamsport Channel 20 assignment is well within 212 miles of Philadelphia—only about 130 miles—it is for the present withdrawn for regular television use.

6. This changed circumstance, however, does not, in our judgment, bolster LMCC's request for reconsideration and the reopening of this proceeding to consider other channel possibilities in lieu of Channel 20 for Williamsport. Since that unused assignment is now frozen for television use by the decision in Docket No. 18261, it has no present potential for restricting land mobile use of Channel 20 frequencies in the Philadelphia area. Nor is there any reason to believe that either Channel 20, if it were available, or a replacement channel, if it were provided, would be sought for a regular television station at Williamsport in the near future. This being the case, we think it unnecessary in the public interest, or in furtherance of our UHF goals, to consider a replacement for the Channel 20 Williamsport assignment at this time. In most cases we did not provide a replacement for unused UHF

[1] Commissioner Robert E. Lee dissenting; Commissioner Wells absent.

[1] With the channel substitution at Williamsport, the Commission has been able to authorize two additional translator stations on Channels 70 and 74, which together with those previously authorized on Channels 72, 76, 78, and 82, now brings the total number of authorized translator stations at Williamsport to six. A seventh translator authorization on Channel 80 at Williamsport has also become possible and is recommended, subject to a same-day, nonduplication condition, in an Initial Decision released Aug. 20, 1970, by the examiner in Docket No. 18850, which becomes effective 50 days thereafter (Oct. 9, 1970), unless appealed or reviewed by the Commission on its own motion. Thus, the demands for translator service at Williamsport have been met without the use of Channel 20.

[2] See first report and order, adopted May 20, 1970, FCC 70–521, 23 FCC 2d 325.

assignments withdrawn from television use for the near future by the Docket No. 18261 decision.[3] There appears no basis to warrant treating the unused Channel 20 Williamsport assignment differently. It is time enough to consider a replacement for it when there is sufficient evidence to indicate that it would lead to the early establishment of a local station for the area. There appears to be at least one available UHF channel that could be assigned.

7. In implementation of the decision in Docket No. 18261, however, we do believe it desirable at this time to modify the Williamsport listing in the television Table of Assignments by adding an appropriate footnote indicating that it is not available for television use until further Commission action, as has already been done for other UHF assignments "frozen" as to television use by the Docket No. 18261 decision. (See the memorandum opinion and order cited in footnote 3.)

8. Authority for this action is found in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and the Administrative Procedure Act, 5 U.S.C. section 553(3)(B). This change is being made without prior rule making specifically directed toward this subject, because, having considered the general subject extensively in Docket No. 18261, such a proceeding is unnecessary and would not serve the public interest. Briefly, our reasons for this determination are as follows: (1) As we have concluded in Docket No. 18261, there is pressing need for immediate land mobile relief in the top 10 urban areas of the country, and since a substantial period will be necessary before the frequencies around 900 MHz can be extensively used for these services such immediate relief must come in the band immediately above 470 MHz; (2) the need to avoid deletion of assignments with operating stations, with consequent disruption of existing service; (3) the fact that use for television of the unused Williamsport assignment mentioned precludes an adequate measure of immediate relief in the Philadelphia area, one of the affected urban areas, both because of interference to land mobile from such television use and the protection requirements it would impose as limitations on land mobile use; and (4) the fact that, in general, it appears that at least one additional assignment could be made through rule making, as it will be if requested by interested parties for the establishment of a station in the Williamsport area. The action taken herein does not affect any authorized or operating station.

9. In view of the foregoing: *It is ordered*, That, effective November 9, 1970, § 73.606(b), Table of Assignments, Television Broadcast Stations, is amended, to read as follows with respect to the city listed:

| *City* | *Channel No.* |
|---|---|
| Williamsport, Pa | [4] 20 |

10. *It is further ordered*, That the petition for reconsideration, filed herein by the Land Mobile Communications Council is denied; and that the accompanying petition to stay filed by the Land Mobile Communications Council is dismissed as moot.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: September 30, 1970.

Released: October 5, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[5]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 70-13480; Filed, Oct. 7, 1970; 8:50 a.m.]

[3] See memorandum opinion and order, adopted May 20, 1970, FCC 70-523, 23 FCC 2d 218.

[4] Following the decision in Docket 18261, channels so indicated will not be available for television use until further action by the Commission.

[5] Commissioners Robert E. Lee and Johnson concurring in the result; Commissioner Wells absent.

# Title 50—WILDLIFE AND FISHERIES

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

### SUBCHAPTER B—HUNTING AND POSSESSION OF WILDLIFE

### PART 10—MIGRATORY BIRDS

### Open Seasons, Bag Limits, and Possession of Certain Migratory Game Birds

Footnote 47 of § 10.53(e) as published on page 14057, and footnote 3 of § 10.53 (f) as published on page 14058 of the FEDERAL REGISTER of Friday, September 4, 1970, are amended to read:

**§ 10.53 Seasons and limits on waterfowl, coots, gallinule and common snipe (Wilson's).**

* * * * *

(e) Atlantic, Mississippi, and Central Flyways:

* * * * *

[47] The Back Bay area of Virginia includes Back Bay and its tributaries and the marshes adjacent thereto, and the lands and marshes between Back Bay and the Atlantic Ocean from Sandridge to the North Carolina line, and on and along the shores of North Landing River and marshes adjacent thereto, and on and along the shores of Lake Tecumseh and Red Wing Lake and the marshes adjacent thereto.

* * * * *

(f) Pacific Flyway:

* * * * *

[3] (a) In all States the daily bag limit may not include more than 3 geese of the dark species.

(b) In all States the daily bag and possession limit may not include more than 1 Ross' goose.

* * * * *

Since this amendment corrects errors made in drafting these footnotes and is also less restrictive as to the possession limit on geese of the dark species in the Pacific Flyway, it is determined that notice and public procedure thereon are impracticable, unnecessary, and contrary to the public interest and this amendment is effective upon publication in the FEDERAL REGISTER.

(40 Stat. 755; 16 U.S.C. 703 et seq.)

Effective date: Upon publication.

JOHN S. GOTTSCHALK, *Director, Bureau of Sport Fisheries and Wildlife.*

OCTOBER 5, 1970.

[F.R. Doc. 70-13476; Filed, Oct. 7, 1970; 8:49 a.m.]

### SUBCHAPTER C—THE NATIONAL WILDLIFE REFUGE SYSTEM

### PART 32—HUNTING

### Browns Park National Wildlife Refuge, Colo.

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

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

COLORADO

BROWNS PARK NATIONAL WILDLIFE REFUGE

Public hunting for cottontail rabbits is permitted on the Browns Park National Wildlife Refuge, Colo., from October 17, 1970, through February 28, 1971, inclusive, except in those areas designated by signs as closed to hunting. This open area, comprising 4,501 acres, is delineated on maps available at refuge headquarters, Greystone, Colo., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103.

Hunting will be in accordance with all applicable State regulations covering the hunting and possession of cottontail rabbits.

The provisions of this special regulation supplement the regulations which govern hunting of wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through February 28, 1971.

H. J. JOHNSON, *Refuge Manager, Browns Park National Wildlife Refuge, Vernal, Utah.*

SEPTEMBER 18, 1970.

[F.R. Doc. 70-13425; Filed, Oct. 7, 1970; 8:45 a.m.]

### PART 32—HUNTING

### Bitter Lake National Wildlife Refuge, N. Mex.

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

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

NEW MEXICO

BITTER LAKE NATIONAL WILDLIFE REFUGE

The public hunting of ring-necked and white-winged pheasants, quail, and rabbits on the Bitter Lake National Wildlife Refuge, N. Mex., is permitted as follows: Pheasants, from November 28, 1970, through November 29, 1970, inclusive; Quail from October 31, 1970, through January 3, 1971, inclusive; Rabbits from October 24, 1970, through January 17, 1971, inclusive, only in the areas open to waterfowl hunting. These areas, comprising 3,320 acres, are delineated on maps available at refuge headquarters, 13 miles northeast of Roswell, N. Mex., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103.

Hunting shall be in accordance with all applicable State regulations governing the hunting of pheasants, quail, and rabbits.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 17, 1971.

GAYLORD L. INMAN,
*Refuge Manager, Bitter Lake National Wildlife Refuge, Roswell, N. Mex.*

SEPTEMBER 23, 1970.

[F.R. Doc. 70-13426; Filed, Oct. 7, 1970; 8:45 a.m.]

## PART 32—HUNTING

### Bitter Lake National Wildlife Refuge, N. Mex.

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

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

NEW MEXICO

BITTER LAKE NATIONAL WILDLIFE REFUGE

The public hunting of deer on the Bitter Lake National Wildlife Refuge is permitted only on the North Tract and as follows: Bow hunting from October 17, 1970, through November 1, 1970, inclusive; General hunting from November 21, 1970, through December 6, 1970, inclusive. The hunting area, comprising about 12,000 acres, is delineated on maps available at refuge headquarters, 13 miles northeast of Roswell, N. Mex., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103.

Hunting shall be in accordance with all applicable State regulations governing the hunting of deer.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 6, 1970.

GAYLORD L. INMAN,
*Refuge Manager, Bitter Lake National Wildlife Refuge, Roswell, N. Mex.*

SEPTEMBER 23, 1970.

[F.R. Doc. 70-13427; Filed, Oct. 7, 1970; 8:45 a.m.]

# Proposed Rule Making

## DEPARTMENT OF AGRICULTURE

### Consumer and Marketing Service

### [ 7 CFR Part 81 ]

### POULTRY PRODUCTS

### Injection or Mixing of Oil and Water Base Solutions

Notice is hereby given that the Department is considering proposals that will allow the injection or mixing of oil and water base solutions, alone or in combination, into poultry products. This notice solicits information relative to the desirability of allowing such products to be prepared, the amounts of the solutions, if any, that should be allowed to be added, and control measures that should be applied to such products to insure compliance with labeling requirements.

The solutions are purportedly added to inhibit the development of muscle dryness during oven preparation and to provide for the wider dispersion of flavoring agents. Typical poultry products of this type are raw poultry roasts, made from chopped or solid pieces of poultry with water base solutions that contain seasonings and phosphates, and raw turkeys injected with solutions of various compositions.

Pending publication of regulations establishing a general policy concerning such products, the Department is giving temporary approval for the production of such products if they meet the following requirements and the information currently available in the Department shows that the injected liquid is beneficial to the products. The labels must bear a prominent, legible, and descriptive name. The name must include a bold statement that declares the amount of solution added and the common or usual name of each of its ingredients stated in the order of predominance. The amount of the solutions in products approved has ranged from 3 to 6 percent.

The Federal Poultry Products Inspection Act prohibits the preparation of adulterated products. The law requires that the poultry products be considered adulterated "if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight or reduce its quality or strength, or make it appear better or of greater value than it is." This provision requires that the Department carefully review all formulations and processing procedures to insure that adulterated products are not produced by federally inspected plants.

It is recognized that the introduction of liquid into these products can result in adulteration if it serves no beneficial purpose. The range of solution percentages proposed for addition to these products makes it imperative that the Department obtain more data as to whether the addition of the liquid benefits the products in some way, what amount of liquid is necessary to produce such beneficial properties, and what labeling should be required to describe the products in accordance with the Act.

It is equally important to determine what processing controls should be employed by the plant to insure, and enable the inspectors to verify, that individual products would contain the permitted amount of liquid as described on their labels.

It is also necessary to consider whether requirements should be prescribed as to how the products should be handled during distribution in commerce so that the ultimate consumer is informed that the liquid base solutions have been added.

To insure that all relevant data and information on these products are available for consideration, the Department solicits to the fullest extent views and comments from all interested persons and organizations. These submittals should include, among other relevant material, substantive data and information to show whether liquid is necessary to prepare the products, and the amount, if any, required for such purpose.

It is proposed that the regulations would contain provisions on the following matters:

1. The identification of the specific products into which liquids can be injected, mixed, or otherwise added.

2. The kinds of liquids that may be added, such as oil, water, or combinations thereof.

3. The maximum percentage of liquid that may be added to the products.

4. The general operating procedures required to assure product compliance with applicable requirements, with details of the plant control measures to be submitted for approval with the individual label approval applications.

5. The descriptions of labeling and of handling practices to be used during distribution in commerce to insure proper identification of the products when delivered to the consumer.

Any person who wishes to submit written data, views, or comments pertaining to the above-described subjects may do so by filing them in duplicate with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, within 30 days 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 in a manner convenient to the public business (7 CFR 1.27(b)). Further, any interested person who desires opportunity for oral presentation of views on this matter should communicate with the Director, Technical Services Division, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (Telephone Area Code 703-557-4391) so that arrangements can be made for such oral presentation within the aforesaid 30-day period. A transcript of all oral presentations will be made and filed in the office of the Hearing Clerk where it will be available for public inspection as provided above for written submissions. Comments on the proposal should refer of the FEDERAL REGISTER.

Done at Washington, D.C., on October 2, 1970.

G. R. GRANGE,
*Acting Administrator.*

[F.R. Doc. 70-13437; Filed, Oct. 7, 1970; 8:46 a.m.]

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### [ 7 CFR Part 930 ]

[Docket No. AO-370]

### CHERRIES GROWN IN MICHIGAN AND CERTAIN OTHER STATES

### Notice of Recommended Decision and Opportunity To File Written Exceptions With Respect to Proposed Marketing Agreement and Order

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate 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 a proposed marketing agreement and order regulating the handling of cherries grown in the States of Michigan, New York, Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia, and Maryland, to be effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601-674), hereinafter referred to as the "act". Interested parties 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 of the 15th day after publication of this recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

*Preliminary statement.* The public hearing, on the record of which the proposed marketing agreement and order (hereinafter referred to collectively as the order) were formulated, was held at Grand Rapids, Mich., June 2-4, 1970, and continued at Sturgeon Bay, Wis., on June 5, 1970, at Rochester, N.Y., on June 9, 1970, and at Gettysburg, Pa., on June 11, 1970, pursuant to a notice thereof which was published in the May 5, 1970, issue of the FEDERAL REGISTER (35 F.R. 7077).

Such notice set forth a proposed marketing agreement and order which had been presented to the Department of Agriculture by the National Red Cherry Institute, Michigan Agricultural Cooperative Marketing Association, Michigan Association of Cherry Producers, Michigan Fruit Canners, Inc., Duffy-Mott Corp. of Michigan, Musselman Fruit Products Division, Pet Milk, Oceana Canning Co., Smeltzer Orchard Co., Morgan McCool, Inc., Cherry Growers, Inc., Silver Mill Frozen Foods, Inc., Pennsylvania Red Cherry Growers Association, Knouse Foods Cooperative, Inc., Wisconsin Red Cherry Growers, Inc., New York Cherry Growers Association, Inc., Orleans County Farm Bureau, Wayne Co., Farm Bureau, New York Farm Bureau Marketing Cooperative, Albion Agway Coop., Inc., Walcott Evaporating Co., Cahoon Farms, Inc., Sodus Fruit Farm, Inc., and Earl T. Howell & Son, Inc. (with a petition for a hearing thereon).

*Material issues.* The material issues presented on the record of the hearing are as follows:

(1) The existence of the right to exercise Federal jurisdiction in this instance;

(2) The need for the proposed regulatory program to effectuate the declared purposes of the act;

(3) The definition of the commodity and determination of the production area to be affected by the order;

(4) The identity of the persons and transactions to be regulated; and

(5) The specific terms and provisions of the order including:

(a) Definition of terms used therein which are necessary and incidental to attain the declared objectives of the act, and including all those set forth in the notice of hearing, among which are those applicable to the following additional terms and provisions;

(b) The establishment, maintenance, composition, powers, and duties of a Board and of a person designated as chairman and his alternate which shall be the administrative agency for assisting the Secretary in administration of the order;

(c) The incurring of expenses and the levying of assessments;

(d) The method for regulating the handling of cherries grown in the production area, including the establishment of a reserve pool of cherry products and providing for its disposition;

(e) The granting of exemptions from regulation of cherries used for such purposes, as the Board, with the approval of the Secretary, may specify;

(f) The establishment of reporting and related recordkeeping requirements upon handlers;

(g) The requirements of compliance with all provisions of the order and with regulations issued pursuant thereto; and

(h) Additional terms and conditions as set forth in §§ 71 through 80 and published in the FEDERAL REGISTER (35 F.R. 7077) on May 5, 1970, which are common to marketing agreements and orders, and certain other terms and conditions as set forth in §§ 81 through 83, and also published in the said issue of the FEDERAL REGISTER, which are common to marketing agreements only.

*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) Red tart cherries, also called red sour cherries, are grown commercially in Michigan and in portions of the States of Wisconsin, Ohio, Pennsylvania, and New York bordering the Great Lakes. Such cherries are also grown commercially in the southern part of Pennsylvania and in the northern Appalachian regions of Virginia, West Virginia, and Maryland. In addition, there is commercial production of red tart cherries in several Western and Northwestern States but such production represents, on the average, less than 10 percent of that for the entire United States, is marketed almost entirely in the Western States, and presently does not materially affect the prices that the producers of red tart cherries in the other commercial areas receive for their cherries.

Practically all of the red tart cherry production in the Great Lakes States (Michigan, New York, Ohio, Pennsylvania, and Wisconsin) and in the Appalachian region (Maryland, Virginia, and West Virginia) all included in the production area, is processed into canned or frozen products. Minor market outlets are fresh sales and brining which comprise less than 5 percent and 1 percent, respectively, of total sales. Cherries are received by handlers and processed into canned and frozen products without regard to whether such products are to be sold within or without the State of production. In addition, the individual products of cherries, as they move to market, tend to be similar in that they are sold under standardized packs, grades, and names or brands. Generally, no handler supplies any single segment of the market to the exclusion of every other handler. The market for red tart cherry products is broad and not limited to any sectional part of the United States. Handlers sell a large portion of their production to other than the ultimate consumer of the cherries—such as commercial bakers and institutional users—which can substitute canned red tart cherries for frozen or vice versa if price differentials are such that it is profitable to do so. Therefore, all canned and frozen products of red tart cherries are in competition in the market and handlers generally sell such cherry products at comparable f.o.b. prices both with respect to sales within the State of production and sales in interstate commerce.

The order contemplates, if it is made effective, the imposing of certain restrictions which are to be applicable to red tart cherries received by handlers from growers. Such regulation would require each handler to set aside and hold for disposition by the administrative board, established under the order, that portion of such receipts as may be fixed by the Secretary. In this manner, the total quantity of cherries which handlers may freely handle for their own respective accounts should be limited to the volume which reasonably conforms to commercial requirements. If an attempt was made artifically to separate, under marketing order requirements, the production, processing, and sale of red tart cherries for intrastate commerce from that for interstate and foreign commerce, the result would be to burden unduly handler operations in that, as each lot of such cherries was received from growers, handlers would have to make such determinations as the market in which the cherries, after processing, would be disposed of, and the type of pack and product to be made therefrom. Separate records and reporting with respect to the red tart cherries processed for intrastate sale and for interstate and foreign commerce would have to be required under the order.

In these circumstances, it is found and determined that the intrastate handling of red tart cherries, grown in the production area, directly burdens, obstructs, and affects the handling of such cherries in interstate and foreign commerce, and that it is necessary for all such cherries to be subject to the order so as to regulate effectively the interstate and foreign commerce thereof.

(2) The hearing evidence shows that the production of red tart cherries in the Great Lake States—those States within the production area—is trending upward. Prior to 1961, the largest production of red tart cherries in the Great Lake States was 147,360 tons. Since 1958, production has exceeded this amount during four seasons and nearly equaled that amount during last season. Production of red tart cherries in the production area has fluctuated widely from year to year. This may be illustrated by the production of 134,450 tons in 1957, 92,600 tons in 1958, and 129,800 tons in 1959. With few exceptions, large crops have been followed by short crops. Only three times during the past 25 years have large crops followed large crops. These were in 1950–51, in 1961–62, and in 1964–65. Also, since the price that processors pay to growers is based primarily on the available supply, grower returns have fluctuated from year to year to reflect the change in production.

The hearing evidence shows that the demand for red tart cherries for canning and freezing, the major market outlet, is inelastic when total available supplies exceed 300 million pounds. This means that by restriction of the supplies of red tart cherries available to handlers during years when there are large crops, the total returns to growers can be increased. Also, the alternate production characteristics of the red tart cherry industry in the Great Lake States provides an opportunity to increase total earnings of growers by converting, at the expense of the growers, the excess production of large crop years into storable products, which would constitute reserve pools to be liquidated in a year when the available supplies are short. Returns from the pool, after deduction of the expense of

processing and storage, would be distributed to the growers.

In view of the foregoing, it is concluded that a marketing order program providing for (1) restrictions on the volume of red tart cherries, grown in the production area as hereinafter defined, which may be received and freely used by handlers, and (2) establishing a reserve pool of red tart cherry products, would tend to establish orderly marketing conditions for such cherries and to effectuate the declared policy of the act.

(3) The term "cherries" should be defined in the order to identify the commodity to be regulated thereunder. Such term, as used in the order, should include all cherries of the Meteor variety of cherries and all varieties of cherries classified botanically as Prunus cerasus. Montmorency is the major variety of red tart cherries and accounts for approximately 90 percent of red tart cherries production within the production area. Thus, all cherries commonly referred to as red tart cherries or red sour cherries grown in the production area would be included. It is necessary and desirable to include the Meteor variety because, even though it is not classified as Prunus cerasus, its history indicates it is definitely a red tart or red sour cherry. It is considered a red tart cherry in the order.

The order should not include cherries of the Prunus avium type, including the so-called Duke cherries, as it is not intended, nor is it necessary, to regulate "sweet cherries" under the order. Sweet cherries are considered a separate commodity from red tart (or sour) cherries as they are marketed differently and have different uses. The principal market outlet for sweet cherries is fresh sales and brining whereas red tart cherries usually are canned or frozen. The sweet cherries that are canned generally retail at considerably higher prices than the prices for canned red tart cherries. Most canned and frozen red tart cherries are used in pies while sweet cherries are seldom used for this purpose. Red tart cherries are readily identifiable from sweet cherries. The term cherries should be limited to the red tart (or sour) cherries grown in the production area as the order would apply only to such cherries.

A definition of the term "production area" should be incorporated into the order to designate the specific area in which the red tart cherries (hereinafter called "cherries") to be regulated are grown. Such area should include all of the commercial cherry producing areas in the eight States of Michigan, New York, Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia, and Maryland. These States have accounted for over 90 percent of the commercial cherry production, and approximately 95 percent of canned and frozen cherry products produced, during the past 5 years. The remaining commercial cherry production is in the Western States of Montana, Idaho, Colorado, Utah, and Washington. These States do not produce sufficient canned and frozen cherries to supply the west coast markets. Consequently, such cherries generally have not been shipped to eastern markets, which are the largest markets for cherries produced in the Eastern States, and have not competed with the eastern cherries except when the latter are shipped to west coast markets. Thus, western cherry production has had only a minor effect on the prices that the eastern cherry growers have received for their cherries. Moreover, if the western cherry producing States were included in the production area it would greatly increase the costs of administration of the order.

The eight-State eastern production area is the smallest practicable area for application of the order because of the similarity of producer prices and marketing. There are some handlers who have plants for processing cherries in more than one of the States in this eight-State area and brokers often represent the handlers in several of the States of the eight-State area. Applying the order to any lesser production area than the eight Eastern States which have commercial cherry production could materially decrease the effectiveness of the order. If Ohio were excluded from the production area, as requested at the hearing, only a small percentage of the tonnage of the eight-State area would be excluded from coverage by the order. However, Ohio production usually is ready for market a little before the earliest sections in Michigan. Such cherries are marketed in the same manner and often in direct competition with cherries grown in the early districts in Michigan. Also, the acreage in Ohio could be expanded if that State were excluded from the order. Moreover, if any portion of the eight-State area were excluded from the order, the producers in the excluded portion would benefit from the operation of the order without making any contribution to its operation.

(4) The term "handler" should be defined in the order to identify the persons who would be subject to regulation under the order. Therefore, the term should apply to all persons who perform any of the activities within the scope of the term "handle," as hereinafter defined. In other words, any person who pits, cans, freezes, dehydrates, presses, or brines cherries, or in any other way converts cherries commercially into a processed product, should be a handler under the order and be required to comply with all requirements of the order and the regulations issued thereunder. The term "handler" should also include any person who causes cherries to be handled. There are persons who do not have any processing facilities, i.e., they do not have facilities for personally performing the activities of the pitting, canning, freezing, etc., of cherries, who nevertheless should be handlers under the order. For example, a grower or some other person may own cherries and may have a handler can or freeze such cherries for a fee. In such instances, the handler who cans or freezes the cherries is known as a custom packer. While the custom packer performed the "handling activity" it is the person who has the cherries custom packed who should be the handler as (1) the custom packer merely provides a service for a fee and (2) the person owning the cherries makes all of the decisions concerning the type of pack, container size, and disposition of the canned or frozen product the same as if he processed the cherries in his own plant.

There also are persons who purchase cherries that have been pitted and placed in containers by a handler and then have such cherries frozen for later use. In such instances, the person who performed the pitting operation performed a handling activity. So that the regulation under the order apply only once to a particular lot of cherries, the person who first performs a handling function in connection with a particular lot of cherries should comply with the provisions of the order and any regulations issued pursuant to it. The applicability of a marketing agreement and order program under the act to first handlers is not an unusual application. For example, the regulatory program (7 CFR Part 910) under the act regulating the handling of lemons grown in California and Arizona makes applicable to the first handler (7 CFR 910.53) the provisions relative to the issuance of prorate bases and allotments for handlers.

"Handle" should be defined to include the pitting, canning, freezing, dehydrating, pressing, or brining of such cherries since these specific processes are the common means of commercially preparing cherries for sale in the channels of trade. This term should also include the conversion of cherries into a processed product by any other commercial method so that any new methods of processing cherries that may be developed would be covered. The act does not authorize the regulation of canned or frozen cherries so, in order for the program to be effective, it is necessary to provide that cherries are handled at the time they are processed into products.

"Handle" should be defined to cover such processing of cherries both within and outside of the production area. The record does not show that there presently is any handling of cherries, grown in the production area, outside such area. However, there are processing plants, in northern Indiana for example, which may be capable of handling cherries or with minor changes could be made capable of handling cherries. Such plants are sufficiently near the cherry producing area of southwest Michigan that cherries could be transported to such plants for processing if it were advantageous to do so. Regulations under the order would tend to provide such advantage if only handlers within the area were regulated as other handlers could use all of the cherries received without any limitation.

Record evidence shows that it is not necessary to regulate all cherries grown in the production area that are pitted, canned, frozen, dehyrated, pressed, brined, or otherwise converted into processed products in order to effectuate the declared policy of the act. The handling

of cherries which are for home use and not for resale, according to record evidence, have little effect upon the marketing of cherries in the commercial market outlets. The regulation of such cherries would be costly and would present considerable problems of administration. Therefore, such handling activities should not be included as a handling function under the order.

Under the order, authority should be provided for growers to divert cherries to uses to be specified if they choose to do so rather than to participate in the reserve pool. Such diversion outlets should include uses, such as converting the diverted cherries into dehydrated cherries. It is necessary, therefore, to exclude from the definition of handle, cherries which are diverted to specified uses. Otherwise the specification of certain outlets for diverted cherries could not accomplish its intended purpose because all cherries received for handling would be subject to application of any free and restricted percentage that are established.

(5) (a) Certain terms applying to specific individuals, agencies, legislation, concepts, or things are used throughout the order. These terms should be defined for the purpose of designating specifically their applicability and establishing appropriate limitations on their respective meanings wherever they are used.

"Secretary" should be defined to include not only the Secretary of Agriculture of the United States, the official charged by law with the responsibility for programs of this nature, but also, in order to recognize the fact that it is physically impossible for him to perform personally all functions and duties imposed upon him by law, any other officer or employee of the U.S. Department of Agriculture who is, or who may hereafter be, authorized to act in his stead.

The definition of "act" provides the correct legal citations for the statute pursuant to which the proposed regulatory program is to be operative and avoids the need for referring to these citations throughout the order.

The definition of "person" follows the definition of that term as set forth in the act, and will insure that it will have the same meaning as it has in the act.

The term "fiscal period" or "fiscal year" should be defined to set forth the period with respect to which financial records of the Cherry Administrative Board—the Administrative agency established by the order—are to be maintained. The most desirable period for such purpose, at the present time, is the 12-month period ending the last day of April of each year. Such a period would fix the beginning of each fiscal period reasonably close to the time harvesting and handling of cherries normally begins. This would facilitate fixing the term of office of members and alternates to coincide with such period and it would allow sufficient time prior to the time of harvest for the Board to organize and develop information necessary to its functioning during the ensuing year, and would still ensure that a minimum of expense would be incurred during a fiscal period prior to the time assessment income is available to defray such expenses. It is recognized that in the event the requisite producer and processor approvals materialize and the regulatory program is made effective at any time prior to May 1, 1971—the indicated beginning date of a fiscal period—the initial fiscal period would not cover a full 12-month period. Therefore, the initial fiscal period should commence at the same time the program becomes effective. This would also mean that the initial fiscal period of a member's term of office, as hereinafter discussed to comprise three consecutive fiscal periods, would be of the same short duration.

A definition of "Board" should be incorporated in the order to identify the administrative agency established under the provisions of the program. Such board is authorized by the act, and the definition thereof, as hereinafter set forth, is merely to avoid the necessity of repeating its full name each time it is referred to.

The term "grower" should be synonymous with "producer" and should be defined to include any person who is engaged in the production area, in the production of cherries that are to be marketed in canned, frozen, or other processed form, and who has a proprietary interest therein. A definition of the term "grower" is necessary to determine eligibility to vote for nominees for, and serve as, grower members or alternate members of the Cherry Administrative Board. The term should be restricted to those who produce cherries that are to be processed because the order does not apply to cherries sold in fresh market outlets for distribution or retail to consumers as fresh fruit. It should also include persons who purchase cherries from the grower and resell them to a processor. Such a person is not a producer, as the term generally is used in the order, since he did not grow the cherries—neither is he a handler. However, should he purchase cherries on the tree, for example, he should have the same privileges as the grower of the cherries with respect to diversion, as hereinafter discussed, prior to delivery of the cherries to the processor. The term grower should, therefore, be defined as hereinafter set forth.

"District" should be defined as set forth in the order to provide a basis for nomination and selection of the members of the Board. The districts (i.e., the geographical divisions of the production area) as established and set forth in the notice of hearing represent a reasonable basis for providing a fair, adequate, and equitable representation on the Board. The provision for redistricting is desirable because it allows the Board and the Secretary to consider, from time to time, whether the basis for representation on the Board should be changed.

(b) It is desirable to establish an agency to administer the order under and pursuant to the act, as an aid to the Secretary in carrying out the purpose of the order and the declared policy of the act. The term "Cherry Administrative Board" is a proper identification of the agency and reflects the character thereof. A Board of 12 members, with a like number of alternates, should provide adequate industry representation on the Board to recommend marketing regulations and to perform other administrative functions. Record evidence shows that because of the size of the production area and the nature of the area involved, a Board of 12 is the least number which would allow good representation from all areas. In order to insure a Board that will represent the cherry industry within the production area, six of the members should be growers and six should be handlers. Although, it is primarily a grower's program, the restrictions are placed at the handler level so it is only right that the handlers have representation on the committee. Handlers are usually closer to the marketing situation, and six members on the Board should provide advice and counsel to the Board. An alternate member should have the same qualifications as the member for whom he is an alternate. Some growers of cherries are companies, either incorporated or otherwise, and a company, as such, could not serve as a member or alternate member on the Board. However, each such company may have one or more employees who are well versed in the growing and handling of cherries, and it is desirable, as evidenced by record testimony, that such a person be eligible to serve as grower member or grower alternate member on the Board. There are growers who are members of a cooperative and all such grower members' cherries are handled by the cooperative as one lot of cherries. Record evidence shows that each grower should be entitled to cast his ballot for any one who would be eligible from his group (cooperative or independent), to serve as grower member and grower alternate member on the Board.

Some handlers of cherries are companies, either incorporated or otherwise, and a company, as such, could not serve as a member or alternate member on the Board. These companies have employees who are in charge of the packing, marketing, and handling operations, and such employees would be qualified from the standpoint of knowledge and experience for service on the Board, and it would not be in the best interest of the industry to deny them the opportunity to be nominated for and serve as handler members on the Board.

There are growers throughout the production area who do not have any processing facilities but may have all or a portion of the cherries they produced handled. In other words, they pay a processor a fee for performing certain processing operations while retaining control of the cherries. The order should not permit such a grower-handler to serve as, to be nominated for, or to participate in the selection of nominees for, the handler member or alternate on the Board. Rather it should limit handler membership to those handlers who own or lease

and operate processing equipment. Record evidence shows that, often, several years may elapse between one such custom pack operation for a grower and the next. Also, a grower who pays a fee for having all or a portion of his cherries custom packed may not, by reason of such action, obtain information concerning the problems encountered in the pitting, canning, freezing, or other handling operation. If such a grower-handler were permitted to serve on the Board as handler member or alternate member, it could result in the Board membership lacking the handler experience so vital to the successful operation of the program. It was also testified that the processors who own or lease and operate processing equipment are a relatively stable group, knowledgeable of industry problems, and able to provide advice and counsel to the Board with respect to handler problems. Therefore, it is concluded that handler membership on the Board should be restricted to handlers who own or lease and operate processing equipment. The classification of a grower as a grower-handler, as noted above, should not in any way interfere with or prevent such grower from participating in the nominations for, or serving as, a grower member or grower alternate member on the Board.

For representation on the Board, the production area should be divided into districts as specified in the order. District 1 should include the State of New York and Erie County, Pa., and be represented by one grower member and one handler member with an alternate for each such member. District 2 should include the States of Maryland, Pennsylvania except Erie County, Virginia, and West Virginia. Representation on the Board from this district should be one grower member and one handler member and their respective alternates. District 3 should include that portion of the State of Michigan which is north of a line drawn along the boundary of Mason and Manistee Counties and extending easterly to Lake Huron, and the State of Wisconsin. Representation on the Board from this district should be two grower members and two handler members and their respective alternates. District 4 should include that portion of the State of Michigan which is south of District 3 and north of a line drawn along the boundary of Allegan and Ottawa Counties and extending easterly to the St. Clair River. Representation on the Board from this district should be one grower member and one handler member and their respective alternates. District 5 include the State of Ohio and that portion of the State of Michigan not included within Districts 3 and 4. Representation on the Board from this district should be one grower member and one handler member and their respective alternates. Such representation recognizes to the extent practicable the relative volume of production in the various districts, the geographic boundaries normally recognizes within the industry, and the large geographic area represented in District 2. Provision to redefine the districts and to reapportion membership on the Board among districts should be provided so that, if it becomes apparent that through shifts in production, or other reasons, such district boundaries or such representation is inappropriate, the Secretary may, upon recommendation of the Board, redefine the districts into which the production area is divided, and make such reapportionment as he finds warranted. Record evidence shows that this authority should be limited to redefining the boundaries and not to include changing the number of districts. Thus, there will continue to be five districts.

Each member of the Board and his alternate should be a grower, or an officer, or employee of a grower, or a handler, or officer, or employee of a handler of cherries in the district from which selected. Persons with such qualifications should be intimately acquainted with the problems of producing and handling of cherries grown in such district and may be expected to present accurately the problems incident to the production and handling of cherries in that district.

A modification was proposed at one session of the hearing which would permit persons who use handled cherries to vote for and serve as handler members of the Board. The proposal would include persons who use handled cherries in the manufacture of cherry products, such as cherry pie filling. The justification of this modification cited the interest of such persons in the cherry industry based on the volume of cherries that may be used by such persons. This modification provided no requirement as to business address or the residence of such person. Thus, the person in this category, both within and outside the production area, would be eligible to vote for and serve as handler member of the Board.

The record does not establish that persons, who are engaged in the manufacture of cherry products and perform no handling function, possess the experience and handling knowledge so necessary for recommending regulations under the order. The record does show that the persons who first handle cherries are located within the production area. They have knowledge about the size and quality of the forthcoming crop. They also know the size and composition of the carryover. They work with the grower in trying to provide a supply of cherries for marketing throughout the year. They seek new outlets for cherries and strive to increase sales in the present outlets. They have the marketing experience, current production information, and background knowledge upon which to rely in formulating a recommendation for regulation of the crop of cherries. Thus, it is concluded that such handlers should be the ones eligible to serve as the handler members or alternate handler members of the Board, and that it is not necessary to extend eligibility to include persons who manufacture cherry products from the cherries that were previously handled.

In addition to the 12 members constituting the Board, there should be an individual who should serve as nonvoting chairman of the Board, and an invididual who should serve as his alternate. The nominee for each position may be a grower, a handler, or from another segment of the industry, or may not be associated with the cherry industry in any official capacity.

The order should provide that at the first meeting of the Board, and at such times as may be necessary thereafter, by a majority vote of those present, an individual be nominated to serve as nonvoting chairman of the Board, and an individual to serve as his alternate. The chairman and his alternate should be appointed by the Secretary and should serve at the pleasure of the Secretary. Record evidence shows that these appointments should be made by the Secretary from nominations submitted by the Board or from other qualified individuals.

The term of office which will permit such chairman to serve at the pleasure of the Secretary should provide a capable individual to serve in this position. As one of the principal duties of this office will be to preside at Board meetings, there should be no need to make frequent changes in this office so long as the chairman is performing in a satisfactory manner. The duties of the nonvoting chairman should not be restricted to presiding at Board meetings, however. This office may be able to serve the Board and the industry in other ways and the order should permit such activities. For example, the Board may want the chairman or his alternate to serve on committees, or to represent the Board at inter-food industry meetings. It should be the responsibility of the Board to specify any appropriate duties, other than to preside at Board meetings, of the chairman and his alternate and the order should so provide.

The term of office of Board members and alternates under the proposed program should be for 3 fiscal years. However, the term of office for two of the initial grower members and two of the initial handler members and their respective alternates should end April 30, 1971, and the term of office for two of the initial grower members and two of the initial handler members and their respective alternates should end April 30, 1972. This procedure would set up a necessary and desirable rotation process whereby one-third of the Board would be elected each year. This rotation procedure will also provide a Board, two-thirds of which will be familiar with the workings of the order and will be able to acquaint the new members of the Board with the operations of the program. The term of office starting May 1, will begin sufficiently in advance of the time when cherries are harvested each season to allow adequate time for the Board to organize and start operating.

Since it is possible that the new Board members may not be appointed immediately upon the expiration of the term of existing members, or that some may fail to qualify immediately, provision should be made for members to continue to serve on the Board until their successors are selected and have qualified. This is necessary to insure continuity of Board operations. Evidence presented at the hearing indicated that it would be desirable to assure that the same Board members would not serve continuously. Accordingly, provision should be made so that a member would be precluded from serving continuously on the Board for longer than two consecutive terms of office. This provision should not apply to alternate members as alternates actually serve on the Board only when the member for whom he is an alternate is unable to serve. Record evidence shows that this provision should also not apply to all those initial term of office of members who are appointed for less than the full 3-year term of office.

It was testified that it would be appropriate to determine from the first nominations which members will serve for 1 year, which members will serve for 2 years, and which members for 3 years. This should be accomplished by a random drawing in which the names of the grower nominees are placed in a container.

Two names should be drawn for the 3-year term. Two other names should be drawn for the 2-year term, and the remaining two names would be for the 1-year term. The term of office for the alternate should be the same as the member for whom he is the alternate, and no separate drawing for the alternate should be necessary.

A similar procedure should be followed for determining the term of office for the initial handler members and their alternates.

As the administrative Board will not be in a position to act until after the selection by the Secretary of its initial members, the order should provide a procedure for the selection of the initial members. Record evidence shows that the industry desires the names of the nominees for appointment to the initial Board be obtained from nominations made at meetings of growers and handlers and that the Secretary should hold such meetings. Such meetings should be held as soon as practicable after the order becomes effective. These meetings should be conducted in the manner hereinafter discussed for meetings of successor members.

Nomination meetings for the purpose of electing nominees should, insofar as possible, be scheduled by the Board at such times and places as will result in maximum grower and handler participation. At each such nomination meeting, the industry should elect one nominee for each position to be filled on the Board. The Board should be authorized to adopt procedural rules for the conduct of nomination meetings so that such meetings will be held in an orderly and uniform manner.

Elections for the purpose of designating nominees for successor members of the Board and their alternates whose term of office expire on the last day of April of a year should be held during such year by the Board. Such meetings should be held prior to April 1 and at such places that may be designated by the Board so that the names and addresses of the nominees should be submitted to the Secretary not later than April 15, so that the Board can be appointed and functioning by the beginning of the fiscal year, May 1.

The order should provide that only growers, including duly authorized officers or employees of growers who are present at nomination meetings may participate in the nomination and selection of grower members and their alternates because it is proper that growers nominate the persons who are to represent them. Each grower should be permitted only one vote for each nominee to be elected in the district in which he produces cherries as this is a democratic method of voting. To prevent growers who produce cherries in more than one district from having a bigger voice in nominating representatives than do growers who produce cherries in only one district, no grower should be permitted to participate in the election of grower nominees in more than one district in any one fiscal year.

Only eligible handlers, including duly authorized employees of such handlers, who are present at nomination meetings should be permitted to participate in the nomination and election of handler members and their alternates since the handlers should be the ones to indicate the persons they desire to represent them on the Board. Also, handlers should be eligible to cast only one vote for each nominee to be elected in the district in which he handles cherries and no handler should be permitted to participate in the election of handler nominees in more than one district in any 1 fiscal year. Such provisions are necessary and desirable in order to assure that each handler is given an equal voice in the selection of the nominees for handler membership.

In order that there will be an administrative Board in existence at all times to administer the order, and the Secretary not be limited as to nominees from which to select the Board membership he should be authorized to select Board members and alternate members without regard to nomination if, for some reason, nominations are not submitted to him in conformance with the procedure prescribed herein, or the selection of other than a nominee is deemed warranted by the Secretary as to the makeup of the Board. Such selection should, of course, be on the basis of the representation provided in the order so that the composition of the Board will at all times continue as prescribed in the order. Likewise, if the Board does not submit the names of nominees for the chairman and his alternate, the Secretary should be authorized to select the chairman and his alternate without regard to nominations.

Each person selected by the Secretary as chairman or his alternate or as Board member or alternate should qualify by filing with the Secretary a written acceptance of his willingness and intention to serve in such capacity. This requirement is necessary so that the Secretary will know whether or not the position has been filled. Such acceptance should be filed within 10 days after notification of such selection. It was testified that 10 days is a reasonable and desirable requirement since each nominee will know soon after the nomination meeting that he has been nominated and if he is at all interested in serving, 10 days should give ample time for him to forward his acceptance. By limiting the time for accepting, there would remain sufficient time for selection of another person and the organization of the Board would not be unduly delayed.

Provision should be set forth in the order for the filling of any vacancies on the Board, including selection by the Secretary without regard to nominations where such nominations are not made as prescribed, in order to provide for maintaining a chairman and his alternate and a full membership on the Board.

The order should provide that an alternate member shall be selected for each member of the Board in order to insure that each district will generally have representation at meetings. Each alternate who is selected should have the same qualifications for membership as the member for whom he is an alternate so that, should the member die, resign, be removed from office, or be disqualified, the representation on the Board will remain unchanged. The alternate should serve until a successor to such member has been appointed and has qualified. So that as large a representation as possible will be present at meetings, the order should provide that, in the event neither a member nor his alternate is able to attend a meeting, an alternate member who is not acting as member may be designated, as hereinafter provided, to serve in such member's place and stead.

The order should provide that only the handler members present and alternates acting as such at the meeting may participate in the designation of an alternate handler member to serve in the place and stead of an absent handler member, and that only the grower members present and alternates acting as such at the meeting may participate in the designation of an alternate grower member to serve in the place and stead of the absent grower member. This seems logical as the handler members would likely have knowledge of handler problems in the district of the absent handler member, and would know and recommend the alternate handler member that would be most familiar with those problems. The same situation prevails with respect to grower members. Accordingly, it is concluded that only handler members who are present and alternates

acting as such, at the meeting may participate in the designation of an alternate handler member to serve in the place and stead of an absent handler member, and only grower members who are present and alternates acting as such, at the meeting may participate in the designation of an alternate grower member to serve in the place and stead of an absent grower member. Of course, the designation of an alternate member to serve for an absent member, grower or handler, should be only for the said meeting.

The Board should be given those specific powers which are set forth in section 8c(7)(C) of the act. Such powers are necessary to enable an administrative agency of this character to function.

The Board's duties including those of the chairman and his alternate, as set forth in the order, are necessary for the discharge of its responsibilities. These duties are generally similar to those specified for administrative agencies under other programs of this character. It is intended that any activities undertaken by the chairman and his alternate and by the members of the Board will be confined to those which reasonably are necessary for the Board to carry out its responsibilities as prescribed in the program. It should be recognized that these specified duties are not necessarily all inclusive, and that it may develop that there are other duties the Board may need to perform.

At least eight members of the Board, including alternates acting for members, should be present at any meeting of the Board in order for the Board to make decisions; and any Board action should require a majority vote of those present.

It is very desirable that a high percentage of the Board membership present agree to any action so as to obtain the necessary support of the industry.

The Board should be authorized to hold simultaneous meetings of groups of its members assembled in two or more places or by means of a conference call on the telephone. Such meetings would expedite the transaction of Board business during rush seasons. Such meetings should be subject to the establishment of proper communications, that is, all persons should be able to hear and all should be able to participate in the discussion and other action the same as at an assembled meeting at one place. Any such meeting should be considered an assembled meeting.

In addition to meetings held where the Board is assembled in one place, or when simultaneous meetings are held at two or more designated places, or a meeting takes the form of a telephone conference call, the Board should be authorized to vote by telephone, telegraph, or other means of communications when a matter to be considered is so routine that it would be unreasonable to call an assembled meeting or participate in a conference call meeting. Any votes cast in this fashion should be confirmed promptly in writing to provide a written record of the votes cast. It was testified that the use of the conference call meeting should be when an emergency situation exists and there is not sufficient time to hold an assembled meeting. In the case of an assembled meeting, however, all votes should be cast in person.

It is appropriate that the chairman and his alternate, and members and alternates of the Board be reimbursed for actual out-of-pocket reasonable expenses incurred when performing Board business, since it would be unfair to require them to bear such expenses incurred in the interest of all cherry growers and handlers.

In order for an alternate adequately to represent his district at any Board meeting in place of an absent member, it may be desirable that he should have attended previous meetings along with the member, so as to have a full understanding of all background discussion leading up to action that may be taken at the meeting. Likewise, an alternate may, in future years, be selected as a member on the Board; and to this extent, attendance at meetings by alternate members could be helpful. Although, only Board members, and alternates acting as members, have authority to vote on actions taken by the Board, it is often important for the Board to obtain as wide a representation as practicable of producer and handler attitudes towards a proposed regulation or other matter. Therefore, the order should provide that the Board, at its discretion, may request the attendance of alternate members at any or all meetings notwithstanding the expected or actual presence of the respective member, when a situation so warrants. The same reimbursement of expenses that is available to members should be available also to alternate members when they are requested and attend such meetings as alternates.

(c) The Board should be authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it for its maintenance and functioning and to enable it to exercise its powers and perform its duties pursuant to the order. The funds to cover the expenses of the Board should be obtained through the levying of assessments on handlers. The act specifically authorizes the Secretary to approve the incurring of expenses by the administrative agency established under the order and requires that each order of this nature contain provisions requiring handlers to pay, pro rata, the necessary expenses.

As his pro rata share of such expenses, each person who first handles cherries during a fiscal period should pay assessments to the Board at a rate fixed by the Secretary, on all cherries he so handles. In this way, each handler's total payments of assessment during a fiscal period would be proportional to the quantity of cherries such handler may handle, and assessments would be levied on the same cherries only once.

The Board should be required to prepare a budget at the beginning of each fiscal period, and as often as may be necessary thereafter, showing estimates of the income and expenditures necessary for the administration of the order during such period. Each such budget should be submitted to the Secretary with an analysis of its components. Such budget and report should also recommend to the Secretary the rate of assessment believed necessary to secure the income required for that period. While expenses and income cannot be anticipated with exact mathematical certainty the Board, because of its knowledge of conditions within the industry, will be in a good position to ascertain the necessary assessment rate and make recommendations in this regard.

The rate of assessment should be established by the Secretary on the basis of the Board's recommendation, or other available information, so as to assure the imposition of such assessments as are consistent with the act. Such rate should be fixed on a fair and equitable unit basis, such as a ton, the common unit of measurement used throughout the industry.

The budget and rate of assessment submitted by the Board should not contain any expenses with respect to the reserve pool cherries as expenses in connection with the reserve pool should be borne proportionately by the persons having a beneficial interest in the reserve pool or from the proceeds from disposition of the reserve pool.

In most years handling of cherries from the production area begin about the first of July. The period just prior to the shipping season will be the period of greatest activity, as the Board will be surveying the crop and marketing situation, developing a marketing policy, and holding meetings to develop recommendations for regulations. This means that in all probability a large percentage of the Board's expenses will ordinarily be incurred before income for the current fiscal period is collected in amounts equal to outgoing expenses.

In order to provide funds for the administration of this program prior to the time assessment income becomes available during the fiscal period, the Board should be authorized to accept advance payments of assessments from handlers and also, when such action is deemed to be desirable, to borrow money for such purpose. The provision for the acceptance by the administrative agency of advance assessment payments is included in other marketing agreements and orders and has been found to be a satisfactory and desirable method of providing funds to cover costs of operation prior to the time when assessment collections are being made in an appreciable amount. During years of normal growing conditions, revenue available to the Board from assessments would provide the means of repaying any loans.

Should it develop that assessment income, during a fiscal period plus any funds in reserve would not, at the previously fixed rate, provide sufficient income to meet expenses, the funds to cover such expenses should be obtained by means of increasing the rate of assessment. Since the act requires that the administrative expenses shall be paid by handlers, this is the only source of income to meet such expenses. The increased assessment rate should be applied to all free percentage cherries handled during the particular fiscal period so that the total payments by each

handler during each fiscal period will be proportional to the total volume of cherries he may freely handle during that period.

Should the provisions of the order be suspended, during any portion or all of a fiscal period, it will be necessary to secure funds to cover expenses during such period unless funds in the reserve are sufficient for such purpose. The Board will continue to have duties to perform and incur expenses during such fiscal period even though the order may be inoperative during a particular period. To cease incurring any expenses when operations under the order were suspended for short periods, it would be necessary to eliminate the payment of any salaries, rent, or utilities. Since such expenses will not always cease when the order is inoperative for a period, authorization should be provided to require the payment of assessments to meet any necessary expenses during such periods.

The production area is susceptible to frosts immediately prior to harvest and to wind and hail damage during harvest. The assessment rates under the program would be set at the beginning of the season based on a crop of an estimated volume. Should crop failure or partial crop loss reduce the crop so that assessment income falls below expenses, it would be necessary for handlers in light of the reduced crop to cover the deficit. It would constitute an extra burden on the industry to increase the assessment rate after some disaster had materially reduced the crop.

Evidence was presented at the hearing to the effect that it would be equitable, and far less burdensome, for handlers to contribute to the establishment of an operating reserve during years of normal production rather than to be required to pay a high rate of assessment occasioned by a deficit during a year when a crop is materially reduced. The reserve fund should be built up to the desirable amount slowly, over a period of years, as funds in excess of expenses may be available. In order that reserve funds not be accumulated beyond a reasonable amount, however, a limit of not to exceed approximately one fiscal period's expenses should be provided. A reserve of that amount should be adequate to meet any foreseeable need. In view of the foregoing, it is concluded that authority should be provided, as hereinafter set forth, to permit the establishment and use of a reserve fund in the manner heretofore described.

Except as necessary to establish and maintain an operating reserve as set forth in the order, handlers who have paid part of any excess should be entitled to a proportionate refund of any excess assessments that remain at the end of a fiscal period.

Upon termination of the order, any funds in the reserve that are not used to defray the necessary expenses of liquidation should, to the extent practicable, be returned to the handlers from whom such funds were collected. However, should the order be terminated after many years of operation, the precise equities of handlers may be difficult to ascertain, and any requirement that there be a precise accounting of the remaining funds could involve such costs as to nearly equal the monies to be distributed. Therefore, it would be desirable and necessary to permit the unexpended reserve funds to be disposed of in any manner that the Secretary may determine to be appropriate in such circumstances.

Funds received by the Board pursuant to the levying of assessments should be used solely for the purposes of the order. The Board should be required, as a matter of good business practice, to maintain books and records clearly reflecting the true, up-to-date operation of its affairs so that its administration should provide the Secretary with periodic reports at appropriate times, such as at the end of each marketing season or at such other times as may be necessary, to enable him to maintain appropriate supervision and control over the Board's activities and operations.

The order should provide authority which would permit the Board to levy an interest charge on assessments that are not paid by the time specified by the Board. It is not anticipated that the Board will levy an interest charge immediately as it is expected that handlers in general will promptly pay their assessments. However, should handlers become "slow pay" due perhaps to high interest charged on borrowed money, the Board may wish to levy an interest charge to stimulate prompt payment of assessments.

It would be appropriate for the Board to recommend the rate of interest and the time following the date of billing during which payments of assessment by handlers should be made free of interest. The Secretary should approve both the interest rate and the time prescribed during which handlers may make payment without interest being added. It is expected that the Board, when it recommended an interest rate, will recommend an interest rate comparable to that normally charged by commercial business establishments in the production area. It is also expected that the Board will give consideration to the matter of levying an interest charge at the time it considers a budget and rate of assessment. This would provide ample time for handlers to become aware of this recommended action before it is made effective.

(d) The declared policy of the act is to establish and maintain such orderly marketing conditions for cherries, among other commodities, as will tend to establish parity prices to growers and be in the public interest. The regulation of the handling of cherries, as authorized in the order, provides a means for carrying out such policy.

In order to facilitate the operation of the program, the Board should each year, before recommending any regulation applicable to cherries produced that year, prepare and adopt a marketing policy for the ensuing marketing season. A report on such policy should be submitted to the Secretary and made available to growers and handlers of cherries. The policy so established would serve to inform the Secretary and persons in the industry, in advance of the marketing of the crop, of the Board's plans for regulation and the bases therefor. Handlers and growers could then plan their operations in accordance therewith. The policy also should be useful to the Board and the Secretary when specific regulatory action is being considered, since it would provide basic information necessary to the evaluation of such regulation.

In order to plan a comprehensive and effective policy for regulating the handling of cherries in any crop year, it is necessary that all of the important economic factors having a bearing on the marketing of the crop be considered by the Board. Hence, the Board in preparing its marketing policy, should give consideration to the supply and demand factors, set forth in the order, affecting marketing conditions for cherries.

The marketing policy report should contain information regarding estimated total production of cherries in the United States during the approaching harvesting and marketing season. Information should be included in the report regarding crop estimates of cherry production in the States covered by the marketing order and in the Western States. Total production of cherries is a key factor in the determination of annual prices. Thus, information regarding total cherry production is crucial for wise decisions regarding the extent of regulation, if any, because of the effects it has upon prices and grower incomes.

The marketing policy report should also include the expected quality of cherry production during the coming marketing season. Estimates of the general quality of the crop provide useful information regarding the amounts of the crop that: (1) Will go to juice, (2) will be sorted out as defects in the plant, or (3) will be left unharvested because of inferior quality. In these ways the general quantity of the crop may affect total supply available for sale in major commercial channels. Thus, this type of information should be taken into account by the committee in making its decision regarding regulations.

The expected carryover as of July 1 of canned and frozen cherries and other cherry products will need to be taken into account by the Board. The Board will have available a record of the carryover as of June 1 and will need only to project the June movement to arrive at the expected carryover as of July 1. The carryover of cherry products from the previous marketing season influences the available supply and hence prices for that crop. Information regarding expected carryover is thus an important factor which the Board should consider in arriving at policy decisions.

Expected demand conditions for cherries in different market outlets should be included in the marketing policy report. Demand conditions should be considered in the different market outlets such as frozen or canned, and within either of these two categories, the consumer or institutional pack. Demand conditions should also be evaluated for

cherries for juice purposes and for the relatively new products such as dried cherries, jellied cherry sauce, and individually quick frozen (IQF) cherries. Conditions in the markets for the new products would be influenced by consumer acceptance of these new products and would thus need to be taken into account. Demand conditions in the different market outlets would also be influenced by general changes in consumer tastes. The Board would also need to obtain information and estimates of the amount of the crop which can be expected to be used for juice, fresh sales, and farm use. The amount of the crop which will be used in these various market outlets will influence the amount of the crop left for major commercial processed items and thus have a bearing upon the Board's decision regarding the level of the regulation, if any.

Supplies of competing commodities such as apples, blueberries, and other fruits having similar uses to that for cherries will need to be taken into account by the Board because supplies of these commodities will influence the demand for cherries and cherry products.

Information regarding the trend and level of consumer income should also be included in the marketing policy report. Changes in consumer income, particularly disposable income, influence the demand and prices for cherry products, and will, therefore, need to be taken into account by the Board.

The marketing policy report should also contain information regarding any other factors which have a bearing upon the marketing of cherries and upon the economic and price-making situation for cherries. These other factors would include U.S. population and export demand conditions, as well as any other relevant factors.

The notice of hearing contained a proposal, paragraph (i) of section 50, marketing policy, which would have authorized the Board to stipulate the total quantity of cherries that may be placed in the reserve pool. This proposal was not supported at the hearing and is not included in the order.

The order should provide for regulations under which the volume of cherries handled during any year could be limited to such quantity as may be expected to meet market demands at fair returns to growers. The evidence of record indicates the proposed order for cherries, set forth in the notice of hearing, and as hereinafter set forth, would provide an effective method of so regulating the handling of cherries.

The order should provide that the Cherry Administrative Board, as the local administrative agency, should recommend to the Secretary whether regulation of a particular crop of cherries is needed. The members of the Board would be representatives of cherry growers and handlers. Consequently, it is only fitting that the Board should be given the responsibility for determining whether, and the extent that, the available supplies of cherries are excessive and whether, in the judgment of the Board, restriction of the quantity of cherries which handlers may freely handle is needed to improve grower returns.

The Board should be required to make its recommendation for regulation for any crop to the Secretary not later than June 25. This is the latest date that such a recommendation should be made as the record indicates that, in the earliest districts, the harvesting of cherries often begins on or about June 25. This does not mean that the Board should, or could, wait until June 25 to make its recommendations for regulation in most years. The evidence of record also indicates that in some years the cherry harvest may begin in the earliest areas somewhat earlier than June 25 and the Board would have to make its recommendation for regulation prior to the time that such cherries would be handled. The Board must, of course, delay making its recommendation as long as possible inasmuch as the official crop estimate of the cherry production is not released until about June 20 or a few days later in the event June 20 falls on a weekend. The Board should have this information, if possible, when it decides whether to recommend regulation for the particular year but may, in some years, have to proceed on the basis of the other information its members have concerning the bloom and subsequent growing conditions in the various parts of the production area.

All assembled meetings of the Board should be open to growers and handlers and all other interested persons because such persons have a vital interest in the actions of the Board and should be afforded opportunity to express their views at Board meetings. In order to assure that growers and handlers and other interested persons are aware of when Board meetings are being held, the order should provide that notice of assembled meetings shall be published in such newspapers as the Board deems appropriate for this purpose and also that it shall mail notices of such meeting to each grower and handler and any other person who files his name and address with the Board and requests such notice. By this means growers and handlers who are most likely to attend meetings will have direct notices when meetings are to be held.

The order should authorize the Secretary, on the basis of recommendation of the Board, or other available information, to issue regulations establishing such free and restricted percentages as will tend to establish more orderly marketing conditions for cherries and thus tend to improve grower's returns up to, but not in excess of, the parity level. The Secretary should not be precluded from using such information as he may have, and which may or may not be available to the Board for consideration, in issuing such regulations as may be necessary to effectuate the declared policy of the act. Also, the Secretary has certain responsibilities under the act which make it necessary that he not bind his actions to those recommended by the Board and the order provisions should recognize this fact.

Several witnesses at the hearing proposed that provisions be included in the order to permit the regulations to be applied differently to districts, or to restricted areas, so as to provide relief to those who may have short crops during years when the overall production is too large and regulation is needed. It was asserted that the cherries of those having short crops should not be subject to the same percentage restriction as that applying to others when they had already suffered substantial losses in production from natural disasters. The evidence of record does not contain information to show how such a provision could be applied equitably or be made administratively feasible. In most districts nearly every year there are some growers or restricted areas having crop loss because of adverse weather conditions. Such losses may occur at any time up to harvest by reason of hail or windstorm which may affect large areas or only a few growers. Even where a considerable area is affected, there will be growers within the area whose crops are not damaged. Consequently, any "hardship" provision which could be devised probably would give advantages to certain growers while denying them to others similarly situated. It is concluded, therefore, that the same free and restricted percentage should apply under the order to all cherries produced in the production area. However, as pointed out heretofore, the evidence of record shows that all growers should benefit from the order since returns from the portion of their crops that would be available for unrestricted use should exceed the amount that would be obtained for the crop as a whole in the absence of a restrictive percentage under the order.

Since the Board is responsible for assisting the Secretary in the administration of the programs, it follows that it should be notified immediately of any and all regulations issued. Similarly, it should be the responsibility of the Board to notify handlers promptly of each regulation issued by the Secretary and publicly announce such regulation to the growers.

The free percentage specified in a regulation issued by the Secretary would represent the percentage of the oncoming crop which would fulfill the expected demand for processed cherries. Thus, this portion of the crop should be available for handling without restriction and all handlers should be afforded the opportunity to compete for the free percentage cherries and to use such cherries in any manner they choose. The restricted percentage would represent the excess cherry production which should be withheld from the market in order to prevent the disorderly marketing conditions which result when the entire crop, in years of excess production, is available for sale. This situation could be relieved, and grower returns improved, merely by destroying the excess. However, production statistics show that as

a general rule a large crop has been followed by a small crop. In those instances where large production has followed a large crop, the next one or two crops have been smaller. This production characteristic provides another means, assuming that this condition will continue in the future, of increasing producer returns. That is, the restricted percentage cherries could be set aside in a reserve pool during one year and disposed of during a following short crop year at prices which could result in sizable returns to those having an equity in these cherries. However, fresh cherries cannot be stored for the period that would be necessary. Consequently, it would be impracticable to set aside the excess cherries in fresh form. The order should provide, therefore, that whenever free and restricted percentages have been fixed by the Secretary for a fiscal period, each handler set aside cherries in a reserve pool for such period, in the form of storable cherry products specified by the Board, in an amount equivalent to the restricted percentage cherries he receives.

Because of the limited storage life of canned cherries and canned cherry products, such as pie filling, the order should provide that reserve pool cherries may not be packed in the form of canned cherries or as canned cherry products. Juice is a product of cherries. However, it is not referred to in the trade as a canned cherry product. It is referred to as juice. In the order, juice is not included when the words "canned cherry products" are used, as juice is a storable product. The order should authorize the Board to designate, if it desires to do so, juice as a form for storing reserve pool cherries.

Because frozen cherries represents such a large percentage of the total pack of any cherry crop, it is probable that frozen cherries will be specified by the Board as the form or one of the forms for the reserve pool cherries whenever the Board recommends and the Secretary fixes the free and restricted percentages. It may be desirable for a portion of the reserve pool cherries to be processed in the form of juice during some or all fiscal years. Record evidence shows that the need for and the industry's desire to have juice specified as an authorized form for storing a portion of the reserve pool cherries stems from the following: (1) Some handlers who process cherries into juice do not process cherries into frozen cherries; (2) the cherries used in the manufacture of juice often are of a different quality than the cherries used for frozen cherries; and (3) the quantity of cherry juice is increasing and is the next largest volume of cherry products that can be stored for a considerable length of time.

Reserve pool cherries should be held for the account of the Board. As restricted percentage cherries may be processed only for the purposes of reserve pool and growers or others delivering cherries will be the equity holders in the reserve pool, as hereinafter discussed, it is necessary, of course, that the reserve pool be vested in the Board. The precise products to be set aside should not be designated in the order. While most handlers pack frozen cherries, not all of them do so. Consequently, the Board should be permitted to work out the precise form, including container size, in which reserve pool cherries will be packed. The product and container designated for the reserve pool should, to the extent practicable, be the one that is most convenient for the handler. However, the Board should be given the final determination in this regard because it should not be forced to permit the packaging of special packs which would present problems in the disposition thereof. Generally, the reserve pool is likely to be the institutional packs of frozen cherries in 30-pound tins. However, the order should authorize the Board to recommend that reserve pool cherries be packed in whatever form and type of container it determines to be appropriate.

When cherries are processed there are certain losses, such as that resulting from the removal of defective cherries and the pits. Also, sugar is usually added to the frozen packs and sometimes is added to canned packs. In addition, the quality of the cherries produced from year to year varies sufficiently to affect the yield of finished product. For example, the amount of raw fruit required for a case of six No. 10 cans has ranged, during recent years, from 42 to 45 pounds. Therefore, the Board should be authorized to establish uniform conversion factors to be used in converting a handler's reserve pool obligation, which first would be computed on the basis of the restricted percentage cherries he receives, to the processed form or forms in which the reserve pool is to be packed. The Board, composed of growers and handlers from all parts of the production area and having knowledge of the quality of the crop in all areas and past yields of processed products from raw fruit, should be able to recommend and the Secretary to establish the necessary uniform conversion factors which would be fair and equitable to all handlers.

All reserve pool cherries should be required to meet such standards of grade, quality, and condition as the Board, with the approval of the Secretary, may prescribe. This provision is necessary to assure that the handlers do not use reserve pool to dispose of all low-grade or poor-quality cherries that they may pack. It was testified at the hearing that it would be desirable for the standards of grade and quality for the reserve pool cherries to be fixed for each handler in the same relationship of Grade A and Grade C cherries as such grades constitute his total production. Otherwise, it was contended, the standards could be set at levels so high that some handlers would not be able to meet them because the quality of the particular pack is too low. Let us assume for illustrative purposes only, that a handler's pack consists of 10,000 30-pound tins of frozen cherries and that 8,000 tins meet the requirements of Grade A and 2,000 tins meet the requirements of Grade C. Let us further assume that the Secretary had fixed, for that particular year, the free and restricted percentages at 80 percent and 20 percent, respectively. The handlers reserve pool obligation in this example would be 2,000 30-pound tins of cherries (20 percent of his acquisition with adjustments for shrinkage). The grade obligation for the reserve pool of this handler would be 1,600 30-pound tins of Grade A (80 percent of his 2,000 reserve pool obligation) and 400 30-pound tins of Grade C (20 percent of his 2,000 reserve pool obligation).

Let us assume another handler's total pack was 10,000 30-pound tins, with the same free and restricted percentages. This handler's pack consisted of 60 percent, or 6,000 tins, Grade A and 40 percent, or 4,000 tins, Grade C. His reserve pool obligation would be 2,000 30-pound tins. The grade obligation would be different, however. Twelve hundred 30-pound tins of reserve pool cherries should be Grade A (60 percent of the 2,000 obligation) and 800 tins need only meet the requirements of Grade C (40 percent of the 2,000 obligation).

As hereinafter discussed, when reserve pool cherries are made available by the Board to the handlers, each handler will be offered those cherries that he packed if he still has the cherries in his storage or stored under his control. Thus, each handler will be afforded the opportunity to market in years of short production those cherries that he processed and placed in the reserve pool during years of heavy production. This will allow him to supply his customers with cherries of like grade and quality during those years when reserve pool cherries are used as he provided his customers during other years and when marketing his free percentage cherries.

So that the Board will have information with respect to the grade and quality of the pack, the order should provide that each handler should furnish information as to the grade and quality of his pack to the Board at such time and in such manner as the Board, with the approval of the Secretary, may prescribe. As hereinafter discussed, under reports, this information may be furnished (1) by submitting or causing to be submitted, a copy of each inspection certificate issued to him, or (2) by submitting a certification in which he certifies to the quality of his total pack.

All reserve pool cherries should be required to be inspected and certified, by the Processed Products Standardization and Inspection Branch, U.S. Department of Agriculture, as meeting the standards prescribed for reserve pool cherries. Such inspection and certification provides the best possible method to determine whether the required standards have been met. The Processed Products Standardization and Inspection Branch is the agency that is used by the industry for inspection and certification of the grade of cherry products and all handlers are familiar with such service. The record indicates this is the only public agency making inspections of this nature. The certificate of inspection should show, among other things, the name and address of the handler, number and type of containers in the lot,

the grade of the product, its location, and identification marks such as can codes or lot stamp. Such information will be needed by the Board to determine whether the reserve pool obligations of handlers have been met and for later checks to see that reserve pool cherries are being held and stored properly. Each handler should be responsible for submitting proof of inspection to the Board as he is the only one who will know when his reserve pool is ready for inspection and he should deal directly with the inspection agency. Similarly he should pay the costs of the inspection and certification but should be reimbursed for such costs as explained hereinafter.

The order should provide that each handler hold, and store in accordance with good commercial practice, the reserve pool cherries he processes until such time as the Board disposes of such reserve pool or otherwise releases such handler of this responsibility. It would be unreasonable to require handlers to process for the reserve pool the restricted percentage cherries in each lot of cherries he receives. Consequently, during the processing season, a handler should be considered in compliance with reserve pool requirements so long as he has on hand at such time as the Board may specify sufficient cherries of the product and container size, as specified by the Board, to meet his reserve pool obligation. Immediately following completion of his processing operations, however, the handler should not be considered as having met his reserve pool obligation unless he has on hand and properly stored, separate and apart from other cherries in his possession, the requisite quantity and pack of cherries which have been inspected and certified as meeting the prescribed standards. By this it is meant that the reserve pool cherries must be stored so as to maintain them in good condition and the storage conditions should be at least comparable to the storage conditions under which his own cherries are being held. Also, while the reserve pool need not be in a separate storage room, it should be stacked separately from the handler's own cherries in such a manner that the identity of the reserve pool to the related inspection certificate is maintained at all times. Only by this means could the Board check and determine with any assurance that the handler has complied with the reserve pool obligation and that the reserve pool cherries are being stored so as to avoid deterioration and loss.

Generally, it is expected that a handler will hold his reserve pool cherries on his own premises. However, he should be permitted to arrange to hold his reserve pool cherries on the premises of another handler or in a commercial storage. In some instances it would place an undue burden on the handler to require him to hold the reserve pool cherries in his own storage because he may have only limited storage facilities. Consequently, he should be permitted to make such other arrangements for storage as may be agreeable to the Board. The Board should be made aware of the storage location so it can check to see that the cherries are being properly stored and meet all other requirements of the order.

As there may be instances when it would be to the advantage of a handler to purchase from others the cherries needed to meet his reserve pool obligation, he should be permitted to do so. It is possible, of course, for cherry production to be light in one area even though the overall production may be large. In such instances, handlers in one area often purchase from handlers in other areas the cherries needed to supply their customers. Generally, the handler would rather ship to his customers cherries of his own pack. Also, it may be easier to arrange for shipping from his own plant. So the handler, under such conditions, may prefer to use purchased cherries to meet his reserve pool obligation and there seems to be no reason not to permit him to do so. All such purchased cherries should reflect the same grade composition as if the reserve pool was comprised of his own production. The equity holders would continue to be the growers who delivered the cherries to the handler. Of course, the handler should continue to have full responsibility for his reserve pool cherries. The handler's reserve pool obligation arises from the act of handling cherries and is not transferable.

There may be other conditions where it would constitute an undue hardship on a handler to require him to continue to hold reserve pool cherries; and the handler should be able to obtain relief when the circumstances justify. Handlers should be permitted, therefore, to request the Board to remove reserve pool cherries from his premises and, if the Board finds that relief is warranted, it should comply with the request as soon as it is possible to do so considering the availability to the Board of suitable storage for the product. In order to discourage unwarranted requests, however, the handler should be required to share with the Board, on a 50–50 basis, the costs of removing the reserve pool cherries from the handler's premises, including transportation and any other costs incidental to such removal. The handler should also forfeit, to the extent of the removed volume, any share in an offer by the Board to sell reserve pool cherries to handlers. It is expected that the Board, in looking for suitable storage for reserve pool cherries to be removed, will first see whether other handlers in the vicinity would be willing to store the cherries since this would probably be the most economical way to handle the matter. In the event the removed reserve pool cherries are placed in another handler's storage, the latter should be given the opportunity to purchase any reserve pool cherries that otherwise would have been offered to the initial handler. This could serve as an inducement to handlers to accept storage of reserve pool cherries removed from another handler's storage and assist the Board in finding suitable storage space. Of course, a handler having reserve pool cherries removed from his storage should refund any of the prepaid storage charges he had collected from growers and other equity holders and which had not been earned.

Under the order the reserve pool cherries would be held for the account of the Board for the benefit of persons, primarily growers, delivering cherries to handlers. Therefore, in the basic sense of the program, handlers receiving cherries for handling will be placing excess supplies in the reserve pool for the benefit of cherry producers. Hence, it is but right and proper that the costs of receiving, processing, storing, and other expenses, such as inspection costs, relating to the reserve pool be paid by the producers. Handlers should not be required to wait until the reserve pool is disposed of before recovering their costs. The practical solution, therefore, is to authorize handlers to deduct such costs from the amounts due producers, or others, for their free percentage cherries. In order that all producers be charged the same rate to pay such costs, the deductions should be made in accordance with charges established by the Board with the approval of the Secretary. The Board will be composed of six growers and six handlers and should be able to agree on a uniform charge for such services which would be reasonable and equitable to both growers and handlers. This charge should be applicable as to all persons having cherries in the reserve pool since they will receive benefits from the reserve pool, after its disposition, in direct proportion to the quantity of restricted percentage cherries each delivers to handlers regardless of the form in which the receiving handler packs his reserve pool cherries. However, as the costs of processing cherries into the designated products for reserve pool may differ and the costs of storing juice and frozen cherries differ substantially, there also should be uniform processing and storage allowances established for handlers for each reserve pool product.

The order should provide that all matters relating to reserve pools, including costs relating thereto which are to be paid by equity holders, and for which handlers are to receive compensation, and the manner in which the proceeds from the reserve pool are to be equitably distributed should be in accordance with rules and regulations established by the Board and approved by the Secretary.

The record of the hearing shows that growers may not always benefit by having an equity in the reserve pool. Should there be large crops 2 years in a row, growers may have to take a loss on those cherries placed in the reserve pool during the first of these 2 years because storage and other costs may exceed the sale price for reserve pool cherries. Also, the reserve pool cherries should not be held indefinitely and continue to incur costs for storage without any assurance that it would be profitable to do so. Consequently, the reserve pool may have to be liquidated at a time when the available supplies of cherries are large. Based on past history this situation should not be experienced too often however since most long crops have been followed by a short crop. Thus there should be about

an 80 percent chance that the value of the restricted percentage cherries in the reserve pool would be greater than the costs of processing and holding the cherries.

In recognition of the possible loss on the reserve pool cherries, the order should provide growers with a choice as to whether any of their cherries are to be placed in the reserve pool. Therefore, the order should contain provisions permitting a grower to voluntarily divert, subject to necessary safeguards to assure that the cherries are diverted, a quantity of cherries that would be referable to the cherries which upon acquisition by a handler would create a reserve pool obligation. The outlets which would be available for this purpose would be limited, of course, since the primary outlet for cherries is for canned and frozen cherries. However, a limited quantity of cherries can, at times, be sold in fresh fruit channels. Also, some of these cherries might be made available for experimental purposes or other uses that may be exempted under other provisions of the order. In addition, there may be other uses which may be found could be designated for this purpose and not interfere with the primary objective of the order. One such other type of diversion, set forth in the notice of hearing, was to permit growers to divert by leaving cherries unharvested. While there undoubtedly would be problems in connection with this type of diversion, the evidence of record shows that there are cost advantages to the growers or successors in interest which justify including in the order provisions authorizing such diversion. The costs of harvesting cherries is approximately 3 cents per pound and a grower and others electing to divert cherries rather than to participate in the reserve pool should be permitted to make this saving if it is at all possible to do so.

The order should establish a general procedure to be followed in connection with any authorized grower diversion of the portion of his crop which would, otherwise, be restricted percentage cherries. An application for permission to divert cherries should, of course, be necessary. Such application should contain information showing, in detail, the manner in which the applicant proposed to divert cherries, including, if the cherries were to be diverted by not being harvested a description of the orchard, its location, and the number and ages of the trees therein. This information would be necessary so that the Board could determine whether the proposed diversion was in accordance with the program and arrange for supervision of the actual diversion as described by the applicant. Supervision of the diversion is necessary to assure that the cherries are, in fact, diverted. Only after the Board is satisfied that diversion has been effected should it give the applicant a certificate showing the quantity of cherries diverted. This certificate should also show the related quantity of free percentage cherries the applicant may deliver to handlers without the latter being required to consider a portion of such cherries restricted percentage cherries. The certificate should be designed to provide such information to the handler receiving cherries from the diverting grower so that he will have evidence that no reserve pool obligation attaches to such applicant's deliveries of cherries. Growers and others electing to divert cherries should pay to the Board its costs of supervising the diversion. Any such diversion would be at the election of the growers and other eligible persons; and while it is not expected that the costs of supervision would be large, it would not be reasonable to require others to pay such costs.

There are some persons in the industry, generally referred to as brokers, who purchase cherries from growers and resell such cherries to handlers. Such brokers would, of course, have their purchased cherries subject to the same requirements, when delivered to handlers, as would apply to a grower delivering cherries directly to a handler. Consequently, brokers should be given the same privileges of diverting cherries as those afforded growers. Similarly, handlers should be authorized to deduct the costs relating to reserve pool cherries from brokers deliveries of cherries. The order should provide, therefore, that the term "grower," when used in connection with these provisions of the order, should include those persons who purchase cherries from growers and resell them to handlers.

Growers electing to divert cherries rather than to participate in the reserve pool should, of course, not be eligible to receive any of the proceeds from the disposition of the pool. However, should a grower's diversion of cherries not be equal to the quantity required to make all of his deliveries to handlers free percentage cherries, then the handler receiving such grower's cherries should deliver to the reserve pool the requisite quantity of cherries referable to the portion of the grower's excess deliveries and, to that extent, the grower would have an equity in the reserve pool.

Handlers should be required to determine and report to the Board the weight of each lot of cherries received and the name and address of the grower, or other person, delivering such cherries. Such determinations should be made in accordance with uniform rules adopted by the Board and approved by the Secretary. This information is essential to the determination of each person's equity in the reserve pool. Weight determinations should be made on a uniform basis so that each handler and grower (including others delivering cherries) will be treated equally with respect to the reserve pool and equity in the reserve pool.

The order should contain specific provisions for the disposition of reserve pool. This is proper and necessary so that handlers and the trade will know the manner in which the Board may make disposition of the reserve pool. The Board should, at all times, strive to sell reserve pool cherries at the best prices obtainable. The order should provide that the Board should release reserve pool cherries to handlers in the manner and only during the periods hereinafter provided. When the total quantity of free percentage cherries handled is less than the quantity, determined earlier by the Board, that should be handled, the Board should recommend that a portion or all of the reserve pool cherries be released to handlers for use in normal commercial outlets. This could occur by reason of an overestimate of the crop or a portion of the crop may be lost by wind or hail storms or other causes. When the Board meets as soon as the current crop has been processed, it should take steps to feed into the market sufficient reserve pool cherries processed from the current crop to bring the quantity available for sale up to the quantity it had earlier determined would be needed in normal outlets. A practical means of achieving such objective of meeting normal outlet needs would be to provide for the computation of each handler's reserve pool obligation on the basis of a revised restricted percentage as soon as practicable after the processing of the crop. In this manner the Board would be in a position to recommend to the Secretary such upward revision in the free percentage and complementary downward revision in the restricted percentage previously fixed for the then current fiscal period as may be necessary to make the requisite quantity of processed cherries available for free use. Thus, there would be no need for any specific release of reserve pool cherries of the then current crop. Rather, the recomputation of each handler's restricted obligation would have the effect of such a release by increasing his aggregate quantity of free percentage cherries and reducing his aggregate reserve pool obligation.

In a short crop year, the Board should use reserve pool cherries of prior fiscal periods to supplement the supplies that would be available from the current production. In this instance, the Board should be required to offer the quantity of reserve pool cherries to be released in normal trade outlets to handlers. As hereinafter discussed, it would be desirable and in keeping with the wishes of the industry for the older reserve pool cherries to be released first, to the extent practical. Should there be more than one form of cherries in the pool (e.g. juice and frozen cherries), the release should be on the basis of market demand and not on the basis of the length of time the cherry product was in the pool. Thus, if there was a demand for frozen cherries, frozen cherries from the reserve pool should be released even though there were in the reserve pool a supply of juice processed from an earlier fiscal period, but for which there was no demand.

This offer should be made so that handlers may make purchases of reserve pool cherries during the 10 day period, September 15–25 of each year. Record evidence shows that handlers generally complete the processing of the then current crop of cherries and records which show the composition of the total pack

should be available to the Board for it to make offerings of cherries to handlers prior to September 15 of any year.

Record evidence indicates that new varieties may be developed which mature either earlier or later than present varieties, and new processing methods may be developed which would result in an earlier or later completion date for processing the crop. Thus, if it is found that the September 15–25 dates are undesirable, the order should authorize the Board, with the approval of the Secretary, to specify another 10-day period during which handlers may purchase reserve pool cherries.

When the demand for cherries has increased and it appears that the supply is insufficient to meet the market demands, the Board should recommend that a portion or all of the reserve pool be released to handlers for use in normal commercial outlets. This situation may likely occur late in the season and before cherries from the ensuing crop are ready for market. The demand for cherries may increase due to increased promotional activities, new uses, or there may be a shortage of competing commodities, such as blueberries and apple pie filling. It would not be a good business practice nor in keeping with order objectives to keep cherries in the reserve pool when there is a demand for cherries. Thus, the Board, if it deems it advisable to do so based on such demand conditions or other factors, should recommend that a portion or all of the reserve pool be released to handlers. To prevent a disruption of the marketing process and to permit handlers and the trade to adequately plan their operations, the order should permit the Board to make only one recommendation, other than the one authorized to be made in September, concerning such release. The most appropriate period would be on or after March 15 of each year and prior to June 1 of such year. The evidence of record shows that before March 15, the Board is not likely to have adequate information available to make a recommendation. A recommendation after June 1 would not allow sufficient time to complete the release and move the cherries into marketing channels before the on-coming crop of cherries are ready for market.

The order should provide that, based upon the recommendation of the Board or other available information, the Secretary should be authorized to release reserve pool cherries to handlers. The reserve pool cherries to be released should be from the oldest reserve pool or pools to the extent necessary. However, the release should be limited to one 10-day period within the March 15–June 1 period. A shorter period would not afford handlers ample time to make the necessary decisions and a longer period would serve no useful purpose. If there is sufficient demand for cherries to warrant the release of reserve pool cherries, record evidence attests that handlers will have knowledge of this situation and can act within a 10-day period. The release should be limited to one period so that handlers could make plans accordingly and the trade could purchase cherries with confidence since more cherries could not be released at a later date and perhaps disrupt the marketing of such cherries.

If the entire amount in the reserve pool is to be released, then each handler should be offered the opportunity to purchase the reserve which he holds for the committee. If less than the entire amount is to be released, then the Board should offer to sell to each handler holding reserve pool cherries the same percentage of the reserve pool he holds as the percentage of the total reserve pool being released. In this manner each handler would be given the same opportunity to increase his salable supplies of cherries. Of course, there may be some handlers who would not want to purchase the share of the reserve pool offered to them. In such case, the refused portion should be offered to the other handlers who had purchased the reserve pool offered to them. Such provisions are necessary to assure that the available supplies are brought as nearly in balance as is possible with the quantity estimated by the Board as needed to meet the demand in normal outlets.

As shown heretofore, it is not likely that, in all instances, the reserve pool can be disposed of in the manner just described. The Board should, therefore, be authorized to sell reserve pool cherries directly for conversion into animal feed or any other manufactured product other than for normal outlets. It should also be authorized to use excess reserve pool cherries for experimental purposes, for any new use that it may develop, and for new geographical outlets. For example, there are many foreign countries to which no juice or frozen cherry products are exported and the excess reserve pool cherries might be used to develop a demand for cherries in these countries. These avenues of disposition by the Board should not be restricted to the two release periods hereinbefore discussed. The need for and opportunity to pursue research goals may become available at any time and the Board should be afforded the opportunity to pursue these outlets at every opportunity. It is recognized that these outlets would offer only a limited opportunity for the disposition of excess reserve pool cherries at this time and the return for any sales in these outlets may be very low. It would not be proper, however, to authorize the sale of the excess reserve pool cherries in normal outlets, except as indicated, even though a greater return might be realized, after handlers and the trade had purchased cherries on the basis of the limited quantity supply resulting from establishment of free and restricted percentages. This is so for the reason that if this should be done, no further benefit could be expected from operation of the order as it would be known that any excess reserve pool cherries could later be dumped on the market.

Any proceeds from the disposition of reserve pool should be distributed, after deducting the expenses incurred by the Board in carrying out its functions in connection therewith, to the persons having an equity in the reserve pool. Such persons would be those delivering restricted percentage cherries to handlers, unless they had assigned their respective equities to others, in which case, the assignees would be the equity holders. The method for determining each equity holder's share in the proceeds from the reserve pool, should be on the basis of the weight of the quantity of restricted cherries delivered.

The Board should disburse the total amount of the proceeds due to members of a cooperative association which are handlers and have reserve pool directly to the association. The association should then make disbursement to its members. This would be consistent with the fact that such associations are formed for the purpose of disposing of the cherries delivered to, and handled by, the association and the distribution of the proceeds from such cherries to its members. It would also tend to reduce the costs to the Board of distributing the proceeds from the reserve pool. It is recognized, of course, that there may be more than one form of cherry product in the reserve, as, for example, frozen cherries and juice. The Board should adopt rules and regulations, with the approval of the Secretary, setting forth the method or methods of accountability and the manner in which each equity holder's share in the reserve pool will be calculated.

(e) The Board should be authorized, with the approval of the Secretary, to establish certain exemptions under the order. These exemptions might include the cherries handlers use for experimental purposes or for minor products which have used less than 5 percent of the preceding 5-year average production of cherries. Such exemptions may tend to encourage handlers to step-up their search for new or better products and to place additional emphasis on expanding the market for products which have not, as yet, resulted in any substantial outlet for cherries. To the extent that this could be accomplished, the need for controlling the excess production would be lessened. However, such exemptions should be provided only if adequate safeguards can be established by the Board, with the approval of the Secretary, to assure that the exemptions do not result in cherries being handled in other channels contrary to the intent and purpose of the exception.

(f) The Board should have authority, with the approval of the Secretary, to require that handlers submit to the committee such reports and information as may be needed for the performance of its functions under the order. Handlers have such necessary information in their possession, and the requirement that they furnish such information to the Board in the form of reports would not constitute an undue burden.

One such report would be the composition of the total pack of cherries. It is difficult to anticipate every type of report or kind of information which the

Board may find necessary in the conduct of its operations under the order. Therefore, the Board should have the authority to request, with approval of the Secretary, reports and information, as needed, of the type set forth in the order, and at such times and in such manner as may be necessary.

Any reports and records submitted for use of the Board by handlers should remain confidential and be disclosed to no person other than the Secretary and persons authorized by the Secretary. Under certain circumstances, the releases of information compiled from handlers' reports may be helpful to the Board and the industry generally in planning for operations under the order during the marketing season. However, such reported information should not be released other than on a composite basis, and such release of information should disclose neither the identity of handlers nor their individual operations. This is necessary to prevent the disclosure in information that may affect detrimentally the trade or financial position or the business operations of individual handlers.

Since it is possible that a question could arise with respect to compliance, handlers should be required to maintain for each fiscal period complete records on their receipts, handling, and disposition of cherries. Such records should be retained for not less than 2 years after the termination of the fiscal year in which the transaction occurred, so that, if needed in connection with enforcement, the requisite records will be available for that purpose.

The successful operation of a program of this type depends upon the degree of compliance with its provisions. In this connection, it is necessary that the Board be given the authority to examine and verify the records, check inventories of cherries and determine the quantity of cherries received, handled, stored, and placed in the reserve pool. The verification of records and reports and inspection needed in connection therewith should be performed by the Board during reasonable working hours and in such manner that normal operations would not be interrupted.

(g) Except as provided in the order, no handler should be permitted to handle cherries, the handling of which is prohibited pursuant to the order; and no handler should be permitted to handle cherries except in conformity with the order. If the program is to operate effectively, compliance therewith is essential; and, hence, no handler should be permitted to evade any of its provisions. Any such evasion on the part of even one handler could be demoralizing to the handlers who are in compliance and would tend, thereby, to impair the effective operation of the program.

(h) The provisions of §§ 930.71 through 930.80, as hereinafter set forth, are similar to those which are included in other marketing agreements and orders now operating. The provisions of §§ 930.81 through 930.83, as hereinafter set forth, also are included in other marketing agreements now operating. All such provisions are incidental to and not inconsistent with the act and are necessary to effectuate the other provisions of the recommended marketing agreement and order and to effectuate the declared policy of the act. Testimony at the hearing supports the inclusion of each such provision.

Those provisions which are applicable to both the proposed marketing agreement and the proposed order, identified by section numbers and heading, are as follows: § 930.71 *Right of the Secretary;* § 930.72 *Effective time;* § 930.73 *Termination;* § 930.74 *Proceedings after termination;* § 930.75 *Effect of termination or amendment;* § 930.76 *Duration of immunities;* § 930.77 *Agents;* § 930.78 *Derogation;* § 930.79 *Personal liability;* and § 930.80 *Separability.*

With respect to the provisions dealing with termination (§ 930.73) of the order and the requirement for the conduct of a referendum during the month of March of the fifth year after the effective date of the order and within the month of March every fifth year thereafter, the order should provide the opportunity for producers and handlers to express themselves as to whether or not the regulatory program should continue in effect. Five years after the effective date should provide a sufficient amount of time for producers and handlers to evaluate the worth of the program. If the results of the referendum show that (1) more than 50 percent of the producers by number or volume of production represented in the referendum or (2) more than 50 percent of the handlers, who during the current fiscal period handled more than 50 percent of the total volume of cherries handled by handlers voting in the referendum, favor termination of the order, the Secretary should consider termination of the order. If such a large percentage of the producers or handlers express themselves as favoring termination, it seems reasonable that the program is not measuring up to expectations. Under such circumstances it may be difficult to operate. Therefore, the Secretary should terminate the program in accordance with the act. This action should be taken so as to become effective on the last day of April of that year.

Those provisions which are applicable to the proposed marketing agreement only, identified by section number and heading, are as follows: § 930.81 *Counterparts;* § 930.82 *Additional parties;* § 930.83 *Order with marketing agreement.*

*Rulings on proposed findings and conclusions.* July 15, 1970 was set by the Hearing Examiner at the hearing as the latest date by which briefs would have to be filed by interested parties with respect to facts presented in evidence at the hearing and the conclusions which should be drawn therefrom. The time by which briefs would have to be filed was extended by the Hearing Examiner on July 13 to July 31, 1970.

A brief was filed by Jenos, Inc., in opposition to the proposed marketing agreement and order by Jerry H. Udesen, Assistant Secretary and Associate Counsel, Jenos, Inc., and Michael E. Bress of Dorsey, Marquart, Windhorst, West, and Halladay, Attorneys for Jenos, Inc.

The brief stated, in general, that (1) the proposed program was not authorized by the act, (2) the evidence of record does not justify the proposed program, and (3) the program would, if made effective, result in equities to certain persons regulated by the program.

With respect to whether the program is authorized by the act, one need only look to the declared policy of Congress which authorizes the Secretary to establish and maintain such orderly marketing conditions as will establish parity prices. Further the Secretary is required to protect the interest of consumers by a gradual correction of the current level at as rapid a rate as the Secretary deems to be in the public interest. A marketing order containing reserve pool provisions is authorized in section 608c(6) of the act. Additionally, the Congress has expressly authorized the Secretary of Agriculture "to enter into marketing agreements with processors (i.e., handlers), producers, associations of producers, and others engaged in the handling of any agricultural commodity (i.e., red tart cherries) or product thereof, only with respect to such handling as is in the current of interstate or foreign commerce of which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof. The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful:".

With respect to the proposed finding that there is insufficient evidence to support a finding as to need for the proposed program as pointed out in the recommended decision, the evidence clearly sets forth the marketing problem confronting the industry. This problem is greatly compounded due to the irregular supplies of cherries that are available for market. The program is designed to correct this situation by tailoring the supply to that which the market can use. This would be accomplished by removing a portion of the crop from marketing channels during years of large production and adding such cherries to the available supplies during years when cherry production is below market needs.

Evidence with respect to the need for the program was from both growers and handlers. Testimony supports each provision of the order.

With respect to the proposed finding concerning inequities that may result if the order is made effective, such is speculative and not based on fact.

Each point included in the brief was carefully considered, along with the evidence in the record, in making the findings and reaching the conclusions hereinbefore set forth. To the extent that any suggested findings or conclusions contained in the brief are inconsistent with the findings and conclusions contained herein, the request to make such findings or to reach such conclusions is denied on the basis of the facts found

and stated in connection with this recommended decision.

*General findings.* Upon the basis of the evidence introduced at such hearing, and the record thereof, it is found that:

(1) The marketing agreement and order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said marketing agreement and order regulate the handling of cherries grown in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial or industrial activity specified in, a proposed marketing agreement and order upon which a hearing has been held;

(3) The said marketing agreement and order are limited in their applications 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;

(4) There are no differences in the production and marketing of cherries grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of cherries grown in the production area, as defined in said marketing agreement and order, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

*Recommended marketing agreement and order.* The following marketing agreement and order[1] are recommended as the detailed means by which the foregoing conclusions may be carried out:

DEFINITIONS

**§ 930.1 Secretary.**

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the U.S. Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

**§ 930.2 Act.**

"Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended, and as reenacted and amended by the Agriculture Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601–674).

**§ 930.3 Person.**

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

**§ 930.4 Production area.**

"Production area" means the States of Michigan, New York, Wisconsin, Pennsylvania, Ohio, West Virginia, Virginia, and Maryland.

[1] The provisions identified with asterisks (***) apply only to the proposed marketing agreement and not to the proposed order.

**§ 930.5 Cherries.**

"Cherries" means all cherries grown in the production area of the Meteor variety, and all cherries of any or all varieties of cherries, grown in the production area, classified botanically as Prunus cerasus.

**§ 930.6 Fiscal period.**

"Fiscal period" is synonymous with fiscal year and means the 12-month period beginning on May 1 of one year and ending of the last day of April of the following year: *Provided*, That the initial fiscal period shall begin on the effective date of this part.

**§ 930.7 Board.**

"Board" means the Cherry Administrative Board established pursuant to § 930.20.

**§ 930.8 Grower.**

"Grower" is synonymous with "producer" and means any person who produces cherries to be marketed in canned, frozen, or other processed form and who has a proprietary interest therein.

**§ 930.9 Handler.**

"Handler" means any person who first handles cherries or causes cherries to be handled.

**§ 930.10 Handle.**

"Handle" means to pit, can, freeze, dehydrate, press, or brine cherries, or in any other way convert cherries commercially into a processed product: *Provided*, That the term "handle" shall not include the pitting, canning, freezing, dehydration, pressing, or brining or the converting, in any other way, (a) of cherries into a processed product for home use and not for resale; or (b) of cherries, which are diverted pursuant to § 930.56, into a processed product.

**§ 930.11 District.**

"District" means the applicable one of the following described subdivisions of the production area, or such other subdivisions as may be prescribed pursuant to § 930.30(e):

District 1—The State of New York and Erie County, Pa.

District 2—The States of Maryland, Pennsylvania except Erie County, Virginia, and West Virginia.

District 3—That portion of the State of Michigan which is north of a line drawn along the boundary of Mason and Manistee Counties and extended east to Lake Huron and the State of Wisconsin.

District 4—That portion of the State of Michigan which is south of District 3 and north of a line drawn along the boundary of Allegan and Ottawa Counties and extended east to the St. Clair River.

District 5—The State of Michigan not included in Districts 3 and 4, and the State of Ohio.

ADMINISTRATIVE BODY

**§ 930.20 Establishment and membership.**

(a) There is hereby established a Cherry Administrative Board consisting of 12 members, each of whom shall have an alternate having the same qualifications as the member for whom he is an alternate. Six of the members and their alternates shall be growers or officers or employees of growers. Six of the members and their alternates shall be handlers or officers or employees of handlers. There shall be an individual who shall serve as nonvoting chairman of the Board, and an individual who shall serve as his alternate.

(b) District representation on the committee shall be as follows:

| District | Grower members | Handler members |
|---|---|---|
| 1 | 1 | 1 |
| 2 | 1 | 1 |
| 3 | 2 | 2 |
| 4 | 1 | 1 |
| 5 | 1 | 1 |

**§ 930.21 Term of Office.**

The term of office of each member and alternate member of the Board shall be for 3 fiscal years: *Provided*, That one-third of the initial members and alternates shall serve only until April 30, 1971, and one-third of such members and alternates shall serve only until April 30, 1972 (Determination of which of the initial members and their alternates shall serve for 1 fiscal year, 2 fiscal years, and 3 fiscal years shall be by lot). Members and alternate members shall serve in such capacity for the portion of the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified. The consecutive terms of office of members shall be limited to two 3-year terms. The nonvoting chairman of the Board and his alternate shall serve at the pleasure of the Secretary. The Secretary shall give consideration to any recommendation of the Board with respect to termination of the appointment of the chairman or his alternate.

**§ 930.22 Nomination.**

(a) *Initial members.* The Secretary shall hold, or cause to be held, meetings of growers and of handlers to nominate the initial members and alternate members of the Board. Such meetings shall be held as soon as practicable after the effective date of his part, and shall be conducted in the manner provided in paragraph (b) of this section.

(b) *Successor members.* (1) Nominations for successor members of the Board, and their respective alternates, shall be made at separate meetings of growers and handlers. Such meetings shall be held at such times (on or before April 1 of each year) and places as the Board shall designate. One nominee shall be elected at nomination meetings for each member and one nominee for each alternate member position to be filled. The names and addresses of each nominee shall be submitted to the Secretary not later than April 15 of each year. The Board shall prescribe such procedure for the conduct of the nomination meetings as shall be fair to all persons concerned.

(2) Only growers, including duly authorized officers or employees of growers,

who are present and who are eligible to serve as grower members of the Board, shall participate in the nomination of grower members and alternate grower members of the Board. No grower shall participate in the selection of nominees in more than one district during any fiscal period. If a producer produces cherries in more than one district, he shall select the district in which he will so participate and notify the Board of his choice.

(3) Only handlers, including duly authorized officers or employees of handlers, who are present and who are eligible to serve as handler members of the Board, shall participate in the nomination of handler members and alternate handler members of the Board. No handler shall participate in the selection of nominees in more than one district during any fiscal period. If a person is both a grower and a handler of cherries, such person may vote either as a grower or handler, but not as both. However, if a person is a grower and a grower-handler, because he had some cherries custom packed but who does not own or lease and operate a processing facility, such person may vote only as a grower.

(c) The members of the Board appointed by the Secretary pursuant to § 930.23 shall, at the first meeting, and whenever necessary thereafter, by a majority vote of those present, nominate an individual to serve as nonvoting chairman of the Board, and an individual to serve as his alternate.

**§ 930.23 Appointment.**

From the nominations made pursuant to § 930.22, or from other qualified individuals, the Secertary shall appoint the chairman of the Board and his alternate and the members of the Board and an alternate for each such member on the basis of the representation provided for in § 930.20.

**§ 930.24 Failure to nominate.**

If nominations are not made within the time and in the manner prescribed in § 930.22, the Secretary may, without regard to nominations, select the chairman and his alternate and select the members and alternate members of the Board on the basis of representation provided for in § 930.20.

**§ 930.25 Acceptance.**

Any person selected by the Secretary as the chairman or his alternate or as a member or as an alternate member of the Board shall qualify by filing a written acceptance with the Secretary within 10 days after notified of such appointment.

**§ 930.26 Vacancies.**

To fill any vacancy occasioned by the failure of any person appointed as a member or as an alternate member of the Board to qualify, or in the event of the death, removal, resignation, or disqualification of any member or alternate member of the Board, a successor for the unexpired term of such member or alternate member of the Board shall be nominated and appointed in the manner specified in §§ 930.22 and 930.23. If the names of the nominees to fill any such vacancy are not made available to the Secretary within 30 days after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, which appointment shall be made on the basis of representation provided for in § 930.20.

**§ 930.27 Alternate members.**

An alternate member of the Board, during the absence of the member for whom he is an alternate, shall act in the place and stead of such member and perform such other duties as assigned. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor for such member is appointed and has qualified. In the event that a grower member and his alternate are unable to attend a Board meeting, the grower members present at such meeting may designate any other grower alternate to serve in such absent grower member's place and stead at that meeting. In the event that a handler member and his alternate are unable to attend a Board meeting, the handler members present at such meeting may designate any other handler alternate to serve in such absent handler member's place and stead at that meeting.

**§ 930.28 Eligibility for membership on Cherry Administrative Board.**

(a) Each grower member and each grower alternate member of the Board shall be a grower, or an officer or employee of a grower in the district for which nominated or appointed.

(b) Each handler member and each handler alternate member of the Board shall be a handler, or an officer or employee of a handler, who owns, or leases, and operates a cherry processing facility in the district for which nominated or appointed.

**§ 930.29 Powers.**

The Board shall have the following powers:

(a) To administer the provisions of this part in accordance with its terms;

(b) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this part;

(c) To make and adopt rules and regulations to effectuate the terms and provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

**§ 930.30 Duties.**

The Board shall have, among others, the following duties:

(a) To select such officers, other than the chairman, as may be necessary, and to define the duties of such officers, and the duties of the chairman and his alternate;

(b) To appoint such employees, agents, and representatives as it may deem necessary and to determine compensation and to define the duties of each;

(c) To submit to the Secretary as soon as practicable after the beginning of each fiscal period a budget for such fiscal period, including a report in explanation of the items appearing therein and a recommendation as to the rate of assessment for such period;

(d) To keep minutes, books, and records which will reflect all of the acts and transactions of the Board and which shall be subject to examination by the Secretary;

(e) To prepare periodic statements of the financial operations of the Board and to make copies of each statement available to growers and handlers for examination at the office of the Board;

(f) To cause its books to be audited by a competent public accountant at least once each fiscal year and at such times as the Secretary may request;

(g) To act as intermediary between the Secretary and any grower or handler;

(h) To investigate and assemble data on the growing, handling, and marketing conditions with respect to cherries;

(i) To submit to the Secretary the same notice of meeting of the Board as is given to its members;

(j) To submit to the Secretary such available information as he may request;

(k) To investigate compliance with the provisions of this part; and

(l) With the approval of the Secretary, to re-define the districts into which the production area is divided, and to reapportion the representation of any district on the Board: *Provided*, That any such changes shall reflect, insofar as practicable, shifts in cherry production within the districts and the production area.

**§ 930.31 Procedure.**

(a) Eight members of the Board, including alternates acting for members, shall constitute a quorum and any action of the Board shall require a majority vote of those present.

(b) The Board may provide for simultaneous meetings of groups of its members at two or more designated places or may use a telephone conference call meeting: *Provided*, That such meetings shall be subject to the establishment of communications so that each member may participate in the discussions and other actions the same as if the Board were assembled in one place.

(c) The Board may vote by telephone, telegraph, or other means of communication, and any votes so cast shall be confirmed promptly in writing: *Provided*, That if an assembled meeting is held, all votes shall be cast in person.

**§ 930.32 Expenses and compensation.**

The members of the Board, and alternates when acting as members, and the chairman of the Board, and his alternate when acting as chairman, or when either or any of them are performing other prescribed duties, shall serve without compensation but shall be reimbursed for necessary expenses, as approved by the Board, incurred by them in the performance of their duties under this part. The Board at its discretion may request the attendance of one or more alternates, including the alternate

to the nonvoting chairman, at any or all meetings, notwithstanding the expected or actual presence of the chairman or the respective member, and may pay expenses, as aforesaid.

EXPENSES AND ASSESSMENTS

§ 930.40 Expenses.

The Board is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the Board for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this part. The funds to cover such expenses shall be paid to the Board by handlers in the manner prescribed in § 930.41.

§ 930.41 Assessments.

(a) As his pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by the Board during a fiscal period, each handler shall pay to the Board, upon demand, assessments on all cherries handled by him during such period as the handler thereof. The payment of assessments for the maintenance and functioning of the Board may be required under this part throughout the period it is in effect, irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) The Secretary shall fix the rate of assessment to be paid by each handler during the fiscal period in an amount designed to secure sufficient funds to cover the expenses which may be incurred during such period. At any time during or after the fiscal period, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses which may be incurred. Such increase shall be applied to all cherries handled during the applicable fiscal period. In order to provide funds for the administration of the provisions of this part during the first part of a fiscal period before sufficient operating income is available from assessments, the Board may accept the payment of assessments in advance, and may also borrow money for such purposes. If a handler does not pay his assessment within the time prescribed by the Board, the unpaid assessment may be subject to an interest charge at a rate prescribed by the Board, with the approval of the Secretary.

§ 930.42 Accounting.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, the Board, with the approval of the Secretary, may carry over all or any portion of such excess into subsequent fiscal periods as reserve: *Provided*, That funds already in the reserve do not exceed approximately one fiscal period's expenses. Such reserve funds may be used (1) to cover any expenses authorized by this part and (2) to cover necessary expenses of liquidation in the event of termination of this part. If any such excess is not retained in a reserve, it shall be refunded proportionately to the handlers from whom the excess was collected. Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such a manner as the Secretary may determine to be appropriate: *Provided*, That to the extent practicable, such funds shall be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by the Board pursuant to the provisions of this part shall be used solely for the purpose specified in this part and shall be accounted for in the manner provided in this part. The Secretary may at any time require the Board and its members to account for all receipts and disbursements.

REGULATIONS

§ 930.50 Marketing policy.

Each season prior to making any recommendations pursuant to § 930.51, the Board shall submit to the Secretary a report setting forth its marketing policy for the ensuing marketing season. Such marketing policy report shall contain information relating to:

(a) The estimated total production of cherries;

(b) The expected general quality of such cherry production;

(c) The expected carryover as of July 1 of canned and frozen cherries and other cherry products;

(d) The expected demand conditions for cherries in different market outlets;

(e) Supplies of competing commodities;

(f) Trend and level of consumer income;

(g) Other factors having a bearing on the marketing of cherries; and

(h) The regulation expected to be recommended during the marketing season.

§ 930.51 Recommendations for volume regulation.

(a) Not later than June 25 of each year the Board, if it deems it advisable to regulate the handling of cherries in the manner provided in § 930.52, shall so recommend to the Secretary.

(b) In arriving at its recommendations for regulations pursuant to paragraph (a) of this section, the Board shall give consideration to current information with respect to the factors affecting the supply of and demand for cherries during the then current fiscal period. With each such recommendation for regulation, the Board shall submit to the Secretary the data and information on which such recommendation is predicated and such other available information as the Secretary may request.

(c) All assembled meetings of the Board shall be open to growers and handlers. The Board may publish notice of such meetings in such newspapers as it deems appropriate and shall mail notice of such meetings to each grower and handler who has filed his name and address with the Board for such purpose.

§ 930.52 Issuance of volume regulations.

(a) The Secretary shall limit, in the manner specified in this section, the quantity of cherries which handlers may acquire and freely handle during the then current fiscal period, whenever he finds from the recommendations and information submitted by the Board, or from other available information, that such regulation will tend to effectuate the declared policy of the act. Such regulation shall fix the free and restricted percentages, totaling 100 percent, which shall be applied in accordance with § 930.54 to cherries acquired by handlers during such fiscal period.

(b) The Board shall be informed immediately of any such regulation issued by the Secretary, and the Board shall promptly give notice thereof to handlers.

§ 930.53 Revision of percentages; release of reserve pool cherries.

(a) *Revision of percentages.* As soon as practicable after completion of the processing of the current crop of cherries, the Board shall determine the total quantity of free percentage cherries handled from the current crop. If the determination reveals that the total quantity of free percentage cherries handled is less than the quantity determined earlier by the Board as the quantity of cherries which should be available for handling, it shall recommend to the Secretary revision of the free and restricted percentages for the current fiscal year to become effective during the period September 15–25 of the fiscal year, or during such other 10-day period as may be recommended by the Board and approved by the Secretary. The additional amount of cherries so recommended referable to the revised free percentage shall be the amount required to make the total available supplies for use in normal commercial outlets equal, but not exceed, the amount, as estimated by the Board, needed to meet the demand in such outlets.

(b) *Release of reserve pool cherries.* (1) If the Board determines that the total available supplies for use in normal commercial outlets do not at least equal the amount, as estimated by the Board, needed to meet the demand pursuant to paragraph (a) of this section, in such outlets, the Board shall recommend to the Secretary that during the period September 15–25 of the fiscal period or such other 10-day period as may be recommended by the Board and approved by the Secretary, that a portion or all of the reserve pool cherries of prior fiscal years be released to handlers for such use.

(2) On and after March 15 of each year and prior to June 1 of such year, the Board may recommend to the Secretary that a portion or all of the oldest reserve pool or pools be released for use in normal commercial channels to the extent that the total available supply in normal commercial outlets is less than needed to meet the demand in such outlets. Such reserve pool cherries shall be offered for sale to handlers for

a period of 10 days: *Provided*, That only one period shall be authorized by the Secretary from March 15 to June 1 of each year.

(3) Whenever the Secretary finds, from the recommendation and information submitted by the Board pursuant to this paragraph, or from other available information, that a portion or all of the cherries in the reserve pools should be released, he shall authorize the Board to release such cherries as provided in § 930.59.

**§ 930.54 Reserve pool.**

(a) Whenever the Secretary has fixed the free and restricted percentages for any fiscal period, as provided for in § 930.52(a), each handler shall set aside for the reserve pool for such period, at such time and in such manner and form, other than as canned cherries or canned cherry products, as the Board may prescribe, a portion of the cherries he acquires during such period. Except as otherwise permitted pursuant to §§ 930.56 and 930.61, such reserve pool portion shall be equal to the sum of the products obtained by multiplying the weight or volume of the cherries in each lot of cherries acquired during the fiscal period by the then effective restricted percentage fixed by the Secretary: *Provided*, That in converting cherries in each lot to the form prescribed by the Board the reserve pool obligations shall be adjusted, in accordance with uniform rules adopted by the Board, to recognize shrinkage and loss resulting from processing.

(b) Reserve pool cherries shall meet such standards of grade, quality, or condition as the Board, with the approval of the Secretary, may prescribe. All such cherries shall be inspected by the Processed Standardization and Inspection Branch, U.S.D.A. A certificate of such inspection shall be issued which shall show, among other things, the name and address of the handler, the number and type of containers in the lot, the grade of the product, the location where the lot is stored, identification marks (can codes or lot stamp), and a certification that the cherries meet the prescribed standards. Promptly after inspection and certification, each such handler shall submit, or cause to be submitted, to the Board, at the place designated by the Board, a copy of the certificate of inspection issued with respect to such cherries.

(c) Each handler shall hold his reserve pool for the account of the Board until relieved of such responsibility by the Board. Such reserve pool cherries shall be stored in accordance with good commercial practice and shall be separate and apart from any other cherries in possession of the handler. Each handler so holding reserve pool shall deliver to the Board, upon demand, such portion of the reserve pool held by him as the Board may specify.

(d) All matters dealing with reserve pools, including, but not being limited to, the costs to be borne and shared by equity holders and for which handlers are to be compensated and the distribution of proceeds from the disposition of reserve pools shall be in accordance with rules and procedures established by the Board, with the approval of the Secretary, and shall be equitable to equity holders and handlers.

**§ 930.55 Off-premise reserve pool.**

No handler may transfer a reserve pool obligation but any handler may, upon notification to the Board, arrange to hold reserve pool, of his own production or which he has purchased, on the premises of another handler or in an approved commercial storage in the same manner as though the reserve pool were on his own premises.

**§ 930.56 Diversion privilege.**

As used in this section and in §§ 930.58 and 930.60, "producer" includes any person who purchased cherries from the grower and is reselling them to a handler. Any producer may voluntarily elect to divert, in accordance with provisions of this section, all or a portion of his cherries which otherwise, upon delivery to a handler, would become restricted percentage cherries. Upon such diversion and compliance with the provisions of this section, the Board shall issue to the diverting producer a diversion certificate which shall entitle such producer to deliver to a handler, and such handler to receive, the specified weight of cherries free from all reserve pool requirements.

(a) *Eligible diversion.* Diversion certificates shall be issued to producers only if the cherries are diverted in accordance with the following terms and conditions to such of the following outlets as the Board with the approval of the Secretary may designate: uses exempt under § 930.61; nonhuman food uses; or other uses, including diversion by leaving such cherries unharvested.

(1) *Application.* The producer electing to so divert cherries shall first make application to the Board for permission to do so. Such application shall describe in detail the manner in which the applicant proposes to divert cherries including, if the diversion is to be by means of leaving the cherries unharvested, a detailed description of the location of the orchard and the ages of the trees therein. It shall also contain an agreement that the proposed diversion is to be carried out under the supervision of the Board and that the cost of such supervision is to be paid by the applicant.

(2) *Diversion certificate.* If the Board approves the application it shall so notify the applicant and conduct such supervision of the applicant's diversion of cherries as may be necessary to assure that the cherries are diverted. After the diversion has been accomplished, the Board shall issue to the diverting producer a diversion certificate stating the weight of cherries which may be delivered to a handler free from all reserve pool requirements; the latter of which shall be in an amount having the same relationship to the weight of cherries diverted as that existing between the free and restricted percentages fixed pursuant to § 930.52 or § 930.53, as applicable. Where diversion is carried out by leaving the cherries unharvested, the Board shall estimate the weight of cherries diverted on the basis of such uniform rule as the Board, with the approval of the Secretary, may prescribe.

(b) Any producer who diverts cherries pursuant to the provisions of this section shall be entitled to participate in proceeds from the disposition of reserve pool cherries only if he delivers cherries to handlers in excess of the quantity shown on his diversion certificate and then only to the extent of such excess delivery of cherries. The Board, with the approval of the Secretary, shall adopt procedural rules and regulations to effectuate the provisions of this section.

**§ 930.57 Equity holders.**

A grower's equity in the reserve pool may be transferred to another person upon notification to the Board. So that the Board may determine each producer's, or his successor's in interest, equity in the total reserve pool, each handler who receives cherries shall determine and certify to the Board the weight of cherries received, the name and address of the producer or successor in interest. Each weight and determination shall be made in accordance with uniform rules adopted by the Board and approved by the Secretary.

**§ 930.58 Handler compensation.**

Each handler shall be compensated for receiving, processing, storing and such other costs relating to the reserve pool as the Board may deem to be appropriate. The Board shall, as near the beginning of the fiscal year as may be practicable, with the approval of the Secretary, establish a schedule of charges for receiving, processing, storing and other costs related to the reserve pool. The payment of such costs shall be by the producers having an interest in the reserve pool, or their successors in interest, and may be deducted from any monies owed by handlers to such persons. A handler may request the Board to remove pool cherries from his premises upon expiration of prepaid storage charges or refund of unearned charges, and the Board shall comply within a reasonable time consistent with the availability of suitable storage. Upon any such removal the handler shall also pay one-half of the cost of such removal and shall forfeit to the extent of the removed volume, his pro rata share in any offer to sell reserve pool and such share shall be allocated to the successor storing handler.

**§ 930.59 Disposition of reserve pool.**

(a) The Board shall offer reserve pool cherries for purchase by handlers for disposition in accordance with § 930.53 (b). Reserve pool cherries shall be sold to handlers at prices and in a manner intended to maximize returns to equity holders and achieve complete disposition of such cherries.

(b) The Board shall offer each handler his share of each reserve pool to be sold by the Board. Each such share shall be determined by applying to the total

quantity of cherries in such reserve pool, the percentage that the cherries in such reserve pool that were handled by such handler is of the total quantity of cherries in the reserve pool handled by all handlers. If any handler declines, or fails to purchase all or any part of his share, the share or remainder shall be offered in accordance with the terms and conditions of the offer to all handlers who have purchased their respective shares.

(c) The Board shall have the power and authority to dispose of, at any time throughout the year as it may deem appropriate, any or all reserve pool cherries for any experimental purposes and for any nonhuman use, including animal feed, or any use other than normal commercial outlets.

**§ 930.60 Disposition of proceeds from sale of reserve pool.**

The proceeds from the disposition of any reserve pool shall be distributed, after deduction of any expenses incurred by the Board in receiving, handling, holding, and disposing thereof, to the respective producers or their successors in interest, on the basis of the tonnage of their respective contributions to the reserve pool. The distribution of proceeds to producer members of cooperative associations, which are handlers and have reserve pool cherries pursuant to § 930.54, shall be made to the appropriate association.

**§ 930.61 Exemptions.**

The Board, with the approval of the Secretary, may exempt from the provisions of §§ 930.52 through 930.60 cherries used for experimental purposes or processed into products which used less than 5 percent of the preceding 5-year average production of cherries. The Board, with the approval of the Secretary, shall prescribe such rules, regulations, and safeguards as it may deem necessary to insure that cherries handled under the provisions of this section are handled only as authorized.

REPORTS AND RECORDS

**§ 930.62 Reports.**

(a) *Inventory.* Each handler shall, upon request of the Board, file promptly with the Board a certified report showing such information as the Board shall specify with respect to any cherries or cherry products which were held on such date as the Board may designate.

(b) *Receipts.* Each handler shall, upon request of the Board, file promptly with the Board a certified report showing the name and address of each grower and the total weight of cherries delivered for the season.

(c) *Other reports.* Upon the request of the Board, with the approval of the Secretary, each handler shall furnish to the Board such other information with respect to the cherries acquired, handled and disposed of by such handler as may be necessary to enable the Board to exercise its powers and perform its duties under this part.

**§ 930.63 Records.**

Each handler shall maintain such records of all cherries acquired, handled, or sold, or otherwise disposed of as will substantiate the required reports and as may be prescribed by the Board. All such records shall be maintained for not less than two years after the termination of the fiscal year in which the transactions occurred or for such lesser period as the Board may direct.

**§ 930.64 Verification of reports and records.**

For the purpose of assuring compliance and checking and verifying the reports filed by handlers, the Board, through its duly authorized agents, shall have access to any premises where applicable records are maintained, where cherries are received, stored, or handled, and, at any time during reasonable business hours, shall be permitted to inspect such handler premises and any and all records of such handlers with respect to matters within the purview of this part.

**§ 930.65 Confidential information.**

All reports and records furnished or submitted by handlers to the Board and its authorized agents which include data or information constituting a trade secret or disclosing trade position, financial condition, or business operations of the particular handler from whom received, shall be received by and at all times kept in the custody and under the control of one or more employees of the Board, who shall disclose such information to no person other than the Secretary.

MISCELLANEOUS PROVISIONS

**§ 930.70 Compliance.**

Except as provided in this part, no person may handle cherries, the handling of which has been prohibited by the Secretary under this part, and no person shall handle cherries except in conformity with the provisions of this part and the regulations issued hereunder. No person may handle any cherries for which a diversion certificate has been issued other than as provided in § 930.56(a).

**§ 930.71 Right of the Secretary.**

The chairman of the Board and his alternate, and members of the Board (including successors and alternates), and any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the chairman and his alternate and of the Board shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the chairman and his alternate and of the Board shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

**§ 930.72 Effective time.**

The provisions of this part, and of any amendment thereto, shall become effective at such time as the Secretary may declare above his signature and shall continue in force until terminated in one of the ways specified in § 930.73.

**§ 930.73 Termination.**

(a) The Secretary at any time may terminate the provisions of this part by giving at least 1 day's notice by means of a press notice or in any other manner in which he may determine.

(b) The Secretary shall terminate or suspend the operation of any and all of the provisions of this part whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this part whenever he finds by referendum or otherwise that such termination is favored by a majority of the growers: *Provided*, That such majority has, during the current fiscal year, produced more than 50 percent of the volume of the cherries which were produced within the production area. Such termination shall become effective on the last day of April subsequent to the announcement thereof by the Secretary.

(d) The Secretary shall conduct a referendum within the month of March of every fifth year after the effective date of this part to ascertain whether continuation of this part is favored by the growers and handlers. If it develops from said referenda that (1) more than 50 percent of the producers by number or volume of production represented in the referendum or (2) more than 50 percent of the handlers, who during the current fiscal period handled more than 50 percent of the total volume of cherries processed within the production area by those handlers voting in the referendum favor termination of this part, the Secretary shall give consideration to terminating the provisions of this part in accordance with paragraph (c) of this section.

(e) The provisions of this part shall, in any event, terminate whenever the provisions of the Act authorizing them cease to be in effect.

**§ 930.74 Proceedings after termination.**

(a) Upon the termination of the provisions of this part, the then functioning members of the Board shall, for the purpose of liquidating the affairs of the Board, continue as trustees of all the funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said trustees shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and of the trustees, to such person as the Secretary may direct; and (3) upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims

vested in the Board or in the trustees pursuant to this part.

(c) Any person to whom funds, property, and claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligations imposed upon the Board and upon the trustees.

§ 930.75 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this part or of any regulation issued pursuant to this part, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have risen or which may thereafter arise in connection with any provision of this part or any regulation issued thereunder, or (b) release or extinguish any violation of this part or any regulation issued thereunder, or (c) affect or impair any rights or remedies of the Secretary or any other person with respect to any such violation.

§ 930.76 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this part shall cease upon its termination, except with respect to acts done under and during the existence of this part.

§ 930.77 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States, or name any agency or division in the U.S. Department of Agriculture to act as his agent or representative in connection with any provisions of this part.

§ 930.78 Derogation.

Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 930.79 Personal liability.

No member or alternate member of the Board and no employee or agent of the Board nor the chairman of the Board and his alternate shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, chairman alternate, employee, or agent, except for act of dishonesty, willful misconduct, or gross negligence.

§ 930.80 Separability.

If any provision of this part is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ 930.81 Counterparts.

This agreement may be executed in multiple counterparts, and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original. * * *

§ 930.82 Additional parties.

After the effective date hereof, any handler may become a party to this agreement if a counterpart is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party. * * *

§ 930.83 Order with marketing agreement.

Each signatory handler hereby requests the Secretary to issue, pursuant to the Act, an order providing for regulating the handling of cherries in the same manner as is provided for in this agreement. * * *

Dated: October 2, 1970.

JOHN C. BLUM,
*Deputy Administrator,*
*Regulatory Programs.*

[F.R. Doc. 70-13489; Filed, Oct. 7, 1970; 8:50 a.m.]

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## [ 7 CFR Part 984 ]

## WALNUTS GROWN IN CALIFORNIA, OREGON, AND WASHINGTON

### Expenses of Walnut Control Board and Rates of Assessment for 1970–71 Marketing Year

Notice is hereby given of a proposal regarding expenses of the Walnut Control Board and rates of assessment for the 1970–71 marketing year. The year began August 1, 1970. This proposal is pursuant to §§ 984.68 and 984.69 of the marketing agreement, as amended, and Order No. 984, as amended (7 CFR Part 984). The amended marketing agreement and order regulate the handling of walnuts grown in California, Oregon, and Washington, and are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The Board has recommended a budget of expenses in the total amount of $146,100 and assessment rates of 0.10 cent per pound of inshell walnuts and 0.25 cent per pound of shelled walnuts. These rates will be applied to all merchantable walnuts handled or declared for handling during the 1970–71 marketing year. Such rates of assessment are expected to provide sufficient funds to meet the estimated expenses of the Board.

Consideration will be given to any written data, views, or arguments pertaining to the proposal which are received by 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 should be in quadruplicate and will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal is as follows:

§ 984.322 Expenses of the Walnut Control Board and rates of assessment for the 1970–71 marketing year.

(a) *Expenses.* Expenses in the amount of $146,100 are reasonable and likely to be incurred by the Walnut Control Board during the marketing year beginning August 1, 1970, for its maintenance and functioning and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rates of assessment.* The rates of assessment for said marketing year, payable by each handler in accordance with § 984.69, are fixed at 0.10 cent per pound for merchantable inshell walnuts and 0.25 cent per pound for merchantable shelled walnuts.

Dated: October 2, 1970.

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

[F.R. Doc. 70-13436; Filed, Oct. 7, 1970; 8:46 a.m.]

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## [ 9 CFR Part 317 ]

## COOKED SAUSAGE PRODUCTS

### Addition of Cooked Poultry Products

Notice is hereby given that the Department of Agriculture has received a formal request that the Department allow, under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the use of cooked poultry products as ingredients for federally inspected cooked sausage products which bear common or usual names on their labels, such as frankfurter, frankfurt, frank, furter, wiener, vienna, bologna, garlic bologna, and knockwurst. The request proposes that the provisions of § 317.8(c)(40) of the Federal Meat Inspection Regulations (9 CFR 317.8(c)(40)) which permit the inclusion of raw poultry products in cooked sausage emulsions under specified conditions, be amended to allow the addition of cooked poultry products.[1]

*Statement of considerations.* Section 317.8(c)(40) of the regulations prescribes standards of composition for cooked sausages generally and for specific types of sausages, such as frankfurters, and contemplates that each particular type of sausage meeting such specific standards will be labeled with a name as specified in the standard, e.g., frankfurters, that is common or usual

[1] Such provisions are contained in § 319.180 of the revised regulations (35 F.R. 15599) effective Dec. 1, 1970.

for the particular type of sausage. The Federal Meat Inspection Act requires that a product which purports to be or is represented as a food for which a definition and standard of composition has been prescribed by the regulations under the Act shall conform to such definition and standard and bear the name of the food specified in the definition and standard. The Act further prohibits the distribution of products that are offered for sale under the name of another food and contains other provisions to assure that products are informatively labeled and do not have false or misleading labeling.

A common or usual name is one for which there is evidence of longstanding customary association with a specific product which is distinctive because it contains certain specific ingredients, is prepared in a particular manner, or is unique in appearance, in texture, or in other distinguishing characteristics.

Cooked sausage is a unique sausage product which has traditionally been prepared from an emulsion only obtainable by the use of raw meat, and the present standard contemplates that cooked sausage will be made from raw meat although the use in a cooked sausage of previously prepared sausage of identical type (i.e., "rework") has been permitted up to 10 percent of the total ingredients because it does not change the character of the emulsion.

The Department invites information relative to the common or usual ingredients, method of preparation, and other properties unique to products bearing the common or usual names of cooked sausage products, e.g., "frankfurters," from persons familiar with this class of meat food product. The information will be used for the purpose of giving full and impartial consideration to the pending request.

All persons who wish to submit information relative to this matter may do so by filing such information in written form, in duplicate, with the Hearing Clerk, Room 112–A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 60 days after 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)). Comments on the proposal should bear a reference to the date and page number of this issue of the FEDERAL REGISTER.

Done at Washington, D.C., on October 2, 1970.

G. R. GRANGE,
*Acting Administrator.*

[F.R. Doc. 70-13438; Filed, Oct. 7, 1970; 8:46 a.m.]

## [ 9 CFR Part 317 ]

## MEAT CUTS AND CHOPPED MEAT PRODUCTS

### Injection or Mixing of Water Base Solutions

Notice is hereby given that the Department is considering proposals that will allow the injection or mixing of water base solutions into meat cuts or chopped meat products. This notice solicits information relative to the desirability of allowing such products to be prepared, the amounts of the solutions, if any, that should be allowed to be added, and control measures that should be applied to such products to insure compliance with labeling requirements.

The solutions are purportedly added with the aim of improving the color, tenderness, or palatability of the meat products after preparation for serving. They are variable in composition and usually consist of water mixed with approved seasoning materials and phosphates. They sometimes contain animal and vegetable fats, alone or in combination.

The products to which the solutions are added are customarily frozen before distribution and are raw or partially prepared in official establishments for final preparation prior to serving by public eating facilities such as "fast food" outlets and restaurants.

Pending publication of regulations establishing a general policy concerning such products, the Department is giving temporary approval for the production of products containing such solutions if they meet the following requirements and the information currently available in the Department shows that the injected liquid is beneficial to the products. The labels must bear a prominent, legible, and descriptive name. The name must include a bold statement that declares the amount of solution added and the common or usual name of each of its ingredients stated in the order of predominance. The amount of the solutions in products approved has ranged from 2 to 10 percent.

The Federal Meat Inspection Act prohibits the preparation of adulterated products. The law requires that the meat products be considered adulterated "if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight or reduce its quality or strength, or make it appear better or of greater value than it is." This provision requires that the Department carefully review all formulations and processing procedures to insure that adulterated products are not produced by federally inspected plants.

It is recognized that the introduction of liquid into these products can result in adulteration if it serves no beneficial purpose. The range of solution percentages proposed for addition to these products makes it imperative that the Department obtain more data as to whether the addition of the liquid benefits the products in some way, what amount of water is necessary to produce such beneficial properties, and what labeling should be required to describe the products in accordance with the Act.

It is equally important to determine what processing controls should be employed by the plant to insure, and enable the inspectors to verify, that individual products would contain the permitted amount of liquid as described in their labels.

It is also necessary to consider whether requirements should be prescribed as to how the products should be handled during distribution in commerce so that the ultimate consumer is informed that the liquid base solutions have been added.

To insure that all relevant data and information on these products are available for consideration, the Department solicits to the fullest extent views and comments from all interested persons and organizations. These submittals should include, among other relevant material, substantive data and information to show whether liquid is necessary to prepare the products, and the amount, if any, required for such purpose.

It is proposed that the regulations would contain provisions on the following matters:

1. The identification of the specific products into which liquids can be injected, mixed, or otherwise added.
2. The kinds of liquids that may be added such as water or meat broth.
3. The maximum percentage of liquid that may be added to the products.
4. The general operating procedures required to assure product compliance with applicable requirements, with details of the plant control measures to be submitted for approval with the individual label approval applications.
5. The descriptions of labeling and of handling practices to be used during distribution in commerce to insure proper identification of the products when delivered to the consumer.

Any person who wishes to submit written data, views, or comments pertaining to the above-described subjects may do so by filing them in duplicate with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, within 30 days 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)). Comments on the proposal should bear a reference to the date and page number of this issue of the FEDERAL REGISTER.

Done at Washington, D.C., on October 2, 1970.

G. R. GRANGE,
*Acting Administrator.*

[F.R. Doc. 70-13439; Filed, Oct. 7, 1970; 8:46 a.m.]

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## [ 41 CFR Part 24–1 ]

## DEBARMENT AND SUSPENSION OF CONTRACTORS AND GRANTEES PARTICIPATING IN DEPARTMENT PROGRAMS

### Notice of Proposed Rule Making

The Department of Housing and Urban Development is considering amending Part 24–1 of its regulations to establish criteria and procedures that

will apply consistently to every HUD program and to all persons seeking to participate in HUD programs with respect to (a) the debarment of contractors and grantees for cause; (b) the suspension of contractors and grantees for cause under prescribed conditions; (c) the placement of contractors and grantees in ineligibility status when they are included in lists which make participation in federally assisted programs illegal; (d) the use of Adverse Information Reports to identify contractors and grantees having unfavorable performance records; and (e) reconsideration of debarment and suspension.

It is recognized that each Department office requires certain latitude to function effectively in this area. Each office may accordingly implement these regulations by appropriate guidelines which prescribe ancillary procedures not inconsistent with the part, and which have been approved, prior to adoption, by the Office of General Counsel.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or objections as they may desire. Communications should identify the subject matter or the rule by the above title and should be submitted to the General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. All communications received on or before November 13, 1970, will be considered by the Secretary prior to adoption of the final regulation. A copy of each submission will be placed on file for public inspection in the Information Center, Department of Housing and Urban Development, 451 Seventh Street SW., Room 1202, Washington, D.C. 20410.

The proposed rule is issued pursuant to section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

In consideration of the foregoing, it is proposed to amend Part 24–1 as follows:

**Subpart 24–1.75—Debarment and Suspension Regulations**

Sec.



AUTHORITY: The provisions of this Subpart 24–1.75 issued under sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

## Subpart 24–1.75—Debarment and Suspension Regulations

### § 24–1.7500 Scope of subpart.

This subpart prescribes procedures relating to:

(a) The debarment of contractors and grantees for cause;

(b) The suspension of contractors and grantees for cause under prescribed conditions;

(c) The placement of contractors and grantees in ineligibility status when they are included in lists which make their participation in federally assisted programs illegal;

(d) Use of Adverse Information Reports to identify contractors and grantees having unfavorable performance records; and

(e) Reconsideration of debarment and suspension.

### § 24–1.7501 Authority.

This subpart is issued under section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

### § 24–1.7502 Applicability.

This subpart applies to public and private organizations and individuals who are contractors with or grantees of the Department and to all who receive HUD funds from such contractors or grantees. It further applies to all HUD assisted contracts and to participants, or contractors with participants, in programs where HUD is the guarantor or insurer.

### § 24–1.7503 Definitions.

(a) "Debarment" means, in general, an exclusion from participation in HUD programs for a reasonable, specified period of time commensurate with the seriousness of the offense or failure, or the inadequacy of performance. However, in connection with Executive Order 11246 on Equal Employment Opportunity, the term debarment also means an exclusion from contracting or subcontracting for an indefinite period of time pending the elimination of the circumstances for which the exclusion was imposed.

(b) "Suspension" means a disqualification from participation in HUD programs for a temporary period of time because a contractor or grantee is suspected upon adequate evidence of engaging in criminal, fraudulent, or seriously improper conduct.

(c) "Placement in ineligibility status" means a disqualification from participation in HUD programs pending the elimination of the circumstances which constitute the basis for imposition of the disqualification.

(d) "Affiliates": Business concerns are affiliates of each other when either directly or indirectly one concern or individual controls or has the power to control another, or when a third party controls or has the power to control both.

(e) "Previous Participation List": A list of all contractors and grantees against whom any or all of the measures referred to in this part have been invoked. It includes past performance data and the status of participant on any debarment, suspension, ineligibility list, or Adverse Information Report.

(f) "Unsatisfactory Risk Determination": A decision made in accordance with § 24–1.7510 that a contractor's or grantee's conduct has been such that his participation in a transaction would be unacceptable.

(g) "Adverse Information Report": A record of contractors and grantees whose performance has been unsatisfactory under auxiliary procedures established by the offices of the Department.

(h) "Contractors or grantees": All individuals and public or private organizations that are direct recipients of HUD funds or that receive HUD funds indirectly through non-Federal sources, and all participants, or contractors with participants, in programs where HUD is the guarantor or insurer.

(i) "Assistant Secretary" means the several Assistant Secretaries of the Department, the General Counsel, and the Federal Insurance Administrator.

### § 24–1.7504 General.

(a) Debarment, suspension, and placement in ineligible status are measures which may be invoked by offices of the Department either to exclude or to disqualify contractors and grantees from participation in Department programs. These measures shall be used for the purpose of protecting the interests of the Department and not for punishment. To assure the Department the benefits to be derived from the full and free competition of interested contractors and grantees, these measures shall not be instituted for any time longer than deemed necessary to protect the interests of the Department, and shall preclude awards only for the probable duration of the period or nonresponsibility.

(b) Any Department action to exclude or to disqualify contractors and grantees from participation in its programs, or to reconsider such measures, shall be based upon all available relevant facts. Department investigation required to elicit such facts and related evidence shall be conducted by the Office of Investigation.

(c) In any instance where Department action results in an applicant's being denied financial assistance on the basis of his previous conduct with the Department, the applicant is entitled to a hearing in accordance with § 24–1.7509 regardless of the procedure which has been applied to effect such denial.

(d) Where an Assistant Secretary has authority under this part to act or make a determination, he may delegate all or part of this authority.

**§ 24–1.7505 Establishment and maintenance of lists of contractors and grantees debarred, suspended, declared ineligible; auxiliary lists.**

(a) The Director, Office of Investigation, shall be responsible for maintenance and consolidation of all Department lists relating to debarment, suspension, ineligibility, previous participation, and Adverse Information Reports. He shall further maintain debarment lists of other Government agencies which this Department is required by law and Executive order to observe.

(b) Each Assistant Secretary shall advise the Director, Office of Investigation, of additions or deletions to be made in debarment lists and Previous Participation Lists maintained by the Office of Investigation. Such lists shall be periodically reviewed by the General Counsel to assure that the criteria, procedures, and standards included in these regulations are observed.

(c) The Director, Office of Investigation, shall, in cooperation with the offices of the Department and the Office of ADP Systems Management and Operations, establish procedures for assuring that effective and timely reference checks may be made by designated officials.

(d) The General Counsel, in cooperation with the Assistant Secretaries, shall determine the necessity for and degree of restriction imposed on circulation to non-Federal entities of the lists maintained by the Office of Investigation and correspondence related to such lists. If the General Counsel determines a list shall be so restricted, the Director, Office of Investigation, shall establish rules for handling such list. All lists shall be marked "For Official Use Only" and handled within the Department in accordance with procedures delineated in HUD Circular 1750.2A.

(e) All lists shall be kept current. Procedures for issuance of notices of additions and deletions shall be established by the Director, Office of Investigation, in cooperation with the Office of ADP Systems Management and Operations. Each Assistant Secretary shall appoint a liaison officer responsible for providing the Office of Investigation with current information in accordance with § 24–1.7516(a).

(f) Auxiliary lists containing adverse information reports or previous participation information shall be consolidated with the debarment, suspension, and ineligibility lists.

(g) The consolidated list (Previous Participation List) shall show as a minimum the following information where applicable: (1) The names of those contractors and grantees debarred, suspended, or ineligible (in alphabetical order) with appropriate cross reference where more than one name is involved in a single transaction; (2) the basis of authority for each action; (3) the extent of restrictions imposed; and (4) the termination date for each listing.

(h) The Director, Office of Investigation, shall arrange for reproduction and distribution of the Previous Participation List. Publication shall be in accordance with entries made under § 24–1.7506. Distribution of such list among Department employees shall be made to those whose duties require access to the list as authorized by the Assistant Secretaries having respective jurisdiction of such employees. Names and dates of debarment, suspension, or ineligibility contained in the Previous Participation List will be available upon request to those who require such information in their relations with contractors and grantees; further information contained in such lists shall only be distributed to those deemed eligible by the General Counsel under paragraph (d) of this section.

(i) Procedures for submitting requests for information contained in the Previous Participation List and distribution of such information shall be established by the Office of Investigation in cooperation with the Office of ADP Systems Management and Operations.

(j) Following publication of this regulation, and as soon as practicable, the Office of ADP Systems Management and Operations shall conduct a feasibility study in connection with the inclusion of Previous Participation List information in the ADP system.

**§ 24–1.7506 Bases for entry.**

Entry shall be made on the debarred, suspended, and ineligible list of contractors and grantees on the following bases:

(a) Those listed by the Comptroller General in accordance with the provisions of section 3 of the Walsh-Healey Public Contracts Act (41 U.S.C. 37), which have been found by the Secretary of Labor to have violated any of the agreements or representations required by that Act.

(b) Those listed by the Comptroller General in accordance with the provisions of section 3 of the Davis-Bacon Act (40 U.S.C. 276a–2(a)), as found by the Comptroller General to have violated said Act.

(c) Those listed by the Comptroller General in accordance with the provisions of Part 5, § 5.6(b) of the Regulations of the Secretary of Labor issued pursuant to authority granted under Reorganization Plan 14 of 1950, as found by the Secretary of Labor to be in aggravated or willful violation of the prevailing wage or overtime pay provisions of any statutes including the following:

(1) Davis-Bacon Act (40 U.S.C. 276a).

(2) Anti-Kickback Act (18 U.S.C. 874, 40 U.S.C. 276 b, c).

(3) The Contract Work Hours Standards Act (40 U.S.C. 327–332).

(4) National Housing Act (12 U.S.C. 1703).

(5) Hospital Survey and Construction Act (42 U.S.C. 291).

(6) Federal Airport Act (49 U.S.C. 1101).

(7) Housing Act of 1949 (42 U.S.C. 1401).

(8) School Survey and Construction Act of 1950 (20 U.S.C. 251).

(9) Defense Housing and Community Facilities and Services Act of 1951 (42 U.S.C. 1591).

(10) Federal Civil Defense Act of 1950 (50 App. U.S.C. 2281(i)).

(11) Area Redevelopment Act of 1961 (42 U.S.C. 2518).

(12) Delaware River Basin Compact (sec. 15.1, 75 Stat. 714).

(13) Health Professions Educational Assistance Act of 1963 (sec. 721, 77 Stat. 167).

(14) Mental Retardation Facilities Construction Act (secs. 101, 122, 135, 77 Stat. 282, 284, 288).

(15) Community Mental Health Centers Act (sec. 205, 77 Stat. 292).

(d) Those debarred by the Secretary of Labor, or by the Secretary of this Department under Executive Order 11246 as amended by Executive Order 11373 on Equal Employment Opportunity from participation in Government contracting or subcontracting by reason of noncompliance with the Equal Opportunity clause.

(e) Those the Department has determined to debar or suspend for cause under the conditions and procedures set forth in §§ 24–1.7508 and 24–1.7509.

(f) Those determined by an executive agency in accordance with section 3(b) of the Buy American Act (41 U.S.C. 10b(b)) to have failed to comply with the provisions of section 3(a) of that Act under any contract containing the specific provision required by said section 3(a) and made by the agency for construction, alteration, or repair of any public building or public work.

(g) Those found by the Secretary of Labor ineligible to be awarded contracts for the reason that they do not qualify as "manufacturers" or "regular dealers" within the meaning of section 1(a) of the Walsh-Healey Public Contracts Act (41 U.S.C. 35(a)).

(h) Those who have failed to pay their debts to the Department within a reasonable period of time after a written demand for payment has been made in accordance with 4 CFR Part 102, Standards for the Administrative Collection of Claims.

**§ 24–1.7507 Treatment to be accorded contractors or grantees in debarred, suspended, or ineligible status; Adverse Information Report Status.**

Contractors or grantees listed as debarred, suspended, or ineligible shall be treated as follows:

(a) *Total restrictions.* Department funds shall not be expended for financial assistance to a contractor or grantee that is listed on the basis of § 24–1.7506 (a), (b), (d), or (e); § 24–1.7508(a) (1), (2), (3), (4), (5), (6), or (8); or to any concern, corporation, partnership, or association in which the former contractor or grantee has a substantial interest, nor shall bids or proposals be solicited therefrom.

(b) *Restrictions under statutes designated in the regulations of the Secretary of Labor.* A contractor listed on the basis of § 24–1.7506(c), or any concern, corporation, partnership, or association in which such contractor has a substantial interest, shall be ineligible for a period of 3 years (from the date of publication

by the Comptroller General) to participate in any contracts subject to any of the statutes listed in § 24–1.7506.

(c) *Buy American Act restrictions.* As specified in the Buy American Act (41 U.S.C. 10b(b)), contracts supported by Department funds shall not be awarded to contractors and grantees listed on the basis of § 24–1.7506(f) for construction, alteration, or repair of public buildings or public works in the continental United States or elsewhere.

(d) *Ineligibility restrictions of the Walsh-Healey Act.* Contracts supported by Department funds shall not be awarded to a contractor or grantee in any amount exceeding $10,000 for those materials, supplies, articles, or equipment with respect to which the contractor or grantee has been found to be ineligible to be awarded a contract by the Secretary of Labor, as provided in § 24–1.7506(g). However, contractors or grantees listed on this basis may, in the discretion of the Department, be awarded such contracts and may be solicited for bids or proposals, for (1) such materials, supplies, articles, or equipment when the amount does not exceed $10,000; (2) services regardless of amount; and (3) commodities in which the contractor or grantee has not been declared ineligible, regardless of amount.

(e) *Restrictions on subcontracting.* Where a contractor or grantee listed on the debarred bidders' list is proposed as a subcontractor, the contracting officer or program officer should decline to approve subcontracting with that contractor or grantee unless it is determined by the Department to be in the best interest of the Government to do so. Such determination shall in no event be made in the case of debarment under § 24–1.7506(d).

**§ 24–1.7508 Causes and conditions applicable to determination of debarment.**

Subject to the following conditions, the Department may debar a contractor or grantee in the public interest for any of the following causes:

(a) *Causes.* (1) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract, or subcontract thereunder, or in the performance of such contract or subcontract.

(2) Conviction under the Federal Antitrust Statutes arising out of the submission of bids or proposals.

(3) Violation of contract provisions, as set forth below, of a character which is regarded by the Department to be so serious as to justify debarment action.

(i) Willful failure to perform in accordance with the specifications or within the time limit provided in the contract.

(ii) A record of failure to perform, or of unsatisfactory performance, in accordance with the terms of one or more contracts: *Provided,* That such failure or unsatisfactory performance has occurred within a reasonable period of time preceding the determination to debar. Failure to perform or unsatisfactory performance caused by acts beyond the control of the firm or individual as a contractor shall not be considered to be a basis for debarment.

(iii) Violation of the contractual provision against contingent fees.

(iv) Acceptance of a contingent fee, which is paid in violation of contractual provision against contingent fees.

(v) Violation of the contractual provision requiring affirmative action to provide equal opportunity in the participant's own employment practices.

(4) Any other cause of such serious compelling nature, affecting responsibility, as may be determined by the Secretary or his designee to warrant debarment.

(5) Debarment by some other executive agency.

(6) Those debarred by procedures prescribed by section 512 of the National Housing Act.

(7) Those found by the Secretary, after hearing, to have violated title VI of the Civil Rights Act of 1964.

(8) Those found by the Secretary to have violated any rule, regulation, or procedure issued or adopted pursuant to Executive Order 11063, or any nondiscrimination provision included in any agreement or contract pursuant to any such rule, regulation, or procedure.

(b) *Conditions.* (1) Debarment for any of the causes set forth in paragraph (a) of this section shall be made only upon approval of the Secretary or his duly authorized representative.

(2) The existence of any of the causes set forth in paragraph (a) of this section does not necessarily require that a contractor or grantee be debarred. In each instance, whether the offense or failure, or inadequacy of performance, be of a criminal, fraudulent, or serious nature, the decision to debar shall be made within the discretion of the Department and shall be rendered in the best interests of the Government. Likewise, all mitigating factors may be considered in determining the seriousness of the offense, failure, or inadequacy of performance, and in deciding whether debarment is warranted.

(3) The existence of a cause set forth in paragraph (a) (1) and (2) of this section shall be established by criminal conviction by a court of competent jurisdiction. In the event that an appeal taken from such conviction results in a reversal of the conviction, the debarment shall be removed upon the party's request (unless other cause for debarment exists).

(4) The existence of a cause set forth in paragraph (a) (3) and (4) of this section shall be established by a preponderance of the evidence as determined by the Department.

(5) Debarment for the cause set forth in paragraph (a)(5) of this section (debarment by another agency) shall be proper provided that one of the causes for debarment set forth in paragraph (a) (1) through (4) of this section was the basis for debarment by the original debarring agency. Such debarment may be based entirely on the record of facts obtained by the original debarring agency, or upon a combination of such facts and additional facts.

(c) *Period of debarment.* (1) Debarment of contractor or grantee for causes other than failure to comply with the provisions of Executive Order 11246 on Equal Employment Opportunity (see § 24–1.7506(d)), or with title VI of the Civil Rights Act of 1964 (see paragraph (a)(7) of this section), shall be as a general rule for a period not to exceed 3 years. However, when debarment for an additional period is deemed necessary, notice of the proposed additional debarment shall be furnished to that contractor or grantee in accordance with § 24–1.7509. Except as otherwise provided by statute, a debarment may be removed or the period thereof may be reduced by the appropriate program officer, with the approval of the Assistant Secretary, upon the submission of an application, supported by documentary evidence, setting forth appropriate grounds for the granting of relief such as newly discovered material evidence, reversal of a conviction, bona fide change of ownership or management, or the elimination of the causes for which the debarment was imposed.

(2) Debarment of an organization or individual for failure to comply with the provisions of Executive Order 11246 on Equal Employment Opportunity of title VI or the Civil Rights Act of 1964, shall continue until removed in accordance with those authorities and applicable regulations.

**§ 24–1.7509 Procedural requirements relating to the imposition of debarment.**

(a) Initiation of debarment action: When the Department seeks to debar a contractor or grantee (or any affiliate thereof), that party shall be furnished with a written notice by registered mail from the program officer proposing the action: (1) Stating that debarment is being considered, (2) setting forth the reasons for the proposed debarment, and (3) indicating that such party will be accorded an opportunity for a hearing if he so requests within 10 days from his receipt of notice and that he may be represented by counsel.

(b) Hearing request:

(1) Any contractor or grantee that has been notified of a proposed action is entitled to request an opportunity to be heard and to be represented by counsel: *Provided,* That a contractor or grantee who seeks relief from an Unsatisfactory Risk Determination under § 24–1.7510 in accordance with § 24–1.7504(c) must show that he has requested reinstatement under § 24–1.7510(d) and has been refused. A hearing request shall be made in writing addressed to the program officer proposing the action. If at the end of such 10-day period no request has been received, the officer may assume that an opportunity to be heard is not desired, and may proceed in the manner provided in subparagraph (3) of this paragraph to notify the interested party of the determination.

(2) Hearing, time, and place: Upon receipt of a request for an opportunity to

be heard, the program officer shall arrange a timely hearing. Notice of the time and place of such hearing shall be in writing, transmitted by registered mail, return receipt requested, and shall include a statement indicating the informal nature of the proceedings and their purpose. It shall be within the discretion of the appropriate Assistant Secretary to determine the hearing place.

(3) Determination: Hearings shall be conducted by a Hearing Officer of the Department who shall be responsible for the fair and expeditious conduct of proceedings. A record shall be made of the proceedings and shall be made available to the parties upon request. After the contractor or grantee against whom action is proposed has been afforded an opportunity to be heard, the Hearing Officer shall make a determination on the preponderance of the evidence subject to the approval of the Assistant Secretary having jurisdiction of the program in which the contractor or grantee has participated. Notice of the determination shall be given in writing, signed by the Hearing Officer, and transmitted by registered mail, return receipt requested. The determination shall be final and conclusive.

(4) Rescission and reinstatement: Any contractor or grantee debarred from the benefits of participation may in writing request reinstatement any time after 6 months from the date of the debarment determination. The procedures for reinstatement are substantially similar to those invoked in the initial proceedings. However, conduct of the proceedings shall be the responsibility of the program officer. His determination to reinstate shall be subject to the approval of the appropriate Assistant Secretary. In reaching his determination regarding reinstatement, the program officer must be satisfied that the original wrongful act has been corrected and also be persuaded from the assurances of the party concerned that he understands the requirements of the statutes and the administrative rules and regulations and that he will comply with them in the future. When a debarment has been rescinded a report thereof shall be forwarded to the Director, Office of Investigation, by the program officer who shall forward notice of reinstatement to the party so reinstated.

(c) Hearing Officers: A Hearing Officer Panel shall be established and shall consist of not less than six attorneys appointed by the General Counsel. The appropriate Assistant Secretary shall select a Hearing Officer from the panel to conduct a hearing as the need arises.

(d) Where an office of the Department is required by statute or Executive order to follow debarment or suspension procedures that may differ from the procedures prescribed by this part, the Director, Office of Investigation, shall be provided with a copy of the statutory procedures as implemented by that office.

**§ 24–1.7510 Unsatisfactory Risk Determination.**

(a) Basis of action: Those seeking to participate in a Department program may be rejected on the grounds of unsatisfactory past experience. There will be a rejection where past experience with the participant indicates that his previous conduct or method of doing business has been such that his participation in the transaction would make it an unacceptable risk. The Unsatisfactory Risk Determination action is usually temporary in nature and may be followed in aggravated cases by the application of § 24–1.7509 procedures.

(b) Invitation to conference: The purpose of the application of Unsatisfactory Risk Determination procedure is to obtain a correction of the conditions giving rise to the administrative action. Accordingly, a contractor or grantee against whom administrative action is being considered is usually extended an invitation to discuss the matter with a program officer looking toward corrective action on the part of those involved. Such an invitation is not extended if action is taken during investigation or pending court proceedings.

(c) Determination notice: When it is determined that a contractor or grantee is an unsatisfactory risk, the appropriate Assistant Secretary will notify such contractor or grantee by sending a registered letter to his last known residence, stating the date on which such Unsatisfactory Risk Determination is effective, a brief informal statement of the reasons for the same, and the name of the contractor or grantee and its officers and principal stockholders, if any.

(d) Reinstatement: Reinstatement of contractors or grantees whose applications or requests have been rejected under Unsatisfactory Risk Determination procedures is within the discretion of the appropriate Assistant Secretary. The Assistant Secretary may entertain any proposal whereby the contractors or grantees affected make arrangements which will correct the conditions leading to the original determination. The arrangements for corrective action include proper assurances of future compliance in specified matters, and agreement to abide by all applicable regulations. Satisfactory corrective action having been taken the Unsatisfactory Risk Determination is rescinded and withdrawn and the contractors or grantees are reinstated.

(e) Notices of Unsatisfactory Risk Determination and reinstatements shall be sent to the Office of Investigation by the program officer.

**§ 24–1.7511 Suspension.**

Suspension is a drastic action taken when there is suspicion of fraud or other criminal conduct in Government business or contractual dealings and, as such, shall not be based upon an unsupported accusation. A contractor or grantee is suspended pending investigation and appropriate action by the Department of Justice. In assessing whether adequate evidence exists for invoking a suspension, consideration should be given to the amount of credible evidence which is available, to the existence or absence of corroboration as to important allegations, as well as to the inferences which may properly be drawn from the existence or absence of affirmative facts. This assessment should include an examination of basic documents, such as contracts, inspection reports, and correspondence. A suspension may be modified whenever it is determined to be in the interest of the Government to do so.

**§ 24–1.7512 Causes and conditions under which contractors or grantees may be suspended.**

(a) The Assistant Secretaries of the Department may, in the interest of the Government, suspend a contractor or grantee:

(1) Suspected, upon adequate evidence, of—

(i) Commission of fraud or other criminal offense as an incident to obtaining or attempting to obtain, or to the performance of, a public contract; or

(ii) Violation of the Federal antitrust statutes arising out of the submission of bids and proposals; or

(iii) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty, which seriously and directly affects the question of present responsibility;

or

(2) For other causes of such serious and compelling nature, affecting responsibility as may be determined by the Department to warrant suspension.

(b) A suspension invoked by another agency for any of the causes set forth in paragraph (a) (1) and (2) of this section may be the basis for the imposition of a concurrent suspension by the Department.

**§ 24–1.7513 Period and scope of suspension.**

(a) *Period of suspension.* All suspensions shall be for a temporary period pending the completion of an investigation and such legal proceedings as may ensue. In cases involving suspected violation of Federal law where prosecutive action has not been initiated by the Department of Justice within 12 months from the date of the notice of suspension, the suspension shall be terminated unless an Assistant Attorney General requests continuance of the suspension. If such a request is received, the suspension may be continued for an additional 6 months. Notice of the proposed removal of the suspension shall be given to the Department of Justice 30 days prior to the expiration of the 12-month period. In no event shall a suspension continue beyond 18 months unless prosecutive action has been initiated within that period. Whenever prosecutive action has been initiated, the suspension may continue until the legal proceedings are completed. Upon removal of a suspension, consideration may be given to debarment in accordance with § 24–1.7509.

(b) *Scope of suspension.* (1) Suspension may include all known affiliates of a contractor or grantee.

(2) A decision to include known affiliates in a proposed suspension is an individual determination and, as such, must be made on a case-by-case basis.

(3) The criminal, fraudulent, or seriously improper conduct of an individual may be imputed to the organization with which he is connected when the impropriety involved was performed within the course of his official duty, or with knowledge or approval of the organization.

**§ 24–1.7514 Restrictions during period of suspension.**

During a period of suspension of a contractor or grantee the following policies and procedures shall be applicable:

(a) Bids and proposals shall not be solicited from suspended contractors or grantees. If received, bids and proposals shall not be considered and awards for contracts shall not be made to suspended contractors or grantees unless it is determined by the Department to be in the best interest of the Government.

(b) Suspended contractors will be subject to the provisions of § 24–1.7507 regarding restrictions on subcontractors.

**§ 24–1.7515 Notice of suspension.**

(a) The contractor or grantee concerned shall be furnished by registered mail a written notice of the suspension by the appropriate Assistant Secretary within 10 days after the effective date. The notice shall state as follows:

(1) The suspension is based (i) on the information that the contractor or grantee has committed irregularities of a serious nature in business dealings with the Government, or (ii) on irregularities which seriously reflect on the propriety of further dealings of the contractor or grantee with the Government. (The irregularities should be described in general terms without disclosing the Government's evidence);

(2) The suspension is for a temporary period pending the completion of an investigation and such legal proceedings as may ensue;

(3) Bids and proposals for participation in a Department program will not be solicited from the contractor or grantee and, if received, will not be considered for award unless determined by the Department to be in the best interest of the Government.

(4) The suspension is effective throughout the Department. All inquiries concerning suspended parties shall be handled in accordance with Department procedures. Where a matter has been referred to the Department of Justice, the Department shall not give further information to the contractors or grantees concerning the reasons for suspension beyond that stated in the notice of suspension set forth in this section until the Department of Justice has been advised of the inquiry and acquiesces in any such disclosure.

(5) The suspended party is entitled to request an opportunity to be heard and represented by counsel in accordance with § 24–1.7509.

**§ 24–1.7516 Department procedure in auxiliary actions.**

(a) Each office of the Department that establishes an Adverse Information Report, or reports, for use in its programs, shall so advise the Director, Office of Investigation, and provide him with a current report or reports as of each quarter. Additions to and deletions from such reports shall be furnished in the interim period.

(b) An office in the Department may refer to the Adverse Information Reports of other offices for use as elements of evaluation of contractors or grantees seeking to participate in its programs.

Issued in Washington, D.C., on October 2, 1970.

GEORGE ROMNEY,
*Secretary of Housing and Urban Development.*

[F.R. Doc. 70–13477; Filed, Oct. 7, 1970; 8:50 a.m.]

# CIVIL AERONAUTICS BOARD

## [ 14 CFR Part 242 ]

[Docket No. 22516; EDR–186A]

## REPORTING RESULTS OF SCHEDULED ALL-CARGO SERVICES

### Supplemental Notice of Proposed Rule Making

OCTOBER 2, 1970.

The Board, by circulation of notice of proposed rule making EDR–186, dated August 28, 1970, and publication at 35 F.R. 13999, gave notice that it had under consideration proposed amendments to Part 242 which would extend Part 242 through December 31, 1972. Interested persons were invited to participate in the proceeding by submission of twelve (12) copies of written data, views, or arguments pertaining thereto to the Docket Section of the Board on or before October 2, 1970.

Subsequent to the issuance of the proposed rule, counsel for the Flying Tiger Line Inc. (FTL), requested an extension of 45 days to submit comments, indicating that FTL intended to propose major revisions to Part 242 in its comments.

Any major revisions of Part 242 would clearly be outside the scope of this proceeding. Moreover, an extension of 45 days' time for submission of comments could make it difficult for the Board to act finally on EDR–186 before the expiration of Part 242. However, in the interest of assuring that the Board will have the benefit of the views of FTL on the issues raised by the notice, the undersigned hereby extends the time for submitting comments to October 12, 1970, pursuant to the authority delegated in § 385.20(d) of the Board's Organization Regulations.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324)

By the Civil Aeronautics Board.

[SEAL] ARTHUR H. SIMMS,
*Associate General Counsel, Rules and Rates.*

[F.R. Doc. 70–13441; Filed, Oct. 7, 1970; 8:47 a.m.]

# FEDERAL TRADE COMMISSION

## [ 16 CFR Part 430 ]

## BILLING PRACTICES ARISING OUT OF ADMINISTRATION OF CUSTOMER ACCOUNTS BY CREDIT CARD ISSUERS AND OTHER RETAIL ESTABLISHMENTS

### Notice of Public Hearing and Opportunity To Submit Data, Views, or Arguments

Notice is hereby given that the Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41 et seq., and the provisions of Part 1, Subpart B of the Commission's procedures and rules of practice, 16 CFR 1.11 et seq., has initiated a proceeding for the promulgation of a Trade Regulation Rule addressed to the subject of the certain billing practices followed in the administration of customer accounts by credit card issuers and other retail establishments.

Accordingly, the Commission therefore proposes the following Trade Regulation Rule:

**§ 430.1 The Rule.**

(a) In connection with the administration of customer accounts by credit card issuers and other retail establishments engaged in commerce as "commerce" is defined in the Federal Trade Commission Act, it constitutes an unfair method of competition and an unfair or deceptive act or practice:

(1) To fail upon receipt of notification in writing by the customer account holder to hold in abeyance further billing statements for the charge or charges questioned or disputed until an individual inquiry into the facts has been conducted and an explanatory response in clear and definite terms is furnished, which response may be sent simultaneously with a succeeding billing;

(2) To fail to credit customer accounts with all finance or other charges accruing on disputed billing charges when such disputes are subsequently resolved in the customer's favor;

(3) To fail to specify the vendors and/or creditors, the amount, and dates of each extension of credit or the date such extension of credit is debited to the account during the billing cycle, and a brief identification, either on the statement or on an accompanying slip or by symbol of any goods or services purchased or other extension of credit;

(4) To convey to third parties, including credit bureaus, credit reporting agencies and retail establishments participating in a credit card operation, adverse

credit information concerning a disputed amount allegedly owed by a customer account holder without first notifying the customer account holder of the parties to whom such information will be conveyed, together with a copy of the report to be conveyed.

(b) Further, in connection with the administration of customer accounts by credit card issuers and other retail establishments who issue billing statements on a monthly basis, in commerce as "commerce" is defined in the Federal Trade Commission Act, it constitutes an unfair method of competition and an unfair trade practice:

(1) To impose finance charges or late payment charges on accounts where the statement of account was mailed less than 21 calendar days before the date by which payment must be made in order to avoid the imposition of finance charges or late payment charges;

(2) To fail to post payments to a customer's account based on the date of actual receipt by the creditor or his agent;

(3) To hold moneys collected from a credit customer in instances where the customer has transmitted to the creditor funds in excess of the total balance due on an account unless the creditor has disclosed on the periodic statement that the customer has an opportunity to request that the excess moneys either be refunded to him or credited to his account;

(4) To fail to include on the billing statement the name, address, and telephone number of a person authorized to act as a contact between the customer and the retail establishment for the purpose of receiving requests by the customer to correct mistakes or make adjustments to the customer's billing statement.

All interested persons, including the consuming public, are hereby notified that they may file written data, views, or arguments concerning the proposed Rule with the Assistant Director, Division of Industry Guidance, Bureau of Consumer Protection, Federal Trade Commission, Pennsylvania Avenue and Sixth Street NW., Washington, D.C. 20580, not later than January 25, 1971. To the extent practicable, persons wishing to file written presentations in excess of two pages should submit 20 copies.

All interested persons are also given notice of opportunity to orally present data, views, or arguments with respect to the proposed Rule at a public hearing commencing each day at 10 a.m., e.s.t., January 25 and 26, 1971, in Room 532 of the Federal Trade Commission Building, Washington, D.C.

Any person desiring to orally present his views at the hearing should so inform the Assistant Director, Division of Industry Guidance, not later than January 18, 1971, and state the estimated time required for his oral presentation. Reasonable limitations upon the length of time allotted to any person may be imposed. In addition, all parties desiring to deliver a prepared statement at the hearing should file such statement with the Assistant Director, Division of Industry Guidance on or before January 18, 1971.

The data, views, or arguments presented with respect to the practices in question will be available for examination by interested parties at the office of the Assistant Secretary for Legal and Public Records, Federal Trade Commission, Washington, D.C., and will be considered by the Commission in the establishment of a Trade Regulation Rule.

All interested persons including retail department stores, marketers of gasoline, travel and entertainment credit card establishments, bank and other credit card issuers, book, magazine, and record club establishments, other retail establishments and the consuming public are urged to express their approval or disapproval of the proposed Rule, or to recommend revisions thereof, and to give a full statement of their views in connection therewith.

Issued: October 8, 1970.

By direction of the Commission.

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

[F.R. Doc. 70-13304; Filed, Oct. 7, 1970; 8:45 a.m.]

## [ 16 CFR Part 501 ]

## PAPER TABLE COVERS, SHEETS, AND PILLOW CASES

### Proposed Exemption From Certain Labeling Requirements

The conventional textile table cloth, bed sheet, and pillow case are, because of their textile composition, not subject to the requirements of the Fair Packaging and Labeling Act regulations. These commodities are by tradition measured bidimensionally in terms of inches, rather than in terms of area and bidimensions expressed in largest whole units (yards, feet). There are "consumer commodities" as defined in the FPLA which are functionally the same, but which are fabricated from paper, e.g., paper table covers, paper bed sheets, and paper pillow cases. Being subject to the FPLA, current regulations provide for expression of measurements of these consumer commodities in terms of largest whole units of length and width.

A petition has been filed by the Tissue Division of the American Paper Institute proposing that paper table covers, bed sheets, and pillow cases be measured only in terms of length and width expressed in inches.

The Commission agrees that such consumer commodities should be exempted from the requirements of § 500.12 of the regulations, provided the length and width of the commodities are expressed in inches, and that such an exemption is in the interest of the consumer.

Accordingly, pursuant to the provisions of the Fair Packaging and Labeling Act (sections 5(b), 6(b), 80 Stat. 1298, 1300; 15 U.S.C. 1454, 1455), the following regulation is proposed:

**§ 501.5 Paper table covers, bed sheets, pillow cases.**

Table covers, bed sheets, and pillow cases, fabricated from paper, are exempt from the requirements of § 500.12 of this chapter which specifies the expression of measurement of bidimensional commodities: *Provided*, That such commodities shall clearly present their actual length and width in terms of inches.

Any interested person may, within 30 days from the date of this publication in the FEDERAL REGISTER, file with the Secretary, Federal Trade Commission, Washington, D.C. 20580, written views on this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Issued: October 2, 1970.

By direction of the Commission.

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

[F.R. Doc. 70-13502; Filed, Oct. 7, 1970; 8:51 a.m.]

## [ 16 CFR Part 501 ]

## CELLULOSE SPONGES OF IRREGULAR DIMENSIONS

### Proposed Exemption From Certain Labeling Requirements

It is a custom of the trade to package some irregular cut cellulose sponges in quantities of 10 or more, in transparent plastic bags. Generally these sponges are the usable left-overs which remain after the regular line sponges of standard dimensions are cut from a master block. While somewhat alike in size and shape, they do have many different dimensions. Functionally they serve the same purpose as sponges of standard dimensions, sizes, and shape. However, because of the irregularity in dimensions, packages of such sponges are virtually impossible to label in conformity with § 500.25 of the Fair Packaging and Labeling Act Regulations. After discussions with industry representatives, the Commission is of the opinion that an exemption from § 500.25 is appropriate.

Accordingly, pursuant to the provisions of the Fair Packaging and Labeling Act (sections 5(b), 6(b), 80 Stat. 1298, 1300; 15 U.S.C. 1454, 1455), the following regulation is proposed:

**§ 501.6 Cellulose sponges, irregular dimensions.**

Variety packages of cellulose sponges of irregular dimensions, are exempted from the requirements of § 500.25 of this chapter, provided:

(a) Such sponges are packed in transparent packages which afford visual inspection of the varied sizes, shapes, and irregular dimensions; and

(b) The quantity of contents declaration is expressed as a combination of count accompanied by the term "irregular dimensions". Example: "10 Assorted Sponges—Irregular dimensions".

Any interested person may, within 30 days from the date of this publication in the FEDERAL REGISTER, file with the Secretary, Federal Trade Commission, Washington, D.C. 20580, written views on this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Issued: October 2, 1970.

By direction of the Commission.

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

[F.R. Doc. 70-13501; Filed, Oct. 7, 1970; 8:51 a.m.]

# SMALL BUSINESS ADMINISTRATION

## [ 13 CFR Part 121 ]

[Rev. 9]

## SMALL BUSINESS SIZE STANDARDS

### Definition of Terms "Annual Sales" and "Annual Receipts"

Notice is hereby given that the Administrator of the Small Business Administration proposes to amend Part 121 of Chapter I of Title 13 of the Code of Federal Regulations by changing the definition of the terms "annual sales" and "annual receipts" as used in various definitions of small business in Part 121.

Currently various definitions of small business as set forth in Part 121 utilize as a size standard either "annual sales" or "annual sales or receipts" of a concern and its affiliates. Section 121.3-2(b) of the regulation provides in pertinent part that "annual sales and annual receipts" means the annual sales and receipts, less returns and allowances, of a concern and its affiliates during its most recently completed fiscal year.

In practice this broad definition of annual sales and annual receipts has presented problems. Various concerns in the same industry keep their books on different bases, such as cash, accrual, completed contracts, percentage-of-completion, etc. Further, certain companies utilize different bases in preparing financial statements for different purposes.

In order to clarify the basis on which figures are to be submitted to SBA for size determination purposes, it is proposed to: (1) Substitute the term "annual receipts" for the terms "annual sales" and "annual sales or receipts" where they appear in various definitions of small business, and (2) define the term "annual receipts" as follows:

"Annual receipts" means the gross income (less returns and allowances, sales of fixed assets and inter-affiliate transactions) of a concern (and its affiliates) from sales of products and services, interest, rents, fees, commissions, and/or from whatever other source derived, as entered on its regular books of account for its most recently completed fiscal year (whether on a cash, accrual, completed contracts, percentage of completion, or other acceptable accounting basis) and reported or to be reported to the U.S. Treasury Department, Internal Revenue Service, for Federal income tax purposes.

Interested persons may file with the Small Business Administration within 15 days after publication of this notice in the FEDERAL REGISTER, written statements of facts, opinions or arguments concerning the proposal.

All correspondence shall be addressed to:

Associate Administrator, Procurement and Management Assistance, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416. Attention: Size Standards Staff.

Dated: September 30, 1970.

HILARY SANDOVAL, Jr., *Administrator.*

[F.R. Doc. 70-13424; Filed, Oct. 7, 1970; 8:45 a.m.]

# Notices

## DEPARTMENT OF STATE

### Agency for International Development

### LATIN AMERICAN HOUSING INVESTMENT GUARANTY PROGRAM

### Information for Applicants

SEPTEMBER 1, 1970.

I. *The program.* The Latin American Housing Investment Guaranty Program is administered by the Agency for International Development (A.I.D.) of the Department of State. It is an integral part of the Alliance for Progress. Its purpose is to insure those private U.S. investments in housing which are most responsive to the Alliance objective of making a material contribution to the solution of the existing housing and urban development problems of Latin America.

The competitive program operates in approximately the same manner as the Federal Housing Administration's program of insured mortgages operates in the United States. The Contract of Guaranty insures the U.S. investor against the loss of his investment for an approved housing investment guaranty project in Latin America.

The purpose of this brochure is to provide the basic information needed by applicants in the preparation of a competitive housing investment guaranty application.

As additional guaranty authority becomes available, A.I.D. issues a "Public Announcement on the Reopening of the Housing Investment Guaranty Program." This announcement indicates the amount of additional authority available; the countries for which applications will be accepted; the tentative amount allocated to each country and the terminal date for the receipt of applications for each of the eligible countries. There also will be individual announcements concerning special conditions, which will apply to applications for a particular country.

A. *Congressional authority.* The authority to issue guaranties is contained in the Foreign Assistance Act of 1961, as amended:

SEC. 222. *Housing projects in Latin American countries.* (a) The President shall assist in the development in the American Republics of self-liquidating housing projects, the development of institutions engaged in Alliance for Progress programs, including cooperatives, free labor unions, savings and loan-type institutions, and other private enterprise programs in Latin America engaged directly or indirectly in the financing of home mortgages, the construction of homes for lower income persons and families, the increased mobilization of savings and improvement of housing conditions in Latin America.

(b) To carry out the purposes of subsection (a), the President is authorized to issue guaranties, on such terms and conditions as he shall determine, to eligible investors, as defined in section 238(c), assuring against loss of loan investment made by such investors in:

(1) private housing projects in Latin America of types similar to those insured by the Department of Housing and Urban Development and suitable for conditions in Latin America;

(2) credit institutions in Latin America engaged directly or indirectly in the financing of home mortgages, such as savings and loan institutions and other qualified investment enterprises;

(3) housing projects in Latin America for lower income families and persons which projects shall be constructed in accordance with maximum unit costs established by the President for families and persons whose incomes meet the limitations prescribed by the President;

(4) housing projects in Latin America which will promote the development of institutions important to the success of the Alliance for Progress, such as free labor unions, cooperatives, and other private enterprise programs; or

(5) housing projects in Latin America, 25 per centum or more of the aggregate of the mortgage financing for which is made available from sources within Latin America and is not derived from sources outside Latin America, which projects shall, to the maximum extent practicable, have a unit cost of not more than $8,500.

B. *Objectives.* The program is an integral part of the Alliance for Progress. Accordingly, A.I.D. utilizes the guaranty authority to the maximum extent possible to support those projects which are most responsive to a basic Alliance objective of making a material contribution to the solution of the existing housing and urban development problems of Latin America.

1. Principally by the development and strengthening of housing finance institutions, which will be able to make a continuing contribution to the basic objective.

2. Also by projects which can contribute toward achieving qualitative and quantitative improvements in the home construction and finance industries throughout the hemisphere.

3. Also by the creation of institutions capable of undertaking long range housing programs that serve the needs of low and middle income families.

4. And finally by the addition of housing to the existing inventory.

C. *The five categories*—1. *Private housing projects.* (a) Any project submitted under this category must demonstrate a substantial contribution to the advancement of housing and/or urban development in the locality for which it is proposed. This advancement may be in land planning, design, construction, building materials, production techniques, use of manpower, marketing procedures, financing, community planning or organization, or such other demonstration features as may constitute an advance in housing construction and/or urban development concepts and technique. It is not intended, however, that this category be used for experimenting with unproved methods of construction and materials. To be considered under this category, the new methods or concepts to be employed in the proposed project must have been utilized successfully in a climatic environment similar to that in which the proposed project is to be located.

(b) The relevant portion of the statute quoted above describes eligible private housing projects as similar to those insured by the Department of Housing and Urban Development, and suitable for conditions in Latin America. The U.S. Department of Housing and Urban Development, and in particular its Federal Housing Administration, insures a variety of projects in addition to one-family homes and apartments. These include the rehabilitation of existing dwellings, the urbanization of land for resale, cooperative projects, technically innovative projects, and others. Rental projects, however, are not contemplated under this category. While the appropriateness of any particular one of the variety of projects listed above for A.I.D. housing guaranties must be determined on a case-by-case basis, applicants are invited to provide the most imaginative proposals consistent with general guidelines listed above.

2. *Credit institution.* This facet of the Program deals with credit institutions engaged in financing home mortgages. Loans eligible for guaranties will include those made to Latin America savings and loan systems and associations by U.S. savings and loan institutions and Federal Home Loan Banks eligible for participation through the Housing Acts of 1965 and 1968 and subsequently enacted state statutes. If the proceeds of the loan are intended to finance a specific project, the project will be reviewed in accordance with the criteria hereinafter described. However, if the loan proceeds are intended to serve as seed capital for an individual Latin American savings and loan system or institution, earmarking for a specific project will not be necessary. A.I.D. will nonetheless require that houses constructed with the proceeds of such loans comply with such structural and design controls and limitations that may be established by the Agency.

3. *Housing projects for lower income families.* A.I.D. intends to encourage the development of projects which will provide housing for families with the minimum income consistent with fulfilling all the obligations of home ownership. To the maximum degree possible, projects in this category should endeavor to reach the lowest income level of the regularly employed. To meet this target, architects and builders should be encouraged to explore and utilize new building techniques and to develop new designs, which will

result in the least expensive marketable house practicable.

4. *Institutions important to the Alliance.* This portion of the Program will attempt to stimulate the construction of housing projects in Latin America which will promote the development of institutions important to the success of the Alliance for Progress. One of the major aims of the Alliance is the encouragement and support of the growth of free trade unions and cooperatives, and cooperative housing service institutions capable of providing technical assistance to cooperatives as a meaningful demonstration of dynamic democracy. A.I.D. will continue to support programs to assist trade unions and will encourage the furnishing of assistance to housing cooperatives. Also included are "other private enterprise programs" in order to permit the development of new types of programs involving existing groups which do not fall into the trade union or cooperative categories. Since the focus of A.I.D.'s interest is the institution involved, applications submitted for this category to be considered complete (see Part III, Section A) must include detailed information concerning the organization or institution including its membership, affiliations, history, financial condition and legal structure.

5. *Local participation.* A principal objective of the Program is to encourage the mobilization of Latin American capital either in the form of savings and/or as local investments in specific projects. While the statute requires, for projects in this category, a minimum of 25 percent of the total mortgage financing from Latin American sources, A.I.D. will give special consideration to those projects which attract a higher percentage of Latin American participation as well as to those projects which commit the use of mortgage repayments of the Latin American capital as a revolving fund to finance additional housing.

NOTE: The maximum selling price of houses to be financed under the foregoing categories will be subject to variations from country to country and will be included in the announcement for the particular country.

An application may qualify under more than one category, and could qualify under all five categories simultaneously. Where a project qualifies under more than one category, the maximum allowable sales price will be the highest allowable in any of the qualifying categories.

D. *Eligibility criteria*—1. *Limit on applications.* No applicant may file more than one application in any one country during any one application period.

2. *Applications previously submitted.* Applications previously submitted under earlier guaranty programs and not approved will not be considered unless resubmitted. Such applications must utilize the forms presently prescribed and must meet all requirements of this Program.

3. *Sales price increases.* In preparing applications, sponsors should take into consideration anticipated price increases resulting from increased material and labor costs between the time the application is submitted and the time construction begins. Sponsors should assume this period will require 18 months. A.I.D. will allow increases in sales prices including increases above the ceilings, however, which may be required by increases in the costs of labor and material during the construction period or by such increases which take place beginning 18 months after the application is submitted, if construction has not begun by that time.

4. *Bonding and warranties.* (a) Sponsors of specific projects will be required to provide surety that if a project is terminated prematurely, it will be done in an orderly fashion. This will require that work begun be completed and that all financial obligations of the Sponsor be satisfied. This surety may be in the form of a performance bond or a bank guaranty in an amount not less than 10 percent of the cost of the project. If neither performance bonds nor bank guaranties are available, this surety may be in such other form (generally the pledge of specific assets) as may be acceptable to A.I.D.

(b) Sponsors of specific projects will also normally be required to escrow 2.7 percent of the sales price for not less than a 12-month period after the closing of each house or to make other arrangements acceptable to A.I.D. to insure that the Sponsor meets the conditions of his warranties. A.I.D. may require more extensive warranties depending on normal practice in the countries in which projects are located.

5. *Applications.* All applications must be submitted in the English language on the prescribed approved form of application. All exhibits (other than plans and specifications) must be submitted in English or must be accompanied by English translations. Five complete sets of applications and exhibits must be submitted.

6. *Dwelling space.* In regard to dwelling space, it is A.I.D.'s objective that to the maximum extent possible dwelling units designed for housing investment guaranties, regardless of category, contain not less than three bedrooms. Particularly under the categories with lower sales price ceilings, however, this objective may not be attainable in many locations. In such cases, applicants must design dwelling units in such a manner as to permit relatively simple and economical expansion to three or more bedrooms, and provide for plans detailing the future expansion to be furnished to each homebuyer.

II. *General information.* An explanation of the terminology used in the Contract of Guaranty and other documents may be helpful to those unfamiliar with the Program. In the discussion that follows the term "specific projects" is used to cover all applications under all categories that propose the construction of a number of houses on a particular site or sites. The term "general relending" is used to cover applications that propose a loan to a mortgage credit institution, for relending to finance individual or cooperative home mortgages.

A. *All applications must propose one of the following types sponsorship:*

1. A host country sponsor. (This would be a citizen of the host country or an entity more than 50 percent beneficially owned by a firm or firms of the host country and/or by citizens of the host country.)

2. A bona fide joint venture of a host country sponsor and either (a) a U.S. sponsor (a citizen of the United States or an entity more than 50 percent beneficially owned by a U.S. firm or firms and/or by U.S. citizens) or (b) a sponsor from an independent Western Hemisphere country south of the United States, except Cuba, or the host country. (A citizen of said country or an entity more than 50 percent beneficially owned by a firm or firms of said country and/or by citizens of said country.)

Applications proposing this type of sponsorship must expressly state the division of responsibilities envisioned, stock ownership proposed, and any other information which would help explain how the joint venture would operate. The nonhost country member of the joint venture must have proven experience in comparable residential development. Particular attention in the application should be devoted to explaining the exact participation of each member of the joint venture.

A final determination of sponsor eligibility shall be made by A.I.D.

1. *Sponsors of specific projects.* The Sponsor normally develops a project, submits it to A.I.D. for review and is responsible, once the project is determined to be eligible for guaranty coverage, to see it through to completion. The Sponsor of specific projects will normally be an individual or entity with considerable experience in organizing and carrying out large scale residential construction projects. All Sponsors of specific projects shall:

(a) Demonstrate actual experience and present capacity in developing housing projects, and financial capacity to complete the proposed project;

(b) Certify that they are not presently barred from doing business with the Federal Housing Administration or other agencies of the U.S. Government; and

(c) Demonstrate ability to secure construction financing without an A.I.D. all-risk guaranty specifically for a loan to the sponsor for such construction financing.

2. *Sponsors of credit institution applications.* (a) For the credit institution program, the sponsor should be a thrift institution which collects savings from the general public without any implicit or specific commitment to make a housing loan to the saver and which invests its resources in home mortgages. The sponsor can also be the Government agency which regulates such privately owned thrift institutions.

(b) Where the credit institution proposes to invest all or a portion of the proceeds of the U.S. investment in any subdivision or project, in which the total investment exceeds an amount to be agreed upon, then such project(s) will normally be subject to prior approval by A.I.D. in a manner similar to the review process for specific projects. However,

where the proceeds are intended for general relending; then A.I.D. normally will concern itself only with the qualifications of the institution and the guidelines and criteria for such relending, such as price and construction standards and will not review each loan or group of loans made by the institution. A.I.D. will retain, of course, the right to audit any part of this operation.

B. *The U.S. investor.* 1. Section 238(c) of the Foreign Assistance Act of 1961 as amended defines "eligible U.S. Investors" as follows:

(c) the term "eligible investor" means: (1) U.S. citizens; (2) corporations, partnerships, or other associations including nonprofit associations, created under the laws of the United States or any State or territory thereof and substantially beneficially owned by U.S. citizens; and (3) foreign corporations, partnerships, or other associations wholly owned by one or more such U.S. citizens, corporations, partnerships, or other associations: *Provided, however,* That the eligibility of such foreign corporation shall be determined without regard to any shares, in aggregate less than 5 per centum of the total of issued and subscribed share capital, required by law to be held by other than the U.S. owners: *Provided further,* That in the case of any loan investment a final determination of eligibility may be made at the time the insurance or guaranty is issued; in all other cases, the investor must be eligible at the time a claim arises as well as at the time the insurance or guaranty is issued.

2. Investors in the Program to date have included insurance companies, commercial banks, the trustees of the pension and retirement funds of AFL–CIO unions, Federal Home Loan Banks, U.S. Federal savings and loan associations and State chartered savings and loan associations.

3. Sponsors are not required to provide evidence of the specific interest of long-term U.S. investors at the time of application. The first contact between the sponsor and investor need not take place until A.I.D. has completed its evaluation and issued a Letter of Advice to the successful applicants.

C. *The investment.* 1. The U.S. investment must be in the form of a long-term (generally at least 15 years and usually 20 years) dollar loan to provide mortgage financing for a home ownership program. The mortgage financing, together with downpayments and closing costs, should produce funds adequate to cover all project costs, including profit. Investments in rental projects are not eligible.

2. The rate of interest payable to the investor is governed by the provisions of the Foreign Assistance Act of 1961, as amended, which are as follows: Sec. 223 "(f) In the case of any loan investment guaranteed under section 221 or section 222, the agency primarily responsible for administering part I shall prescribe the maximum rate of interest allowable to the eligible investor, which maximum rate shall not be less than one-half of 1 per centum above the then current rate of interest applicable to housing mortgages insured by the Department of Housing and Urban Development. In no event shall the agency prescribe a maximum allowable rate of interest which exceeds by more than 1 per centum the then current rate of interest applicable to housing mortgages insured by such department. The maximum allowable rate of interest under this subsection shall be prescribed by the agency as of the date the project covered by the investment is officially authorized and, prior to the execution of the contract, the agency may amend such rate at its discretion, consistent with the provisions of subsection (f)." The Administrator of A.I.D. fixes the allowable interest rate within the limits established by the statute. Note that the rates referred to above are the maximum allowable rates, and that A.I.D. can and has approved rates lower than the maximum allowable.

3. The current maximum yield to the investor permitted under the Program will be published by A.I.D. periodically. This yield will be adjusted upward or downward periodically pursuant to section 223(f) quoted in paragraph D(2) above.

4. The typical investment to date has been made for mortgages having a 20-year amortization period. A.I.D. is prepared to consider extending the amorization period beyond 20 years for lower income projects in order that lower income families may be able to share in the benefits of the program. A.I.D. will also consider extensions beyond 20 years when an investment is guarantied by the host country government.

5. The amount of the A.I.D. guaranty which may be applied for is limited to a maximum of $3 million per project and a minimum of $1 million per project unless the specific announcement for a given country establishes other limits. However, in any case, A.I.D. reserves the right to authorize a guaranty in excess of or less than the amount of guaranty authorization requested and without regard to these limitations.

D. *The Administrator (local fiduciary agent).* 1. A.I.D. secures the services of a financial institution in the host country which originates and services the mortgages financed by the Program. This institution, or local fiduciary agent, is known as the administrator.

2. A.I.D. analyzes potential administrators in each country and will select the administrator for specific projects under the Program.

3. The administrator must be located within the country and virtually always in the city in which the project is located. Individual or cooperative mortgages financed from the proceeds of a guarantied investment may not be serviced by an investor or institution located in the United States.

4. The competence of the administrator is basic to the success of the project since it has primary responsibility to inspect and otherwise supervise the project from its inception through the servicing of the individual or cooperative mortgages until they are completely repaid.

E. *Fees, reserves and other charges—*
1. *Fees.* a. Application fees:

(1) Initial fee: Each application must be accompanied by an Initial Fee in the amount of one thousand dollars ($1,000). This fee shall be in the form of a certified check payable to the Agency for International Development. It becomes nonrefundable upon acceptance of the application as described in section A of Part III below.

(2) Acceptance Fee: Upon issuance by A.I.D. of a "Letter of Advice" (see paragraph 3D below) to the applicant in which the amount of guaranty authorized by A.I.D. will be stated, along with other conditions of the authorization, an Acceptance Fee shall become due and payable. This fee shall be in the amount of two dollars ($2) per one thousand dollars ($1,000) of the amount of the guaranty authorized, and is not refundable.

b. A.I.D. guaranty fee: The A.I.D. Guaranty Fee is based upon the unpaid principal balance of the guarantied loan investment and is payable periodically as follows:

(1) One-half of 1 percent per annum where repayment of the loan in U.S. dollars has been guarantied by the government of the country in which the project is located; and

(2) One percent per annum where mortgages are insured in local currency by a government mortgage insurance institution, housing agency or other public or private institution acceptable to A.I.D.; and

(3) Two percent per annum in all cases for which A.I.D. has no form of coguaranty.

c. Devaluation insurance fee: Unless the devaluation risk is guarantied in a manner acceptable to A.I.D. (such as a host government guaranty), A.I.D. will require a devaluation insurance fee amounting to 1 percent per annum of the outstanding loan investment, payable monthly, to cover the risk of devaluation. This fee is not refundable.

d. Reserves and guaranties:

(1) A.I.D. may require that reserves be established to cover defaults by individual mortgagors. These reserves are usually established through an initial payment by the mortgagor at the time the mortgages are closed, and may also include the payment of a fixed monthly charge, as part of the home purchaser's monthly payments.

(2) A.I.D. will require, wherever appropriate, adjustable mortgage payments by homeowners. Adjustable mortgages are normally based on a formula which adjusts the outstanding mortgage balance periodically in accordance with a reliable index which reflects the trend of internal costs and prices in a particular country.

(3) A.I.D. may also require, in certain situations, a guaranty of repayment of the investment in U.S. dollars by the government of the country in which the project is located, or assurance of the repayment of all mortgages in local currency by a host country insurer.

(4) The guaranties required and the amounts of reserves required will vary from country to country. Further information will be included in the individual Announcements and will also

be available from the A.I.D. Missions in the respective countries.

e. Inspector's fee: Each sponsor of an approved specific project will normally be required to place in escrow with the administrator at the time that the guaranty contracts for the project are signed (and to maintain such escrow fund with monthly deposits), an amount equal to the sum of three months salary for the certifying project inspector. These payments will constitute a project charge, which will be incorporated in the sales price of the houses.

f. Other charges: There are many variables both within a country and among countries which can affect the total interest rate paid by the individual home purchaser. It is therefore suggested that applicants use twelve percent (12%) interest per annum as the sum of applicable charges when estimating the homeowner's monthly payments, unless more accurate figures are available for the particular project.

F. *Establishing sales prices.* 1. A.I.D. will evaluate proposed selling prices on the basis of estimates submitted by the applicant and reviewed by or on behalf of A.I.D.

2. The sponsor should consult the local USAID Mission regarding the appropriate level of sales prices and should be prepared to demonstrate the existence of an unserved market in the income group for which the project is intended.

3. A.I.D. will give special consideration to those projects having sales prices below the specified maximum price.

G. *Downpayment.* A.I.D. policy normally is to require a minimum of 10 percent of the sales price to be paid by the home buyer at the time of closing. This percentage may be increased or decreased by A.I.D. as indicated by the need for conformance with host country policy and home mortgage practice or to suit the circumstances of particular projects.

H. *Community facilities.* 1. All applications for specific projects should carefully consider the basic needs of a community over and above that for improved housing itself. A.I.D. will, therefore, carefully evaluate the sponsor's effort to assure that education, transportation, recreation, shopping, health facilities and other basic community necessities are provided.

2. A.I.D. will consider inclusion of the cost of desirable community facilities, such as a school, or a community center and related facilities, in calculating the selling prices of the houses.

3. As an essential element in sound community planning, applications must incorporate proposals governing the use of owner's Association to control the uses of and alterations to the dwellings and to own and operate common facilities where appropriate, as well as other arrangements necessary to maintain the standards of the community. Such arrangements shall also commit the sponsor or builder to remain responsible for the maintenance and operation of utilities and facilities until such responsibility is legally assumed by another acceptable entity.

III. *Processing of applications*—A. *Presubmission stage.* 1. The primary contact for a potential sponsor is the United States A.I.D. Mission ("USAID") situated in the country in which the proposed project is located. The sponsor should establish that the USAID has no objection to the submission of the application for the proposed project before developing the application. USAID will provide the Sponsor with copies of those announcements, if any, which set forth those additional conditions which apply in the particular country where the project is proposed. These announcements will also be published in the FEDERAL REGISTER.

2. Mission personnel will be available to provide general guidance to prospective applicants.

3. USAID personnel will review, for completeness, those applications submitted before the established deadline, and either will advise the applicant in writing that the application is complete or will indicate what items are lacking. USAID personnel will finish their review for completeness as soon as possible after the applications have been submitted.

4. For any application to be considered it must be submitted by the terminal date. Any applicant whose application is found to be incomplete will be given 15 days from the date of notification of same in which to provide the missing information. If, after this 15-day period, A.I.D. determines the application still to be incomplete, it shall then be rejected in writing and may not be resubmitted. All applications so rejected by A.I.D. shall be returned to the applicant together with the Initial Fee described in Part II, Section E, paragraph 1a(1), above. This is the only condition under which the Initial Fee will be returned to the applicant.

B. *Prefeasibility review.* 1. All applications accepted by A.I.D. pursuant to section A above, will be subjected to competitive evaluation in two stages. During the first, or Prefeasibility Review, all applications will be reviewed by A.I.D., and those projects considered most responsive to A.I.D.'s objectives will be selected for more exhaustive (feasibility) studies. A.I.D. expects to complete the first stage processing within 120 days of the final date applications are accepted in a particular country. Applicants shall be notified in writing of the disposition of their application at this point.

C. *Feasibility review.* 1. All applications considered which are not rejected as a result of the Prefeasibility Review shall be subject to a second stage or Feasibility Review. This Review will include full local investigations of each project.

2. A.I.D. has a contractual arrangement with the Washington Federal Savings and Loan Association of Miami Beach, Fla., to provide expert advice and evaluation on applications in the credit institution category. Where appropriate, A.I.D. will send a Washington Federal team to the field to investigate credit institution category applications.

3. A.I.D. utilizes the services of the Foundation for Cooperative Housing (FCH) for advice concerning cooperative housing projects and community facilities and organization.

4. A.I.D. will make use of the skills of its own personnel, personnel employed by the National League of Insured Savings Associations (NLISA) under contract to A.I.D., and such other consultants it considers necessary to investigate and evaluate each project.

5. During the Feasibility Review, the applicant will be expected to have an authorized representative available in the country in which the project is to be located to provide A.I.D. representatives with such additional information and clarifications as may be required.

D. *Acceptance.* After Feasibility Reviews are completed, A.I.D. will select the successful projects, and issue Letters of Advice. Applicants not selected will be notified in writing. All decisions by A.I.D. are final.

IV. *A closing note.* The success of the Program is considered a key element of the Alliance for Progress. The staff of the Office of Housing of the Agency for International Development, and the Missions of the Agency in each country will furnish all possible assistance to applicants in order to insure preparation of the best possible applications and the ultimate development of the finest and most creative group of projects. For more specific information on any aspects of the program write to:

Office of Housing, Agency for International Development, Department of State, Room 2242, Washington, D.C. 20523.

Stanley Baruch, Director, Office of Housing.
Peter M. Kimm, Deputy Director, Office of Housing.

STANLEY BARUCH,
*Director, Office of Housing.*

[F.R. Doc. 70-13445; Filed, Oct. 7, 1970; 8:47 a.m.]

## LATIN AMERICA HOUSING INVESTMENT GUARANTY PROGRAM

### Special Announcement for Costa Rica and Guatemala

The Agency for International Development (A.I.D.) hereby announces that competitive applications will again be accepted during 1970 for housing investment guaranties in Latin American countries, insuring against loss of loan investments by eligible U.S. investors pursuant to Title III of the Foreign Assistance Act of 1961 (FAA) as amended. Acceptance of applications is governed by the notice "Information for Applicants", by the terms of this Announcement, and by additional special addenda that may be issued from time to time. The A.I.D. Office of Housing has prepared the notice "Information for Applicants", dated September 1, 1970 which sets out specific guidelines for submitting an application, and which supersedes the guidelines issued in connection with all previous Announcements.

All applications must be submitted to the A.I.D. Mission (or U.S. Embassy or

Consulate) in the country for which the guarantied investment is proposed. No applications will be accepted by A.I.D. in Washington.

Countries for which allocations of investment guaranty authority have been approved are as follows:

| Country | Period during which applications must be submitted | Total authority (tentative) |
|---|---|---|
| Costa Rica | Dec. 1-15, 1970 | $4,000,000 |
| Guatemala | Dec. 1-15, 1970 | 4,000,000 |

Separate special addenda concerning the housing investment guaranty program will be issued by A.I.D. for each of the countries listed herein. These special addenda may also be obtained, upon request, from the A.I.D. Mission in each country, the A.I.D. Regional Office for Central America and Panama in Guatemala, or from the Office of Housing, Agency for International Development, Washington, D.C. 20523.

STANLEY BARUCH,
*Director,*
*Office of Housing.*

SEPTEMBER 1, 1970.

[F.R. Doc. 70-13446; Filed, Oct. 7, 1970; 8:47 a.m.]

# DEPARTMENT OF THE TREASURY

## Bureau of Customs

[T.D. 70-215]

## ASSISTANT DIRECTOR, FACILITIES SERVICES, AND CHIEF, PURCHASES AND PROPERTY UNIT, FACILITIES SERVICES

### Designation as Contracting Officers for Certain Types of Contracts

OCTOBER 1, 1970.

By virtue of the authority vested in me by Customs Delegation Order No. 33 (T.D. 68-280, 33 F.R. 16529) and subject to the requirements and limitations of such order, I hereby designate the Assistant Director, Facilities Services Section, Office of Administration, and the Chief, Purchases and Property Unit, Facilities Services Section, Office of Administration, as contracting officers with authority to enter into and administer contracts for the procurement of personal property and nonpersonal services (not including construction).

The designation of the Assistant Director (Procurement), Facilities Management Division, Office of Administration, as contracting officer made by me on November 6, 1968 (T.D. 68-281, 33 F.R. 16605), is hereby superseded.

Any action heretofore taken by the Assistant Director, Facilities Services Section, Office of Administration, which involved the exercise of authority hereby granted is affirmed and ratified.

[SEAL] KENNETH KNIGHT,
*Director, Facilities Management Division, Office of Administration.*

[F.R. Doc. 70-13464; Filed, Oct. 7, 1970; 8:48 a.m.]

## Internal Revenue Service

## SAMUEL JOHN CARDELLA

### Notice of Granting of Relief

Notice is hereby given that Samuel John Cardella, 14945 Elmdale, Detroit, Mich., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on July 30, 1956, in the Circuit Court for the county of Sanilac, Mich., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Samuel J. Cardella because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Samuel J. Cardella to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Samuel J. Cardella's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Samuel J. Cardella be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 25th day of September 1970.

[SEAL] RANDOLPH W. THROWER,
*Commissioner of Internal Revenue.*

[F.R. Doc. 70-13465; Filed, Oct. 7, 1970; 8:49 a.m.]

## HAROLD DURWARD CUNNINGHAM

### Notice of Granting of Relief

Notice is hereby given that Harold Durward Cunningham, 2105 East Ingalls Avenue, Pascagoula, Miss., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his convictions on June 6, 1960, in the Circuit Court of Jackson County, Miss., and on February 4, 1963, in the Circuit Court of Mobile County, Ala., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Harold D. Cunningham because of such convictions, to ship, transport, or receive in interstate or foreign commerce any firearms or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such convictions, it would be unlawful for Harold D. Cunningham to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Harold Durward Cunningham's application and:

1. I have found that the convictions were made upon charges which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

2. It has been established to my satisfaction that the circumstances regarding the convictions and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code, and delegated to me by 26 CFR 178.144: *It is ordered*, That Harold D. Cunningham be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the convictions hereinabove described.

Signed at Washington, D.C., this 24th day of September 1970.

[SEAL] RANDOLPH W. THROWER,
*Commissioner of Internal Revenue.*

[F.R. Doc. 70-13466; Filed, Oct. 7, 1970; 8:49 a.m.]

## CHARLES WAYNE HAMAKER

### Notice of Granting of Relief

Notice is hereby given that Mr. Charles Wayne Hamaker, 204 Day Street, Dexter, Mo. 63841 has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his convictions on October 16, 1967, in the Circuit Court of Stoddard County, Bloomfield, Mo., of crimes punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Mr. Charles Wayne Hamaker, because of such convictions to ship, transport, or receive in interstate or foreign commerce

any firearm or ammuniton, and he would be ineligible for a license under chapter 44, title 18, United State Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such convictions, it would be unlawful for Mr. Hamaker to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Mr. Charles Wayne Hamaker's application and:

(1) I have found that the convictions were made upon charges which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the convictions and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Mr. Charles Wayne Hamaker be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the convictions hereinabove described.

Signed at Washington, D.C., this 24th day of September 1970.

[SEAL] RANDOLPH W. THROWER,
*Commissioner of Internal Revenue.*

[F.R. Doc. 70-13467; Filed, Oct. 7, 1970; 8:49 a.m.]

## HUNTER DUNAGAN HANCOCK

### Notice of Granting of Relief

Notice is hereby given that Mr. Hunter Dunagan Hancock, 966 North Mariposa Avenue, Apartment 20, Los Angeles, Calif. 90029, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on February 26, 1962, in the U.S. District Court for the Southern District of California, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Mr. Hunter D. Hancock because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Mr. Hancock to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Mr. Hancock's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Mr. Hunter D. Hancock be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 28th day of September 1970.

[SEAL] RANDOLPH W. THROWER,
*Commissioner of Internal Revenue.*

[F.R. Doc. 70-13468; Filed, Oct. 7, 1970; 8:49 a.m.]

# POST OFFICE DEPARTMENT

## AVAILABILITY OF INFORMATION FROM POSTMASTERS

In addition to the information regarding possible deliveries or possible stops stated in § 123.4(c)(4), on request, postmasters will furnish without charge information as follows:

Number of families served or number of business places served within the total delivery area or on particular carrier routes.

This change will be included in an amendment of § 123.4(c)(4).

DAVID A. NELSON,
*General Counsel.*

[F.R. Doc. 70-13450; Filed, Oct. 7, 1970; 8:47 a.m.]

# DEPARTMENT OF THE INTERIOR

## Bureau of Indian Affairs

[Billings Area Office Redelegation Order 1, Amdt. 1]

## SUPERINTENDENTS AND PROJECT ENGINEER

### Delegation of Forestry Authority

SEPTEMBER 15, 1970.

This delegation is issued under the authority delegated to the Commissioner of Indian Affairs from the Secretary of the Interior in section 25 of Secretarial Order 2508 (10 BIAM 2.1) and redelegated by the Commissioner to the Area Directors in 10 BIAM 3.

The Billings Area Office Redelegation Order 1 published in the June 11, 1969, issue of the FEDERAL REGISTER (34 F.R. 9219) is amended by revising subsection (c) and adding a subsection (g) to section 2.80 *Forest management*. The revision of subsection (c) gives the Superintendent of the Flathead Indian Agency the authority to approve timber sale contracts involving estimated stumpage volumes not to exceed 5 million feet, board measure. The revision also rescinds the authority previously redelegated to all Billings Area Superintendents to approve timber sales without advertisement pursuant to 25 CFR 141.9. The addition of subsection (g) excludes the authority to make exceptions to any part of 25 CFR Part 141 from being exercised by the Superintendents.

As amended, Part 2 reads as follows:

PART 2—AUTHORITY OF SUPERINTENDENTS AND PROJECT ENGINEER

Subject to the provisions of Part 1, Superintendents and Project Engineer may exercise the authority of the Area Director as indicated in this part.

* * * * *

FUNCTIONS RELATING TO FOREST MANAGEMENT

SEC. 2.80 *Forest management*. All those matters set forth in 25 CFR Part 141, General Forest Regulations, except:

* * * * *

(c) Issue advertisements and approve timber sale contracts on approved forms, involving estimated stumpage volumes in excess of 1 million feet, board measure, or involving harvest periods in excess of 5 years; except Flathead Reservation where the stumpage volume limit is set at 5 million feet, board measure; pursuant to 25 CFR 141.8, 141.13, and 141.17.

* * * * *

(g) Authorize exceptions to requirements of 25 CFR Part 141.

* * * * *

This amendment shall become effective 30 days after the date of publication in the FEDERAL REGISTER.

MAURICE W. BABBY,
*Assistant Area Director.*

Approved: October 1, 1970.

HAROLD D. COX,
*Acting Commissioner of Indian Affairs.*

[F.R. Doc. 70-13463; Filed, Oct. 7, 1970; 8:48 a.m.]

## Bureau of Land Management

[Serial No. A 5432]

## ARIZONA

### Notice of Proposed Classification of Public Lands for Multiple-Use Management; Correction

In F.R. Doc. 70-12736 appearing on page 14853 of the issue of September 24,

1970, the following changes should be made:

The classification should be identified as "Serial No. A 5432."

In paragraph 3 under T. 3 S., R. 15 E., "sec. 8" should be changed to read "sec. 8, S½, S½NW¼, NW¼NW¼, SW¼NE¼, and NE¼NE¼."

JOE T. FALLINI,
*State Director.*

OCTOBER 1, 1970.

[F.R. Doc. 70-13458; Filed, Oct. 7, 1970; 8:48 a.m.]

[Serial No. R-2232]

## CALIFORNIA

### Notice of Classification of Public Lands for Multiple-Use Management

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18) and to the regulations in 43 CFR Parts 2420 and 2460, and the public lands described below are hereby classified for multiple-use management. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for Federal use or purpose.

2. Publication of this notice has the effect of segregating the decribed lands from appropriation only under the agricultural land laws (43 U.S.C., Parts 7 and 9; 25 U.S.C. sec. 334), and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171) and the lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws.

3. No adverse comments were received following publication of the notice of proposed classification (35 F.R. 7313-14) on May 9, 1970. However, it was noted that the following described lands, totaling 359.28 acres, were erroneously included in the proposed notice. These lands were withdrawn for the protection of the watershed of the city of Los Angeles (Public Law 864 of Mar. 4, 1931) and thus are not subject to classification under the Multiple Use Act. They are deleted from this notice.

T. 5 S., R. 30 E.,
Sec. 36, SE¼NE¼, S½NW¼, lots 1 and 2 of the SW¼, W½SW¼, and S½SE¼.

4. The record showing comments received and other information including maps, are available for inspection at the Bakersfield District Office, Bureau of Land Management, Room 311, Federal Building, 800 Truxtun Avenue, Bakersfield, Calif. The overall description of the areas is as follows:

MOUNT DIABLO MERIDIAN
All public lands in:

MONO COUNTY

T. 5 S., R. 30 E.,
Sec. 36, N½NE¼, SW¼NE¼, and N½SE¼.

INYO COUNTY

T. 9 S., R. 33 E.,
Sec. 2 lot 14.
T. 13 S., R. 35 E.,
Sec. 6, N½ of lot 13.
T. 13 S., R. 36 E.,
Sec. 18, E½, W½ of lot 1 of NW¼;
Sec. 35;
Sec. 36.
T. 14 S., R. 36 E.,
Sec. 1, unsurveyed;
Sec. 2, E½, unsurveyed;
Sec. 12, unsurveyed;
Sec. 13, E½, unsurveyed;
Sec. 24, E½, unsurveyed;
Sec. 25, NE¼, unsurveyed.
T. 14 S., R. 37 E.,
Portions of sections 6, 7, 18, to 20, 29, 30, 32, and 33, unsurveyed.
T. 15 S., R. 37 E.,
Portions of sections 3 and 4, unsurveyed;
Sec. 9, unsurveyed;
Portions of sections 10 to 14, inclusive unsurveyed;
Secs. 15 and 16, unsurveyed;
Secs. 21 to 28, inclusive, unsurveyed;
Secs. 34 to 35, inclusive, unsurveyed.
T. 15 S., R. 38 E.,
Portions of sections 8, 19, 20, 27 to 35, inclusive, unsurveyed.
T. 16 S., R. 37 E.,
Secs. 1 and 2, unsurveyed;
Sec. 3, NE¼ unsurveyed;
Sec. 12, unsurveyed;
Sec. 13, NE¼ unsurveyed.
T. 16 S., R. 38 E.,
Sec. 2, portion of W½, unsurveyed;
Secs. 3 to 10, inclusive, unsurveyed;
Portions of sections 11, 13, 14, unsurveyed;
Secs. 15 to 21, inclusive;
Portions of secs. 22, 23, 26, and 27 unsurveyed;
Sec. 30, NW¼NE¼, N½ of lot 1 of NW¼, N½ of lot 2 of NW¼.

The area described aggregates approximately 38,535 acres.

5. For a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2461.3. For a period of 30 days, interested parties may submit comments to the Secretary of the Interior, LLM, 320, Washington, D.C. 20240.

E. J. PETERSEN,
*Acting State Director.*

[F.R. Doc. 70-13459; Filed, Oct. 7, 1970; 8:48 a.m.]

[Serial No. I-2835]

## IDAHO

### Notice of Classification of Public Lands for Multiple-Use Management

OCTOBER 1, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18), and to the regulations in 43 CFR Parts 2410 and 2460, the public lands within the area described below are hereby classified for multiple-use management. Publication of this notice has the effect of segregating the described lands from appropriation only under the agricultural land laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171). The lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for Federal use or purpose.

2. Several comments were received following publication of a notice of proposed classification in the FEDERAL REGISTER of April 3, 1970 (35 F.R. 5550), and at the public hearing which was held at Blackfoot, Idaho, on May 15, 1970. All comments have been carefully considered and evaluated in light of the law and the regulations. The record showing the comments and other information is on file and can be examined in either the Idaho Falls District Office, Idaho Falls, Idaho, or the Idaho Land Office, Boise, Idaho.

3. The public lands affected are located within the following described areas of Bingham and Bonneville Counties and are shown on maps on file in the Idaho Falls District Office, Bureau of Land Management, Idaho Falls, Idaho, and the Idaho Land Office in Boise, Idaho.

BOISE MERIDIAN, IDAHO

BINGHAM COUNTY

T. 1 N., R. 30 E.,
Secs. 1, 2, and 3;
Secs. 10 through 15, inclusive;
Secs. 22 through 27, inclusive;
Secs. 34, 35, and 36.
T. 1 N., R. 31 E.,
All.
T. 1 N., R. 32 E.,
Secs. 1 through 12, inclusive;
Secs. 17 through 20, inclusive;
Secs. 29 through 32, inclusive.
T. 1 N., R. 33 E.,
Secs. 5 and 6.
T. 2 N., R. 33 E.,
Secs. 3 through 8, inclusive;
Secs. 17 through 20, inclusive;
Secs. 29 through 32, inclusive.
T. 3 N., R. 33 E.,
Sec. 25, S½S½;
Sec. 26, SE¼SE¼;
Sec. 31, NE¼ and S½;
Secs. 32 through 36, inclusive.
T. 1 N., R. 34 E.,
Sec. 13;
Sec. 14, NE¼;
Secs. 24, 25, and 36.
T. 1 N., R. 35 E.,
Secs. 13, 14, 15, and 18;
Sec. 19, W½;
Secs. 22 through 27, inclusive;
Secs. 30, W½;
Sec. 31, W½ and W½SE¼;
Sec. 33, SE¼NE¼ and E½SE¼;
Sec. 34, N½, SW¼, and W½SE¼;
Sec. 35, W½NW¼;
Sec. 36.
T. 1 N., R. 36 E.,
Sec. 13, W½NW¼;
Sec. 14, N½ and SW¼;
Sec. 15;
Sec. 18, SW¼;
Sec. 19;
Sec. 20, W½ and SW¼SE¼;
Sec. 22, N½NW¼;

Sec. 23, NE¼NW¼;
Sec. 28, SW¼NE¼, W½NW¼, SE¼NW¼, SW¼, and W½SE¼;
Secs. 29 through 32, inclusive;
Sec. 33, W½NE¼ and NW¼.
T. 1 S., R. 30 E.,
Secs. 1, 2, and 3;
Secs. 10 through 15, inclusive;
Secs. 22 through 27, inclusive;
Secs. 34, 35, and 36.
T. 2 S., R. 30 E.,
All.
T. 3 S., R. 30 E.,
All.
T. 4 S., R. 30 E.,
Secs. 1 through 20, inclusive;
Sec. 21, N½N½;
Sec. 22, N½N½;
Sec. 23, N½N½;
Sec. 24, N½N½;
Secs. 29 and 30.
T. 1 S., R. 31 E.,
All.
T. 2 S., R. 31 E.,
All.
T. 3 S., R. 31 E.,
All.
T. 4 S., R. 31 E.,
Sec. 1, N½;
Secs. 3 and 4;
Sec. 5, lots 1 through 4, inclusive, S½NE¼, and E½SE¼;
Secs. 6 and 7;
Sec. 8, NE¼NE¼, S½NE¼, W½, and SE¼;
Sec. 9, W½;
Sec. 18, W½NE¼, W½, and W½SE¼;
Sec. 19, NW¼NE¼ and N½NW¼.
T. 1 S., R. 32 E.,
Secs. 4 through 9, inclusive;
Secs. 16 through 21, inclusive;
Sec. 22, W½SW¼;
Sec. 27, W½NW¼ and SW¼;
Secs. 28 through 33, inclusive;
Sec. 34, W½.
T. 2 S., R. 32 E.,
Sec. 2, S½SW¼;
Sec. 3, W½ and S½SE¼;
Secs. 4 through 10, inclusive;
Sec. 11, W½;
Secs. 15 through 22, inclusive;
Sec. 23, S½;
Secs. 26 through 30, inclusive.
T. 3 S., R. 32 E.,
Sec. 19, S½;
Secs. 20 through 35, inclusive.
T. 4 S., R. 32 E.,
Sec. 2, N½ and N½SW¼.
T. 4 S., R. 32 E.,
Sec. 3, N½ and N½S½;
Sec. 4;
Sec. 5, N½;
Sec. 6, N½;
Sec. 9, N½N½.
T. 3 S., R. 33 E.,
Sec. 19;
Sec. 20, N½;
Sec. 21, W½NW¼;
Sec. 30.
T. 1 S., R. 34 E.,
Sec. 1, lots 1 and 2, and SE¼;
Sec. 12, NE¼.
T. 1 S., R. 35 E.,
Sec. 2, lots 3 and 4;
Secs. 3 through 8, inclusive;
Sec. 9, N½N½, SW¼NW¼, and W½SW¼;
Sec. 10, N½NW¼;
Sec. 13, SE¼SE¼;
Secs. 17 through 20, inclusive;
Secs. 24 and 25;
Sec. 26, E½E½;
Secs. 29 through 32, inclusive.
T. 2 S., R. 35 E.,
Sec. 5, W½W½;
Sec. 6;
Sec. 7, N½;
Sec. 8, W½NW¼.
T. 1 S., R. 36 E.,
Sec. 4, lots 2, 3, and 4, SW¼NE¼, S½NW¼, SW¼, and W½SE¼;
Secs. 5 through 8, inclusive;
Sec. 9, W¼NE¼, W½, and W½SE¼;
Sec. 15, SW¼;
Secs. 16 through 21, inclusive;
Sec. 22, W½;
Sec. 27, W½;
Secs. 28, 29, and 30;
Sec. 31, N½;
Sec. 32, N½.

The public lands within the areas described within Bingham County aggregate approximately 246,500 acres.

BOISE MERIDIAN, IDAHO

BONNEVILLE COUNTY

T. 1 N., R. 34 E.,
Secs. 1, 2, 3, 11, and 12.
T. 2 N., R. 34 E.,
Sec. 1, lots 2, 3, 4, S½N½, and S½;
Sec. 2;
Sec. 3, lots 1, 2, 3, S½N½, and S½;
Sec. 4, SE¼;
Sec. 8, S½SE¼;
Secs. 9 through 17, inclusive;
Sec. 20, N½, N½SW¼, and SE¼;
Secs. 21 through 27, inclusive;
Sec. 28, N½, N½SW¼, N½SE¼, and SE¼SE¼;
Sec. 29, NE¼ and N½SE¼;
Sec. 33, E½E½;
Secs. 34, 35, and 36.
T. 3 N., R. 34 E.,
Secs. 1, 2, and 3;
Sec. 4, E½E½;
Sec. 9, E½E½;
Secs. 10 through 15, inclusive;
Sec. 16, E½NE¼, SE¼SW¼, NE¼SE¼, and S½SE¼;
Secs. 21, 24, and 25;
Sec. 26, E½E½ and S½SW¼;
Sec. 27, S½SE¼;
Sec. 28, W½;
Sec. 29, NE¼, S½SW¼, and SE¼;
Sec. 30, S½S½;
Sec. 31;
Sec. 32, N½;
Sec. 33, NW¼;
Sec. 34, NE¼, SE¼SW¼, and SE¼;
Sec. 35, W½ and SE¼.
T. 1 N., R. 35 E.,
Secs. 1 through 12, inclusive.
T. 2 N., R. 35 E.,
Sec. 6, SW¼ and W½SE¼;
Secs. 7 and 8;
Sec. 9, W½NE¼, W½, W½SE¼;
Sec. 14, S½N½ and S½;
Secs. 15 through 23, inclusive;
Sec. 24, S½N½ and S½;
Secs. 25 through 36, inclusive.
T. 3 N., R. 35 E.,
Sec. 5, W½;
Sec. 6;
Sec. 8, S½S½;
Secs. 17, 18, 19, 20, 29, and 30.
T. 1 N., R. 36 E.,
Sec. 1, S½SW¼;
Secs. 2 through 6, inclusive;
Sec. 7, N½, SW¼, N½SE¼, and SW¼SE¼;
Sec. 8, N½, N½S½, and SE¼SE¼;
Secs. 9, 10, and 11;
Sec. 12, NW¼ and W½SW¼.
T. 2 N., R. 36 E.,
Sec. 1, SW¼;
Sec. 2;
Sec. 3, N½ and SE¼;
Sec. 4, NE¼;
Sec. 10, E½;
Sec. 11;
Sec. 12, lot 4, W½ and W½SE¼;
Sec. 14, N½;
Sec. 15, E½;
Sec. 19, S½N½ and S½;
Sec. 28, SW¼;
Sec. 29, lots 3 and 4, S½NW¼, and S½;
Secs. 30, 31, and 32;
Sec. 33, lots 1 through 6, inclusive, S½N½ and N½S½;
Sec. 34, lots 1 through 4, inclusive, N½SW¼, and NW¼SE¼;
Sec. 35.
T. 3 N., R. 36 E.,
Sec. 33, S½SE¼.

The public lands within the areas described within Bonneville County aggregate approximately 63,000 acres.

4. For a period of 30 days from the date of publication of this notice of classification in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR Subpart 2461. During this period, interested parties may submit comments to the Secretary of the Interior, LLM 320, Washington, D.C. 20240.

WM. L. MATHEWS,
*State Director.*

[F.R. Doc. 70-13417; Filed, Oct. 7, 1970; 8:45 a.m.]

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[Montana 15352]

## MONTANA

### Notice of Classification of Public Lands for Multiple-Use Management

OCTOBER 2, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18) and to the regulations in 43 CFR Parts 2400 and 2460, the public lands within the areas described below are hereby classified for multiple-use management. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. Publication of this notice has the effect of segregating the lands described in paragraph 4 from appropriation under the agricultural land laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171). Publication of this notice also has the effect of segregating the lands described in paragraph 5 from appropriation under the agricultural land laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. sec. 334); from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171); and from lease or sale under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869). Except as provided above, the lands shall remain open to all other applicable forms of appropriation including the mining and mineral leasing laws.

3. Comments and statements were received following publication of the notice of proposed classification published in the FEDERAL REGISTER (35 F.R. 8599) dated

June 3, 1970. These comments were generally favorable to the classification as proposed and therefore no changes have been made. The record showing comments received and other information can be examined in the Billings District Office, Billings, Mont., and the Land Office, Bureau of Land Management, Federal Building, Billings, Mont. The public lands affected by this classification are located within the following described areas and are shown on maps on file in the Billings District Office, Billings, Mont., and on maps on records in the Land Office, Bureau of Land Management, Federal Building, Billings, Mont.

4. As provided in paragraph 1 above, the following public lands are segregated from appropriation only under the agricultural land laws and from sales under section 2455 of the Revised Statutes.

PRINCIPAL MERIDIAN, MONTANA

YELLOWSTONE COUNTY

T. 1 S., R. 26 E.,
Sec. 14, E½SW¼ and S½SE¼;
Sec. 21, E½NE¼, SW¼NW¼, and SE¼NW¼;
Sec. 22, SW¼NE¼, NW¼, N½SW¼, and N½SE¼;
Sec. 23, N½NE¼, NE¼NW¼, and NW¼SW¼;
Sec. 24, W½W½;
Sec. 25, NW¼NW¼;
Sec. 26, E½NE¼;
Sec. 30, lot 10 and SW¼SE¼;
Sec. 31, NW¼NE¼.

The public lands described above aggregate approximately 1,240 acres.

5. As provided in paragraph 1 above, the following public lands are segregated from appropriation only under the agricultural land laws, from sales under section 2455 of the Revised Statutes and from lease or sale under the Recreation and Public Purposes Act of June 14, 1926.

PRINCIPAL MERIDIAN, MONTANA

PARK COUNTY

T. 1 S., R. 10 E.,
Sec. 24, lots 3 and 4, and N½SW¼.
T. 1 S., R. 11 E.,
Sec. 28, lot 6.
T. 1 S., R. 12 E.,
Sec. 15, lot 7;
Sec. 28, lots 1, 2, and 3.
T. 2 S., R. 12 E.,
Sec. 6, lot 1.
T. 5 S., R. 8 E.,
Sec. 27, NE¼NW¼.
T. 7 S., R. 7 E.,
Sec. 20, lot 4.

SWEET GRASS COUNTY

T. 1 N., R. 14 E.,
Sec. 12, lot 13.
T. 1 N., R. 15 E.,
Sec. 17, lots 1 and 3;
Sec. 21, lot 4;
Sec. 22, lot 5.
T. 1 S., R. 13 E.,
Sec. 8, lot 5;
Sec. 18, lot 1.
T. 1 S., R. 16 E.,
Sec. 6, lot 1.
T. 1 S., R. 17 E.,
Sec. 26, lot 3;
Sec. 27, lot 7.

STILLWATER COUNTY

T. 1 S., R. 18 E.,
Sec. 34, lot 1.
T. 2 S., R. 19 E.,
Sec. 4, lot 2;
Sec. 6, lot 12;
Sec. 14, lot 1.
T. 2 S., R. 20 E.,
Sec. 19, lot 7;
Sec. 20, lot 5.
T. 3 S., R. 21 E.,
Sec. 6, lot 1;
Sec. 8, lot 1;
Sec. 9, lots 5, 6, 7, and 9.

YELLOWSTONE COUNTY

T. 1 N., R. 27 E.,
Sec. 8, lots 3, 4, and 6.
T. 3 N., R. 28 E.,
Sec. 24, lot 5;
Sec. 26, lot 5.
T. 3 N., R. 29 E.,
Sec. 20, lot 5;
Sec. 22, lots 5 to 8, inclusive;
Sec. 24, lots 5 and 6.
T. 3 N., R. 30 E.,
Sec. 22, lots 5 to 8, inclusive.
T. 4 N., R. 32 E.,
Sec. 32, lots 6, 7, 8, 15, 16, and 17.
T. 5 N., R. 33 E.,
Sec. 34, lot 5.
T. 5 N., R. 34 E.,
Sec. 28, lot 1.
T. 1 S., R. 25 E.,
Sec. 25, lot 3;
Sec. 34, lots 4 and 5.
T. 1 S., R. 26 E.,
Sec. 14, lot 3 and SE¼NW¼.
T. 2 S., R. 24 E.,
Sec. 13, lots 10 and 11;
Sec. 14, lot 7;
Sec. 23, lot 13.

TREASURE COUNTY

T. 5 N., R. 34 E.,
Sec. 2, lot 8;
Sec. 12, lots 1 and 2;
Sec. 22, lot 4.
T. 6 N., R. 35 E.,
Sec. 22, lots 4 and 5;
Sec. 28, lot 1;
Sec. 30, lots 6 and 7.
T. 6 N., R. 36 E.,
Sec. 6, lot 1.
T. 6 N., R. 37 E.,
Sec. 2, lots 1 and 2.
T. 6 N., R. 38 E.,
Sec. 6, lots 3 and 4.
T. 7 N., R. 36 E.,
Sec. 26, lots 5 and 6;
Sec. 34, lots 4 and 5.
T. 7 N., R. 37 E.,
Sec. 31, lot 6.

The public lands described above aggregate approximately 1,382.32 acres.

Total public lands in paragraphs 3 and 4 aggregate approximately 2,622.32 acres.

6. For a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2461.3. For a period of 30 days interested parties may submit comments to the Secretary of the Interior, LLM, 321, Washington, D.C. 20240.

EDWIN ZAIDLICZ,
*State Director.*

[F.R. Doc. 70-13487; Filed, Oct. 7, 1970; 8:50 a.m.]

[Montana 8905]

## MONTANA

### Notice of Proposed Classification of Public Lands for Multiple-Use Management

SEPTEMBER 28, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18), and the regulations in 43 CFR Parts 2400 and 2460, the public lands described below were classified for multiple-use management (33 F.R. 12387–12388) on September 4, 1968.

2. Publication of this notice has the effect of further segregating the lands described below from all forms of appropriation under the public land laws, including the general mining laws but not from the mineral leasing laws. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for Federal use or purpose.

3. The public lands proposed for further segregation are located within the following described areas and are shown on maps on file in the Lewistown District Office, Bureau of Land Management, Lewistown, Mont., and on plats in the Land Office, Bureau of Land Management, Federal Building, Billings, Mont.

PRINCIPAL MERIDIAN, MONTANA

CHOUTEAU COUNTY

*Square Butte Natural Area*

T. 20 N., R. 12 E.,
Sec. 19, SE¼NE¼, SE¼SW¼, and E½SE¼;
Sec. 20, W½NE¼, S½NW¼, and S½;
Sec. 21, SW¼;
Sec. 28, lots 3 and 4, SW¼NW¼ and NW¼SW¼;
Sec. 29, lots 1 and 2, N½ and N½S½;
Sec. 30, lots 1, 3, 4, 5, 6, and 7, S½NE¼, SE¼NW¼, NE¼SW¼, and N½SE¼.

The public lands described aggregate approximately 1,946.53 acres.

4. The public lands in the Square Butte Natural Area described above are further proposed for designation as a "Class IV Outstanding Natural Area" by virtue of the authority vested in the Secretary of the Interior under the Classification and Multiple-Use Act, supra, and R.S. 2478 (43 U.S.C. 1201), as amended, and pursuant to the provisions of 43 CFR Subpart 2071.

5. For a period of sixty (60) days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the District Manager, Bureau of Land Management, Lewistown, Mont. 59457.

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

EUGENE H. NEWELL,
*Acting State Director.*

[F.R. Doc. 70-13460; Filed, Oct. 7, 1970; 8:48 a.m.]

[Montana 12770]

## MONTANA

### Notice of Proposed Classification of Public Lands for Multiple-Use Management

SEPTEMBER 30, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18), and the regulations in 43 CFR Parts 2400 and 2460, the public lands described below were classified for multiple use management (35 F.R. 11062) on July 9, 1970.

2. Publication of this notice has the effect of further segregating the lands described below from all forms of appropriation under the public land laws, including the general mining laws but not from the mineral leasing laws. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for Federal use or purpose.

3. The public lands proposed for classification are located within the following described areas and are shown on maps on file in the Dillon District Office, Bureau of Land Management, Dillon, Mont., and on plats in the Land Office, Bureau of Land Management, Federal Building, Billings, Mont.

PRINCIPAL MERIDIAN, MONTANA

SILVER BOW COUNTY

*Proposed Humbug Spires Primitive Area*

T. 1 N., R. 8 W.,
Sec. 31, lots 3 and 4, E½SW¼ and S½SE¼.
T. 1 S., R. 8 W.,
Secs. 5 to 7 inclusive;
Sec. 8, N½, SW¼, and W½SE¼;
Sec. 17, W½NE¼, NW¼, N½NE¼SW¼, and NW¼SW¼;
Sec. 18, all;
Sec. 19, lot 1 and NE¼NW¼.
T. 1 S., R. 9 W.,
Sec. 1, all;
Sec. 2, lot 1, SE¼NE¼ and SE¼;
Sec. 11, NE¼, E½NW¼, and S½;
Sec. 12, lots 1, 2, 3, and 4, W½NE¼, SW¼, and W½SE¼;
Sec. 13, N½, N½SW¼, SE¼SW¼, and SE¼;
Sec. 14, N½ and N½S½;
Sec. 15, NE¼ and N½SE¼;
Sec. 24, N½NW¼.

The public lands described above aggregate approximately 7,041.23 acres.

4. The public lands in the area described above are further proposed for designation as a "Class V—Primitive Area" to be known as the "Humbug Spires Primitive Area" by virtue of the authority vested in the Secretary of the Interior under the Classification and Multiple Use Act, supra, and R.S. 2478 (43 U.S.C. 1201), as amended, and pursuant to the provisions of 43 CFR Subpart 2071.

5. For a period of sixty (60) days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the District Manager, Bureau of Land Management, Dillon, Mont. 59725.

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

EUGENE H. NEWELL,
*Acting State Director.*

[F.R. Doc. 70-13461; Filed, Oct. 7, 1970; 8:48 a.m.]

[New Mexico 929; Amdt. 3]

## NEW MEXICO

### Notice of Classification of Public Lands for Multiple-Use Management

OCTOBER 2, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18), and the regulations in 43 CFR Parts 2400 and 2460, the public lands described below were classified for multiple-use management (32 F.R. 3894–3895) on March 9, 1967. Publication of this notice has the effect of further segregating these lands from all forms of appropriation under the public land laws, including the general mining laws but not from the mineral leasing laws. These public lands contain caves having high archeological and recreational values. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. No adverse comments were received following publication of a notice of proposed classification (35 F.R. 10787). The record showing the comments received and other information is on file and can be examined in the Roswell District Office, 1902 South Main Street, Roswell, N. Mex. The public lands affected by this classification are located within Eddy County and are described as follows:

NEW MEXICO PRINCIPAL MERIDIAN

T. 22 S., R. 24 E.,
Sec. 22, SE¼;
Sec. 23, E½NW¼ and SW¼.
T. 22 S., R. 25 E.,
Sec. 28, W½SW¼.
T. 24 S., R. 26 E.,
Sec. 17, SW¼NW¼ and E½SW¼;
Sec. 18, SE¼NE¼ and E½SE¼.

The areas described aggregate 720.00 acres.

3. For a period of 30 days from date of publication in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2461.3. For a period of 30 days, interested parties may submit comments to the Secretary of the Interior, LLM, 721, Washington, D.C. 20240.

W. J. ANDERSON,
*State Director.*

[F.R. Doc. 70-13488; Filed, Oct. 7, 1970; 8:50 a.m.]

[New Mexico 1624; Amdt. 2]

## NEW MEXICO

### Notice of Proposed Classification of Public Lands for Multiple-Use Management

SEPTEMBER 30, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18), and to the regulations in 43 CFR Parts 2400 and 2460, it is proposed to classify for multiple-use management the public lands within the areas described below. Publication of this notice has the effect of segregating the described lands from appropriation only under the agricultural land laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171) and the lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for Federal use or purpose.

2. The public lands located within the following described areas are shown on a map designated Upper Rio Grande Planning Unit No. 01–01 on file in the Albuquerque District Office, Bureau of Land Management, 1304 Fourth Street NW., Albuquerque, N. Mex. 87107, and Land Office, Bureau of Land Management, U.S. Post Office and Federal Building, Santa Fe, N. Mex. 87501.

The overall description of the lands is as follows:

NEW MEXICO PRINCIPAL MERIDIAN

T. 29 N., R. 9 E.,
Sec. 3, lots 1, 2, 3, 4, S½N½, W½SW¼, and E½SE¼;
Sec. 4, lots 9, 10, S½NE¼, NE¼SW¼, and N½SE¼.
T. 27 N., R. 10 E.,
Secs. 4, 10, 14, 22, and 23;
Sec. 24, SE¼;
Sec. 25, N½;
Sec. 26, N½;
Sec. 27, N½.
T. 29 N., R. 10 E.,
Sec. 20;
Sec. 25, SE¼;
Sec. 26, N½NE¼, SW¼NE¼, S½NW¼, W½SW¼, SE¼SW¼, and S½SE¼;
Sec. 27, E½SW¼;
Sec. 28, W½NW¼;
Sec. 29.
T. 24 N., R. 11 E.,
Sec. 3, E½SE¼;
Sec. 10, lots 1, 2, 3, W½NE¼, E½NW¼, SW¼ and NW¼SE¼;
Sec. 11, lots 1, 2, 3, and 4.

T. 25 N., R. 11 E.,
Sec. 11, N½ and SW¼;
Sec. 14, NW¼ and S½;
Sec. 23, SW¼;
Sec. 26, SW¼NE¼.
T. 26 N., R. 11 E.,
Sec. 1, lots 3, 4, SW¼NW¼, and NW¼SW¼;
Sec. 26, W½E½;
Sec. 35, W½NE¼ and S½SE¼.
T. 27 N., R. 11 E.,
Secs. 10, 14, 15, 17, 18, 19, 20, 21, and 22;
Sec. 25, E½ and E½W½;
Sec. 29.
T. 28 N., R. 11 E.,
Sec. 4, S½;
Secs. 5, 6, 8, and 9;
Sec. 14, W½;
Sec. 15, N½ and SW¼;
Sec. 22;
Sec. 23, NW¼, N½SW¼, and SE¼SW¼;
Sec. 27, N½.
T. 29 N., R. 11 E.,
Sec. 30, lots 2, 3, 4, NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 31, lots 3, 4, E½SW¼, and SE¼.
T. 27 N., R. 12 E.,
Secs. 7 and 17;
Sec. 18, W½NW¼ and NW¼SW¼;
Sec. 19, E½E½;
Sec. 20, lots 1, 2, 3, 4, 5, NW¼NE¼, N½NW¼, SW¼NW¼, and W½SW¼;
Sec. 29, lots 1, 2, 3, and NW¼NW¼;
Sec. 30, lot 1, E½NE¼, and NE¼SE¼.
T. 29 N., R. 12 E.,
Sec. 20, lot 5, SE¼NE¼, and E½SE¼;
Sec. 21, N½.

The areas described aggregate 24,725.65 acres in Taos County.

3. For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions or objections, in connection with the proposed classification may present their views in writing to the Albuquerque District Manager, Bureau of Land Management, 1304 Fourth Street NW., Albuquerque, N. Mex. 87107.

W. J. ANDERSON,
*State Director.*

[F.R. Doc. 70-13418; Filed, Oct. 7, 1970; 8:45 a.m.]

[OR 1630]

## OREGON

### Notice of Proposed Amendment of Classification of Public Land for Multiple-Use Management

OCTOBER 1, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18) and to the regulations in 43 CFR Parts 2400 and 2460, the public land within the area described in paragraph 3, has been classified for multiple-use management, notice of which was published in the FEDERAL REGISTER on November 29, 1967 (32 F.R. 16285). This publication had the effect of segregating the land described in paragraph 3 from appropriation only under the agricultural land laws (43 U.S.C. Chs. 7 and 9; 25 U.S.C., sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171) with the provision that the land shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws.

2. The purpose of the proposed amendment of classification is to further segregate the land listed in paragraph 3 from operation of the general mining laws (30 U.S.C. 21). Publication of this notice shall have the effect of so segregating the land.

3. The public land affected is as follows:

WILLIAMETTE MERIDIAN

T. 33 S., R. 24 E.,
Sec. 1, W½;
Sec. 2;
Sec. 3, E½;
Sec. 10, E½;
Sec. 11;
Sec. 12, W½.

The public land in the area described contains approximately 2,564.72 acres.

4. For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions or objections in connection with this amended classification may present their views in writing to the Lakeview District Manager, Bureau of Land Management, Post Office Box 151, Lakeview, Oreg. 97630.

ARTHUR W. ZIMMERMAN,
*Acting State Director.*

[F.R. Doc. 70-13419; Filed, Oct. 7, 1970; 8:45 a.m.]

[OR 6409]

## OREGON

### Notice of Proposed Classification of Public Lands for Multiple-Use Management

OCTOBER 1, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18) and the regulations in 43 CFR Parts 2400 and 2460, it is proposed to classify for multiple-use management the public lands within the area described below. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. Publication of this notice has the effect of segregating the described lands from appropriation only under the agricultural land laws (43 U.S.C., Chs. 7 and 9; 25 U.S.C., sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171). However, the lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws.

3. The lands proposed to be classified are located within the following described area in Grant County and are shown on maps on file in the Burns District Office, Bureau of Land Management, 74 South Alvord Street, Burns, Oreg. 97720 and at the Land Office, Bureau of Land Management, 729 Northeast Oregon Street, Portland, Oreg. 97208. The description of the lands is as follows:

WILLAMETTE MERIDIAN

T. 9 S., R. 27 E.,
Sec. 2, SE¼;
Sec. 3, NW¼SE¼.
T. 13 S., R. 27 E.,
Sec. 12, SE¼NE¼, NE¼SE¼.
T. 7 S., R. 28 E.,
Sec. 33, S½NE¼, E½SW¼, N½SE¼;
Sec. 34, S½N½, S½SW¼, SE¼;
Sec. 35, SW¼NW¼, S½NE¼, N½SE¼.
T. 8 S., R. 28 E.,
Sec. 1, lots 1, 2, S½NE¼, N½SE¼;
Sec. 3, lots 3, 4, S½NW¼, SW¼;
Sec. 4, lots 2, 3, SW¼NE¼, SE¼NW¼, S½;
Sec. 5, SE¼SE¼;
Sec. 8, N½NE¼;
Sec. 9, NE¼, N½NW¼, SE¼NW¼;
Sec. 10, W½NW¼;
Sec. 17, W½NE¼, SE¼NW¼, SW¼;
Sec. 19, SE¼NE¼;
Sec. 20, NW¼, NE¼SW¼;
Sec. 31, lots 9, 10.
T. 11 S., R. 28 E.,
Sec. 33, SE¼SW¼.
T. 7 S., R. 29 E.,
Sec. 1, S½NE¼, SE¼NW¼, NE¼SW¼, SW¼SW¼;
Sec. 2, SW¼, NW¼SE¼;
Sec. 3, lot 4, SW¼NW¼, SW¼;
Sec. 5, S½SE¼;
Sec. 6, S½SE¼;
Sec. 7, lots 1, 2, 11, 14, 15, 22, 23, 24, N½NE¼, SE¼NE¼, NE¼SE¼;
Sec. 8, NW¼NW¼;
Sec. 9, SW¼NW¼;
Sec. 12, NW¼NW¼;
Sec. 18, lots 2, 3, 6, 10, 11, 14, 15, 22, 23;
Sec. 19, lots 2, 3, 10, 11, 14, 15, 22, 23;
Sec. 30, lots 2, 3, 9, 10, 15, 16, 21, 22;
Sec. 31, lots 6, 7, 15, 21.
T. 8 S., R. 29 E.,
Sec. 6, lots 5, 6, 8, 12;
Sec. 9, SW¼NW¼.
T. 14 S., R. 29 E.,
Sec. 6, lots 5, 6, E½SW¼, S½SE¼;
Sec. 7, all;
Sec. 8, W½.
T. 7 S., R. 30 E.,
Sec. 1, lot 4;
Sec. 2, lots 1, 2, SW¼NE¼;
Sec. 3, lots 1, 2, 3, S½NW¼, NW¼SW¼;
Sec. 4, N½SW¼;
Sec. 5, lot 2, E½SE¼;
Sec. 8, NE¼, NE¼NW¼.
T. 8 S., R. 30 E.,
Sec. 17, NE¼NW¼;
Sec. 24, S½SW¼.
T. 12 S., R. 30 E.,
Sec. 24, SE¼NE¼, W½E½, W½, NE¼SE¼.
T. 14 S., R. 30 E.,
Sec. 17, SW¼, S½SE¼.
T. 9 S., R. 31 E.,
Sec. 12, SE¼SE¼.
T. 10 S., R. 31 E.,
Sec. 2, SW¼SE¼;
Sec. 29, W½SW¼;
Sec. 30, lot 2.
T. 13 S., R. 31 E.,
Sec. 26, S½SW¼, SE¼SE¼;
Sec. 35, W½W½, W½E½W½, E½NW¼SE¼;
Sec. 36, W½W½NW¼, NW¼NW¼SW¼, N½SW¼NW¼SW¼, S½NE¼SW¼, SE¼SW¼.
T. 14 S., R. 31 E.,
Sec. 1, lots 21, 22, 23, 24, 25, 26, 28, 29, 30, 32, 33;
Sec. 2, SE¼SE¼;
Sec. 11, E½NE¼, NE¼SE¼, E½SE¼SE¼;
Sec. 12, all;
Sec. 13, N½, NE¼SW¼, E½NW¼SW¼, N½SE¼;
Sec. 14, N½NE¼, NE¼SE¼NE¼, NW¼SW¼NE¼, S½S½NE¼;
Sec. 23, NE¼SE¼;
Sec. 24, S½NE¼, E½SW¼, SE¼;
Sec. 25, lots 1, 2, 3, S½NE¼, SE¼NW¼, SE¼.

T. 9 S., R. 32 E.,
Sec. 18, NE¼NE¼, SW¼NE¼;
Sec. 20, NW¼NE¼, NE¼NW¼;
Sec. 27, NW¼NW¼.
T. 12 S., R. 32 E.,
Sec. 10, NW¼SW¼;
Sec. 15, SW¼NW¼.
T. 14 S., R. 32 E.,
Sec. 5, lot 3;
Sec. 6, lots 1, 2, 3 excluding MS 626, 4, 5, 6, E½SW¼, N½N½SE¼, SW¼NW¼SE¼, SW¼SE¼ excluding MS 786, NE¼SE¼ SE¼, S½SE¼SE¼;
Sec. 7, lots 3 to 18, inclusive;
Sec. 8, W½SW¼;
Sec. 9, SE¼NW¼, NE¼SW¼;
Sec. 11, SW¼, SW¼SE¼.
T. 17 S., R. 32 E.,
Sec. 31, lot 4.
T. 12 S., R. 33 E.,
Sec. 1, all excluding MS 473, 473B, 715, 728, 901, patented 838 and 900;
Sec. 2, lots 1, 2, S½NE¼, E½SW¼, SE¼;
Sec. 3, lot 4;
Sec. 5, lot 2;
Sec. 11, all;
Sec. 12, all excluding MS 448, 733, patented 838;
Sec. 13, N½N½, SE¼NE¼;
Sec. 14, N½, NE¼SW¼;
Sec. 15, N½NE¼, SE¼NE¼, SW¼NW¼;
Sec. 16, S½NE¼, E½SE¼;
Sec. 17, W½E½.
T. 14 S., R. 33 E.,
Sec. 9, SE¼NE¼, N½S½, SW¼SW¼;
Sec. 10, N½SW¼, SE¼SW¼, S½SE¼.
T. 12 S., R. 34 E.,
Sec. 7, lot 2 excluding MS 838, SE¼NW¼ excluding MS 838;
Sec. 10, SE¼SE¼;
Sec. 16, N½NW¼, S½SW¼, W½SE¼.
T. 13 S., R. 35 E.,
Sec. 30, lot 2, SE¼NW¼.

The lands described aggregate approximately 17,844 acres.

4. For a period of 60 days from the day of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the District Manager, Bureau of Land Management, 74 South Alvord Street, Burns, Oreg. 97720.

5. A public hearing on this proposed classification will be held at 1 p.m. on October 29, 1970, in the Grant County Courthouse, Canyon City, Oreg.

ARTHUR W. ZIMMERMAN,
*Acting State Director.*

[F.R. Doc. 70-13420; Filed, Oct. 7, 1970; 8:45 a.m.]

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[OR 6409-A]

## OREGON

### Notice of Proposed Classification of Public Lands

OCTOBER 1, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18), and to the regulations in 43 CFR Parts 2400 and 2460, it is proposed to classify public lands described below for disposal by exchange under section 8 of the Act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315g), as amended. As used herein "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269) as amended, which are not otherwise withdrawn or reserved for Federal use or purpose.

2. Publication of this proposed classification segregates the described lands from all forms of disposal under the public land laws, except the form of disposal for which it is proposed to classify the lands.

3. This proposal has been discussed with local governmental officials, the Oregon State Game Commission and other interested parties. Information obtained from field data, discussions with the public and other sources indicate that these lands meet the criterion of 43 CFR 2430.2, which authorizes classification of lands for disposal under appropriate authority where such lands are found to be chiefly valuable for disposal, for grazing use and other values and which lands are not needed for the support of a Federal program.

4. The public lands proposed for classification are located in the following described area in Grant County and are shown on maps on file in the Burns District Office, Bureau of Land Management, 74 South Alvord Street, Burns, Oreg. 97720, and at the Land Office, Bureau of Land Management, 729 Northeast Oregon Street, Portland, Oreg. 97208:

WILLAMETTE MERIDIAN

T. 9 S., R. 26 E.,
Sec. 1, lots 1, 2, S½NE¼, NE¼ SE¼.
T. 7 S., R. 27 E.,
Sec. 9, NE¼NE¼, NW¼NW¼, N½SW¼;
Sec. 10, N½NW¼, E½SW¼;
Sec. 13, SE¼NW¼;
Sec. 15, W½NE¼, N½SE¼;
Sec. 21, SE¼;
Sec. 22, S½SW¼, SW¼SE¼;
Sec. 23, N½NW¼;
Sec. 24, NW¼SE¼;
Sec. 26, SW¼NW¼;
Sec. 28, E½NE¼;
Sec. 34, E½NE¼, SW¼NE¼, W½NW¼, SW¼SE¼.
T. 8 S., R. 27 E.,
Sec. 14, N½NW¼;
Sec. 15, N½NE¼, W½SW¼;
Sec. 25, NW¼SE¼;
Sec. 29, N½SW¼;
Sec. 32, W½SW¼;
Sec. 35, SE¼SW¼.
T. 9 S., R. 27 E.,
Sec. 3, lots 2, 3;
Sec. 4, lot 1;
Sec. 5, lot 1, SE¼NE¼, W½SW¼;
Sec. 6, lots 4, 5, 6, SW¼NE¼, SE¼NW¼, NE¼SW¼, NW¼SE¼;
Sec. 11, W½SE¼;
Sec. 14, NW¼NE¼;
Sec. 18, S½NE¼, N½SE¼, SE¼SE¼;
Sec. 19, NE¼NE¼, S½NE¼, N½SE¼, SW¼SE¼;
Sec. 23, E½SW¼, E½SE¼;
Sec. 24, NW¼NE¼, NW¼NW¼, S½N½, S½;
Sec. 25, N½NE¼, SW¼NE¼, NE¼NW¼, S½SE¼;
Sec. 26, NE¼NE¼, SE¼SW¼, NW¼SE¼;
Sec. 29, S½NE¼, N½SE¼, SW¼SE¼;
Sec. 30, NW¼NE¼, SE¼NE¼;
Sec. 32, N½NE¼, NE¼NW¼;
Sec. 34, E½E½;
Sec. 35, W½NW¼, SW¼, SW¼SE¼.
T. 10 S., R. 27 E.,
Sec. 1, lot 1, SE¼NE¼;
Sec. 3, SE¼NE¼;
Sec. 5, NE¼SW¼, NW¼SE¼;
Sec. 6, S½NE¼, SE¼NW¼, N½SE¼;
Sec. 10, W½NW¼, NW¼SW¼, SE¼SW¼;
Sec. 14, NE¼NE¼, NW¼SE¼;
Sec. 15, W½NW¼, NW¼SW¼.
T. 13 S., R. 27 E.,
Sec. 26, N½NE¼, SW¼NE¼, NW¼SE¼;
Sec. 27, E½SW¼.
T. 7 S., R. 28 E.,
Sec. 1, NE¼SW¼;
Sec. 7, N½NE¼, SW¼NE¼, NW¼SE¼;
Sec. 8, NW¼SW¼;
Sec. 10, S½SE¼;
Sec. 12, NE¼NE¼;
Sec. 15, SE¼SE¼;
Sec. 17, SE¼NE¼, E½NW¼, E½SE¼;
Sec. 25, SE¼NW¼;
Sec. 29, SW¼SW¼;
Sec. 30, lot 7, SE¼SE¼.
T. 8 S., R. 28 E.,
Sec. 11, S½NE¼, E½SW¼, SE¼;
Sec. 12, S½N½, N½SW¼, SW¼SW¼;
Sec. 14, NW¼NE¼, NE¼NW¼, NW¼SW¼, NW¼SE¼;
Sec. 15, E½SW¼;
Sec. 19, NW¼SE¼;
Sec. 22, NE¼NE¼, SW¼NW¼, NE¼SE¼;
Sec. 23, N½NW¼, SE¼NW¼, SW¼SW¼;
Sec. 24, W½NE¼, NW¼SE¼;
Sec. 26, SW¼SE¼;
Sec. 27, SW¼SE¼;
Sec. 28, N½SW¼.
T. 9 S., R. 28 E.,
Sec. 3, lot 4;
Sec. 4, SW¼NE¼;
Sec. 6, lots 1, 2, 3, 6, 7, SW¼NE¼, NE¼SW¼, NW¼SE¼;
Sec. 7, W½NE¼, NE¼NW¼;
Sec. 8, SW¼SW¼;
Sec. 9, SE¼SW¼;
Sec. 17, SW¼NE¼, S½NW¼;
Sec. 18, SE¼SE¼;
Sec. 20, SW¼NE¼, SE¼NW¼, N½SW¼;
Sec. 22, N½NE¼, SE¼NE¼;
Sec. 27, SW¼NE¼, S½NW¼;
Sec. 28, S½NE¼, SE¼NW¼;
Sec. 29, W½, N½SE¼, SW¼SE¼;
Sec. 30, SE¼NE¼, E½SE¼;
Sec. 31, lot 1, N½NE¼, SE¼NE¼, NE¼NW¼, NE¼SE¼;
Sec. 34, NW¼NE¼, SE¼NE¼.
T. 10 S., R. 28 E.,
Sec. 7, NE¼SW¼, NW¼SE¼;
Sec. 18, SW¼NE¼, NE¼SW¼, SW¼SW¼, NW¼SE¼;
Sec. 22, SE¼SW¼;
Sec. 23, NE¼NW¼, NE¼SW¼, SW¼SW¼;
Sec. 26, NW¼NW¼, SE¼SW¼;
Sec. 27, NW¼NE¼, N½NW¼;
Sec. 33, NW¼SE¼.
T. 11 S., R. 28 E.,
Sec. 5, SE¼SW¼;
Sec. 6, lot 1, SE¼NE¼, SW¼SE¼;
Sec. 21, NE¼NE¼.
T. 12 S., R. 28 E.,
Sec. 14, SW¼NW¼, W½SW¼, NE¼SE¼;
Sec. 15, NE¼;
Sec. 24, N½NW¼, SE¼NW¼, NE¼SW¼.
T. 13 S., R. 28 E.,
Sec. 14, N½;
Sec. 17, SE¼;
Sec. 18, lots 3, 4;
Sec. 19, lot 1, E½NE¼;
Sec. 20, N½N½, SW¼NE¼, SW¼NW¼;
Sec. 22, S½SE¼;
Sec. 24, NE¼SE¼, SW¼SE¼;
Sec. 29, SW¼SW¼, SW¼SE¼;
Sec. 30, lots 3, 4, SE¼NW¼, NE¼SE¼;
Sec. 31, lot 4;
Sec. 32, SE¼NW¼, E½SE¼;
Sec. 33, W½NE¼, SE¼NE¼, W½NW¼, NE¼SE¼;
Sec. 34, NW¼NE¼.
T. 7 S., R. 29 E.,
Sec. 10, W½SE¼;
Sec. 14, S½NW¼;
Sec. 15, SE¼NE¼;
Sec. 17, NW¼SE¼.

T. 8 S., R. 29 E.,
Sec. 5, SW¼NW¼;
Sec. 6, lots 16, 20;
Sec. 7, lots 7, 8, 9, 16, 17, 18, 19, 21, 22;
Sec. 18, lot 15;
Sec. 22, SW¼SE¼;
Sec. 27, NE¼, E½NW¼, NW¼SE¼;
Sec. 35, NE¼SW¼, NW¼SE¼.
T. 9 S., R. 29 E.,
Sec. 21, SE¼NE¼;
Sec. 30, N½SE¼;
Sec. 31, lot 3, SW¼NE¼, E½NW¼.
T. 10 S., R. 29 E.,
Sec. 1, SE¼NE¼;
Sec. 13, SW¼NW¼;
Sec. 14, SE¼NE¼;
Sec. 30, lot 2.
T. 11 S., R. 29 E.,
Sec. 29, SW¼, SW¼SE¼;
Sec. 30, lot 3, NW¼NE¼;
Sec. 32, NW¼NE¼, NE¼NW¼.
T. 12 S., R. 29 E.,
Sec. 17, S½N½, NW¼SE¼;
Sec. 18, lots 2, 3, S½SE¼;
Sec. 20, NW¼NE¼;
Sec. 29, E½NW¼;
Sec. 34, W½SW¼.
T. 7 S., R. 30 E.,
Sec. 6, lots 3, 4, 5, 6, 7, SE¼NW¼;
Sec. 8, All;
Sec. 24, NE¼, W½NW¼;
Sec. 28, W½SW¼.
T. 14 S., R. 29 E.,
Sec. 11, E½NE¼, N½S½.
T. 8 7., R. 30 E.,
Sec. 1, SE¼SW¼, S½SE¼;
Sec. 9, NE¼NW¼;
Sec. 12, NE¼, NE¼NW¼;
Sec. 15, NW¼NE¼;
Sec. 23, SE¼SW¼, NE¼SE¼;
Sec. 24, NE¼NE¼.
T. 8 S., R. 30 E.,
Sec. 12, SE¼NW¼;
Sec. 14, NE¼NE¼;
Sec. 20, SW¼NW¼.
T. 10 S., R. 30 E.,
Sec. 21, SW¼NW¼;
Sec. 32, NE¼NW¼.
T. 12 S., R. 30 E.,
Sec. 25, SE¼NE¼, NW¼NW¼;
Sec. 34, W½W½.
T. 13 S., R. 30 E.,
Sec. 4, SE¼SE¼;
Sec. 6, lots 1, 2, 3, 4;
Sec. 14, NW¼NE¼, NE¼NW¼, S½SE¼;
Sec. 18, lots 1, 2, E½, E½NW¼.
T. 14 S., R. 30 E.,
Sec. 3, NW¼SW¼;
Sec. 7, E½NE¼;
Sec. 11, NW¼SE¼.
T. 8 S., R. 31 E.,
Sec. 23, NE¼NW¼;
Sec. 30, lot 1;
Sec. 32, NE¼NW¼, NW¼SW¼.
T. 9 S., R. 31 E.,
Sec. 8, NW¼SE¼;
Sec. 15, SE¼SE¼;
Sec. 23, NE¼NW¼.
T. 10 S., R. 31 E.,
Sec. 21, NW¼NE¼.
T. 12 S., R. 31 E.,
Sec. 26, SW¼SE¼;
Sec. 30, lots 2, 3, 4, SE¼NE¼, E½SW¼, E½SE¼.
T. 13 S., R. 31 E.,
Sec. 4, lots 1, 2, S½NE¼, NE¼SW¼, SE¼;
Sec. 6, lot 1;
Sec. 22, NW¼NE¼;
Sec. 28, S½S½;
Sec. 36, E½NW¼NE¼, SW¼NW¼NE¼.
T. 14 S., R. 31 E.,
Sec. 3, lots 3, 4;
Sec. 5, lots 3, 4, NE¼SW¼;
Sec. 15, SW¼NE¼, NE¼NW¼, SW¼SW¼, E½SW¼, W½SE¼;
Sec. 21, N½NE¼, NE¼NW¼, NW¼SW¼, SE¼SW¼, SW¼SE¼;
Sec. 22, W½NE¼, SE¼NE¼, N½NW¼, SE¼SW¼, NW¼SE¼;
Sec. 27, E½SE¼;
Sec. 28, SE¼NW¼, SE¼;
Sec. 29, SW¼NW¼, NW¼SW¼;
Sec. 30, SW¼SE¼;
Sec. 31, SE¼NW¼, E½SW¼;
Sec. 32, SW¼NE¼, SE¼NW¼, SW¼SW¼, NW¼SW¼;
Sec. 34, NE¼SE¼.
T. 9 S., R. 32 E.,
Sec. 4, lot 1;
Sec. 5, lots 1, 2;
Sec. 18, SE¼SW¼, SW¼SE¼;
Sec. 22, NW¼SW¼;
Sec. 27, SE¼SW¼;
Sec. 34, NE¼SE¼.
T. 12 S., R. 32 E.,
Sec. 26, NW¼;
Sec. 28, N½NE¼, SE¼NE¼;
Sec. 30, lot 4, SW¼NE¼, SE¼NW¼;
Sec. 32, NW¼SW¼.
T. 13 S., R. 32 E.,
Sec. 6, SE¼SE¼;
Sec. 20, NE¼, N½SW¼.
T. 14 S., R. 32 E.,
Sec. 1, lots 1, 3, 4, NW¼SW¼, NE¼SE¼;
Sec. 2, lots 1, 2, SE¼;
Sec. 4, NW¼SE¼;
Sec. 10, NW¼NE¼;
Sec. 12, SW¼NW¼.
T. 12 S., R. 33 E.,
Sec. 20, SE¼NE¼, SW¼NW¼, SW¼SW¼;
Sec. 24, NW¼SW¼;
Sec. 30, lot 4, SE¼SW¼, SE¼.
T. 13 S., R. 33 E.,
Sec. 4, lots 3, 4, S½NW¼, SW¼;
Sec. 6, lot 2, SW¼NE¼, W½SE¼;
Sec. 8, NW¼;
Sec. 22, NE¼NE¼.
T. 14 S., R. 33 E.,
Sec. 7, E½NE¼, NE¼SE¼;
Sec. 8, N½NW¼, SW¼NW¼.
T. 12 S., R. 34 E.,
Sec. 27, SE¼NE¼, NW¼SE¼;
Sec. 34, NW¼SE¼.
T. 13 S., R. 34 E.,
Sec 24, SE¼NE¼, SE¼NW¼, N½SE¼.

The lands described aggregate approximately 25,546 acres.

5. For a period of 60 days from the day of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions or objections in connection with the proposed classification may present their views in writing to the District Manager, Bureau of Land Management, 74 South Alvord Street, Burns, Oreg. 97720.

6. A public hearing on this proposed classification will be held at 1 p.m., on October 29, 1970, in the Grant County Courthouse, Canyon City, Oreg.

ARTHUR W. ZIMMERMAN,
*Acting State Director.*

[F.R. Doc. 70-13421; Filed, Oct. 7, 1970; 8:45 a.m.]

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[OR 6108]

## OREGON

### Notice of Classification of Public Lands for Multiple-Use Management

OCTOBER 1, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–1418) and the regulations in 43 CFR Part 2460, the public lands described below are hereby classified for multiple-use management. Publication of this notice has the effect of segregating the described lands from appropriation only under the agricultural land laws (43 U.S.C., Chs. 7 and 9; 25 U.S.C., sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171). The lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. Several comments were received following publication of the proposed classification in the FEDERAL REGISTER on June 18, 1970 (F.R. Doc. 70-7628). These comments were generally favorable. Three adverse comments were broad in scope and none offered sufficient reason to warrant any change from the proposed classification at this time. The full record of public comment is available for inspection at the Baker District Office.

3. The lands affected by this classification are shown on maps designated "OR 6108" on file in the Baker District Office, Bureau of Land Management, Baker, Oreg. 97814, and the Land Office, Bureau of Land Management, 729 Northeast Oregon Street, Portland, Oreg. 97208.

The description of the areas is as follows:

WILLAMETTE MERIDIAN

UNION COUNTY

T. 2 S., R. 35 E.,
Sec. 1, SW¼NE¼.
T. 3 S., R. 35 E.,
Sec. 23, SW¼NE¼, N½SE¼;
Sec. 24, NW¼NW¼;
Sec. 25, SE¼SW¼.
T. 4 S., R. 35 E.,
Sec. 17, SE¼SE¼;
Sec. 23, SW¼NE¼.
T. 6 S., R. 35 E.,
Sec. 1, E½SW¼.
T. 2 S., R. 36 E.,
Sec. 4, S½NW¼;
Sec. 5, SW¼SW¼, W½SE¼;
Sec. 18, SE¼SW¼;
Sec. 19, W½NE¼, NE¼NW¼;
Sec. 24, NW¼SW¼.
T. 2 S., R. 37 E.,
Sec. 27, SE¼NW¼;
Sec. 35, SW¼SW¼.
T. 3 S., R. 37 E.,
Sec. 7, SW¼NE¼, N½SE¼;
Sec. 8, NW¼SW¼.
T. 1 N., R. 38 E.,
Sec. 32, S½NW¼, SW¼.
T. 5 S., R. 38 E.,
Sec. 2, NW¼SW¼;
Sec. 3, W½SW¼, E½SE¼;
Sec. 10, W½W½;
Sec. 11, S½NW¼, SW¼, SE¼SE¼;
Sec. 12, SW¼SW¼;
Sec. 14, SW¼SW¼;
Sec. 15, S½N½, NW¼SW¼, E½SE¼;
Sec. 31, lots 3, 4, E½SW¼.
T. 6 S., R. 38 E.,
Sec. 18, NE¼NW¼.
T. 2 N., R. 39 E.,
Sec. 6, NE¼NW¼.
T. 1 S., R. 39 E.,
Sec. 25, SE¼NW¼, E½SW¼;
Sec. 26, S½NE¼, SW¼SW¼, NW¼SE¼;
Sec. 35, NW¼NW¼, NE¼SW¼, NW¼SE¼.
T. 2 S., R. 39 E.,
Sec. 2, lot 2.

T. 2 N., R. 40 E.,
Sec. 2, SE¼NW¼, NW¼SE¼;
Sec. 13, NE¼NW¼, N½SE¼;
Sec. 24, NW¼NE¼.
T. 1 S., R. 40 E.,
Sec. 15, NE¼SW¼;
Sec. 25, E½SW¼, NW¼SE¼, S½SE¼;
Sec. 26, S½NE¼, N½SE¼;
Sec. 32, NE¼NE¼;
Sec. 33, NW¼NE¼, S½S½;
Sec. 34, NW¼NW¼.
T. 3 S., R. 40 E.,
Sec. 25, W½SW¼;
Sec. 35, NE¼SE¼.
T. 4 S., R. 40 E.,
Sec. 1, lot 3.
T. 1 N., R. 41 E.,
Sec. 19, SE¼SE¼;
Sec. 30, NE¼SE¼.
T. 3 S., R. 41 E.,
Sec. 31, NE¼NE¼;
Sec. 32, SW¼.
T. 4 S., R. 41 E.,
Sec. 5, lots 1, 2, 3;
Sec. 9, E½NW¼;
Sec. 33, SW¼SE¼.
T. 5 S., R. 41 E.,
Sec. 10, NW¼NE¼;
Sec. 15, SW¼NE¼;
Sec. 26, NW¼NE¼;
Sec. 30, SE¼SW¼;
Sec. 32, S½SE¼;
Sec. 33, NE¼SW¼.
T. 6 S., R. 41 E.,
Sec. 5, lot 3.
T. 5 S., R. 42 E.,
Sec. 19, lot 1;
Sec. 30, lot 2.
T. 5 N., R. 28 E.,
Sec. 22, E½SE¼SW¼, W½SE¼.
T. 4 S., R. 30 E.,
Sec. 13, N½NW¼.
T. 6 S., R. 30 E.,
Sec. 26, E½NW¼, SW¼NW¼, NW¼SW¼;
Sec. 32, SE¼SW¼;
Sec. 33, SW¼NE¼;
Sec. 34, NW¼, NE¼SW¼;
Sec. 35, NE¼NE¼, N½SW¼, SW¼SW¼, SE¼SE¼;
Sec. 36, SW¼.
T. 4 S., R. 31 E.,
Sec. 12, SW¼NE¼, SW¼SE¼;
Sec. 19, lot 4;
Sec. 23, SE¼SE¼;
Sec. 30, lots 1, 2, 3, SE¼NW¼, E½SW¼.
T. 5 S., R. 31 E.,
Sec. 17, N½SE¼;
Sec. 18, lots 2, 3;
Sec. 21, SW¼NW¼, W½SE¼.
T. 6 S., R. 31 E.,
Sec. 15, S½NE¼;
Sec. 29, NE¼NW¼, SE¼SW¼;
Sec. 30, lot 4;
Sec. 31, lots 1, 3, 4, NE¼NE¼;
Sec. 32, NE¼NE¼, SW¼SW¼;
Sec. 33, SW¼NW¼;
Sec. 36, S½.
T. 3 S., R. 32 E.,
Sec. 2, W½SE¼.
T. 4 S., R. 32 E.,
Sec. 18, N½NE¼;
Sec. 36, NE¼NE¼.
T. 5 S., R. 33 E.,
Sec. 21, SW¼NW¼;
Sec. 30, lot 4, SE¼NW¼;
Sec. 31, lot 1, SW¼NE¼, E½NW¼, N½SE¼.
T. 6 S., R. 33 E.,
Sec. 3, S½;
Sec. 4, lot 4, SE¼NE¼, S½NW¼, S½;
Sec. 5, lot 4, SE¼NE¼, SW¼NW¼, NE¼SW¼, E½SE¼, NW¼SE¼;
Sec. 6, lot 5.
T. 1 N., R. 35 E.,
Sec. 13, NE¼, N½SW¼, SW¼SW¼, N½SE¼, SE¼SE¼;
Sec. 14, lots 5, 6, 7, 8, SE¼SE¼;
Sec. 23, lots 5, 7, E½NE¼, NE¼SE¼.
T. 5 N., R. 37 E.,
Sec. 23, S½SE¼;
Sec. 27, NE¼NE¼.
T. 4 N., R. 37 E.,
Sec. 1, S½SE¼;
Sec. 9, N½SE¼;
Sec. 10, S½NE¼, NW¼NW¼, SE¼NW¼, SW¼NW¼, E½SE¼;
Sec. 11, W½SW¼, SE¼SW¼, S½SE¼;
Sec. 12, NE¼, SE¼NW¼;
Sec. 14, N½;
Sec. 15, N½NE¼, NE¼NW¼.
T. 5 N., R. 38 E.,
Sec. 8, SE¼SE¼;
Sec. 17, E½NE¼, NE¼SE¼;
Sec. 19, W½NE¼, E½NW¼, NE¼SE¼.

MORROW COUNTY

T. 6 S., R. 29 E.,
Sec. 31, lots 1, 5, 6, 8, 12, 13, NE¼NE¼;
Sec. 33, N½NW¼;
Sec. 34, W½NE¼, NE¼NW¼;
Sec. 35, E½NE¼, NW¼NW¼.

The areas described aggregate approximately 653.51 acres in Morrow County, 6,535.12 acres in Umatilla County, and 4,941.61 acres in Union County, for a total of approximately 12,130.24 acres.

4. For a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modifications by the Secretary of the Interior as provided for in 43 CFR 2461.3. Interested parties may submit comments to the Secretary of the Interior, LLM 321, Washington, D.C. 20240, for a period of 30 days following publication of this notice.

ARTHUR W. ZIMMERMAN,
*Acting State Director.*

[F.R. Doc. 70-13462; Filed, Oct. 7, 1970; 8:48 a.m.]

[OR 6353 (Wash.)]

## WASHINGTON

### Notice of Classification of Public Lands for Disposal by Exchange

OCTOBER 1, 1970.

1. Pursuant to section 2 of the Act of September 19, 1964 (43 U.S.C. 1411-18), and the regulations in 43 CFR Parts 2400 and 2460, the public lands described below are hereby classified for disposal by exchange, under section 8 of the Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 215g), as amended:

WILLAMETTE MERIDIAN

T. 10 N., R. 31 E.,
Sec. 4, lots 1 and 2, and S½NE¼;
Sec. 8, W½E½.
T. 11 N., R. 31 E.,
Sec. 20;
Sec. 22, SW¼;
Sec. 28;
Sec. 30, NE¼;
Sec. 32, N½ and SE¼.
T. 11 N., R. 32 E.,
Sec. 20, N½NW¼;
Sec. 28, E½.

The area described aggregates 2,794.29 acres.

2. Publication of this notice has the effect of segregating the described lands from all forms of disposal under the public land laws, including the mining laws, except as to applications under Section 8 of the Taylor Grazing Act (48 Stat. 1272), as amended.

3. The publication of this notice does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral and vegetative resources, other than the mining laws.

4. Many comments were received following publication in the FEDERAL REGISTER on May 28, 1970 (35 F.R. 8397). All comments are in favor of this classification. The record of public participation is available for inspection at the Spokane District Office.

5. For a period of 30 days from date of publication in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2462.3. For a period of 30 days, interested parties may submit comments to the Secretary of the Interior, LLM 320, Washington, D.C. 20240.

ARTHUR W. ZIMMERMAN,
*Acting State Director.*

[F.R. Doc. 70-13422; Filed, Oct. 7, 1970; 8:45 a.m.]

[Wyoming 15468]

## WYOMING

### Proposed Classification of Public Lands for Multiple-Use Management

*Correction*

In F.R. Doc. 70-12708 appearing at page 14861 in the issue of Thursday, September 24, 1970, the land description in paragraph 3 under "T. 58 N., R. 95 W.," reading "Sec. 23, N¼, N½S½, and SW¼SW¼;" should read "Sec. 23, N½, N½S½, and SW¼SW¼;".

# DEPARTMENT OF AGRICULTURE

## Federal Crop Insurance Corporation

[Notice No. 55]

### WHEAT IN ARKANSAS AND MISSISSIPPI

### Extension of Closing Date for Filing of Applications for 1971 Crop Year

Pursuant to the authority contained in § 401.103 of Title 7 of the Code of Federal Regulations, the time for filing applications for wheat crop insurance for the 1971 crop year in all counties in Arkansas and Mississippi where such insurance is otherwise authorized to be offered is hereby extended until the close of business on October 16, 1970. Such applications received during this period will be accepted only after it is determined that no adverse selectivity will result.

RICHARD H. ASLAKSON,
*Manager, Federal Crop Insurance Corporation.*

[F.R. Doc. 70-13490; Filed, Oct. 7, 1970; 8:51 a.m.]

## Food and Nutrition Service

### FOOD ASSISTANCE AND NONFOOD ASSISTANCE FUNDS

#### Reallocation

Appendix—Reallocation of food assistance and nonfood assistance funds provided by Clause 4(a) under the item Removal of Surplus Agricultural Commodities of the Agriculture Appropriation Act of 1970, Public Law 91-127, 83 Stat. 252, and food assistance funds provided under Temporary Emergency Assistance to provide Nutritious Meals to Needy Children in Schools, Public Law 91-207, 84 Stat. 51, fiscal year 1970.

| State | Total allocation | State agency | Private schools |
|---|---|---|---|
| Alabama | $5,012,312 | $4,967,337 | $44,975 |
| Alaska | 39,265 | 39,265 | ---- |
| Arizona | 471,605 | 471,605 | ---- |
| Arkansas | 1,074,374 | 1,054,622 | 19,752 |
| California | 3,965,864 | 3,965,864 | ---- |
| Colorado | 845,032 | 816,769 | 28,263 |
| Connecticut | 430,974 | 430,974 | ---- |
| Delaware | 115,915 | 115,915 | ---- |
| District of Columbia | 848,295 | 848,295 | ---- |
| Florida | 6,060,507 | 6,022,694 | 37,813 |
| Georgia | 4,445,187 | 4,445,187 | ---- |
| Guam | 31,158 | 31,158 | ---- |
| Hawaii | 145,684 | 142,177 | 3,507 |
| Idaho | 231,059 | 224,616 | 6,443 |
| Illinois | 6,042,900 | 6,042,900 | ---- |
| Indiana | 1,093,867 | 1,093,867 | ---- |
| Iowa | 1,205,188 | 1,110,108 | 95,080 |
| Kansas | 534,289 | 534,289 | ---- |
| Kentucky | 2,890,352 | 2,890,352 | ---- |
| Louisiana | 1,581,366 | 1,581,366 | ---- |
| Maine | 560,600 | 531,848 | 28,752 |
| Maryland | 1,829,640 | 1,792,906 | 36,734 |
| Massachusetts | 1,073,804 | 1,073,804 | ---- |
| Michigan | 2,147,978 | 2,022,659 | 125,319 |
| Minnesota | 1,648,212 | 1,530,622 | 117,590 |
| Mississippi | 2,320,323 | 2,320,323 | ---- |
| Missouri | 1,298,416 | 1,298,416 | ---- |
| Montana | 233,159 | 226,224 | 6,935 |
| Nebraska | 735,698 | 658,131 | 77,567 |
| Nevada | 42,465 | 42,159 | 306 |
| New Hampshire | 121,223 | 121,223 | ---- |
| New Jersey | 1,117,587 | 1,082,985 | 34,602 |
| New Mexico | 496,871 | 496,871 | ---- |
| New York | 11,255,771 | 11,255,771 | ---- |
| North Carolina | 4,330,402 | 4,330,402 | ---- |
| North Dakota | 274,566 | 210,984 | 63,582 |
| Ohio | 3,184,906 | 2,992,306 | 192,600 |
| Oklahoma | 2,067,920 | 2,067,920 | ---- |
| Oregon | 563,099 | 563,099 | ---- |
| Pennsylvania | 2,608,562 | 2,355,132 | 253,430 |
| Puerto Rico | 1,872,038 | 1,872,038 | ---- |
| Rhode Island | 293,387 | 293,387 | ---- |
| South Carolina | 2,484,387 | 2,474,864 | 9,523 |
| South Dakota | 268,542 | 268,542 | ---- |
| Tennessee | 2,847,565 | 2,826,246 | 21,319 |
| Texas | 4,736,388 | 4,611,097 | 125,291 |
| Utah | 684,287 | 684,287 | ---- |
| Vermont | 198,225 | 198,225 | ---- |
| Virginia | 3,126,870 | 3,117,159 | 9,711 |
| Virgin Islands | | | |
| Washington | 857,336 | 838,741 | 18,595 |
| West Virginia | 2,500,881 | 2,495,519 | 5,362 |
| Wisconsin | 920,385 | 765,111 | 155,274 |
| Wyoming | 42,674 | 42,674 | ---- |
| Samoa, American | 19,430 | 19,430 | ---- |
| Total | 95,828,780 | 94,310,465 | 1,518,315 |

(83 Stat. 252, 84 Stat. 51)

Dated: October 2, 1970.

EDWARD J. HEKMAN,
*Administrator.*

[F.R. Doc. 70-13435; Filed, Oct. 7, 1970; 8:46 a.m.]

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Food and Drug Administration

### HAZLETON LABORATORIES, INC.

#### Notice of Withdrawal of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Hazleton Laboratories, Inc., Post Office Box 30, Falls Church, Va. 22046, has withdrawn its petition (FAP 0H2545), notice of which was published in the FEDERAL REGISTER of June 16, 1970 (35 F.R. 9869), proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of lindane (gamma isomer of benzene hexachloride) as the active ingredient in shelf and drawer paper to be used as a contact insecticide.

Dated: September 28, 1970.

R. E. DUGGAN,
*Acting Associate Commissioner for Compliance.*

[F.R. Doc. 70-13447; Filed, Oct. 7, 1970; 8:47 a.m.]

[DESI 5-633V]

### CERTAIN DRUGS CONTAINING IODINATED CASEIN

#### Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparations:

1. Protamone Thyroactive Casein; by Agri-Tech, Inc., Kansas City, Mo. 64112.

2. Iocine; contains iodinated casein; by Haver-Lockhart Laboratories, Post Office Box 676, Kansas City, Mo. 64141.

3. Libidoxin Powder; each pound contains 272.2 grams of iodinated casein, 18,000 U.S.P. units of vitamin $D_2$, and 4.5 grams of potassium iodide; by Jensen-Salsbery Laboratories, Division of Richardson-Merrell, Inc., 520 West Street, Kansas City, Mo. 64141.

4. MOM Sow Milking Tablets; contain 20 percent iodinated casein; by Agri-Tech, Inc.

5. Stimulac Pellets; contain 8.8 percent thyroactive casein; by Agri-Tech, Inc.

The Academy concludes:

1. Iodinated casein is effective for increasing daily gain in growing ducks and increasing milk production in dairy cows.

2. Information provided does not contain substantial evidence of effectiveness of iodinated casein for improving fertility in bulls; increasing milk production in goats, beef cows, and sheep; in improving fertility in boars, goats, and sheep; and for improving rate of gain in dairy cattle, sheep, and goats.

3. Iodinated casein is not effective for improving growth and feathering in turkeys and chickens; increasing milk flow in nursing sows; or improving egg production and egg shell texture in chickens.

The Academy states:

1. The claim for increased milk production in dairy cows should be qualified as follows: (a) Effective for limited periods of time, (b) effectiveness is limited to the declining phase of lactation, (c) administration must be accompanied with increased feed intake, and (d) may increase heat sensitivity of the animal.

2. The claim for improving growth and feathering in growing ducks should state "increases daily gain."

The Food and Drug Administration concurs in the findings of the Academy and concludes the appropriate claim for increased daily gains in growing ducks should be stated: "For increased rate of weight gains for (under appropriate conditions of use)."

This evaluation is concerned only with these drugs' effectiveness and safety to the animal to which administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing herein will constitute a bar to further proceedings with respect to questions of safety of the drugs or their metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of new animal drug applications are provided 6 months from the date of publication hereof in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed

to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The manufacturers of the listed drugs have been mailed a copy of the NAS–NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, as amended, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: September 24, 1970.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[F.R. Doc. 70–13449; Filed, Oct. 7, 1970; 8:47 a.m.]

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[DESI 2230]

## SULFUR OINTMENT FOR DERMATOLOGIC USE

### Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

Sulfo-Van Ointment containing 15 percent sulfur, marketed by Westerfield Laboratories, Inc., 3941 Brotherton Road, Cincinnati, Ohio 45209 (NDA 2–230).

The drug is regarded as a new drug. The effectiveness classification and marketing status are described below.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy report, as well as other available evidence, and concludes that this drug is possibly effective for the treatment of acne and other minor skin disorders and parasitic infections of the skin and that there is a need for substantial evidence demonstrating that the drug is effective for its intended uses without producing undue toxicity. The benefits derived from such use should be greater than the potential hazards associated with the use of the drug.

B. *Marketing status.* 1. Holders of previously approved new-drug applications and any person marketing any such drug without approval will be allowed 6 months from the date of publication of this announcement in the FEDERAL REGISTER to obtain and to submit in a supplemental or original new-drug application data to provide substantial evidence of effectiveness for those indications for which this drug has been classified as possibly effective. To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12 (a) (5) of the regulations published as a final order in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

2. At the end of the 6-month period, any such data will be evaluated to determine whether there is substantial evidence of effectiveness for such uses. After that evaluation, the conclusions concerning the drug will be published in the FEDERAL REGISTER. If no studies have been undertaken or if the studies do not provide substantial evidence of effectiveness, procedures will be initiated to withdraw approval of the new-drug applications for such drugs, pursuant to the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act. Withdrawal of approval of the applications will cause any such drug on the market to be a new drug for which an approval is not in effect.

The above-named holder of the new-drug application for this drug has been mailed a copy of the NAS–NRC report. Any interested person may obtain a copy of the report by writing to the office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 2230 and be directed to the attention of the appropriate office listed below and addressed (unless otherwise specified) to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD–100), Bureau of Drugs.
Original new-drug applications: Office of Scientific Evaluation (BD–100), Bureau of Drugs.
Other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD–5), Bureau of Drugs.
Requests for NAS–NRC report: Press Relations Office (CE–200), Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: September 14, 1970.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[F.R. Doc. 70–13448; Filed, Oct. 7, 1970; 8:47 a.m.]

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## ATTESTING OFFICERS

### Designation; Delegation of Authority To Cause Department Seal To Be Affixed and To Authenticate Copies of Documents

The Secretary's delegation of authority to employees of the Department of Housing and Urban Development to cause the Department seal to be affixed and to authenticate copies of documents as published at 35 F.R. 5429, April 1, 1970, is amended by revising paragraph 2 and adding paragraphs 14 and 15, to read as follows:

* * * * *

2. Alouise Friedman, Workable Programs Branch, Assistant Secretary for Metropolitan Planning and Development.

* * * * *

14. The Secretary to each Regional Administrator and the Secretary to each Regional Counsel.

15. The Secretary to each Area Director and the Secretary to each Area Counsel.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d))

*Effective date.* This amendment of delegation of authority is effective as of September 1, 1970.

RICHARD C. VAN DUSEN,
*Under Secretary of Housing and Urban Development.*

[F.R. Doc. 70–13478; Filed, Oct. 7, 1970; 8:50 a.m.]

# DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## AREA OFFICE AT ANCHORAGE, ALASKA

### Notice of Closing

Notice is hereby given that on or about October 1, 1970, the Anchorage Area Office at Anchorage, Alaska, will be closed. Services to the aviation public of the Anchorage area, formerly provided by this office, will be provided by the FAA Regional Headquarters, 632 Sixth Avenue in Anchorage, Alaska. This information will be reflected in the FAA Organization Statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Anchorage, Alaska, on September 28, 1970.

JACK G. WEBB,
*Director, Alaskan Region.*

[F.R. Doc. 70–13455; Filed, Oct. 7, 1970; 8:48 a.m.]

## Federal Railroad Administration

[No. 28000 (Sub-No. 383); BS-Ap-No. 488]

### PENN CENTRAL TRANSPORTATION CO.

### Application for Approval of Proposed Modifications of Systems or Devices

OCTOBER 2, 1970.

The purpose of this notice is to advise the general public and interested parties that by application filed September 17, 1970, the Penn Central Transportation Co. filed an application with the Federal Railroad Administration seeking approval, under 49 U.S.C. section 26, of discontinuance of intermittent inductive automatic train stop installations on applicant's lines as fully described in a Public Notice issued by the Federal Railroad Administration dated September 30, 1970. The result would be the discontinuance of all of the intermittent inductive automatic train stop installations which have existed for many years on the former New York Central lines of the merged Penn Central Transportation Co.

The Public Notice dated September 30, 1970, invited interested parties desiring to protest the granting of the considered application to advise the Federal Railroad Administration within 30 days of the date of the notice. Therefore, the closing date for the filing of protests is October 30, 1970.

The instant notice is for the further purpose of advising the general public and interested parties that the application will be set for hearing within a few days of the closing date for the filing of protests. Usually the protests are considered before determining whether or not to set a case for hearing, but in this instance it is clear that the public interest would be served by expeditious handling and by setting the case for hearing as promptly as practicable.

Accordingly, notice is hereby given that this proceeding should be, and it is hereby set down for hearing in Philadelphia, Pa., on November 9, 1970, at 9 a.m., e.s.t., in conference room, National Park Service, Park Service Headquaters, 313 Walnut Street, Philadelphia, Pa. 19106, and for appropriate proceedings thereon.

ROBERT R. BOYD,
*Director, Office of Hearings and Proceedings, and Hearing Examiner.*

[F.R. Doc. 70-13423; Filed, Oct. 7, 1970; 8:45 a.m.]

# CIVIL AERONAUTICS BOARD

[Docket No. 22577]

### AIR HAITI, S.A.

### Notice of Prehearing Conference

Notice is hereby given that a prehearing conference on the above-entitled case is assigned to be held on October 12, 1970, at 10 a.m., e.d.s.t., in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner William H. Dapper.

Dated at Washington, D.C., October 2, 1970.

[SEAL] THOMAS L. WRENN,
*Chief Examiner.*

[F.R. Doc. 70-13442; Filed, Oct. 7, 1970; 8:47 a.m.]

[Docket No. 21418]

### NORTHEAST AIRLINES, INC.

### Notice of Hearing Regarding Enforcement Proceeding

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding is assigned to be held on November 3, 1970, at 10 a.m., e.s.t., in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner William F. Cusick.

Dated at Washington, D.C., October 2, 1970.

[SEAL] THOMAS L. WRENN,
*Chief Examiner.*

[F.R. Doc. 70-13443; Filed, Oct. 7, 1970; 8:47 a.m.]

[Docket No. 22617; Order 70-10-12]

### WTC AIR FREIGHT

### Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 2d day of October 1970.

By tariff revisions[1] filed August 31, and marked to become effective October 4, 1970, WTC Air Freight (WTC) proposes to add provisions and rates establishing incentive discounts when two or more shipments are tendered and receipted for at one time from one shipper at one address and consigned to one or more consignees at one or more destinations. Under the proposal, discounts would be provided for pickup and airport-to-airport transportation charges only. The proposed discounts, which range from 2 percent to as much as 29 percent of the currently applicable rates, would apply to shipments aggregating 500 pounds or more and would increase with the total weight of the shipments. All shipments under the proposed rates would have to be prepaid by the shipper.

The proposed discount rates would not apply to the following:

(1) Shipments moving under specific commodity or parcel post rates;

(2) Shipments packed in containers or pallets by the shipper; and

(3) Shipments being accorded assembly and distribution service.

[1] Revisions to WTC Air Freight's Tariffs, CAB Nos. 7 and 8.

No complaints have been filed.

WTC justifies its proposal by stating, inter alia, that shipments under the proposed rates would be given air-all-the-way service to the airport closest to the ultimate destination and thus reduce congestion at major airports and increase air freight's major asset, speed; that the proposed rates would provide additional benefits to the shipper by way of improved service, less pilferage, and inventory reductions; that, as a result of the proposed rates, a significant amount of traffic currently moving via surface would be diverted to air; and, that the proposed rates are not unduly preferential or unduly prejudicial because they would not result in the charge of a like rate for different or related services. In answer to possible charges that the proposal would be unjustly discriminatory, the forwarder claims that similar discrimination is prevalent in other existing rate concepts such as specific commodity rates, volume rates, and assembly and distribution service and that, if there is the possibility of discrimination, the proposed aggregate rates can be justified by reductions in WTC's sales costs, terminal handling costs, and airline charges.

Upon consideration of all relevant matters, the Board finds that WTC's proposal may be unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial, or otherwise unlawful, and should be suspended pending investigation.

WTC's proposal would make the rate on a shipment in one market dependent upon shipments in another market. Thus, two identical shipments between the same two points receiving the same service may be charged differently because one of the shippers can tender additional traffic to a third and unrelated point. Under the proposal varying discounts would be available to a particular shipment depending on the aggregate weight of the single tender.

Our action herein is consistent with previous Board rulings that aggregate rates, similar to those in the current proposal, are unlawful, Aggregate Weight Rule Proposed by Shulman, Inc. Investigation, Order 68-11-32. In the Multicharter Cargo Rates Investigation, Order E-25936, the Board ruled that lower charter rates for several charters than for single charters would also be unjustly discriminatory.

WTC urges that the discriminatory aspect of its aggregate shipment proposal is less than that inherent in a structure which provides lower rates for large volume single shipments, such as result from weight breaks. As indicated above, the two situations are distinguished, and preferential pricing based upon aggregate shipments is considered as prima facie unjustly discriminatory, while lower rates based upon weight breaks are not. There is a cost rationale for lower unit rates based upon weight breaks and applicable to a single shipment, which is not available to support a discount on one shipment based on the condition that [an] additional shipment[s] be made.

Nor does any basis appear to support a varying schedule of discounts to particular shipments depending upon the aggregate weight of the single tender. It is also obvious that the greater the number of destinations involved in a single tender, the greater the unit costs for each shipment. For example, a 500-pound tender with 10 shipments and destinations would involve higher costs than a similar tender involving only two shipments and two destinations. No limit is placed as to the number of destinations that may be involved in a single tender.

WTC's contentions for cost savings essentially are upon the basis that the larger traffic volume to be developed from rate reductions will provide lower unit costs through greater utilization of resources, and by enabling WTC to use larger weight breaks of the direct air carriers at secondary markets. Savings of this nature, however, would occur to the same extent by a simple reduction of rates to the levels proposed, without conditioning their availability to the aggregate requirement. This points to the principle that rates must be based upon a unit of traffic, i.e., a single shipment.[3]

In view of the serious questions of discrimination, the Board will not permit the proposal to go into effect without investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof:

*It is ordered*, That:

1. An investigation is instituted to determine whether the rates, charges, and provisions described in Appendix A attached hereto,[3] and rules, regulations, and practices affecting such rates, charges, and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful rates, charges, and provisions, and rules, regulations, or practices affecting such rates, minimum charges, and provisions;

2. Pending hearing and decision by the Board, the rates, charges, and provisions described in Appendix A attached hereto[4] are suspended and their use deferred to and including January 1, 1971, 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 herein be assigned for hearing before an examiner of the Board, at a time and place hereafter to be designated; and

4. Copies of this order shall be filed with the tariffs and served upon WTC Air Freight, which is hereby made a party to this proceeding.

[3] The model rules for assembly and distribution service define a shipment as consisting of a single consignment of one or more pieces, from one consignor at one time at one address, receipted for in one lot, and moving on one airbill to one consignee at one destination address, 12 CAB 337.

[4] Filed as part of the original document.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
*Secretary.*

[F.R. Doc. 70-13444; Filed, Oct. 7, 1970; 8:47 a.m.]

# ATOMIC ENERGY COMMISSION

[Docket No. 50-266]

## WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

### Order Extending Completion Date

By application dated September 30, 1970, Wisconsin Electric Power Co. and Wisconsin Michigan Power Co. requested an extension of the latest completion date specified in Provisional Construction Permit No. CPPR-32, as amended. The permit, as amended, authorized Wisconsin Electric Power Co. and Wisconsin Michigan Power Co. to construct a pressurized water nuclear reactor, known as Point Beach Nuclear Plant Unit 1, at the town of Two Creeks, Manitowoc County, Wis.

Good cause having been shown for this extension pursuant to section 185 of the Atomic Energy Act of 1954, as amended, and § 50.55(b) of 10 CFR Part 50 of the Commission's regulations: *It is hereby ordered*, That the latest completion date specified in Provisional Construction Permit No. CPPR-32, as amended, is extended from September 30, 1970, to October 30, 1970.

Dated at Bethesda, Md., this 1st day of October 1970.

For the Atomic Energy Commission.

PETER A. MORRIS,
*Director,*
*Division of Reactor Licensing.*

[F.R. Doc. 70-13452; Filed, Oct. 7, 1970; 8:47 a.m.]

# CIVIL SERVICE COMMISSION

## GENERAL SERVICES ADMINISTRATION

### Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the General Services Administration to fill by noncareer executive assignment in the excepted service the position of Director of Public Affairs, Office of the Administrator.

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

[F.R. Doc. 70-13492; Filed, Oct. 7, 1970; 8:51 a.m.]

## GENERAL SERVICES ADMINISTRATION

### Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the General Services Administration to fill by noncareer executive assignment in the excepted service the position of Executive Assistant to the Administrator.

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

[F.R. Doc. 70-13493; Filed, Oct. 7, 1970; 8:51 a.m.]

## INTERSTATE COMMERCE COMMISSION

### Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Interstate Commerce Commission to fill by noncareer executive assignment in the excepted service the position of Congressional Liaison Officer, Office of the Chairman.

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

[F.R. Doc. 70-13494; Filed, Oct. 7, 1970; 8:51 a.m.]

## OFFICE OF ECONOMIC OPPORTUNITY

### Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Office of Economic Opportunity to fill by noncareer executive assignment in the excepted service the position of Chairman, Planning and Review Committee, Office of the Director.

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

[F.R. Doc. 70-13495; Filed, Oct. 7, 1970; 8:51 a.m.]

## SELECTIVE SERVICE SYSTEM

### Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Selective Service System to fill by noncareer executive assignment in the excepted service

the position of Assistant Deputy Director, Operations.

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

[F.R. Doc. 70-13496; Filed, Oct. 7, 1970; 8:51 a.m.]

# FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 19024, 19025; FCC 70-1037]

## DOYLE RAY FLURRY AND VIRGINIA BROADCASTING CORP.

### Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of Doyle Ray Flurry, Flora, Ill., requests: 1530 kc., 250 w., DA, Day, Docket No. 19024, File No. BP-18076; and the Virginia Broadcasting Corp., Flora, Ill., requests: 1530 kc., 1 kw., DA, Day, Docket No. 19025, File No. BP-18498; for construction permits.

1. The Commission has before it for consideration the above-captioned mutually exclusive applications.

2. In Suburban Broadcasters, 30 FCC 1020, 20 RR 951 (1961), in City of Camden (WCAM), 18 FCC 2d 412, 16 RR 2d 555 (1969), and more recently in our proposed Primer on Ascertainment of Community Problems by Broadcast Applicants, FCC 69-1402, released December 19, 1969, we indicated that applicants were expected to provide full information on their awareness of and responsiveness to local community needs and interests. Examination of the application of Doyle Ray Flurry, however, indicates that his efforts were limited to soliciting a half dozen letters of support for the establishment of a radio station in Flora. On the other hand, although the Virginia Broadcasting Corp. appears to have attempted to ascertain community needs and interests, it failed to submit sufficient information to enable the Commission to determine whether those people consulted represented a true cross-section of community leaders and the general public. Accordingly, a Suburban issue will be specified as to both applicants.

3. Since neither applicant has kept its financial information current, a financial issue will also be included.

4. James A. Mudd, president and 20 percent stockholder of the Virginia Broadcasting Corp., is also vice-president and 12.5 percent stockholder of Prairieland Broadcasters, Inc., licensee of station WILY, Centralia, Ill. Since the proposed 1 mv/m contour overlaps the 1 mv/m contour of WILY, a grant of the Virginia Broadcasting application would raise a substantial question as to possible contravention of § 73.35(a). In order to obviate this problem, Mr. Mudd has agreed to sever all connection with WILY in the event the Virginia Broadcasting application is granted. Thus, a condition to that effect will be imposed.

5. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purposes of comparison, the areas and populations which would receive primary service, together with the availability of other primary aural services (1 mv/m or greater in the case of FM) in such areas will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. *Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine the efforts made by the applicants to ascertain the community needs and interests of the areas to be served and the means by which the applicants propose to meet those needs and interests.

(2) To determine whether the applicants are financially qualified to construct and operate their proposed stations.

(3) To determine which of the proposals would, on a comparative basis, better serve the public interest.

(4) To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if either, of the applications should be granted.

8. *It is further ordered,* That in the event of a grant of the application of the Virginia Broadcasting Corp., the construction permit shall contain the following condition: Program test authority will not be issued until James A. Mudd has severed all connection with the licensee of station WILY, Centralia, Ill.

9. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

10. *It is further ordered,* That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: September 23, 1970.

Released: October 2, 1970.

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

[F.R. Doc. 70-13481; Filed, Oct. 7, 1970; 8:50 a.m.]

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[Dockets Nos. 19020, 19021; FCC 70-1034]

## CHARLES F. HEIDER AND PIER SAN OF NEBRASKA, INC.

### Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of Charles F. Heider, Omaha, Nebr., requests: 104.5 mc., No. 283; 100 kw. (H); 100 kw. (V); 227.32 feet, Docket No. 19020, File No. BPH-6981; and Pier San of Nebraska, Inc., Omaha, Nebr., requests: 104.5 mc., No. 283; 31.4 kw. (H); 31.4 kw. (V); 285 feet, Docket No. 19021, File No. BPH-6986; for construction permits.

1. The Commission has under consideration the above-captioned and described applications which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference.

2. In Suburban Broadcasters, 30 FCC 951 (1961), our Public Notice of August 22, 1968, FCC 68-847, 13 RR 2d 1903, City of Camden (WCAM), 18 FCC 2d 412 (1969), and our proposed Primer on Ascertainment of Community Problems by Broadcast Applicants, FCC 69-1402, released December 19, 1969, we indicated that applicants were expected to provide full information on their awareness of and responsiveness to local community needs and interests. In this case Pier San does not appear to have contacted a representative cross section of the area nor adequately provided the comments regarding community needs obtained from such contacts. Likewise, it has not adequately provided a listing of specific programs responsive to specific community needs as evaluated. Charles Heider, on the other hand, has not shown that he has contacted a representative cross section of the area. He, however, has submitted comments from those individuals whom he has contacted. As a result, we are unable at this time to determine whether either of the applicants is aware of and responsive to the needs of the area. Accordingly, Suburban issues are required.

3. Since no determination has yet been reached on whether the antenna proposed by Charles Heider would constitute a menace to air navigation, an issue regarding this matter is required.

4. Pier San proposes approximately 50 percent duplicate programing while Charles Heider proposes independent operation. Therefore, evidence regarding program duplication will be admissible under the standard comparative issue. When duplicated programing is proposed, the showing permitted under the

standard comparative issue will be limited to evidence concerning the benefits and detriments to be derived from the proposed duplication, and a full comparison of the applicants' program proposals will not be permitted in the absence of a specific programing inquiry—Jones T. Sudbury, 8 FCC 2d 360, FCC 67–614 (1967).

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. *It is ordered*, That, pursuant to section 309(r) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine the efforts made by Charles Helder to ascertain the community needs and interests of the area to be served and the means which the applicant proposes to meet those needs and interests.

(2) To determine the efforts made by Pier San of Nebraska to ascertain the community needs and interests of the area to be served and the means by which the applicant proposes to meet those needs and interests.

(3) To determine whether there is a reasonable possibility that the tower height and location proposed by Charles Helder would constitute a menace to air navigation.

(4) To determine which of the proposals would, on a comparative basis, better serve the public interest.

(5) To determine, in the light of the evidence adduced pursuant to the foregoing issue, which, if either, of the applications for construction permit should be granted.

7. *It is further ordered*, That the Federal Aviation Administration is made a party to the proceeding.

8. *It is further ordered*, That to avail themselves of the opportunity to be heard, the applicants and party respondent herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within twenty (20) days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

9. *It is further ordered*, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: September 23, 1970.

Released: October 2, 1970.

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

[F.R. Doc. 70-13482; Filed, Oct. 7, 1970; 8:50 a.m.]

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[Dockets Nos. 19026, 19027; FCC 70-1038]

## TRI COUNTY BROADCASTING CO. AND RADIO T'PELO

### Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of Olvie E. Sisk, Ivous T. Sisk, and Joel E. Camp, doing business as Tri County Broadcasting Co., Eupora, Miss., requests: 710 kc., 500 w., Day, Class III, Docket No. 19026, File No. BP-18016; and Ralph Mathis and Aubrey Freeman, doing business as Radio Tupelo, Tupelo, Miss., requests: 710 kc., 5 kw., DA, Day, Docket No. 19027, File No. BP-18220; for construction permits.

1. The Commission has before it for consideration (a) the above-captioned applications; (b) a petition to deny the Radio Tupelo application filed by WKRG-TV, Inc., licensee of station WKRG, Mobile, Ala.; and (c) pleadings in opposition and reply thereto.

2. The above-captioned applications are mutually exclusive in that simultaneous operation of the stations as proposed would result in prohibited overlap of contours as defined by § 73.37 of the Commission's rules.

3. Subsequent to acceptance of the Radio Tupelo application, WKRG filed a petition to deny alleging that the proposed 0.025 mv/m contour would overlap the 0.5 mv/m contour of WKRG in violation of § 73.37 of the Commission's rules. The allegation of overlap was supported by a measured radial made on station WELO (located about 1.3 miles from the proposed Radio Tupelo site) extending to a distance of approximately 120 miles toward WKRG. On the basis of this measured radial, the Commission agrees that the Radio Tupelo proposal as originally filed would cause overlap to WKRG. However, on July 22, 1969, the Radio Tupelo proposal was amended to reduce radiation toward WKRG. In addition, Radio Tupelo extended the measured radial made on station WELO by WKRG out to 200 miles (close-in measurements were made on WELO to properly correlate the two sets of data). On the basis of the amended radiation pattern and additional measurement data, the Commission finds that no overlap would be caused to or received from station WKRG. Accordingly, the petition to deny will be denied.

4. According to its application, Radio Tupelo would require $117,690 to construct and operate its proposed station for 1 year without reliance on revenues. To meet this requirement, Radio Tupelo relies on a loan from a banking institution of $50,000 and loans from the two partners totalling $32,000. Therefore, an additional $35,690 will be needed over and above what has been shown. Moreover, the most recent balance sheets of the two partners fail to reveal sufficient liquid assets to meet their individual loan commitments. Accordingly, a financial issue will be specified.

5. In Suburban Broadcasters, 30 FCC 951 (1961), City of Camden (WCAM), 18 FCC 2d 412 (1969), and more recently in our proposed Primer on Ascertainment of Community Problems by Broadcast Applicants, FCC 69-1402, released December 19, 1969, we indicated that applicants were expected to provide full information on their awareness of and responsiveness to local community needs and interests. In this case, Tri County has failed to submit sufficient information to enable us to determine whether a representative cross-section of community leaders and the general public was consulted. Accordingly, a Suburban issue is required.

6. According to information on file, Ralph Mathis is president and a 31 percent stockholder of the licensee of station WCPC, Houston, Miss., and Aubrey Freeman is a station employee. Since Radio Tupelo's proposed 1 mv/m contour overlaps WCPC's 1 mv/m contour, a substantial question regarding contravention of § 73.35 of the rules is raised. In order to obviate this difficulty, both parties have agreed to sever all connections with WCPC and, accordingly, an appropriate condition will be included in the event of grant of their applications.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. *Accordingly, it is ordered*, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine the areas and populations which would receive primary service from the proposed operations and the availability of other primary aural service to such areas and populations (1 mv/m or greater in the case of FM).

(2) To determine whether Radio Tupelo is financially qualified to construct and operate its proposed station.

(3) To determine the efforts made by Tri County Broadcasting Co. to ascertain the community needs and interests of the area to be served and the means by which the applicant proposes to meet those needs and interests.

(4) To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

(5) To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if either, of the applications should be granted.

9. *It is furthered ordered*, That, the petition to deny filed by WKRG-TV, Inc., is denied.

10. *It is further ordered*, That, in the event of a grant of the application of Radio Tupelo, the construction permit shall contain the following condition: Program tests will not be authorized until the permittee has shown that Ralph Mathis and Aubrey Freeman have divested all interest in, and severed all connections with the licensee of station WCPC, Houston, Miss.

11. *It is further ordered*, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

12. *It is further ordered*, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: September 23, 1970.

Released: October 2, 1970.

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

[F.R. Doc. 70-13483; Filed, Oct. 7, 1970; 8:50 a.m.]

[FCC 70-1067]

## STANDARD BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

OCTOBER 2, 1970.

Pursuant to the Commission's action of September 30, 1970, waiving the "freeze" criteria of § 1.571 of its rules, the following application has been accepted for filing. It will be considered as ready and available for processing November 10, 1970.

KKGF, Great Falls, Mont.
W. L. Holter, trading as Big Sky Broadcasting Co.
Has: 1310 kc., 5 kw., DA-N, U.
Req: 1310 kc., 1 kw., 5 kw.-LS, U.

Pursuant to § 1.227(b)(1), § 1.591(b) and note 2 to § 1.571 of the Commission's rules,[2] an application, in order to be considered with the above application must be in direct conflict with said application, substantially complete and tendered for filing at the offices of the Commission by the close of business on November 9, 1970.

The attention of any party in interest desiring to file pleadings concerning this application pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for provisions governing the time of filing and other requirements relating to such pleadings.

Action by the Commission September 30, 1970.[3]

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

[F.R. Doc. 70-13484; Filed, Oct. 7, 1970; 8:50 a.m.]

# FEDERAL RESERVE SYSTEM

## BANCOHIO CORP.

### Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of BancOhio Corp., Columbus, Ohio, for approval of acquisition of more than 80 percent of the voting shares of Akron National Bank and Trust Co., Akron, Ohio.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)) an application by BancOhio Corp., Columbus, Ohio, a registered bank holding company, for the Board's prior approval of the acquisition of more than 80 percent of the voting shares of Akron National Bank and Trust Co., Akron, Ohio.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency and requested his views and recommendation. The Comptroller recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on July 15, 1970 (35 F.R. 11316), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. The time for filing comments and views has expired and all those received have been considered by the Board.

*It is hereby ordered*, For the reasons set forth in the Board's Statement[3] of this date, that said application be and hereby is approved: *Provided*, That the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Cleveland pursuant to delegated authority.

By order of the Board of Governors,[4] October 2, 1970.

[SEAL] KENNETH A. KENYON,
*Deputy Secretary.*

[F.R. Doc. 70-13453; Filed, Oct. 7, 1970; 8:48 a.m.]

# FEDERAL POWER COMMISSION

[Dockets Nos. RI64-243, RI71-299 et al.]

## H. L. BROWN, JR., ET AL.

### Order Providing for Hearings on and Suspension of Proposed Changes in Rates[1]

SEPTEMBER 30, 1970.

The respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before November 23, 1970.

By the Commission.

[SEAL] GORDON M. GRANT,
*Secretary.*

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[1] Commissioner Robert E. Lee concurring in the result.

[2] See report and order released July 18, 1968, FCC 68-739, Interim Criteria to Govern Acceptance of Standard Broadcast Applications, 33 F.R. 10343, 13 RR 2d 1667.

[3] Commissioners Burch (Chairman), Bartley, Robert E. Lee, Johnson, and H. Rex Lee.

[3] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Cleveland. Dissenting Statement of Governor Robertson filed as part of the original document and available upon request.

[4] Voting for this action: Chairman Burns and Governors Maisel, Brimmer, and Sherrill. Voting against this action: Governor Robertson. Absent and not voting: Governors Mitchell and Daane.

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

| Docket No. | Respondent | Rate schedule No. | Supplement No. | Purchaser and producing area | Amount of annual increase | Date filing tendered | Effective date unless suspended | Date suspended until— | Cents per Mcf* Rate in effect | Cents per Mcf* Proposed increased rate | Rate in effect subject to refund in dockets Nos. |
|---|---|---|---|---|---|---|---|---|---|---|---|
| RI71-299 | H. L. Brown, Jr. | 1 | 7 | Transwestern Pipeline Co. (North Bluitt (Wolfcamp) Field; Roosevelt County, N. Mex.). | $4,512 | 9-10-70 | 10-11-70 | 3-11-71 | 16.0000 | 18.0666 | |
| RI71-300 | Shell Oil Co. | 334 | [1] 8 | El Paso Natural Gas Co. (J. M. & East Brown Bassett Fields; Crockett & Terrell Counties, Tex., RR. District No. 7-C, Permian Basin). | [2] 223<br>254,391<br>73,998 | 8-31-70 | 10-1-70 | 3-1-71 | [2] 16.9356<br>[3] 13.3745<br>[4] 10.1991 | [2] 17.5656<br>[3] 14.4308<br>[4] 11.5122 | RI68-321.<br>RI68-412. |
| RI71-301 | William Herbert Hunt, Trust Estate. | 1 | 19 | Texas Eastern Transmission Corp. (North Cottonwood Field, Liberty County, Tex., RR. District No. 3). | 200 | 9-14-70 | 11-1-70 | 4-1-71 | 16.8735 | 17.07438 | RI70-362. |
| RI71-302 | A. G. Hill | 8 | 15 | Texas Eastern Transmission Corp. (Aqua Dulce Field, Nueces County, Tex., RR. District No. 4). | 402 | 9-14-70 | 11-1-71 | 4-1-71 | 16.8735 | 17.07438 | RI70-361. |
| RI71-303 | Pan American Petroleum Corp. | 29 | 9 | Trunkline Gas Co. (Heard Ranch Field, Bee County, Tex., RR. District No. 2). | 21,900 | 9-14-70 | 10-15-70 | 3-15-71 | 14.0 | [5] 16.0 | |
| RI71-304 | Humble Oil & Refining Co. | 377 | 2 | Natural Gas Pipeline Co. of America (Tomball Gas Plant Field, Harris County, Tex., RR. District No. 3). | 111,864 | 9-14-70 | 12-1-70 | 4-1-71 | 17.0638 | 18.0675 | RI70-428. |
| RI71-305 | The California Co., a division of Chevron Oil Co. | 59 | 4 | Valley Gas Transmission, Inc. (East Alta Mesa Field, Brooks County, Tex., RR. District No. 4). | 1,466 | 9-17-70 | 10-18-70 | 3-18-71 | 15.0563 | 16.06 | RI64-391. |
| RI71-306 | H. L. Hunt | 4 | 26 | Texas Eastern Transmission Corp. (Whelan Field, Harrison County, Tex., RR. District No. 6). | 3,013 | 9-14-70 | 11-1-70 | 4-1-71 | 16.8735 | 17.07438 | RI70-334. |
| RI71-307 | Hassie Hunt Trust | 4 | 26 | Texas Eastern Transmission Corp. (Northeast Lisbon Field, Claiborne Parish, North Louisiana). | 3,078 | 9-14-70 | 11-1-70 | 4-1-71 | [7] 18.0570 | [7] 18.2622 | RI70-321. |
| RI71-308 | Hunt Oil Co. | 28 | 20 | Texas Eastern Transmission Corp. (Greenwood Field, Caddo parish, North Louisiana. | 2,052 | 9-14-70 | 11-1-70 | 4-1-71 | [7] 18.0570 | [7] 18.2622 | RI70-322. |
| RI71-309 | John C. Oxley | 1 | [8] 16 | Arkansas Louisiana Gas Co. (Loyd Nix Unit, Haskell County, Okla. Other Area). | 225 | 9-10-70 | 10-11-70 | 3-11-71 | 15.0 | 16.015 | |
| RI71-310 | Pan American Petroleum Corp. | 148<br>175 | 15<br>14 | Arkansas Louisiana Gas Co., (Sentell Field, Bossier Parish, North Louisiana). | 6,172<br>29,455 | 9-17-70<br>9-17-70 | 10-18-70<br>10-18-70 | 3-18-71<br>3-18-71 | [9] 15.75<br>[9] 15.75 | [9] 19.0<br>[9] 19.0 | RI71-260.<br>RI71-260. |
| RI71-311 | Flag Oil Corp. of Delaware. | 4 | 3 | Arkansas Louisiana Gas Co. (Kinta Field, Haskell County, Okla. Other Area). | 120 | 9-16-70 | 10-17-70 | 3-17-71 | [10] 15.015 | [10] 16.015 | RI68-488. |
| RI71-312 | Wheless Drilling Co. | 6<br>6 | [11] 4<br>5 | United Gas P/L Co. (West Simsboro Gas Field, Lincoln Parish, north Louisiana). | .....<br>10,200 | 9-8-70<br>9-8-70 | 10-9-70<br>10-9-70 | Accepted<br>3-9-71 | [12] 18.75<br>[12] 18.75 | [5] [12]<br>23.0 | |

*Pressure base is 14.65 p.s.i.a., unless otherwise stated.
[1] Not applicable to acreage in Val Verde County, Tex., added by Supplement No. 7.
[2] Applicable to gas from Brown Bassett (Bromide) Field.
[3] Applicable to gas from JM (Ellenburger) Field.
[4] Applicable to gas from Brown Bassett (Ellenburger) Field.
[5] Ex parte increase after termination of contract.
[6] Pressure base is 15.025 p.s.i.a.
[7] Includes 1.75-cent tax reimbursement.
[8] Applicable to acreage added by Supplement No. 15.
[9] Includes 1.333-cent tax reimbursement.
[10] Subject to downward B.t.u. adjustment.
[11] Amendment dated Dec. 18, 1969, which provides for increased rate. Such amendment was previously filed on Feb. 22, 1970, and accepted as Supplement No. 4 only insofar as it pertains to change in contract measurement procedure as requested at that time by applicant. Applicant now requests that such amendment be accepted in its entirety. The amendment is accepted here as of Oct. 9, 1970, but not the proposed 23-cent rate contained therein.
[12] Includes 1.75-cent tax reimbursement.
[13] Includes 1.5-cent tax reimbursement.

Brown's proposed increase pertains to acreage in Roosevelt County, N. Mex., which is not included in any pricing area covered in the Commission's statement of general policy No. 61-1, as amended. However, the proposed rate exceeds the Permian Basin area base rate which in the past has been applied to sales in this area. Accordingly, we shall suspend Brown's proposed rate for 5 months.

Brown previously filed for an increase under the subject rate schedule from 16 cents to 17.0818 cents per Mcf which was suspended in Docket No. RI64-243 but never placed in effect. Brown requests that the proceeding be terminated. Docket No. RI64-243 is therefore hereby terminated insofar as it relates to Brown's FPC Gas Rate Schedule No. 1.

Humble requests a 1-day suspension period and The California Company requests waiver of the 30-day statutory notice period. Good cause has not been shown for granting such requests and they are denied.

[F.R. Doc. 70-13318; Filed, Oct. 7, 1970; 8:45 a.m.]

[Docket No. RI71-294, etc.]

## GEORGE R. BROWN ET AL.

### Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

SEPTEMBER 30, 1970.

The respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

[1] Does not consolidate for hearing or dispose of the several matters herein.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before November 16, 1970.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

APPENDIX A

| Docket No. | Respondent | Rate schedule No. | Supplement No. | Purchaser and producing area | Amount of annual increase | Date filing tendered | Effective date unless suspended | Date suspended until— | Cents per Mcf* Rate in effect | Cents per Mcf* Proposed increased rate | Rate in effect subject to refund in dockets Nos. |
|---|---|---|---|---|---|---|---|---|---|---|---|
| RI71-294 | George R. Brown | 3 | 9 | Texas Eastern Transmission Corp. (Lochridge Field, Brazoria County, Tex., RR. District No. 3). | $4,736 | 9- 8-70 | 10- 9-70 | 3- 9-71 | 15.2665 | 16.8735 | RI62-123. |
| RI71-295 | Pennzoil Producing Co. | 224 | 9 | Southern Natural Gas Co. (Dexter Field, Marion and Walthall Counties, Miss.). | 17,981 | 9- 8-70 | 10- 9-70 | 3- 9-71 | [3] 20.6 | [3] 25.7762 | |
| RI71-296 | Inexco Oil Co. | 6 | 1 | Transcontinental Gas Pipe Line Corp. (West St. Paul Area, San Patricio County, Tex., RR. District No. 4). | 4,860 | 9-10-70 | 10-11-70 | 3-11-71 | 16.0 | 17.8 | |
| RI71-297 | Shell Oil Co. | 20 | [1] 22 | El Paso Natural Gas Co. (Wasson Plant, Yoakum & Gaines Plant, Texas., RR. District 8, Permian Basin). | ..... | 9- 8-70 | 10- 9-70 | Accepted | 14.782 | ..... | |
| | | 20 | 23 | | 883,002 | 9- 8-70 | 10- 9-70 | 3- 9-71 | 14.782 | 17.1880 | RI70-32. |
| | do | 34 | [1] 17 | El Paso Natural Gas Co. (Langmat Field, Lea County, N. Mex., Permian Basin). | ..... | 9- 8-70 | 10- 9-70 | Accepted | 17.1798 | ..... | |
| | | 34 | 18 | | 1,002 | 9- 8-70 | 10- 9-70 | 3- 9-71 | [3] 17.1798 | [3] 17.6071 | RI70-32. |
| | do | 40 | [1] 12 | El Paso Natural Gas Co. (Tubb-Blinebry Field, Lea County, N. Mex., Permian Basin). | ..... | 9- 8-70 | 10- 9-70 | Accepted | 17.6398 | ..... | |
| | | 40 | 13 | | 343 | 9- 8-70 | 10- 9-70 | 3- 9-71 | [4] 17.6398 | [4] 18.1438 | RI70-24. |
| | do | 41 | [1] 24 | El Paso Natural Gas Co. (Tubb-Blinebry et al. Fields, Lea County, N. Mex., Permian Basin). | ..... | 9- 8-70 | 10- 9-70 | Accepted | 17.6398 | ..... | |
| | | 41 | 25 | | 9,324 | 9- 8-70 | 10- 9-70 | 3- 9-71 | [4] 17.6398 | [4] 18.1438 | RI70-25. |
| | do | 134 | [1] 18 | El Paso Natural Gas Co. (University Block 9; Andrews County, Tex., RR. District No. 8, Permian Basin). | ..... | 9- 8-70 | 10- 9-70 | Accepted | 14.7260 | ..... | |
| | | 134 | 19 | | 17,354 | 9- 8-70 | 10- 9-70 | 3- 9-71 | 14.7260 | 16.7846 | RI70-24. |
| | do | 142 | [1] 16 | El Paso Natural Gas (Spraberry Trend Field; Reagan County, Tex., RR. District No. 7-C, Permian Basin). | ..... | 9- 8-70 | 10- 9-70 | Accepted | 19.3278 | ..... | RI70-24. |
| | | 142 | 17 | | 117 | 9- 8-70 | 10- 9-70 | 3- 9-71 | 19.3278 | 19.8364 | |
| | do | 273 | [1] 9 | El Paso Natural Gas Co. (Yucca Butte Field; Pecos and Terrell Counties, Tex., RR. District Nos. 8 and 7-C, Permian Basin). | ..... | 9- 8-70 | 10- 9-70 | Accepted | 17.8019 | ..... | |
| | | 273 | 10 | | 3,148 | 9- 8-70 | 10- 9-70 | 3- 9-71 | 17.8019 | 18.3105 | RI69-828. |
| | do | 305 | [1] 8 | El Paso Natural Gas Co. (South Andrews Field; Andrews County, Tex., RR. District No. 8, Permian Basin). | ..... | 9- 8-70 | 10- 9-70 | Accepted | 14.726 | ..... | |
| | | 305 | 9 | | 1,317 | 9- 8-70 | 10- 9-70 | 3- 9-71 | 14.726 | 16.7846 | RI70-173. |
| | do | 341 | [1] 6 | El Paso Natural Gas Co. (Tubb-Blinebry Field; Lea County, N. Mex., Permian Basin). | ..... | 9- 8-70 | 10- 9-70 | Accepted | 17.6398 | ..... | |
| | | 341 | 7 | | 60 | 9- 8-70 | 10- 9-70 | 3- 9-71 | 17.6398 | 18.1438 | RI69-828. |
| | do | 347 | 3 | El Paso Natural Gas Co. (Hamon Field, Reeves County, Tex., RR. District 8, Permian Basin). | 38,197 | 9- 1-70 | 10- 2-70 | 3- 2-71 | [3] 13.2696 | [3] 16.2352 | RI68-412. |
| | do | 351 | 5 | El Paso Natural Gas Co. (Lockridge Field, Reeves County, Tex., RR. District 8, Permian Basin). | 155,478 | 9- 1-70 | 10- 2-70 | 3- 2-71 | [3] 17.4656 | [3] 18.0048 | RI68-412, RI70-1141. |
| | do | 343 | 3 | El Paso Natural Gas Co. (Gomez Field, Pecos County, Tex., RR. District No. 8, Permian Basin). | 23,121 | 8-31-70 | 10- 1-70 | 3- 1-71 | [4] 16.9356 | 17.5656 | RI68-412. |
| | do | 346 | 3 | El Paso Natural Gas Co. (Toro Field, Reeves County, Tex., RR. District No. 8, Permian Basin). | 49,117 | 8-31-70 | 10- 1-70 | 3- 1-71 | [4] 16.9356 | 17.5656 | RI68-412. |
| | do | 16 | 13 | El Paso Natural Gas Co. (Monahans Field, Ward and Winkler Counties, Tex., RR. District 8, Permian Basin). | ..... | 9- 8-70 | 10- 9-70 | Accepted | 17.8019 | ..... | |
| | | 16 | 14 | | 3,779 | 9- 8-70 | 10- 9-70 | 3- 9-71 | 17.8019 | 18.3105 | RI70-154. |
| | do | 17 | [1] 22 | do | ..... | 9- 8-70 | 10- 9-70 | Accepted | 16.5148 | ..... | |
| | | 17 | 23 | | 7,007 | 9- 8-70 | 10- 9-70 | 3- 9-71 | 16.5146 | 17.2683 | RI70-32. |
| | do | 18 | [1] 16 | El Paso Natural Gas Co. (Ratliff-Bedford Field, Andrews County, Tex., RR. District 8, Permian Basin). | ..... | 9- 8-70 | 10- 9-70 | Accepted | 16.7846 | ..... | |
| | | 18 | 17 | | 3,996 | 9- 8-70 | 10- 9-70 | 3- 9-71 | 16.7846 | 17.2933 | RI70-32. |
| | do | 19 | [1] 19 | El Paso Natural Gas Co. (TXL Plant Residue, Ector and Winkler Counties, Tex., RR. District 8, Permian Basin). | ..... | 9- 8-70 | 10- 9-70 | Accepted | 15.742 | ..... | |
| | | 19 | 20 | | 150,543 | 9- 8-70 | 10- 9-70 | 3- 9-71 | 15.742 | 17.188 | RI70-32. |
| RI71-298 | Phillips Petroleum Co. | 359 | [1] 21 | El Paso Natural Gas Co. (Winkler Plant, Winkler County, Tex., RR. District No. 8, Permian Basin). | ..... | 9- 9-70 | 10-10-70 | Accepted | 19.1924 | ..... | |
| | | 359 | 22 | | 6,719 | 9- 9-70 | 10-10-70 | 3-10-71 | 19.1924 | 19.76228 | RI70-93. |
| | do | 363 | [1] 17 | El Paso Natural Gas (Tunstill Plant, Reeves County, Tex., RR. District No. 8, Permian Basin). | ..... | 9- 9-70 | 10-10-70 | Accepted | 17.2295 | ..... | |
| | | 363 | 18 | | 12,020 | 9- 9-70 | 10-10-70 | 3-10-71 | 17.2295 | 17.80188 | RI70-93. |

*Unless otherwise stated, pressure base is 14.65 p.s.i.a.
[1] Agreement providing for new pricing schedule is accepted as the date set forth in the "Effective Date Unless Suspended" column.
[2] Pressure base is 15.025 p.s.i.a.
[3] Includes 0.4467 cents per Mcf compression charge by buyer.
[4] Subject to compression charge of 0.4467 cents per Mcf for low pressure gas.
[5] Rate adjusted for quality.

The amendatory agreements submitted herein by Shell and Phillips contain future price escalation provisions which do not conform with section 154.93(b-1) of the Commission's regulations and thus are subject to rejection. These provisions make no specific reference to any applicable price levels that may be established in an area rate proceeding. The agreements also fail to specify that any higher price levels which may be established in the areas involved need be related to the vintages and types of was prescribed under the respective rate schedules involved here. Accordingly, the amendments are accepted subject to the condition that the above provisions shall be interpreted consistent with § 154.93(b-1) of the regulations and shall apply only upon the Commission's approval of a just and reasonable rate or settlement rate in an applicable area rate proceeding for gas of comparable quality and vintage.

Brown, Pennzoil, and Phillips request effective dates for which adequate notice has not been given. Good cause has not been shown for waiving the 30-day statutory notice period, or for granting a retroactive effective date. Such requests are therefore denied.

All of the proposed increased rates and charges exceed the applicable area increased rate ceilings set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56).

[F.R. Doc. 70-13317; Filed, Oct. 7, 1970; 8:45 a.m.]

# SECURITIES AND EXCHANGE COMMISSION

[70-4815]

## EASTERN UTILITIES ASSOCIATES ET AL.

### Notice of Filing of Post-Effective Amendment Proposing Increase in Bank Borrowings and Open-Account Advances

OCTOBER 1, 1970.

In the matter of Eastern Utilities Associates, Post Office Box 2333, Boston, Mass. 02107; Blackstone Valley Electric Co., Post Office Box 1111, Lincoln, R.I. 02865; Brockton Edison Co., 36 Main Street, Brockton, Mass. 02403; Fall River Electric Light Co., 85 North Main Street, Fall River, Mass. 02772; and Montaup Electric Co., Post Office Box 391, Fall River, Mass. 02772.

Notice is hereby given that Eastern Utilities Associates (EUA), a registered holding company, and its four electric utility subsidiary companies, Blackstone Valley Electric Co. (Blackstone), Brockton Edison Co. (Brockton), Fall River Electric Light Co. (Fall River), and Montaup Electric Co. (Montaup), have filed with this Commission a post-effective amendment to an application-declaration pursuant to the Public Utility Holding Company Act of 1935 (Act). The application-declaration designates sections 6(a)(1), 7, 12(b), 12(c), and 12(f) of the Act and Rules 42(b)(2), 45(a), and 50(a)(2) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the post-effective amendment, which is summarized below, for a complete statement of the proposed transactions.

By Order dated December 18, 1969 (Holding Company Act Release No. 16561), this Commission granted and permitted to become effective the application-declaration now being amended, which order authorized the issue and sale to banks of short-term unsecured promissory notes by EUA, Blackstone, Brockton, Fall River, and Montaup and open-account advances to Blackstone and Brockton by EUA in the respective maximum amounts to be outstanding at any one time as set forth therein. EUA, Fall River, and Montaup now seek authorization for further borrowings from banks of $7,400,000 and authorization for open-account advances in the aggregate amount of $3,300,000 from EUA to Blackstone, Brockton, and Fall River, in addition to the maximum amounts heretofore authorized. The maximum amounts of bank borrowings proposed to be outstanding at any time will be increased from $16,500,000 to $22,500,000 in the case of EUA, from $6 million to $6,100,000 in the case of Fall River, from $15,700,000 to $17 million in the case of Montaup. Open account advances from EUA proposed to be outstanding will be increased from $12 million to $12,300,000 in the case of Blackstone, from $5,300,000 to $7,500,000 in the case of Brockton and a new authorization of $800,000 for Fall River. Except for a reduction of $100,000 in bank borrowings by Brockton, the transactions as heretofore authorized and approved by order of the Commission remain unchanged. It is stated that the aggregate construction expenditures for 1971 for these companies are estimated at $23,400,000.

Notice is further given that any interested person may, not later than October 27, 1970, request in writing that a hearing be held in respect of such matters, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment which he desires to controvert; or he may request that he be notified should the Commission order a hearing in respect thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended by the post-ther effective amendment, or as it may be further amended, may be granted and permitted to become effective, as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof, or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

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

[F.R. Doc. 70-13485; Filed, Oct. 7, 1970; 8:50 a.m.]

[70-4657]

## MAINE YANKEE ATOMIC POWER CO.

### Notice of Proposed Issue and Sale

OCTOBER 1, 1970.

Notice is hereby given that Maine Yankee Atomic Power Co., 9 Green Street, Augusta, Maine 04330 (Maine Yankee), an electric utility company and an indirect subsidiary company of both Northeast Utilities and New England Electric System, registered holding companies, has filed an application and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Maine Yankee is constructing a nuclear-powered electric generating plant with a net expected capacity of approximately 800 megawatts. The total capital cost of the plant, excluding the cost of the initial inventory of nuclear fuel of about $22 million, is estimated at $200 million. Its 11 sponsor companies are committed by capital fund agreements and power contracts to provide Maine Yankee, in accordance with their stock percentages, the capital required by Maine Yankee, and to purchase a like percentage of the capacity and power output of the Maine Yankee plant on a cost-of-service basis, which includes an appropriate return on their investment.

Pending long-term debt financing, Maine Yankee has obtained funds to meet its capital requirements by the issue and sale of common stock to its sponsors in the aggregate amount of $50 million, by short-term borrowings from banks of $6 million pursuant to a revolving credit agreement, and by subordinated notes of $26 million issued to the sponsors in the same proportion as their stock ownership.

Maine Yankee presently proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $75 million principal amount of first mortgage bonds. The interest rate (which shall be a multiple of one-eighth of 1 percent) and the price, exclusive of accrued interest, to be paid to Maine Yankee (which will be not less than 100 percent and not more than 102.75 percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under the provisions of the first mortgage indenture dated as of November 1, 1970, between

Maine Yankee and Old Colony Trust Co., as trustee, which includes a prohibition until November 1, 1975, against refunding the bonds with the proceeds of funds borrowed at a lower interest cost. The bonds will be secured by the physical properties of Maine Yankee and by an assignment to the indenture trustee of its interest in the power contracts and capital funds agreements with the sponsors, as specified in the indenture. The indenture further provides for a sinking fund, sufficient to retire $2,500,000 principal amount of bonds each 6 months, commencing on November 1, 1974.

The proceeds from the issue and sale of the bonds will be used to repay the short-term borrowings from banks and from sponsors incurred to finance the construction of the generating plant and to meet, in part, future construction costs.

The application states that the Maine Public Utilities Commission has jurisdiction over the issue and sale of the bonds. No other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. Fees and expenses to be incurred in connection with the proposed transactions are to be supplied by amendment.

Notice is further given that any interested person may, not later than October 20, 1970, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

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

[F.R. Doc. 70-13486; Filed, Oct. 7, 1970; 8:50 a.m.]

# SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 789]

## CALIFORNIA

### Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of September 1970, because of the effects of certain disasters, damage resulted to residences and business property located in the State of California;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such condition, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the offices below indicated from persons or firms whose property, situated in all areas affected or to be affected in the aforesaid State, suffered damage or destruction resulting from brush fires occurring on or about September 25, 1970, and continuing thereafter.

OFFICES

Small Business Administration District Office, 849 South Broadway, Los Angeles, Calif. 90014.

Small Business Administration District Office, 110 West C Street, San Diego, Calif. 92101.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to March 31, 1971.

Dated: September 28, 1970.

HILARY SANDOVAL, Jr.,
*Administrator.*

[F.R. Doc. 70-13451; Filed, Oct. 7, 1970; 8:47 a.m.]

# DEPARTMENT OF LABOR

## Office of the Secretary

## PPG INDUSTRIES

### Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under date of July 22, 1970, a petition requesting certification of eligibility to apply for adjustment assistance was filed with the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, by the United Glass and Ceramic Workers, AFL-CIO, and the Window Glass Cutters League of America, AFL-CIO, on behalf of workers of the Henryetta, Okla., sheet-glass plant of PPG Industries (Works No. 10). The petition points out that the request for certification is made under Proclamation 3967 ("Adjustment of Duties on Certain Sheet Glass") of February 27, 1970 (35 F.R. 3975). In that Proclamation, the President, among other things, acted to provide under section 302(a)(3) with respect to the sheet-glass industry that its workers may request the Secretary of Labor for certifications of eligibility to apply for adjustment assistance under chapter 3, title III, of the Trade Expansion Act of 1962.

The Trade Expansion Act, section 302(b)(2), provides that the Secretary of Labor shall certify as eligible to apply for adjustment assistance under chapter 3 any group of workers in an industry with respect to which the President has acted under section 302(a)(3) upon a showing by such group of workers to the satisfaction of the Secretary of Labor that the increased imports (which the Tariff Commission has determined to result from concessions granted under trade agreements) have caused or threatened to cause unemployment or underemployment of a significant number or proportion of workers of such workers' firm or subdivision thereof. The same degree of causal connection is applicable here as under the tariff adjustment and other adjustment assistance provisions; that is, the increased imports have been the major factor.

Upon receipt of the petition, the Department's Director of the Office of Foreign Economic Policy instituted an investigation, following which he made a recommendation to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigations, 34 F.R. 18342 and 35 F.R. 12440; 29 CFR Part 90). The Director reported that increased imports of sheet glass of the types covered by the Presidential Proclamation 3967 have been the major factor in causing the unemployment or underemployment of a significant number or proportion of workers from the plant of PPG Industries in Henryetta, Okla. He further reported that this unemployment or underemployment began after November 15, 1969, and has continued to the present.

After due consideration, I make the following certification:

All workers of the PPG Industries Works No. 10—Henryetta, Okla., who became or will become unemployed or underemployed after November 15, 1969, are eligible to apply for adjustment assistance under chapter 3, title III, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 1st day of October 1970.

GEORGE H. HILDEBRAND,
*Deputy Under Secretary, International Affairs.*

[F.R. Doc. 70-13454; Filed, Oct. 7, 1970; 8:48 a.m.]

# INTERSTATE COMMERCE COMMISSION

[Notice 92]

## MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER APPLICATIONS

OCTOBER 2, 1970.

The following applications are governed by Special Rule 247[1] of the Commission's General Rules of Practice (49 CFR 1100.247, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's General Policy Statement Concerning Motor Carrier Licensing Procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 868 (Sub-No. 8), filed July 28, 1970. Applicant: SIGNAL TRUCKING SERVICE, LTD., 3770 East 26th Street, Vernon, Calif. 90023. Applicant's representative: Ernest D. Salm, 3846 Evans Street, Los Angeles, Calif. 90027. Authority sought to operate as a *common carrier*, by motor vehicle, transporting: (A) *Over regular routes:* (1) *Iron and steel and iron and steel articles* including *tinplate, and products of iron and steel mills, steel processing and steel fabricating plants;* (2) *aluminum, brass, bronze, copper, lead, magnesium, tin, zinc, and other nonferrous metals, and articles* manufactured therefrom except household appliances and housewares, and except articles manufactured from such metals when consigned to a retail business establishment; (3) *clay and clay products including calcined magnesite, crude or roasted dolomite and other commodities* normally manufactured and shipped in straight or mixed shipments by clay products mills or manufacturing plants; (4) *heavy machinery and machinery parts, heavy electrical equipment* on appliances and supplies or parts thereof; (5) *oil, water, or gas well outfits, and materials, equipment, and supplies, and articles* related thereto and used in connection therewith; (6) *machinery, equipment, materials and supplies* used in the drilling, maintenance, or operation of wells for the production of water, petroleum, or natural gas;

(7) *Construction, road building, paving and military equipment, materials, and supplies* used or which may be used in the construction, erection, operation, function, activity, maintenance, repair, or dismantling of bridges, roads, or highways, power or communication transmission lines, or production projects, sewers, or sewerage disposal projects, aqueducts, pipelines, oil refining or processing plants, mines, iron, steel or nonferrous metal mills, or processing plants, military or demolition projects, fabricated steel or metal buildings, and other structures; (8) *such commodities* as require special equipment or handling by reason of their unusual size, weight or shape and in connection therewith parts, equipment, materials and supplies not requiring special equipment or handling that are appurtenant to or a necessary part of the same project or transaction; (9) *electrical transmission or communication cable* including clamps, joints, racks, hooks, terminals and other appurtenant articles used in connection therewith; (10) *junk, scrap or waste material* having value only for remelting or reprocessing; (11) *firefighting equipment, materials, and supplies;* (12) *empty pallets or empty containers* returning or to be returned; (a) from the California-Mexico boundary at San Ysidro, Calif., over U.S. Highway 101 through Capistrano Beach, Oxnard, San Jose, and San Carlos, to the California-Oregon boundary; from Capistrano Beach to Oxnard over U.S. Highway 101 Alternate; from San Jose to San Carlos over U.S. Highway 101 Bypass;

(b) From the California - Mexico boundary at Calexico over California Highway 86 to Indio, thence over Interstate Highway 10 to Los Angeles, thence over Interstate Highway 5 to Bakersfield, thence over U.S. Highway 99 to Sacramento, thence over U.S. Highway 99E to Red Bluff, thence over U.S. Highway 99 to the California-Oregon boundary, also over U.S. Highway 99W as an alternate route from Sacramento to Red Bluff; (c) from San Diego over U.S. Highway 395 to the California-Oregon boundary; (d) from San Francisco over U.S. Highway 40 through Davis to the California-Nevada boundary; from Davis over U.S. Highway 40 Alternate to the California-Nevada boundary; (e) from San Francisco over U.S. Highway 50 to the California-Nevada boundary; (f) from Los Angeles over U.S. Highway 60 to the California-Arizona boundary; (g) from San Diego over U.S. Highway 80 to the California-Arizona boundary; (h) from Los Angeles over U.S. Highway 66 to the California-Arizona boundary; (i) from Barstow over U.S. Highway 91 to the California-Nevada boundary; (j) from Weed over U.S. Highway 97 to the California-Nevada boundary; (e) from the California-Arizona boundary near Blythe over U.S. Highway 95 to the California-Nevada boundary; (l) from junction of U.S. Highways 101 and 299 near Arcata over U.S. Highway 299 to Alturas; (m) from Ventura over California Highway 33 to Taft, thence over California Highway 119 to junction with U.S. Highway 99; (n) from Paso Robles over California Highway 46 to junction with U.S. Highway 99 near Famosa, thence U.S. Highway 99 to Bakersfield, thence over California Highway 58 to junction with Interstate Highway 15 near Barstow, and thence over Interstate Highway 15 to the California-Nevada boundary; (o) from Calpella over California Highway 20 to Cisco; (p) from Red Bluff over California Highway 36 to junction with U.S. Highway 395 near Susanville;

(q) From junction of California Highways 139 and 299 near Canby, over California Highway 139 to the California-Oregon boundary; (r) from junction of California Highway 166 with Interstate Highway 5 near Wheeler Ridge, thence over California Highway 166 to Maricopa, thence over California Highway 33 to Tracy; (s) from junction of Interstate Highway 15 and California Highway 127 near Baker, thence over California Highway 127 to Death Valley Junction, thence over California Highway 190 to junction with U.S. Highway

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

395 near Lone Pine; (t) from San Diego over Interstate Highway 8 to the California-Arizona boundary; (u) from the Pacific Ocean over Interstate Highway 10 to the California-Arizona boundary; (v) from Colton over Interstate Highway 15 to the California-Nevada boundary; (w) from San Francisco over Interstate Highway 80 to the California-Nevada boundary; (x) from the California-Mexico boundary over Interstate Highway 5 to the California-Oregon boundary, and return over the above-described routes from the respective destinations shown to their respective origins, serving all intermediate and terminal points on the above-described routes, restricted against service at intermediate points in Nevada located on U.S. Highway 395.

(B) Over irregular routes: Transportation of the commodities described above in paragraphs 1 through 12, both inclusive, to and from points in California located on, and between each of 24 sets of two imaginary lines, both lines of each set running parallel, respectively, with, and located 50 miles from each side of the highways and routes described above in paragraphs (a) through (x), both inclusive; (C) *asbestos cement pipe*, from Crestmore, Calif., to Incline Village, Nev.; and Havasu City, Ariz.; (D) *commodities* described above in paragraphs 1, 2, 3, 4, 7, 8, and 10, from points in California located in the Los Angeles and Los Angeles Harbor commercial zones, to Ashland, Oreg.; Incline Village, Nev.; and Havasu City, Ariz.; and (E) *commodities* described above in paragraphs 1, 5, 6, 7, and 8; (a) from Dominguoz and Vernon, Calif., to Lakeview, Oreg.; and (b) from Baldwin Park, Pedley, and points in the Los Angeles and Los Angeles Harbor commercial zones, Calif., to Mineral Park, Ariz. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles and San Francisco, Calif.

No. MC 8973 (Sub-No. 18) (Amendment), filed June 30, 1970, published in the FEDERAL REGISTER issue of August 6, 1970, and republished as amended, this issue. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials, plastic articles, paving materials, materials, and supplies* used in the manufacture of plastic articles and building materials (except those in bulk, and those which because of size and weight require the use of special equipment); (1) between points in New Jersey north of the Raritan River and east of U.S. Highway 202, New York, N.Y.; points in Nassau, Westchester, and Rockland Counties, N.Y., on the one hand, and, on the other, points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia; (2) between Trenton and Jamesburg, and points in New Jersey. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to reflect a change in the territorial scope of the application, thereby broadening the scope of the application. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Newark, N.J.

No. MC 25869 (Sub-No. 101) (Amendment), filed May 13, 1970, published in the FEDERAL REGISTER issue of June 4, 1970, and republished as amended, this issue. Applicant: NOLTE BROS. TRUCK LINE, INC., 4734 South 27th Street, Omaha, Nebr. 68107. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Inks, resins, and advertising materials*, from Chicago and Elk Grove Village, Ill., to points in Polk, Taylor, and Fremont Counties, Iowa. Restriction: The proposed service is restricted as follows: (1) Against the transportation of the named commodities in bulk; (2) to the transportation of traffic originating at Chicago and Elk Grove Village, Ill., and destined to points in the named destinations; and (3) against service to Shenandoah, Iowa, and points in its commercial zone. NOTE: Common control may be involved. The purpose of this republication is to reflect changes in the scope of the authority sought. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Des Moines, Iowa.

No. MC 29120 (Sub-No. 120), filed September 21, 1970. Applicant: ALL-AMERICAN TRANSPORT, INC., 1500 Industrial Avenue, Post Office Box 769, Sioux Falls, S. Dak. 57101. Applicant's representative: Mead Bailey (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, livestock, and commodities injurious or contaminating to other lading), serving the site of the EROS (Earth Resources Observation Satellite) Remote Sensing Data Center of the U.S. Department of the Interior, located near Garretson, Minnehaha County, S. Dak., as an off-route point in connection with carrier's present operating authority under docket No. MC 29120 and subs thereto. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Sioux Falls, S. Dak.

No. MC 27817 (Sub-No. 89), filed September 9, 1970. Applicant: H. C. GABLER, INC., Rural Delivery No. 3, Chambersburg, Pa. 17201. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pet food*, between Baltimore, Md., on the one hand, and, on the other, points in Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and the District of Columbia within 300 miles of Baltimore. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 27817 (Sub-No. 90), filed September 11, 1970. Applicant: H. C. GABLER, INC., Rural Delivery No. 3, Chambersburg, Pa. 17201. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except cold-pack and frozen) and *materials, supplies, and equipment* used in the production of foodstuffs, between the plantsites of Duffy-Mott Co., Inc., at Hartford, Bailey, and Grawn, Mich., on the one hand, and, on the other, the plantsite of Duffy-Mott Co., Inc., at or near Aspers, Pa. NOTE: Applicant states that the requested authority can be tacked with portions of its presently held authority at Aspers, Pa., to provide through service on foodstuffs (with exceptions) to points in Rhode Island, New York, New Jersey, Connecticut, Massachusetts, Delaware, Maryland, and the District of Columbia; on canning materials, supplies, and equipment, from Rochester and New York, N.Y., Baltimore, Md., and named New Jersey points to the Michigan points; on glass containers, caps, from Skyland, N.C., to the Michigan points; also Virginia and part of North Carolina could be involved. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 29910 (Sub-No. 93), filed September 11, 1970. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, Ark. 72901. Applicant's representatives: Thomas Harper or Don A. Smith, Post Office Box 43, Kelly Building, Fort Smith, Ark. 72901. 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 commodities requiring special equipment or injurious or contaminating to other lading, between Camden and Warren, Ark.: From Camden, Ark., over Arkansas Highway 4, to Warren, Ark., and return over the same route, as an alternate route for operating convenience only, serving Hampton, Ark., only as a point of joinder, in connection with carrier's otherwise certificated routes. NOTE: If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark., or Washington, D.C.

No. MC 29910 (Sub-No. 94), filed September 14, 1970. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, Ark. 72901. Applicant's representatives: Thomas Harper and Don A. Smith, Post Office Box 43, Kelley Building, Fort Smith, Ark. 72901. Authority sought to operate as a *common carrier*, by motor vehicle, over

irregular routes, transporting: *Prefabricated steel buildings*, knocked down, *including parts and accessories, and iron and steel articles*, from Milwaukee, Wis., to points in Kansas, Missouri, Mississippi, Oklahoma, Arkansas, Texas, and Louisiana. NOTE: Applicant states it proposes to tack with existing authorities in its MC 29910 and subs. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis., or Washington, D.C.

No. MC 30844 (Sub-No. 331), filed September 17, 1970. Applicant: KROBLIN REFRIGERATED EXPRESS, INC., 2125 Commercial, Waterloo, Iowa 50704. Applicant's representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, other than frozen, in mechanically refrigerated vehicles and except in bulk, from Indianapolis, Ind., to points in Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Indianapolis, Ind.

No. MC 35890 (Sub-No. 39), filed September 21, 1970. Applicant: BLODGETT FURNITURE SERVICE, INC., 845 Chestnut Street SW., Grand Rapids, Mich. 49502. Applicant's representatives: Kenneth T. Johnson and Ronald W. Malin, Bank of Jamestown Building, Jamestown, N.Y. 14701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Voting machines*, uncrated, and *voting machine accessories*, between points in Jamestown, N.Y.; Kansas, Missouri, South Carolina, North Carolina, Illinois, Indiana, Ohio, Michigan, and Wisconsin. NOTE: Applicant states that the requested authority can be tacked as it relates to movements of voting machines, uncrated but protected with wooden or corrugated fiber hoods, over the gateway point of Marion County, S.C., for movements between points in New York, Illinois, Indiana, Ohio, Michigan, Maryland, New Jersey, Pennsylvania, Delaware, North Carolina, Virginia, Missouri, West Virginia, Kansas, Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, and the District of Columbia. Applicant further states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 40915 (Sub-No. 33), filed September 14, 1970. Applicant: BOAT TRANSIT, INC., Post Office Box 1403, Newport Beach, Calif. Applicant's representative: J. Max Harding, 605 South 14th Street, Post Office Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Copper and aluminum wire and cable*, insulated and bare, stranded and solid in coils, cartons, and reels, from the plantsite located at Carrollton (Carroll County), Ga., to Denver, Colo.; Portland, Oreg.; San Francisco and Los Angeles, Calif. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif., or Atlanta, Ga.

No. MC 47848 (Sub-No. 2), filed September 21, 1970. Applicant: HUDSON TRUCKING CO., INC., Post Office Box 222, Kendallville, Ind. 46755. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk); (1) from Kendallville, Ind., to Louisville, Ky.; Cincinnati and Cleveland, Ohio; Detroit and Grand Rapids, Mich.; and Champaign, Ill.; and (2) from Champaign, Ill., to points in Indiana on and north of U.S. Highway 40, under contract with Kraft Foods Division of Kraftco Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 52657 (Sub-No. 671), filed September 14, 1970. Applicant: ARCO AUTO CARRIERS, INC., 2140 West 79th Street, Chicago, Ill. 60620. Applicant's representative: A. J. Bieberstein, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), and *trailer converter dollies*, in initial truckaway and driveaway service, from points in Coles County, Ill., to points in the United States (including Alaska but excepting Hawaii); (2) *tractors*, in secondary movements in driveaway service, only when drawing trailers and trailer chassis (except those designed to be drawn by passenger automobiles) in initial movements, from points in Coles County, Ill., to points in Alabama, Alaska, Arizona, Arkansas, California, Colorado, Georgia, Idaho, Kansas, Louisiana, Maine, Mississippi, Montana, Nevada, New Hampshire, New Mexico, North Dakota, Oklahoma, Oregon, South Carolina, Tennessee, Texas, Utah, Vermont, Washington, Wyoming, and the District of Columbia; (3) *tractors*, in secondary movements in driveaway service, only when drawing trailers and trailer chassis (except those designed to be drawn by passenger automobiles) in secondary movements, between points in Alabama, Alaska, Arizona, Arkansas, California, Colorado, Georgia, Idaho, Kansas, Louisiana, Maine, Mississippi, Montana, Nevada, New Hampshire, New Mexico, North Dakota, Oklahoma, Oregon, South Carolina, Tennessee, Texas, Utah, Vermont, Washington, Wyoming and the District of Columbia, on the one hand, and, on the other, points in Coles County, Ill.; (4) *trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), and *trailer converter dollies*, in secondary truckaway service, between points in the United States (including Alaska but excepting Hawaii), on the one hand, and, on the other, points in Coles County, Ill.; (5) *truck bodies, trailer bodies, and containers* (except containers having a capacity of 5 gallons or less or of 9 cubic feet or less), and *materials, supplies, and parts* used in the manufacture, assembly, or servicing of trailers and trailer chassis (except those designed to be drawn by passenger automobiles), trailer converter dollies, truck bodies, trailer bodies, and containers (except containers having a capacity of 5 gallons or less or of 9 cubic feet or less), between points in the United States (including Alaska but excepting Hawaii), on the one hand, and, on the other, points in Coles County, Ill. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 56244 (Sub-No. 26), filed September 15, 1970. Applicant: KUHN TRANSPORTATION COMPANY, INC., Route No. 2, Box 71, Gardners, Pa. 17324. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except cold-pack and frozen) and *materials, supplies, and equipment* used in the production of foodstuffs, between the plantsites of Duff-Mott Co., Inc., at Hartford, Bailey, and Grawn, Mich., on the one hand, and, on the other, the plantsite of Duffy-Mott Co., Inc., at or near Aspers, Pa. NOTE: Applicant states that tacking at Aspers with existing authority is possible to Baltimore, Md., and New York, N.Y., on foodstuffs (with exceptions); as to other possible points the tacking is not feasible due to extreme circuitry. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 61592 (Sub-No. 186), filed September 21, 1970. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, Iowa 52722. Applicant's representative: Val Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles in initial movements, from Cannon Falls, Minn., to points in Iowa, Nebraska, North Dakota, South Dakota, and Wisconsin. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 71337 (Sub-No. 7), filed September 21, 1970. Applicant: WM. B. DUFFY CARTING CO., INC., 62 Scio Street, Rochester, N.Y. 14604. Applicant's representative: Raymond A. Richards, 23 West Main Street., Webster, N.Y. 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General*

*commodities* between points in Monroe County, N.Y., on the one hand, and, on the other, points in Allegany, Erie, Genesee, Livingston, Monroe, Ontario, Orleans, Steuben, Wayne, Wyoming, Yates, and Seneca Counties, N.Y., restricted to shipments moving in trailer on flat car service and to shipments originating at or destined to railroad sites. NOTE: If a hearing is deemed necessary, applicant requests it be held at Rochester, N.Y

No. MC 75320 (Sub-No. 153), filed September 14, 1970. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., Post Office Box 807, Springfield, Mo. 65801. Applicant's representative: P. E. Adams (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, and those requiring special equipment, between Wichita Falls, Tex., and Little Rock, Ark., from Wichita Falls, Tex., over Texas Highway 79 to junction U.S. Highway 70, approximately 2 miles west of Waurika, Okla., thence over U.S. Highway 70 to Little Rock, Ark., and return over the same route, serving no intermediate points, as an alternate route for operating convenience only. NOTE: No duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark., or Memphis, Tenn.

No. MC 80430 (Sub-No. 139), filed September 11, 1970. Applicant: GATEWAY TRANSPORTATION CO., INC., 2130–2150 South Avenue, La Crosse, Wis. 54601. Applicant's representative: Joseph E. Ludden (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Class B propellant powder* from Badger Army Ammunition Plant at Baraboo, Wis., to Federal Cartage Corp., Anoka, Minn. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 83539 (Sub-No. 294) (Correction), filed August 12, 1970, published in the FEDERAL REGISTER issue of September 3, 1970, and republished in part as corrected, this issue. Applicant: C & H TRANSPORTATION CO., INC., 1936–2010 West Commerce Street, Post Office Box 5976, Dallas, Tex. 75222. Applicant's representative: Thomas E. James, The 904 Lavaca Building, Austin, Tex. 78701. NOTE: The purpose of this partial republication is to show the correct origin point as *Lynwood*, Calif., in lieu of Lunwood, Calif., erroneously shown in previous publication. The rest of the application remains as published.

No. MC 83539 (Sub-No. 299), filed September 14, 1970. Applicant: C & H TRANSPORTATION CO., INC., 1936–2010 West Commerce Street, Post Office Box 5976, Dallas, Tex. 75208. Applicant's representative: Thomas E. James, The 904 Lavaca Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asbestos cement pipe, conduit, and couplings, rings, fittings, and accessories* necessary for the installation thereof when moving in connection therewith, from Santa Clara and Riverside, Calif., to points in Arizona, Colorado, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming. NOTE: Applicant states that the requested authority can be tacked with its existing authority under MC 83539 Sub 236 in Arizona. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 83539 (Sub-No. 300), filed September 17, 1970. Applicant: C & H TRANSPORTATION CO., INC., Post Office Box 5976, Dallas, Tex. 75222. Applicant's representative: Thomas E. James, The 904 Lavaca Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Car and truck wash equipment*, from points in Waukesha County, Wis., and from ports of entry at New York, N.Y., and Milwaukee, Wis., to points in Alabama, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, and Wisconsin. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis., or Washington, D.C.

No. MC 100666 (Sub-No. 171), filed September 21, 1970. Applicant: MELTON TRUCK LINES, INC., Post Office Box 7666, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 600 Leininger Building, Oklahoma City, Okla. 73112, and Paul Caplinger (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Racks and shelving*, from Springfield and Nashville, Tenn., to points in Texas, Arkansas, Oklahoma, Mississippi, Missouri, Louisiana, Alabama, Georgia, and Florida. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Nashville or Memphis, Tenn.

No. MC 100666 (Sub-No. 172), filed September 21, 1970. Applicant: MELTON TRUCK LINES, INC., Post Office Box 7666, Shreveport, La. 71107. Applicant's representative: Wilbur L. Williamson, 600 Leininger Building, Oklahoma City, Okla. 73112, and Paul Caplinger (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground clay* (except in bulk), from points in Thomas County, Ga., to points in Alabama, Arizona, Arkansas, California, Colorado, Iowa, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, Tennessee, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 103993 (Sub-No. 563), filed September 18, 1970. Applicant: MORGAN DRIVE AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representatives: Paul D. Borghesani (same address as applicant), and Ralph H. Miller (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, in sections, on wheeled undercarriages, from points in Douglas County, Colo., to points in Colorado, Wyoming, Nebraska, Kansas, Oklahoma, New Mexico, Arizona, Utah, North Dakota, South Dakota, Texas, Montana, Idaho, California, Nevada, Oregon, and Washington. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 103993 (Sub-No. 564), filed September 18, 1970. Applicant: MORGAN DRIVE AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representatives: Paul D. Borghesani (same address as applicant), and Ralph H. Miller (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings, building sections and parts*, from Erie, Pa., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Erie, Pa.

No. MC 103993 (Sub-No. 566), filed September 21, 1970. Applicant: MORGAN DRIVE AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings in sections*, on undercarriages, from points in Ontario County, N.Y., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Rochester, N.Y.

No. MC 106398 (Sub-No. 495), filed September 14, 1970. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representatives: Irvin Tull (same address as applicant), and Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers designed to be drawn by passenger automobiles*, in initial movements, in truckaway service, from points in Cumberland County, Tenn., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority

cannot be tacked with its existing authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Knoxville or Nashville, Tenn.

No. MC 106398 (Sub-No. 496), filed September 14, 1970. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representatives: Irvin Tull (same address as above), and Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, in truckaway service, from points in Campbell County, Tenn., to points in the United States (except Alaska and Hawaii). NOTE: Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Knoxville, Tenn.

No. MC 106398 (Sub-No. 497), filed September 14, 1970. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representatives: Irvin Tull (same address as above), and Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, in truckaway service, from points in Bienville Parish, La., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Shreveport, La.

No. MC 106398 (Sub-No. 498), filed September 14, 1970. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representatives: Irvin Tull (same address as applicant), and Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, in truckaway service from points in Vance County, N.C., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant also states that no duplicating authority is sought. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Raleigh, N.C.

No. MC 106497 (Sub-No. 49), filed September 17, 1970. Applicant: PARKHILL TRUCK COMPANY, a corporation, Post Office Box 912, Joplin, Mo. 64801. Applicant's representatives: A. N. Jacobs (same address as applicant), and Wilburn L. Williamson, 600 Leininger Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Transformers and switches* which because of their size or weight require the use of special equipment, and *transformers and switches*, other than those described above, when transported in mixed loads with transformers and switches requiring special equipment, from the plantsite of General Electric Co. at or near Shreveport, La., to points in the United States (except Hawaii). NOTE: Applicant states that tacking with its Sub 4 is feasible but not intended. The application indicates common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Dallas, Tex.

No. MC 106748 (Sub-No. 8), filed September 21, 1970. Applicant: GODDARD'S TRANSPORTATION INC., Route 4, Fair Haven, Vt. 05743. Applicant's representative: John P. Monte, 61 Summer Street, Barre, Vt. 05641. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Marble products* (ground, crushed, and broken limestone) except in tank and hopper type vehicles, from points in Rutland County, and New Haven Junction, Vt., to points in Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, Rhode Island, and New York (except that portion of New York on and west of a line beginning at Oswego, N.Y., and extending along New York Highway 57 to junction U.S. Highway 11 at Syracuse, N.Y., and thence along U.S. Highway 11 to New York-Pennsylvania State line). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Montpelier or Rutland, Vt., or Concord, N.H.

No. MC 107002 (Sub-No. 396), filed September 17, 1970. Applicant: MILLER TRANSPORTERS, INC., Post Office Box 1123, U.S. Highway 80 West, Jackson, Miss. 39205. Applicant's representatives: John J. Borth (same address as applicant), and H. D. Miller, Jr., Post Office Box 22567, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solution*, in bulk, in tank vehicles, from the storage facilities of Allied Chemical Corp., located at or near Greenville, Miss., to points in Oklahoma, Tennessee, and Texas. NOTE: Applicant states that the requested authority can be tacked with its existing authority to provide a through service from specified points in Alabama, however such is not contemplated. If a hearing is deemed necessary, applicant requests it be held in Jackson, Miss., or Memphis, Tenn.

No. MC 107295 (Sub-No. 434), filed September 3, 1970. Applicant: PREFAB TRANSIT CO., INC., 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulation materials and related products*, from Minneapolis, Minn., and Cleveland, Ohio, to points in the United States (except Washington, Oregon, California, Georgia, South Carolina, North Carolina, Florida, Alaska, and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio, or Minneapolis, Minn.

No. MC 107295 (Sub-No. 442), filed September 14, 1970. Applicant: PREFAB TRANSIT CO., INC., 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products, plywood, particle board, wallboard, composition board, molding, and doors*, from points in Washington, Oregon, California, Nevada, Idaho, Utah, Montana, Wyoming, and Colorado, to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or San Francisco, Calif.

No. MC 107295 (Sub-No. 443), filed September 17, 1970. Applicant: PREFAB TRANSIT CO. a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Panels, panels combined with insulation, and hardware and accessories* used in the installation or completion thereof, from Dallas, Tex., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. It further states no duplicate authority is being sought. However, if any should develop, full disclosure will be made at hearing. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 107295 (Sub-No. 444), filed September 17, 1970. Applicant: PREFAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical conduit pipe and electrical metallic tubing;* from Ambridge, Pa., to points in Arkansas, points in Illinois on and south of U.S. Highway 40, and points in Cook, Du Page, Grundy, Kane, Kankakee, Kendall, Lake, McHenry, and Will Counties, Ill.; Indiana, Kentucky, Louisiana, points in Michigan on and south of U.S. Highway 21, Mississippi, St. Louis, Mo., and the commercial zone thereof, Oklahoma, Tennessee, Texas, and Milwaukee, and Racine, Wis., and the respective commercial zones, New York, and Ohio.

NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa.

No. MC 107460 (Sub-No. 27), filed September 16, 1970. Applicant: WILLIAM Z. GETZ, INC., 3055 Yellow Goose Road, Lancaster, Pa. 17601. Applicant's representatives: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17010, and Donald D. Shipley (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum doors and windows and fabricated metal products*, from the plantsite of Atlas Aluminum Corp. and Brown and Grist Corp. located in Manheim Township, Lancaster County, Pa., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia; (2) *glass*, in crates, from Baltimore, Md.; New York, N.Y.; Philadelphia, Pa.; to the plantsites of Atlas Aluminum Corp. and Brown and Grist Corp. located in Manheim Township, Lancaster County, Pa.; and (3) *aluminum extrusions*, painted or unpainted, from points in Ohio to the plantsite of Atlas Aluminum Corp. and Brown and Grist Corp., located in Manheim Township, Lancaster County, Pa., under contract with Atlas Aluminum Corp. and Brown and Grist Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Harrisburg, Pa.

No. MC 110988 (Sub-No. 257), filed September 14, 1970. Applicant: SCHNEIDER TANK LINES, INC., 200 West Cecil Street, Neenah, Wis. 54956. Applicant's representative: David A. Petersen (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals*, in bulk, from Park Falls and Rothschild, Wis., to points in Minnesota, North Dakota, and South Dakota; (2) *modified soybean oil*, in bulk, from Blooming Prairie, Minn., to points in Illinois, Indiana, Kentucky, Michigan, Missouri, New Jersey, Ohio, and Wisconsin; (3) *chemicals*, in bulk, from Dover, Del., to points in Wisconsin; and (4) *wax and wax products*, in bulk, and *materials and supplies used in the manufacture of wax*, in bulk, between Oshkosh, Wis., and Southern Pines, N.C., on the one hand, and, on the other, points in the United States on and east of U.S. Highway 85. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Madison, Wis., or Washington, D.C.

No. MC 110988 (Sub-No. 258), filed September 14, 1970. Applicant: SCHNEIDER TANK LINES, INC., 200 West Cecil Street, Neenah, Wis. 54956. Applicant's representative: David A. Petersen (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid sweeteners*, in bulk, in tank vehicles from Harbor Beach, Mich., to points in Illinois and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 109994 (Sub-No. 36) (Correction), filed August 13, 1970, published in the FEDERAL REGISTER issues of September 3, 1970, and September 15, 1970, and republished as corrected, this issue. Applicant: SIZER TRUCKING, INC., Box 97, East Highway 94, Rochester, Minn. 55901. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses, and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meatpackers*, as described in sections A, C, and D of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, between Austin, Minn., and points in Cook County, Ill.; and (2) *meat, meat products, meat byproducts, packinghouse products, and articles distributed by meat packinghouses* as set forth in sections A and C to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 and *foodstuffs* (except meat and meat products as described above) when transported in mixed truckloads with meat and meat products, from the plantsite and warehouse facilities of Geo. A. Hormel & Co., Austin, Minn., to points in Hertford County, N.C., and that portion of Tennessee on and east of U.S. Highway 27 and on and north of Tennessee Highway 68. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to include (1) above in redescribing the authority sought, which part was inadvertently omitted in the previous publication of September 24, 1970. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 111401 (Sub-No. 309), filed September 14, 1970. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Post Office Box 632, Enid, Okla. 73701. Applicant's representative: Alvin L. Hamilton (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lubricating oil*, in bulk, from Fort Worth, Tex., to points in Nevada and California. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Fort Worth, Tex., or Washington, D.C.

No. MC 112617 (Sub-No. 279) (Amendment), filed August 17, 1970, published in the FEDERAL REGISTER issue of September 3, 1970, and republished as amended this issue. Applicant: LIQUID TRANSPORTERS, INC., Post Office Box 21395, Louisville, Ky. 40221. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petroleum gas*, in bulk, in tank vehicles, from the terminal of Warren Petroleum Co. at or near Crossville, Ill., to points in Kentucky. NOTE: Applicant states that the requested authority can be tacked by joining Subs 39 and 122 to provide service between the origin and destination State involved in this application. Applicant further states that the purpose of this application is to remove the joining of the existing operating authority to provide a direct service. The purpose of this republication is to reflect the tacking information. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Evansville, Ind., or Louisville, Ky.

No. MC 112617 (Sub-No. 280), filed September 16, 1970. Applicant: LIQUID TRANSPORTERS, INC., Post Office Box 21395, Louisville, Ky. 40221. Applicant's representative: L. A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, in bulk, from Aurora, Ind., to points in Indiana, Kentucky, and Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Ohio, or Louisville, Ky.

No. MC 112627 (Sub-No. 13), filed September 14, 1970. Applicant: OWENS BROS. INC., Post Office Box 247, Dansville, N.Y. 14437. Applicant's representative: Raymond A. Richards, 23 West Main Street, Webster, N.Y. 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wines and champagnes* in containers and *advertising matter* (when in mixed loads with wines and champagnes), from Hammondsport and Naples, N.Y., to points in Kentucky, Maine, Michigan, Minnesota, New Hampshire, and Vermont; (2) *beverages, alcoholic* (except malt beverages), from points in Westchester and Nassau Counties, N.Y.; (3) *wine*, in bulk, in tank vehicles, from Hammondsport, N.Y., to Philadelphia, Pa.; and (4) *organs and parts thereof; stools and benches* when moving with organs, from Madison, Ind., to Dansville, N.Y. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Rochester, N.Y., or Washington, D.C.

No. MC 113362 (Sub-No. 195), filed September 2, 1970. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, Iowa 50533. Applicant's representative: Milton D. Adams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (I) *Meats, meat byproducts and articles distributed by meat packinghouses*, as set forth in sections A and C, to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766; (a) from the plantsite and warehouse facilities of Geo. A. Hormel & Co., at Alogona, Iowa, to points in Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Illinois, and the District of Columbia; (b) from the plantsite and warehouse facilities of Scottsbluff Packing Co., at Scottsbluff, Nebr., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, Indiana, Iowa, Illinois, Minnesota, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia; (II) *meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as set forth in sections A and C *Descriptions in the Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and *food stuffs* (except meats and meat products) as described above, when transported in mixed truck loads with meats and meat products; (a) from the plantsite and warehouse facilities of Geo. A. Hormel & Co., located at Austin, Minn.; Fort Dodge, Iowa; and Fremont, Nebr.; to points in Texas and Louisiana; (b) from the plantsite and warehouse facilities of Geo. A. Hormel & Co. at Austin, Minn., to points in Illinois, Iowa, Missouri, and Nebraska; (c) from the plantsite and warehouse facilities of Geo. A. Hormel & Co., at Fort Dodge, Iowa, to points in Illinois, Minnesota, Missouri, and Nebraska; and (d) from the plantsite and warehouse facilities of Geo. A. Hormel & Co., at Fremont, Nebr., to points in Illinois, Indiana, Iowa, Minnesota, and Missouri. NOTE: Applicant states that the requesting authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 113434 (Sub-No. 35), filed September 10, 1970. Applicant: GRA-BELL TRUCK LINE, INC., 679 Lincoln Avenue, Holland, Mich. 49423. Applicant's representative: Wilhelmina Boersma, 1600 First Federal Building, 1001 Woodward Avenue, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Hartford, Bailey, and Grawn, Mich., to points in Indiana, Ohio, and Kentucky and those in the Chicago, Ill., commercial zone. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., Washington, D.C., or Chicago, Ill.

No. MC 113678 (Sub-No. 402), filed September 21, 1970. Applicant: CURTIS, INC., Post Office Box 16004, Stockyards Station, Denver, Colo. 80216. Applicant's representatives: Daune W. Acklie and Richard Peterson, Post Office Box 806, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meat*, from the cold storage facilities utilized by Wilson-Sinclair at Lafayette, Ind., to points in Colorado, Kansas, Missouri, and Nebraska, restricted to the transportation of traffic originating at the above-specified cold storage facilities and destined to the above specified destinations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114211 (Sub-No. 144), filed September 8, 1970. Applicant: WARREN TRANSPORT, INC., 324 Manhard, Post Office Box 420, Waterloo, Iowa 50704. Applicant's representatives: Charles W. Singer, Suite 1625, 33 North Dearborn, Chicago, Ill. 60602, and Robert J. Molinaro (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural machinery and implements;* (2) *tractors;* (3) *industrial, construction, excavating, and material handling equipment;* (4) *trailers designed for the transportation of above commodities;* (5) *cabs* for (1), (2), and (3) above; (6) *internal combustion engines;* (7) *attachments* for (1), (2), and (3) above; and (8) *parts*, for (1) through (7) above, from the plant and warehouse sites storage facilities of J. I. Case Co., at or near Bettendorf and Burlington, Iowa, and at or near Racine, Wis., to points in Minnesota, Iowa, Missouri, Arkansas, Louisiana, Texas, Oklahoma, Kansas, Nebraska, South Dakota, Montana, Wyoming, Colorado, New Mexico, and North Dakota. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 114457 (Sub-No. 92), filed September 15, 1970. Applicant: DART TRANSIT COMPANY, a corporation, 780 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles and cellulose bands*, from Muscatine, Iowa, to points in Minnesota, Missouri, Wisconsin, Illinois, Michigan, Indiana, Kentucky, Ohio, Virginia, West Virginia, Maryland, Delaware, New Jersey, Pennsylvania, New York, Conecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, and District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Minneapolis, Minn.

No. MC 114552 (Sub-No. 51), filed September 14, 1970. Applicant: SENN TRUCKING COMPANY, a corporation, Post Office Box 333, Newberry, S.C. 29108. Applicant's representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, S.C. 29201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, between Charleston, S.C., on the one hand, and, on the other, points in Arkansas, Georgia, Illinois, Indiana, Kentucky, Michigan, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, and West Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbia, S.C., Charlotte, N.C., or Atlanta, Ga.

No. MC 114632 (Sub-No. 30), filed September 11, 1970. Applicant: APPLE LINES, INC., 225 South Van Epps, Madison, N. Dak. 57042. Applicant's representative: Grant J. Merritt, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* from Chicago Heights and Peoria, Ill., to points in Iowa, Minnesota, Nebraska, North Dakota, and South Dakota. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant also holds contract carrier authority in No. MC 129706, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Minneapolis, Ind.

No. MC 115180 (Sub-No. 62), filed September 10, 1970. 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. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and frozen bakery goods*, from Deerfield and Chicago, Ill., to points in Pennsylvania, New York, New Jersey, Massachusetts, Connecticut, Rhode Island, Vermont, New Hampshire, Maine, Delaware, Maryland, West Virginia, Virginia, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 115180 (Sub-No. 63), filed September 10, 1970. 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. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from

the plantsite and/or cold storage facilities utilized by Wilson Sinclair Co., at Albert Lea, Minn., to points in Connecticut, Delaware, District of Columbia, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Maine, and New Hampshire, restricted to the transportation of traffic originating at the above-specified plantsite and/or cold storage facilities and destined to the above-specified destinations. NOTE: If a hearing is deemed necessary, applicant requests it be held in Chicago, Ill., or Washington, D.C.

No. MC 115181 (Sub-No. 20), filed March 9, 1970. Applicant: HAROLD M. FELTY, INC., Rural Delivery No. 1, Pine Grove, Pa. 17963. Applicant's representative: John W. Dry, 541 Penn Street, Reading, Pa. 19601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer ingredients* (except in bulk, in tank vehicles) from Hagerstown, Md., to Milton, Pa., and points in that part of Pennsylvania east of U.S. Highway 219. NOTE: Applicant states that it is also herein requesting authority to tack and combine with its existing authority in MC 115181 Sub 5 at Milton (Northumberland County), Pa., as it relates to the transportation of fertilizer, thereby negating certain restrictions contained therein. If a hearing is deemed necessary, applicant requests it be held at Philadelphia or Harrisburg, Pa.

No. MC 115322 (Sub-No. 77), filed September 9, 1970. Applicant: REDWING REFRIGERATED, INC., 2939 Orlando Drive, Post Office Box 1698, Sanford, Fla. 32771. Applicant's representative: James E. Wilson, 1735 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, canned or preserved or frozen, in straight or mixed shipments, from Chambersburg, Orrtanna, and Peach Glen, Pa., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa.

No. MC 115322 (Sub-No. 78), filed September 9, 1970. Applicant: REDWING REFRIGERATED, INC., 2939 Orlando Drive, Post Office Box 1698, Sanford, Fla. 32771. Applicant's representative: James E. Wilson, 1735 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Citrus products, beverages, and beverage preparations*, from points in Manatee County, Fla., to points in Connecticut, Delaware, District of Columbia, Maryland, Massachusetts, Maine, New Hampshire, New Jersey, New York, Virginia, West Virginia, Pennsylvania, Vermont, and Rhode Island. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Tampa, Fla.

No. MC 115841 (Sub-No. 388), filed September 11, 1970. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., Post Office Box 2169, Birmingham, Ala. 35201. Applicant's representatives: C. E. Wesley (same address as applicant), and E. Stephan Heisley, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foods, foodstuffs, and food preparations, and advertising equipment, materials and supplies*, when moving therewith (except in bulk), from points in Massachusetts, to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, West Virginia, and Wisconsin. NOTE: Applicant states that the requested authority can be tacked with its existing authority and such is intended wherever feasible and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 115841 (Sub-No. 389), filed September 14, 1970. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 West Bankhead Highway, Post Office Box 2169, Birmingham, Ala. 35201. Applicant's representatives: C. E. Wesley (same address as applicant), and E. Stephen Heisley, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, dairy products, and articles distributed by meat packinghouses*, as described in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 (except hides and commodities in bulk), from the plantsite and warehouse facilities of Swift & Co., at Grand Island, Nebr., to points in Kentucky, North Carolina, South Carolina, Tennessee, Georgia, Alabama, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at the plantsite and warehouse facilities and destined to the states indicated. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it only be held at Birmingham, Ala.

No. MC 115841 (Sub-No. 390), filed September 14, 1970. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 West Bankhead Highway, Post Office Box 2169, Birmingham, Ala. 35201. Applicant's representatives: C. E. Wesley (same address as applicant), and E. Stephen Heisley, 666 11th Street NW., Washington, D.C. 20423. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, dairy products, and articles* distributed by meat packinghouses, as described in sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 (except in bulk and except hides), from the plantsite and warehouse facilities of Swift & Co. at Grand Island, Nebr., to points in Pennsylvania, New York, Maryland, Delaware, New Jersey, Connecticut, Rhode Island, Massachusetts, Ohio, New Hampshire, Vermont, and Maine. Restriction: Restricted to traffic originating at the named plantsite and warehouse facilities and destined to the States indicated. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 115841 (Sub-No. 391), filed September 23, 1970. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., Post Office Box 2169, Birmingham, Ala. 35201. Applicant's representatives: C. E. Wesley (same address as applicant), and E. Stephen Heisley, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery materials* (except in bulk), in vehicles equipped with mechanical refrigeration, from Lodi, N.J., to Lynchburg and Bristol, Va.; Nashville, Knoxville, and Chattanooga, Tenn.; and Birmingham, Ala. NOTE: Applicant states that the requested authority can be tacked with its existing authority and such is intended wherever feasible, and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., Nashville or Chattanooga, Tenn.

No. MC 117322 (Sub-No. 5), filed September 14, 1970. Applicant: LESTER NOVOTNY, doing business as CHATFIELD TRUCKING, Chatfield, Minn. 55923. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, (1) *Dairy products*, from points in Sibley and Martin Counties and Farmington and Zumbrota, Minn., to points on and north of U.S. Highway 30 in Illinois; (2) *cheese*, from Zumbrota, Minn., to points in Green Bay, Milwaukee, and Madison, Wis.; (3) *dairy products*, from Olmstead County, Minn., to points in Illinois on and north of U.S. Highway 30 and points in Wisconsin; and (4) *poultry*, frozen dressed, cooked or not cooked with or without ingredients or additives, from Albert Lea, Minn., to points in Illinois on and north of U.S. Highway 30. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 116325 (Sub-No. 65), filed September 14, 1970. Applicant: JENNINGS BOND, doing business as BOND ENTERPRISES, Post Office Box 8, Lutesville, Mo. 63762. Applicant's representative: Jennings Bond (same address as

above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pallets, pallet dividers, pallet racks, pallet bins, pallet materials, boxes, crates, crating, lumber, lumber products, skids, squares, posts, poles, timber logs, chips, and cants*, from points in Missouri and Illinois to points in Indiana, Iowa, Minnesota, Wisconsin, Michigan, Ohio, Kentucky, Pennsylvania, New York, Missouri, Illinois, Tennessee, Alabama, and Georgia; (2) *material, equipment, and supplies* used in the manufacturing, processing, handling, and distribution of commodities in part (1) from points in Indiana, Missouri, Kentucky, Illinois, Iowa, Minnesota, Wisconsin, Michigan, Ohio, Pennsylvania, New York, Tennessee, Alabama, and Georgia to points in Missouri and Illinois; and (3) *tractor cabs, related parts, and accessories*, from Whiteside and Lee Counties, Ill., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states it intends to tack but does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. No duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 117565 (Sub-No. 32), filed August 26, 1970. Applicant: MOTOR SERVICE COMPANY, INC., 237 South Fifth Street, Coshocton, Ohio 43812. Applicant's representative: Louis J. Amato, Post Office Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *(1) Motor homes and campers, (2) trailers to be drawn by passenger automobiles and* (3) *trailers designed to be drawn by passenger automobiles;* (1) is transported from St. James, Minn., (2) from Clarksdale, Miss., and (3) from points in Clark County, Wis., to points in the United States (except Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held in Louisville, Ky., or Nashville, Tenn.

No. MC 117574 (Sub-No. 189), filed September 14, 1970. Applicant: DAILY EXPRESS, INC., Post Office Box 39, 1076 Harrisburg Pike, Carlisle, Pa. 17013. Applicant's representatives: E. S. Moore, Jr. (same address as applicant) and James W. Hagar, 100 Pine Street, Post Office Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Water and sewer pipe, conduit, attachments and fittings* for conduit, water and sewer pipe, between points in New York, on the one hand, and, on the other, points in the District of Columbia, and points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico. NOTE: Applicant states tacking possibilities but it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. No duplicate authority is sought. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 117574 (Sub-No. 190), filed September 15, 1970. Applicant: DAILY EXPRESS, INC., Post Office Box 39, Carlisle, Pa. 17013. Applicant's representatives: E. S. Moore, Jr. (same address as applicant) and James W. Hager, 100 Pine Street, Post Office Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conduit and pipe*, between Terre Haute, Ind., on the one hand, and, on the other, points in North Carolina, South Carolina, Georgia, Florida, Kentucky, and Tennessee. NOTE: Applicant states that the authority requested herein can be tacked with its existing authority. It is not, however, the applicant's present intention to tack, therefore, the tackable authorities are not identified. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 117940 (Sub-No. 26) (Amendment), filed July 20, 1970, published FEDERAL REGISTER issue of August 20, 1970, amended and republished as amended, this issue. Applicant: NATIONWIDE CARRIERS, INC., Post Office Box 104, Maple Plain, Minn. 44359. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas and agricultural commodities*, the transportation of which would otherwise be exempt from economic regulations, pursuant to section 203(b)(6) of the Interstate Commerce Act, when transported at the same time and in the same vehicle with commodities subject to economic regulations (as otherwise authorized), from Galveston, Tex., to points in Indiana, Michigan, Ohio, Arkansas, Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Wisconsin, and Shreveport, La. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. It further states it holds contract carrier authority under MC 114789 and subs, therefore, dual operations may be involved. The purpose of this republication is to broaden the territorial scope by adding Indiana, Michigan and Ohio to the destination points. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 118159 (Sub-No. 102), filed September 4, 1970. Applicant: EVERETT LOWRANCE, INC., 4916 Jefferson Highway, New Orleans, La. 70121. Applicant's representative: David D. Brunson, 419 Northwest Sixth Street, Oklahoma City, Okla. 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh carcass beef and frozen boxed meat*, from Pampa and Amarillo, Tex., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Oklahoma, and Tennessee. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held in either Dallas, Tex., Oklahoma City, Okla., or Washington, D.C.

No. MC 118959 (Sub-No. 90), filed September 15, 1970. Applicant: JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, Mo. 63701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and aluminum products and equipment, material and supplies*, from Highland, Ill., to points in Colorado, Connecticut, Delaware, District of Columbia, Idaho, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, North Dakota, Oregon, Rhode Island, South Dakota, Utah, Vermont, Washington, Wisconsin, and Wyoming. NOTE: Applicant presently holds contract carrier authority under its No. MC 125664, therefore dual operations may be involved. Applicant states it intends to tack the requested authority with its existing authority, but does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 119583 (Sub-No. 4), filed September 21, 1970. Applicant: L. E. BOLING, INC., 718 Commercial Street, Kewanee, Ill. 61443. 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: *Newsprint circulars*, from Kewanee, Ill., to Milwaukee, Wis., Benton Harbor, Mich., and Mishawaka, Ind. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119632 (Sub-No. 40), filed September 14, 1970. Applicant: REED LINES, INC., 634 Ralston Avenue, Defiance, Ohio 43512. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Athletic goods, games, sporting equipment, toys and plastic or rubber parts and products*, from Sandusky, Ohio, to points in Connecticut, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island, and (2) *returned shipments and*

*materials and supplies* (except commodities in bulk) used in the manufacture and shipping of the commodities in (1) above, from points in Connecticut, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island, to Sandusky, Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Columbus, Ohio.

No. MC 119669 (Sub-No. 12), filed September 6, 1970. Applicant: TEMPCO TRANSPORTATION, INC., 546 South 31A, Columbus, Ind. 47201. Applicant's representative: William J. Boyd, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite and storage facilities of Kitchens of Sara Lee in Deerfield and Chicago, Ill., to points in Pennsylvania, New York, New Jersey, Delaware, Maryland, Virginia, West Virginia, District of Columbia, Massachusetts, Connecticut, Rhode Island, Vermont, Maine, and New Hampshire. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held in Chicago, Ill. or Indianapolis, Ind.

No. MC 119669 (Sub-No. 13), filed September 17, 1970. Applicant: TEMPCO TRANSPORTATION, INC., 546 South 31A, Columbus, Ind. 47201. Applicant's representative: Jack H. Blanshan, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meats*, from the cold-storage facilities of or utilized by Wilson-Sinclair Co., at Indianapolis, Ind., to points in Michigan, Kentucky, and Ohio, restricted to traffic originating at the above-named origin and destined to the above-named destinations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119917 (Sub-No. 27), filed September 14, 1970. Applicant: DUDLEY TRUCKING COMPANY, INC., 717 Memorial Drive SE., Atlanta, Ga. 30316. Applicant's representative: William F. Dudley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products*, in trailers provided by the shipper or trailers provided by the carrier, from Greensboro, N.C., Spartanburg, S.C., and Opelika, Ala., to Atlanta, Ga. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary applicant requests it be held at Atlanta, Ga., or Spartanburg, S.C.

No. MC 121656 (Sub-No. 1), filed September 21, 1970. Applicant: COUTS BROS. EXPRESS, INC., Post Office Box 153, Springfield, Tenn. 37172. Applicant's representative: Walter Harwood, 1822 Parkway Towers, Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods, classes A and B explosives, commodities in bulk, and articles requiring special equipment), (1) between Nashville and Springfield, Tenn. (a) over U.S. Highway 41, serving all intermediate points in Robertson County, and (b) over U.S. Highway 431, serving all intermediate points in Robertson County, and serving Barren Plains, Tenn., as an off-route point, and (2) between Springfield, Tenn., and Russellville, Ky., over U.S. Highway 431, serving all intermediate points. NOTE: Part (1) above represents presently-held registered authority which applicant seeks to convert to interstate certificate. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 123048 (Sub-No. 171) (Amendment), filed May 5, 1970, published in the FEDERAL REGISTER issue of June 4, 1970, and republished as amended this issue. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, Wis. 53401. Applicant's representatives: Paul C. Gartzke, 121 West Doty Street, Madison, Wis. 53703 and Paul L. Martinson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery*, (2) *commodities* which because of size or weight require the use of special equipment or special handling, *and related machinery parts and related contractors equipment, 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 or handling; and (3) *self-propelled articles*, each weighing 15,000 pounds, or more, *and related machinery, tools, parts, and supplies* moving in connection therewith; (4) *commodities* used in the construction and erection of commodities described in (1), (2), and (3) above, between Racine, Walworth and Kenosha Counties, Wis., on the one hand, and, on the other, points in the United States (except Hawaii). The purpose of this republication is to reflect the changes in the commodity description in (2) and (3) above. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis., or Chicago, Ill.

No. MC 123054 (Sub-No. 11), filed September 14, 1970. Applicant: R. & H. CORPORATION, 295 Grand Avenue, Clarion, Pa. 16214. Applicant's representative: V. Baker Smith, 2107 The Fidelity Building, Philadelphia, Pa. 19109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used wood pallets and shipping devices*, from points in Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Virginia, Vermont, West Virginia, and the District of Columbia, to Clarion and Brockway, Pa.; Fairmont and Huntington, W. Va.; Charlotte, Mich.; Brockport and Elmira, N.Y.; North Bergen and Bridgeton, N.J. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 124211 (Sub-No. 162), filed September 17, 1970. Applicant: HILT TRUCK LINE, INC., Post Office Drawer 988 DTS, Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts*, and *articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except liquid commodities in bulk), from Omaha, Nebr., to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin, and Wyoming. NOTE: Applicant states it proposes to tack with presently held authority in No. MC 124211 Sub-Nos. 38, 104, 109, 121, and 127 at points in Saunders County or Lincoln, Nebr., to provide a through service. No duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 124379 (Sub-No. 4), filed September 16, 1970. Applicant: McGIFFEN MILK DELIVERY SERVICE, INC., Rural Route 3, Post Office Box 805, Vincennes, Ind. 47591. Applicant's representative Robert W. Loser, 1001 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except meat, meat byproducts, fish, fowl, canned vegetables, canned soups, frozen vegetables, bakery goods, and consumer candy), from the plant and warehouse facilities of Sealtest Foods Division Kraftco Corporation, St. Louis, Mo., to points in that part of Illinois bounded on the west by U.S. Highway 55 from the Illinois-Missouri State line to Springfield, Ill.; bounded on the north by U.S. Highway 36; bounded on the east by the Indiana-Illinois State line; and bounded on the south by U.S. Highway 460, from the Illinois-Missouri State line to Mount Vernon, Ill., thence by Illinois Highway 15 from Mount Vernon, Ill., to the Indiana-Illinois State line, including points on the above described highways; and points in that part of Indiana on and south of Indiana Highway 14, returned shipments of the commodities specified above from the destination points described above to St. Louis, Mo. Restriction: Restricted to traffic originating at the plant and warehouse facilities of Sealtest Foods, Division Kraftco Corp., St. Louis, Mo. NOTE: Applicant states that the requested authority cannot tack with its existing authority. Applicant further states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 126276 (Sub-No. 32) (Amendment), filed August 5, 1970, published in the FEDERAL REGISTER issue of September

3, 1970, amended and republished as amended, this issue. Applicant: FAST MOTOR SERVICE, INC., 12855 Ponderosa Drive, Palos Heights, Ill. 60463. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers, metal container ends, and accessories, materials, supplies and equipment* used in the manufacture, sale and distribution of metal containers and metal container ends, from the plant and warehouse sites of National Can Corp. located at Marion, Ohio; Hamilton, Ohio; Cleveland, Ohio; Baltimore, Md.; Mills, Mass.; Cambridge, Md.; Chicago, Ill.; Gary, Ind.; Danbury, Conn.; Detroit, Mich.; Eden, N.Y.; Edison, N.J.; Fairless, Pa.; Green Bay, Wis.; Hanover, Pa.; Lenexa, Kans.; New York, N.Y.; Rockford, Ill.; St. Paul, Minn.; Colliersville, Tenn., and Hamburg, Pa., and from the plant and warehouse sites of Crown Cork & Seal Co., Inc., located at Cleveland, Ohio; Baltimore, Md.; Lawrence, Mass.; Fruitland, Md.; Chicago and Bradley, Ill.; Faribault, Minn.; and Philadelphia, Pa., to points in Colorado, New Mexico, Texas, Oklahoma, Kansas, Nebraska, North Dakota, South Dakota, Minnesota, Wisconsin, Iowa, Illinois, Missouri, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, Tennessee, South Carolina, North Carolina, Virginia, Kentucky, West Virginia, Indiana, Michigan, Ohio, Pennsylvania, Maryland, Delaware, Maine, District of Columbia, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, and New Hampshire, under contract with National Can Corp., and Crown Cork & Seal Co., Inc. NOTE: Applicant has a common carrier application pending under MC 134612, therefore, dual operations may be involved. The purpose of this republication is to add an additional shipper and origin points. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 126738 (Sub-No. 4) (Correction), filed August 24, 1970, published in the FEDERAL REGISTER issue of September 17, 1970, corrected and republished as corrected, this issue. Applicant: CENTER DISTRIBUTING COMPANY, a corporation, 78th and Serum, Ralston, Nebr. 68127. Applicant's representative: Clayton H. Shrout, 1004 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bottled and canned beverages* (except alcoholic and malt beverages), from Mahaska Bottling Co., Oskaloosa, Iowa, to sites and plants of Pepsi Cola Bottling Co., in Illinois, Wisconsin, Minnesota, South Dakota, and Oklahoma, under contract with Mahaska Bottling Co.; and *carbonated beverages* in containers, and *empty containers, pallets, vending machines, syrups, advertising material and equipment* used in the manufacture and sale of carbonated beverages (except alcoholic or malt beverages), for the account of Pepsi Cola Bottling Co., under contract with Mahaska Bottling Co., from points in Nebraska, Illinois, Missouri, Texas, Oklahoma, Kansas, South Dakota, Minnesota, Wisconsin, and Kentucky, on return. NOTE: The purpose of this republication is to include the origin points of the return movement, which were inadvertently omitted from previous publication. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Des Moines, Iowa.

No. MC 127042 (Sub-No. 65), filed September 21, 1970. Applicant: HAGEN, INC., 4120 Floyd Boulevard, Post Office Box 6, Leeds Station, Sioux City, Iowa 51108. Applicant's representative: Joseph W. Harvey (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat byprdoucts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Pekin, Ill., to points in Colorado, Indiana, Michigan, Minnesota, Ohio, North Dakota, South Dakota, Wisconsin, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Des Moines, Iowa.

No. MC 127299 (Sub-No. 2), filed September 14, 1970. Applicant: PENNY EXPRESS, INC., 718 West Birchtree Lane, Claymont, Del. 19703. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities as are dealt in by retail department stores*, between the sites of the warehouses and other facilities of J. C. Penney Co., Inc., at points in Delaware, Maryland, New Jersey, New York, and Pennsylvania. Restriction: The operations sought in (1) herein are limited to a transportation service to be performed under a continuing contract or contracts with J. C. Penney Co., Inc., (2) *household appliances, cabinets, and heating and air-conditioning equipment*, from Philadelphia, Pa., to points in Delaware, and those in Maryland and Virginia east of the Chesapeake Bay; *returned shipments* of the above-specified commodities, from the above-specified destination territory to Philadelphia, Pa. Restriction: The operations sought in (2) herein are limited to a transportation service to be performed under a continuing contract or contracts with S. S. Fretz, Jr., Inc., and (3) *tires and tubes*, from Oaks, Montgomery County, Pa., to points in Delaware; *returned shipments* of the above-specified commodities, from points in Delaware to Oaks, Pa. Restriction: The operations sought in (3) herein are limited to a transportation service to be performed under a continuing contract or contracts with Arthur J. Mathews, doing business as Delaware Tire Center. NOTE: If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 127844 (Sub-No. 13), filed September 17, 1970. Applicant: L. B. BARNHILL AND I. S. JOHNSON, JR., a partnership, doing business as B & J TRANSPORTATION, Post Office Box 48 X-A, Sumter, S.C. 29150. Applicant's representative: Henry P. Willimon, Post Office Box 1075, Greenville, S.C. 29602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture* from (1) Mullins, S.C., to points in Alabama, Florida, and Georgia; (2) from points in Horry County, S.C., to points in Alabama, Georgia, and Florida; (3) from Nichols, S.C., to points in Alabama, Florida, and Georgia; (4) from Dillon, S.C., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Texas, South Carolina, Arizona, California, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, Oklahoma, Oregon, Washington, and Utah. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbia, S.C.

No. MC 128279 (Sub-No. 13), filed September 21, 1970. Applicant: ARROW FREIGHTWAYS, INC., Post Office Box 3783, 4800 Jefferson NE., Albuquerque, N. Mex. 87110. Applicant's representative: Jerry R. Murphy, 708 LaVeta Dr. NE., Albuquerque, N. Mex. 87108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, commodities in bulk, household goods as defined by the Commission, articles of unusual value and those requiring special equipment because of size or weight), between Albuquerque, N. Mex., on the one hand, and, on the other, Cochiti Dam Site and Cochiti City, N. Mex. NOTE: Applicant states it proposes to tack at Albuquerque, N. Mex., with its existing authorities and to interchange with all authorized carriers. If a hearing is deemed necessary, applicant requests it be held at Albuquerque or Sante Fe, N. Mex.

No. MC 128375 (Sub-No. 43) (Correction), filed August 19, 1970, published in the FEDERAL REGISTER issue of September 11, 1970, and republished as corrected, this issue. Applicant: CRETE CARRIER CORPORATION, Post Office Box 249, Crete, Nebr. 68333. Applicant's representative: Duane W. Acklie, 521 South 14th Street, Post Office Box 806, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is marketed by home products distributors, and ingredients, materials and supplies* used in the manufacture and production of such merchandise as is marketed by home products distributors; and advertising and promotional items and materials moving in the same vehicle with the above-described commodities, between Ada, Mich., on the one hand, and, on the other, points in Washington, Oregon, Idaho, Montana, Wyoming, South Dakota, North Dakota, Minnesota, Nebraska, Iowa, Kansas, Colorado, Utah,

Nevada, California, Arizona, New Mexico, Texas, Oklahoma, Missouri, Louisiana, Florida, Georgia, and Tennessee, under a continuing contract with Amway Corp. NOTE: The purpose of this republication is to include "products" in the commodity description which was inadvertently omitted in the previous publication. If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr.

No. MC 128375 (Sub-No. 45), filed September 17, 1970. Applicant: CRETE CARRIER CORPORATION, Post Office Box 249, Crete, Nebr. 68333. Applicant's representative: Richard A. Peterson, 521 South 14th Street, Post Office Box 80806, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles and equipment, materials, and supplies* used in the manufacture and processing of iron and steel articles, between Pueblo, Colo., on the one hand, and, on the other, points in Washington, Oregon, Idaho, Montana, Wyoming, Utah, North Dakota, and South Dakota, under continuing contract with CF&I Steel Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr., or Denver, Colo.

No. MC 128375 (Sub No. 46), filed September 18, 1970. Applicant: CRETE CARRIER CORPORATION, Post Office Box 249, Crete, Nebr. 68333. Applicant's representative: Richard A. Peterson, 521 South 14th Street, Post Office Box 80806, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automobile parts, sewing machines, fertilizer spreaders, fertilizer applicators, metal tanks, bomb parts* (nonexplosive), *sprayers and spray equipment, and equipment, materials, and supplies* used in the manufacture of the above-described commodities, between Phenix City, Ala., and points in Tennessee, on the one hand, and, on the other, points in California, Colorado, Texas, Kansas, Nebraska, Iowa, Minnesota, Wisconsin, Illinois, Missouri, Arkansas, Louisiana, Mississippi, Alabama, Tennessee, Kentucky, Indiana, Michigan, Ohio, Pennsylvania, West Virginia, Virginia, Florida, Georgia, Delaware, New York, New Jersey, Maryland, and North Carolina, under contract or contracts with Douglas & Lomason Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr., or Denver, Colo.

No. MC 128375 (Sub-No. 47), filed September 21, 1970. Applicant: CRETE CARRIER CORPORATION, Post Office Box 249, Crete, Nebr. 68333. Applicant's representative: Richard A. Peterson, 521 South 14th Street, Post Office Box 80806, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products and related materials*, when moving with paper and paper products, from Mobile, Ala., and points in its commercial zone to points in Montana, Idaho, Nevada, Utah, Wyoming, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Mississippi, Alabama, Tennessee, Kentucky, Florida, Colorado, and New Mexico, under a continuing contract or contracts with Western Paper Co. and subsidiaries or divisions of Hammermill Paper Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Lincoln, Nebr.

No. MC 128375 (Sub-No. 48), filed September 21, 1970. Applicant: CRETE CARRIER CORPORATION, Post Office Box 249, Crete, Nebr. 68333. Applicant's representative: Richard A. Peterson, Acklie and Peterson, 521 South 14th Street, Post Office Box 80806, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Exhaust pipe, exhaust pots, mufflers, tail pipes, suspension parts, steering gear, fifth wheel and plates, cam shaft, axle parts, wheel clamps, rim attachments, brake linings, brake shoes, brake equipment, shock absorbers, and related fittings, parts, tools, materials, accessories, and advertising matter and displays, and equipment, materials, and supplies*, used in the manufacture of the above-described items, between ports of entry in New York and Michigan located on the international boundary between the United States and Canada, on the one hand, and, on the other, points in the United States except Hawaii and Alaska, under continuing contract or contracts with Maremont Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Lincoln, Nebr.

No. MC 129924 (Sub-No. 3), filed September 18, 1970. Applicant: WILLIAM F. McVEIGH, JR., doing business as McVEIGH TRANSPORTATION, 122 East Harrison Street, Corona, Calif. 91720. Applicant's representative: Donald Murchison, 9454 Wilshire Boulevard, Suite 400, Beverly Hills, Calif. 90212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Yeast, food enriching compounds, and baking powder;* and (2) *commodities* the transportation of which is partially exempt from economic regulation under section 203(b)(6) of the Interstate Commerce Act, when transported in mixed shipments with (1) above, in vehicles equipped with mechanical refrigeration, from points in Los Angeles and Orange Counties, and Oakland, Calif., to points in Arizona, under contract with Universal Foods Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 129486 (Sub-No. 2), filed September 14, 1970. Applicant: PAGE TRUCKING COMPANY, INC., Post Office Box 14, Hines, Minn. 56647. Applicant's representative: Gene P. Johnson, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such merchandise* as is dealt in by retail and wholesale food and grocery business houses, for the account of L. B. Hartz Wholesale, Inc.; from points in the United States (except Alaska and Hawaii) to Thief River Falls, Minn., and (2) *uncanned processed fruit and vegetables*, in packages, for the account of Continental "NU" Process, Inc., from Ortonville, Minn., to points in the United States (except Alaska and Hawaii); under contract with L. B. Hartz Wholesale, Inc., and Continental "NU" Process, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Grand Forks or Fargo, N. Dak., or Minneapolis, Minn.

No. MC 133542 (Sub-No. 2), filed September 17, 1970. Applicant: FLOYD WILD, INC., Post Office Box 91, Marshall, Minn. 56258. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, Minn. 55403. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fruit juice beverages, imitation maple flavored syrup, pancake mixes, and frozen foods*, from Marshall, Minn., to points in Kansas, Missouri, and Pennsylvania, under contract with *Vita—Sun Distributing Co., and Schwan Sales Enterprises, Inc.* NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Sioux Falls, S. Dak.

No. MC 133562 (Sub-No. 3), filed September 14, 1970. Applicant: HOLIDAY EXPRESS CORPORATION, Post Office Box 204, Estherville, Iowa 51334. Applicant's representative: Roy Roberts (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, dairy products, and articles distributed by meat packinghouses*, as described in sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from (1) Sioux Falls, S. Dak., to points in New York, New Jersey, Maine, Pennsylvania, Massachusetts, Virginia, Maryland, Connecticut, Rhode Island, and the District of Columbia; and from (2) Estherville, Iowa, to points in Maryland, Connecticut, Maine, Massachusetts, Virginia, Rhode Island, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Omaha, Nebr.

No. MC 133566 (Sub-No. 6), filed September 21, 1970. Applicant: ROBERT GANGLOFF AND ROBERT DOWNHAM, a partnership, doing business as GANGLOFF & DOWNHAM, Post Office Box 676, Logansport, Ind. 46947. Applicant's representative: Jack H. Banshan, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meats*, from the cold storage facilities of or utilized by Wilson-Sinclair Co., at Indianapolis, Ind., to points in Michigan, Kentucky, and Ohio, restricted to traffic originating at the above named origin

and destined to the above named destinations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 133574 (Sub-No. 8), filed September 14, 1970. Applicant: TERRILL TRUCKING COMPANY, a corporation, 1016 Geneseo Street, Storm Lake, Iowa 50588. Applicant's representative: Daryl Terrill (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat byproducts, and articles* distributed by meat packinghouses, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and warehouse facilities of Geo. A. Hormel & Co., at or near Huron, S. Dak., Austin, Minn., Fort Dodge, Iowa, and Fremont, Nebr., to points in Texas, Louisiana, Mississippi, Alabama, Georgia, North Carolina, South Carolina, and Tennessee, restricted to traffic originating at plantsite and warehouse facilities of Geo. A. Hormel & Co., and destined to points in the named States. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 133655 (Sub-No. 39), filed September 15, 1970. Applicant: TRANSNATIONAL TRUCK, INC., Post Office Box 4168, Amarillo, Tex. 79105. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel shelving and display racks, wooden shelving and display racks* (hardboard and/or particle board) from the plantsite and storage facilities of Kent Western Corp. at or near Birmingham, Ala., to points in the United States (except Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Amarillo or Dallas, Tex.

No. MC 133655 (Sub-No. 40), filed September 15, 1970. Applicant: TRANSNATIONAL TRUCK, INC., Post Office Box 4168, Amarillo, Tex. 79105. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from points in Wilkes, Alexander, and Union Counties, N.C.; and Hanover and Accomack Counties, Va., to points in Missouri, Arkansas, Louisiana, Oklahoma, Texas, Kansas, Colorado, New Mexico, Arizona, California, Nevada, Utah, Oregon, and Washington. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Amarillo or Dallas, Tex., or Washington, D.C.

No. MC 134043 (Sub-No. 3), filed September 11, 1970. Applicant: ART KNIGHT, INC., 316 Southeast Market Street, Portland, Oreg. 97214. Applicant's representative: Seymour L. Coblens, 510 Corbett Building, Portland, Oreg. 97204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fresh hides* (refrigerated conditions) from the plantsite of Bissinger & Co., at Troutdale, Oreg., to the plantsite of Vernon Leather Co., Inc., at Los Angeles, Calif., under contract with Remis Industries, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 134241 (Sub-No. 1), filed September 17, 1970. Applicant: LEWIS C. HOWARD, doing business as HOWARD MOTOR FREIGHT, 3931 Moreland Avenue, Kalamazoo, Mich. 49001. Applicant's representative: William B. Elmer, 22644 Gratiot Avenue, East Detroit, Mich. 48021. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), between points in Berrien, Kalamazoo, St. Joseph, and Van Buren Counties, Mich., restricted to the transportation of traffic having an immediately prior or subsequent movement by air. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lansing or Detroit, Mich.

No. MC 134370 (Sub-No. 3) (Amendment), filed August 13, 1970, published in the FEDERAL REGISTER issue of September 3, 1970, amended and republished as amended, this issue. Applicant: OSBORNE TRUCKING CO., INC., 1008 Sierra Drive, Riverton, Wyo. 82501. Applicant's representative: Robert S. Stauffer, 3539 Boston Road, Cheyenne, Wyo. 82001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feldspar*, from Bonneville, Wyo., to points in Arkansas, Colorado, Kansas, Oklahoma, Illinois, Indiana, Ohio, New York, Missouri, Louisiana, Texas, West Virginia, Pennsylvania, Wisconsin, Utah, and Michigan. NOTE: Applicant holds contract carrier authority under Docket No. MC 133741 and Subs 1 and 3, therefore, dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to broaden the territorial scope by adding Michigan as a destination point. If a hearing is deemed necessary, applicant requests it be held at Rapid City, S. Dak., or Casper or Cheyenne, Wyo.

No. MC 134370 (Sub-No. 4) Correction), filed September 8, 1970, published in the FEDERAL REGISTER issue of October 1, 1970, and republished as corrected, this issue. Applicant: OSBORNE TRUCKING CO., INC., 1008 Sierra Drive, Riverton, Wyo. 82501. Applicant's representative: Robert S. Stauffer, 3539 Boston Road, Cheyenne, Wyo. 82001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feed and feed ingredients*, in bulk and in containers, *sanitation and health aids*, from points in Colorado to points in Nebraska located on and west of U.S. Highway 83. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority under MC 133741 and subs, therefore, dual operations may be involved. The purpose of this republication is to reflect "Sanitation and health aids" in in the commodity description. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Cheyenne, Wyo.

No. MC 134631 (Sub-No. 3), filed September 15, 1970. Applicant: SCHULTZ TRANSIT, INC., Post Office Box 503, Winona, Minn. 55987. Applicant's representative: Eugene A. Schultz (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Radio, phonograph, and stereo, cabinets, record changer bases, and speaker boxes*, without mechanisms, from Winona and Red Wing, Minn., to Brooklyn, N.Y., under contract with *Winona Industrial Sales Corp.* NOTE: Applicant holds motor common carrier authority in MC 118202, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 134720 (Sub-No. 2), filed September 21, 1970. Applicant: MAX L. FAIRCHILD, Post Office Box 65, Hamilton, Mont. 59840. Applicant's representative: Jeremy G. Thane, Savings Center Building, Missoula, Mont. 59801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Seattle, Wash., and San Diego and Los Angeles, Calif., to the port of entry on the international boundary line between the United States and Canada at or near Sweetgrass, Mont. NOTE: If a hearing is deemed necessary, applicant requests it be held at Missoula, Mont.

No. MC 134724 (Sub-No. 3), filed September 17, 1970. Applicant: TEDDY D. CLARK, doing business as BIG RIG REFRIGERATION, Route 2, Box 59, Centerville, Iowa 52544. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles* distributed by meat packinghouses as described in sections A and C appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite of Beefland International, Inc., at Council Bluffs, Iowa, to points in Connecticut, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 134724 (Sub-No. 4), filed September 17, 1970. Applicant: TEDDY D.

CLARK, doing business as BIG RIG REFRIGERATION, Route 2, Box 59, Centerville, Iowa 52544. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles* distributed by meat packinghouses as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank, or hopper type vehicles), from the plantsite of John Morrell & Co. at Ottumwa, Iowa, to points in Connecticut, District of Columbia, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, and West Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 134736 (Sub-No. 2), filed September 17, 1970. Applicant: LEW-MILL TRUCKING CO., INC., Massapequa, Long Island, N.Y. 11758. Applicant's representative: Hylan Cooper, 450 Seventh Avenue, New York, N.Y. 10001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, between New York, N.Y., on the one hand, and, on the other, Kearny, N.J., under contract with CBS Imports Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 134900 (Sub-No. 1) (Amendment), filed September 2, 1970, published in the FEDERAL REGISTER issue of September 24, and republished as amended, this issue. Applicant: NIATCO TRUCKING CORP., 145 Price Parkway, Farmingdale, N.Y. 11738. Applicant's representative: Jerome G. Greenspan, 404 Clarendon Road, Uniondale, N.Y. 11553. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Appliances* such as refrigerators, freezers, air conditioners, dehumidifiers, radar ranges, ovens and accessories for such products, from Farmingdale (Suffolk County), N.Y., to points in Ocean, Monmouth, Middlesex, Mercer, Hunterdon, Warren, Sussex, Morris, Essex, Union, Somerset, Passaic, Bergen, and Hudson Counties in New Jersey, under contract with Amana Refrigeration New York. NOTE: The purpose of this republication is to redescribe the territory sought by omitting Part (a) of the application as previously published. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or New Jersey.

No. MC 134908, filed August 31, 1970. Applicant: ALBERT SCHUCKIE, doing business as SCHUCKIE'S EXPRESS, Frontage Road, West Haven, Conn. 06516. Applicant's representative: William J. Meuser, 101 River Street, Milford, Conn. 06460. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities of unusual value, commodities in bulk, commodities requiring special equipment classes A and B explosives, and household goods as defined by the Commission having a prior or subsequent movement by Freight Forwarder), between points in the State of Connecticut. NOTE: If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn., or New York, N.Y.

No. MC 134910 (Sub-No. 1) (Correction), filed August 31, 1970, published in the FEDERAL REGISTER issue of October 1, 1970, corrected in part, and republished as corrected, this issue. Applicant: CALLIS TRUCKING, INC., Clay and Market Streets, Box 25, Centerton, Ind. 46116. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204. NOTE: The purpose of this partial republication is to show that Items (1), (2), and (3) are under contract with Architectural Brick Sales. The rest of the application remains the same.

No. MC 134921, filed September 24, 1970. Applicant: MID-AMERICA TRANSPORT, INC., Post Office Drawer 370, Madisonville, Ky. 42431. Applicant's representative: Norman McCool, 927 Pennsylvania Street, Evansville, Ind. 47708. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Nonalcoholic beverages*, in containers, and *materials, supplies, and equipment* used in connection with the production, sale and distribution of nonalcoholic beverages, between the plantsite or other facilities of Mid-America Canning Corp., at or near Madisonville, in Hopkins County, Ky., on the one hand, and, on the other, points in Alabama, Arkansas, Illinois, Indiana, Kentucky, Mississippi, Missouri, Ohio, and Tennessee, under contract with Mid-America Canning Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky.

No. MC 134935, filed September 14, 1970. Applicant: DENOYER BROS. MOVING & STORAGE CO., a corporation, Post Office Box 109, Traverse City, Mich. 49684. Applicant's representative: Robert D. Schuler, 1 Woodward Avenue, Suite 1700, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, as defined by the Commission restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, between points in Michigan on and north of Michigan Highway 46, and on and west of U.S. Highway 27 and Interstate Highway 75. If a hearing is deemed necessary, applicant requests it be held at Lansing or Detroit, Mich.

No. MC 134936, filed September 10, 1970. Applicant: WILSON C. MEDLEY, doing business as MEDLEY TRUCKING SERVICE, 287 East 27th Street, Paterson, N.J. 07514. Applicant's representative: Joel C. Rainsky, 17 Academy Street, Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cards*, data processing machine, not punched, from the Control Data Corp. plant at Riverton (Burlington County), N.J., to New York, N.Y., and points in Queens, Bronx, Kings, Westchester, Suffolk, and Nassau Counties, N.Y., and *returned shipments* of the above-described commodities, from points in the above-described destination territory to the above-named point of origin, under contract with Control Data Corp. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J.

No. MC 134949, filed September 16, 1970. Applicant: M AND M DISTRIBUTING CORPORATION, 995 South Fourth West, Salt Lake City, Utah 84101. Applicant's representative: Lon Rodney Kump, 720 Newhouse Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* from Golden, Colo., to points in Utah, and Ely, Wells, Elko, Battle Mountain, Winnemucca, Lovelock, Sparks, Reno, and Carson City, Nev. NOTE: If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

MOTOR CARRIER OF PASSENGERS

No. 3700 (Sub-No. 63), filed September 4, 1970. Applicant: MANHATTAN TRANSIT COMPANY, a corporation, Route 46, East Paterson, N.J. 07407. Applicant's representative: Robert E. Goldstein, 8 West 40th Street, New York, N.Y. 07407. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in round trip, special operations, during the authorized racing seasons, beginning and ending at Bloomfield, Clifton, Fort Lee, Hackensack, Jersey City, Newark, Passaic, and Paterson, N.J., and extending to (1) Liberty Bell Park Race Track, Pownal, Vt., and (2) Green Mountain Park Race Track, Pownal, Vt. NOTE: Common carrier control may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

MOTOR CARRIER OF PASSENGERS

No. MC 13300 (Sub-No. 85), filed September 9, 1970. Applicant: CAROLINA COACH COMPANY, a corporation, 1201 South Blount Street, Raleigh, N.C. 27602. Applicant's representative: James E. Wilson, 1735 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations, in round-trip sightseeing or pleasure tours, beginning and ending at points in Alamance, Beaufort, Bertie, Cabarrus, Camden, Caswell, Chowan, Cumberland, Currituck, Davidson, Durham, Edgecombe, Franklin, Gates, Greene, Guilford, Halifax, Harnett, Hertford, Johnston, Lee, Lenoir, Martin, Mecklenburg, Montgomery, Moore, Nash, New Hanover, Northampton, Onslow, Orange, Pasquotank, Pender, Perquimans, Pitt, Rowan, Stanly, Tyrrell, Wake, Warren, Washington, and Wilson Counties, N.C.; points in Accomack, Chesterfield, Greensville, Isle of Wight, Nanse-

mond, Northampton, Prince George, Southampton, Surry, and Sussex Counties, Va.; points in Caroline, Dorchester, Kent, Queen Annes, Somerset, Talbot, Wicomico, and Worcester Counties, Md.; points in Kent and Sussex Counties, Del.; and Chesapeake, Colonial Heights, Danville, Emporia, Franklin, Hopewell, Norfolk, Petersburg, Portsmouth, Richmond, Suffolk, and Virginia Beach, Va.; and extending to points in the United States (including Alaska but excluding Hawaii). NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Raleigh, N.C., or Norfolk, Va.

No. MC 59238 (Sub-No. 63), filed September 15, 1970. Applicant: VIRGINIA STAGE LINES, INCORPORATED, 114 Fourth Street SE., Charlottesville, Va. Applicant's representative: James E. Wilson, 1735 K Street NW., Washington, D.C. 20006. Authority sought to operate under section 1042.1 (Superhighway rules) as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and express and newspapers* in the same vehicle with passengers, between Richmond and Staunton, Va.: from Richmond over Interstate Highway 64 to junction Interstate Highway 81, thence over Interstate Highway 81 to junction U.S. Highway 250 and thence over U.S. Highway 250 to Staunton and return over the same route, serving all intermediate points. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Richmond, Va., or Washington, D.C.

No. MC 134904, filed August 28, 1970. Applicant: B. H. KILLIAN, doing business as C. & A. BUS LINE, 2409 Fifth Avenue North, Columbus, Miss. 39701. Applicant's representative: Will E. Ward, Post Office Box 106, Starkville, Miss. 39759. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, express and newspapers* in the same vehicle with passengers, between Columbus, Miss., and Carrollton, Ala.: From Columbus over Mississippi Highway 69 to the Mississippi-Alabama State line, thence over Alabama Highway 14 to Aliceville, Ala., thence over Alabama Highway 17 to Carrollton, and return over the same route, serving all intermediate points. NOTE: Applicant states that the distance between Columbus, Miss., and Aliceville, Ala., is approximately 38 miles; and between Aliceville and Carrollton the distance is approximately 11 miles. If a hearing is deemed necessary, applicant requests it be held at (1) Columbus, Miss., or (2) Tuscaloosa, Ala., or Jackson, Miss.

No. MC 134937, filed September 11, 1970. Applicant: CHESTER WARD, doing business as WARD BUS LINE, 2001 South F Street, Elwood, Ind. Applicant's representative: Harry J. Harman, One Indiana Square, Suite 2425, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, express and newspapers* in the same vehicle with passengers, between Elwood, Ind., and Anderson, Ind., as follows: (1) From Elwood south over Indiana Highway 13 to junction unnumbered county road, thence over unnumbered county road to junction Indiana Highway 128, thence over Indiana Highway 128 via Frankton, Ind., to junction Indiana Highway 9, thence over Indiana Highway 9 to Anderson, and return over the same route, serving all intermediate points; and (2) from Elwood over Indiana Highway 28 to junction Indiana Highway 9, thence over Indiana Highway 9 to junction Indiana Highway 128, thence continue over Indiana Highway 9 to Anderson as described in (1) above, and return over the same route, as an alternate route for operating convenience only in connection with the authority sought in (1) above, serving no intermediate points. If a hearing is deemed necessary, applicant requests it be held at Elwood or Indianapolis, Ind.

APPLICATION IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 134947, filed September 18, 1970. Applicant: MASAO YAMASHIRO, 255 South Neptune Avenue, Wilmington, Calif. 90744. Applicant's representative: Donald Murchison, Suite 400, Glendale Federal Building, 9454 Wilshire Boulevard, Beverly Hills, Calif. 90212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron or steel articles*, between points in the Los Angeles Harbor, Calif., commercial zone, on the one hand, and, on the other, points in Los Angeles, Orange, San Bernardino, Riverside, and San Diego Counties, Calif., under contract with Ban Warehouse Corp.

MOTOR CARRIER OF PASSENGERS

No. MC 128853 (Sub-No. 4), filed September 18, 1970. Applicant: COOKE CARTAGE AND STORAGE LTD., 110 Anne Street, South Barrie, Ontario, Canada. Applicant's representative: Frank J. Kerwin, Jr., 900 Guardian Building, Detroit, Mich. 48226. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passenger and operator seats*, not in containers, from ports of entry on the international boundary line between the United States and Canada located at or near Detroit and Port Huron, Mich., and at Buffalo-Niagara Falls, N.Y., to points in Ohio and Maryland, under contract with Heywood-Wakefield Company of Canada, Ltd.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[F.R. Doc. 70-13398; Filed, Oct. 7, 1970; 8:45 a.m.]

## FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 5, 1970.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42056—*Grain and grain products within the western district.* Filed by Southwestern Freight Bureau, agent (No. B-183), for interested rail carriers. Rates on corn (not popcorn), barley, grain sorghums, and products thereof, in carloads, as described in the application, from, to, and between, points in southwestern and western trunkline territories, including Memphis, Tenn., and Natchez, Miss.

Grounds for relief—Motortruck competition and rate relationship.

Tariffs—Supplement 27 to Southwestern Freight Bureau, agent, tariff ICC 4901, and five other schedules named in the application.

FSA No. 42057—*Class and commodity rates from and to Radford, N.C.* Filed by O. W. South, Jr., agent (No. A6199), for interested rail carriers. Rates on property moving on class and commodity rates, between Radford, N.C., on the one hand, and points in the United States and Canada, on the other.

Grounds for relief—New station and grouping.

FSA No. 42058—*Soda ash from specified points in Wyoming.* Filed by Western Trunk Line Committee, agent (No. A-2632), for interested rail carriers. Rates on soda ash, in carloads, as described in the application, from Alchem, Stauffer, and Westvaco, Wyo., to specified points in Illinois, Iowa, Louisiana, Minnesota, Missouri, and Texas.

Grounds for relief—Rate relationship.

Tariffs—Supplements 348 and 132 to Western Trunk Line Committee, agent, tariffs ICC A-4411 and A-4374, respectively, also supplement 76 to Southwestern Freight Bureau, agent, tariff ICC 4832.

FSA No. 42059—*Lumber and related articles from points in southwestern territory.* Filed by Southwestern Freight Bureau, agent (No. B-186), for interested rail carriers. Rates on lumber and related articles, in carloads, as described in the application, from points in southwestern territory, to points in Colorado on the GWR.

Grounds for relief—Carrier competition.

Tariff—Supplement 52 to Southwestern Freight Bureau, agent, tariff ICC 4883.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[F.R. Doc. 70-13497; Filed, Oct. 7, 1970; 8:51 a.m.]

[Notice 599]

## MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 5, 1970.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered

proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–72368. By order of September 29, 1970, the Motor Carrier Board approved the transfer to Patrick S. Rubino and Joanne H. Rubino, a partnership, doing business as Menlo Movers, Metuchen, N.J., of the operating rights in certificate No. MC–74700 issued January 2, 1942, to Stadium Transportation Co., Inc., Hackensack, N.J., authorizing the transportation of household goods, between points in Bergen, Essex, Hudson, Passaic, and Union Counties, N.J., on the one hand, and, on the other, points in New York, New Jersey, Pennsylvania, Maryland, Ohio, Delaware, Virginia, Connecticut, Rhode Island, New Hampshire, Vermont, and the District of Columbia. Robert B. Pepper, registered practitioner, 174 Brower Avenue, Edison, N.J. 08817, representative for applicants.

No. MC–FC–72379. By order of September 30, 1970, the Motor Carrier Board approved the transfer to Harlem Commonwealth Tours, Inc., New York, N.Y., of the license in No. MC–130029 issued January 30, 1968, in the name of Lawton-Johnson Travel Agency, Inc., and acquired by Harlem Commonwealth Council, Inc., New York, N.Y., pursuant to the proceeding in No. MC–FC–72142, authorizing operations as a broker at New York, N.Y., in the transportation of passengers and their baggage, in the same vehicle with passengers, in special charter operations, in roundtrip tours, beginning and ending in New York, N.Y., and extending to points in the United States. Robert E. Goldstein, 8 West 40th Street, New York, N.Y. 10018, attorney for applicants.

No. MC–FC–72382. By order of September 30, 1970, the Motor Carrier Board approved the transfer to J. L. Lawhon Trucking, Inc., of the operating rights in permits Nos. MC–104589 (Sub-No. 3) issued March 7, 1947, MC–104589 (Sub-No. 5) issued April 14, 1947, MC–104589 (Sub-No. 7) issued December 29, 1952, MC–104589 (Sub-No. 10) issued July 30, 1956, MC–104589 (Sub-No. 13) issued April 27, 1959, MC–104589 (Sub-No. 17) issued October 15, 1959, MC–104589 (Sub-No. 19) issued June 7, 1962, MC–104589 (Sub-No. 20) issued September 26, 1967, MC–104589 (Sub-No. 21) issued June 23, 1967, and MC–104589 (Sub-No. 23) issued March 21, 1969; respectively, to J. L. Lawhon, East Point, Ga., collectively, authorizing the transportation of specified commodities from, to, or between points in Alabama, Georgia, Mississippi, South Carolina, Tennessee, Florida, North Carolina, Kentucky, and Louisiana. William Addams, Suite 527–1776 Peachtree Street NW., Atlanta, Ga. 30309, attorney for applicants.

No. MC–72395. By order of September 30, 1970, the Motor Carrier Board approved the transfer to Atlantic City-Phila. Express, Inc., a New Jersey corporation, formed in 1970, Somers Point, N.J., of the operating rights in certificate No. MC–117656 issued March 16, 1959, to Atlantic City-Phila. Express, Inc., a New Jersey corporation formed in 1958, Medford, N.J., authorizing the transportation of general commodities, with specified exceptions between Ardmore, Pa., and Atlantic City, N.J., over a regular route serving the intermediate point of Philadelphia, Pa. V. Baker Smith, 2107 The Fidelity Building, Philadelphia, Pa. 19109, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
*Acting Secretary.*

[F.R. Doc. 70–13499; Filed, Oct. 7, 1970; 8:51 a.m.]

## CUMULATIVE LIST OF PARTS AFFECTED—OCTOBER

**The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during October.**

### 3 CFR

Page

PROCLAMATION:
4015 — 15799

EXECUTIVE ORDERS:
10001 (see EO 11563) — 15435
10202 (see EO 11563) — 15435
10292 (see EO 11563) — 15435
10659 (see EO 11563) — 15435
10735 (see EO 11563) — 15435
10984 (see EO 11563) — 15435
11098 (see EO 11563) — 15435
11119 (see EO 11563) — 15435
11241 (see EO 11563) — 15435
11360 (see EO 11563) — 15435
11497 (see EO 11563) — 15435
11537 (see EO 11563) — 15435
11563 — 15435
11564 — 15801

PRESIDENTIAL DOCUMENTS OTHER THAN PROCLAMATIONS AND EXECUTIVE ORDERS:
Reorganization Plan No. 3 of 1970 — 15623
Reorganization Plan No. 4 of 1970 — 15624
See EO 11564 — 15801

### 5 CFR

213 — 15370, 15439
771 — 15803

### 7 CFR

81 — 15739
301 — 15285
711 — 15355
833 — 15741
864 — 15741
892 — 15361
908 — 15286, 15803
910 — 15439
912 — 15287
926 — 15744
927 — 15744
931 — 15745
932 — 15631
947 — 15631
989 — 15631
1004 — 15287
1006 — 15439
1012 — 15439
1013 — 15439
1062 — 15362
1063 — 15632
1134 — 15363
1136 — 15365

PROPOSED RULES:
52 — 15760
81 — 15817
930 — 15817
971 — 15302, 15760
982 — 15446
984 — 15836
1001 — 15396
1002 — 15396
1004 — 15396
1006 — 15396
1007 — 15396
1011 — 15396
1012 — 15396

### 7 CFR—Continued

Page

PROPOSED RULES—Continued
1013 — 15396
1015 — 15396
1030 — 15396
1032 — 15396
1033 — 15396
1036 — 15396
1040 — 15396
1043 — 15396
1044 — 15396
1046 — 15396
1049 — 15396
1050 — 15396
1060 — 15396
1061 — 15396
1062 — 15396
1063 — 15396, 15446
1064 — 15396
1065 — 15396
1068 — 15396
1069 — 15396
1070 — 15396, 15446
1071 — 15396
1073 — 15396
1075 — 15396
1076 — 15396
1078 — 15396
1079 — 15396, 15646
1090 — 15396
1094 — 15396
1096 — 15396
1097 — 15396
1098 — 15396
1099 — 15396
1101 — 15396
1102 — 15396
1103 — 15396
1104 — 15396
1106 — 15396
1108 — 15396
1120 — 15396
1121 — 15396
1124 — 15396
1125 — 15396
1126 — 15396
1127 — 15396
1128 — 15396
1129 — 15396
1130 — 15396
1131 — 15396
1132 — 15396
1133 — 15396
1134 — 15396
1136 — 15396
1137 — 15396
1138 — 15396

### 9 CFR

76 — 15370, 15633, 15745
Ch. III — 15552

PROPOSED RULES:
317 — 15836, 15837

### 12 CFR

610 — 15803

### 13 CFR

PROPOSED RULES:
121 — 15844

### 14 CFR

Page

21 — 15288
37 — 15288
39 — 15633–15635, 15803, 15804
71 — 15371, 15635, 15746, 15804
95 — 15747
97 — 15440, 15748
121 — 15288
127 — 15288
135 — 15288
145 — 15288
385 — 15636

PROPOSED RULES:
71 — 15303, 15404, 15405, 15647, 15648, 15763
73 — 15405
242 — 15842
250 — 15764

### 15 CFR

1000 — 15671

### 16 CFR

13 — 15804–15811

PROPOSED RULES:
428 — 15765
430 — 15842
501 — 15843

### 17 CFR

201 — 15440

PROPOSED RULES:
230 — 15447

### 18 CFR

3 — 15636

PROPOSED RULES:
2 — 15406
101 — 15648
104 — 15648
141 — 15648
157 — 15446
201 — 15648
204 — 15648
260 — 15648

### 19 CFR

4 — 15636, 15637

### 21 CFR

2 — 15749
15 — 15749
17 — 15749
121 — 15372
135g — 15372
138 — 15811
141 — 15637
141a — 15749
141b — 15749, 15750
146a — 15749
146b — 15749, 15750
148i — 15750
149w — 15637

PROPOSED RULES:
3 — 15402, 15761
30 — 15403
130 — 15761