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LIST OF CFR SECTIONS AFFECTED

1949–1963

This volume contains a compilation of the "List of Sections Affected" for all titles of the Code of Federal Regulations for the years 1949 through 1963. All sections of the CFR which have been expressly affected by documents published in the daily Federal Register are enumerated.

Reference to this list will enable the user to find the precise text of CFR provisions which were in force and effect on any given date during the period covered.

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A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1971, and specifies how they are affected.

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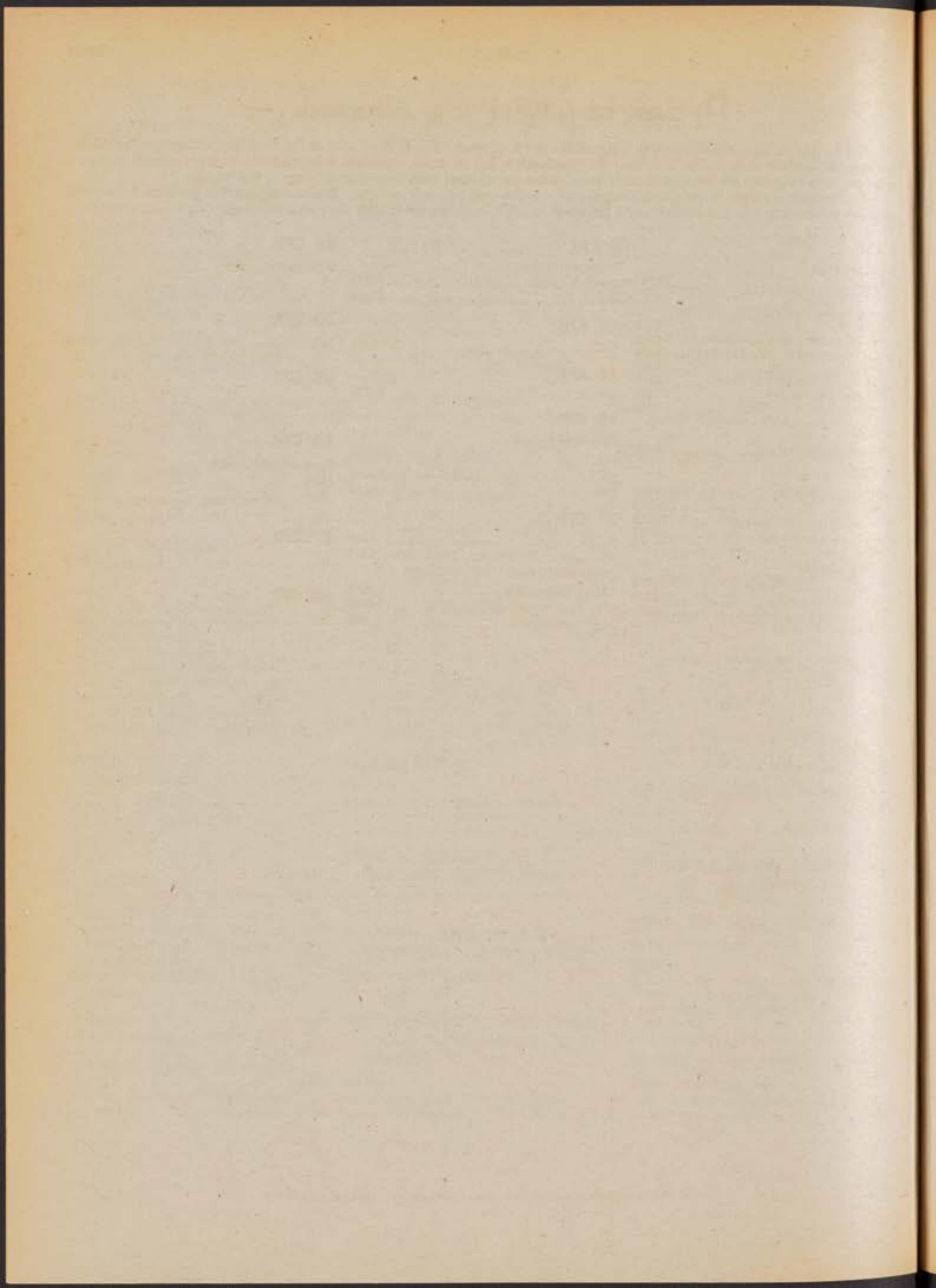

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Title 3—The President

PROCLAMATION 4071

National Clown Week

By the President of the United States of America

A Proclamation

Whoever has heard the laughter of a child or seen sudden delight on the face of a lonely old man has understood in those brief moments mysteries deeper than love.

All men are indebted to those who bring such moments of quiet splendor—who redeem sickness and pain with joy. All across America, good men in putty noses and baggy trousers, following a tradition as old as man's need to touch gently the lives of his fellowman, go into orphanages and children's hospitals, homes for the elderly and for the retarded, and give a part of themselves. Today, as always, clowns and the spirit they represent are as vital to the maintenance of our humanity as the builders and the growers and the governors.

In the folklore of the world is the persistent claim that the heart of a clown is sad, and that all the gladness he provokes is simply a facade for the pain he cannot reveal to the world. In the myth is the kernel of reason: the clown leaves happiness where he goes, and takes misery away with him.

Yet, we cannot suppose there is real truth in the myth. For surely the laugh-makers are blessed: they heal the heart of the world.

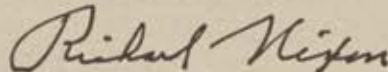
To call public attention to the charitable activities of clowns and the wholesome entertainment they provide for all our citizens, the Congress by a joint resolution approved October 8, 1970 (Public Law 91-433), has requested the President to designate the week of August 1 through August 7, 1971, as National Clown Week.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby proclaim the week of August 1

through August 7, 1971, as National Clown Week. I invite the Governors of the States and the appropriate officials of other areas under the United States flag to issue similar proclamations.

I urge the people of the United States to recognize the contributions made by clowns in their entertainment at children's hospitals, charitable institutions, institutions for the mentally retarded, and generally helping to lift the spirits and boost the morale of our people.

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



[FR Doc.71-11242 Filed 8-3-71; 9:02 am]

EXECUTIVE ORDER 11613

Membership of Environmental Protection Agency on Established River Basin Commissions

By virtue of the authority vested in me by section 202 of the Water Resources Planning Act (79 Stat. 247; 42 U.S.C. 1962 b–1) and as President of the United States, it is ordered as follows:

SECTION 1. Section 3(2) of each of the following-described Executive orders is amended by adding "Environmental Protection Agency," immediately after "Department of Transportation,"—

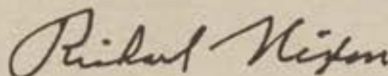
(1) Executive Order No. 11331 of March 6, 1967, establishing the Pacific Northwest River Basins Commission;

(2) Executive Order No. 11345 of April 20, 1967, establishing the Great Lakes Basin Commission;

(3) Executive Order No. 11359 of June 20, 1967, establishing the Souris-Red-Rainy River Basins Commission; and

(4) Executive Order No. 11371 of September 6, 1967, establishing the New England River Basins Commission, as amended by Executive Order No. 11528 of April 24, 1970.

SEC. 2. The Administrator of the Environmental Protection Agency shall appoint a member to each river basin commission to serve as the representative of that Agency as soon as practicable after the date of issuance of this Order.



THE WHITE HOUSE,
August 2, 1971.

[FR Doc.71-11220 Filed 8-2-71;4:04 pm]

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Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of the Interior

Section 213.3312 is amended to show that one additional position of Confidential Assistant (interdepartmental activities) to the Secretary is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (8-4-71), subparagraph (28) is added to paragraph (a) of § 213.3312 as set out below.

§ 213.3312 Department of the Interior.

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

(28) Two Confidential Assistants (interdepartmental activities) to the Secretary.

* * * * *

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

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

[FR Doc.71-11093 Filed 8-3-71;8:45 am]

PART 213—EXCEPTED SERVICE

Office of Economic Opportunity

Section 213.3373 is amended to show that one additional position of Confidential Staff Assistant to the Associate Director for Legal Services is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (8-4-71), subparagraph (1) of paragraph (g) is amended under § 213.3373 as set out below.

§ 213.3373 Office of Economic Opportunity.

* * * * *

(g) *Office of the Associate Director for Legal Services.* (1) Two Confidential Staff Assistants to the Associate Director.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

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

[FR Doc.71-11094 Filed 8-3-71;8:45 am]

Title 7—AGRICULTURE

Chapter II—Food and Nutrition Service, Department of Agriculture

[Amdt. 5]

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

State Matching of Funds

On April 22, 1971, there was published in the FEDERAL REGISTER (36 F.R. 7603) a notice of proposed rule making to amend the regulations governing the National School Lunch Program (35 F.R. 753, as amended, 35 F.R. 3900, 35 F.R. 14061, 36 F.R. 1246, 36 F.R. 7592) for the purpose of implementing the matching requirements of the National School Lunch Act, as amended by Public Law 91-248, approved May 14, 1970. Interested persons were given 20 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

Numerous communications were received. The comments, suggestions, and objections made in such communications have been considered and a number of changes from the proposed regulations have been made.

In order that the amendment to the regulations may become effective as soon as possible in view of the fact that it applies to the fiscal year beginning July 1, they are hereby issued without an analysis of the comments, suggestions, and objections received. Such analysis will be issued and published at an early date.

Regulations for the operation of the general cash-for-food assistance phase of the National School Lunch Act, as amended, are further amended as follows:

1. Section 210.6 is revised to read as follows:

§ 210.6 Matching of funds.

(a) Each State Agency shall match each dollar of general cash-for-food assistance funds paid to it each fiscal year with $3 of funds from sources within the State determined by the Secretary to have been expended in connection with the Program: *Provided, however,* That, if the per capita income of any State is less than the per capita income of the United States, the matching requirement for any fiscal year shall be decreased by the percentage by which the State per capita income is below the per capita income of the United States. The amount of general cash-for-food assistance to be so matched shall be the net amount of such funds taking into consideration any funds transferred into the general cash-for-food assistance funds account and any funds transferred out of such account under the authority of section 10 of the Child Nutrition Act of 1966, as amended.

(b) For the fiscal year beginning July 1, 1971, and the fiscal year beginning July 1, 1972, State revenues (other than revenues derived from the Program) appropriated or specifically utilized for Program purposes (other than salaries and administrative expenses at the State, as distinguished from local, level) shall constitute at least 4 per centum of the matching requirement set forth in paragraph (a) of this section; for each of the 2 succeeding fiscal years, at least 6 per centum of such matching requirement; for each of the subsequent 2 fiscal years, at least 8 per centum of such matching requirement; and for each fiscal year thereafter, at least 10 per centum of such matching requirement.

(c) The following funds from sources within the State shall be eligible to be counted in meeting the matching requirement prescribed in paragraph (a) of this section: (1) Funds expended for the Program, including Program administration, by the State or its political subdivisions or by or on behalf of any School Food Authority from any source of State or local funds (including, but not limited to, children's payments), except funds expended for land or the acquisition, construction or alteration of buildings; and (2) the value of commodities, services, supplies, facilities, and equipment donated to the Program, except the value of commodities donated by FNS or the value of land or the rental value of buildings used in connection with the Program: *Provided, however,* That the percentage of such matching requirements specified in paragraph (b) of this section shall be met by State revenues meeting the requirements of paragraph (d) of this section. The value of donations eligible for matching shall be certified by the State Agency or by the School Food Authorities of nonprofit private schools with respect to which the Program is administered by FNSRO.

(d) The following State revenues, appropriated or otherwise made available which are expended for any fiscal year shall be eligible for meeting the applicable percentage of the matching requirements prescribed in paragraph (b) of this section for that fiscal year: (1) State

revenues disbursed by the State Agency to School Food Authorities for Program purposes, including revenues disbursed to nonprofit private schools where the State administers the Program in such schools: (2) State revenues made available to School Food Authorities and transferred by the School Food Authorities to the nonprofit school lunch program accounts or otherwise expended by the School Food Authorities in connection with the nonprofit school lunch programs; and (3) State revenues used to finance the costs (other than State salaries or other State administrative costs) of (i) local Program supervision (ii) operating the Program in participating schools and (iii) the intrastate distribution of foods donated under Part 250 of this chapter to schools participating in the Program.

(e) The State revenues made available under paragraph (b) of this section shall be disbursed to School Food Authorities, to the extent the State deems practicable, in such manner that each School Food Authority receives the same proportionate share of such revenues as it receives of funds apportioned to the State for the same year under sections 4 and 11 of the Act and sections 4 and 5 of the Child Nutrition Act of 1966, as amended. Determinations of practicability may be made with respect to a class of School Food Authorities as well as with respect to individual School Food Authorities.

(f) The State agency shall establish or cause to be established a system whereby all expended State revenues counted in meeting the matching requirement prescribed in paragraph (b) of this section are properly documented and accounted for.

(g) During the course of each fiscal year, it shall be the responsibility of the State Agency, or FNSRO where applicable, to determine whether the matching requirements of this section (other than the requirements relating to the portion representing State revenues) are being met. If it appears that the matching requirements will not be met, the State Agency or FNSRO shall take corrective action to assure compliance with these requirements.

(h) FNS shall determine that the required amount of funds from sources within the State and the required amount of State revenues have been expended in connection with the Program during any fiscal year, based upon reports to be submitted by the State Agency at the close of such fiscal year.

(i) If, in any fiscal year, a State fails to meet the State revenue matching requirement, as prescribed in paragraph (b) of this section, such State shall return to FNS, upon demand by FNS, a portion of the general cash-for-food assistance funds equal to the per centum by which it failed to meet such requirement, e.g., if a State has met only 50 percent of the State revenue matching requirement for any fiscal year, such State shall return 50 percent of the general cash-for-food assistance funds utilized by the State in that fiscal year. If in any fiscal year a State meets the State revenue matching requirement prescribed in paragraph (b) of this section but fails to meet its overall matching requirement prescribed in paragraph (a) of this section, such State shall return to FNS, upon demand by FNS, a portion of the general cash-for-food assistance funds equal to the per centum by which it failed to meet its overall matching requirement.

(j) In any State where FNSRO administers the Program with respect to nonprofit private schools, each dollar of general cash-for-food assistance funds paid by FNS to the School Food Authorities of such schools in the aggregate for any fiscal year shall be matched by $3 of funds from sources within the State determined by the Secretary to have been expended by School Food Authorities of nonprofit private schools in connection with the Program: *Provided, however*, That, if the per capita income of the State is less than the per capita income of the United States, the matching requirement for any fiscal year shall be decreased by the percentage by which the State per capita income is below the per capita income of the United States. If the aggregate payment of general cash-for-food assistance funds for such schools is not matched as provided in this paragraph, any School Food Authority not matching the general cash-for-food assistance funds paid to it shall return upon demand by FNS its pro rata share of the amount of the funds determined by FNS not to have been matched.

§ 210.14 [Amended]

2. In § 210.14, paragraph (g)(4) is amended by adding the following before the period at the end thereof: "and a report on the full matching requirements set forth in § 210.6 including a report on the matching with State revenue prescribed in § 210.6(g)."

NOTE: The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Effective date. These regulations shall be effective July 1, 1971.

Dated: July 28, 1971.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.71-11172 Filed 8-3-71;8:51 am]

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 718—DETERMINATION OF ACREAGE AND COMPLIANCE

Basis and purpose. The provisions of Part 718 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.), to provide for ascertaining crop and land use acreages and compliance with program requirements.

This document is a revision of rules currently in effect under §§ 718.1 to 718.30 of this part (35 F.R. 11560, 12193, 12640; basic regulation with no amendments). Sections have been rewritten to incorporate changes attributable to the Agricultural Act of 1970. The changes herein are applicable to the 1971 and subsequent crop years.

Since farmers need to know the changes herein as soon as possible in connection with 1971 programs, it is hereby found and determined that compliance with the notice, public procedure, and 30-day effective date provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest. Accordingly, Part 718 shall become effective upon publication in the FEDERAL REGISTER.

Sec.

718.1 Applicability.
718.2 Definitions.
718.3 Farm entry authority.
718.4 Committee functions and authority.
718.5 Measurement service.
718.6 Determination of compliance by farmer certification.
718.8 Determination of crop and land use acreage by farm visit.
718.9 Reliance by producer on previously determined acreage.
718.10 Determining acreage of unusual cases.
718.11 Notice of acreage to farm operator.
718.12 Redetermination of acreage.
718.13 Adjustment of acreage.
718.14 Crop disposition dates.

AUTHORITY: The provisions of this Part 718 issued under secs. 314, 373, 374, 375, 52 Stat. 48, as amended, 65, as amended, 66, as amended; 7 U.S.C. 1314, 1373, 1374, 1375.

§ 718.1 Applicability.

The provisions of this part apply to compliance determinations for 1971 and subsequent years under any program administered by the Agricultural Stabilization and Conservation Service through State and county committees. The provisions of §§ 718.1 to 718.30 (35 F.R. 11560, 12193, 12640) are superseded.

§ 718.2 Definitions.

(a) *General.* As used in this part, and in all instructions, forms and documents issued in connection therewith, the words and phrases defined in Part 719 of this chapter shall have the meanings so assigned and the terms defined in paragraph (b) of this section shall have the meanings so assigned, unless the text or subject matter otherwise requires.

(b) *Compliance terms.* (1) Allotment crop—any crop for which an acreage allotment (including a base acreage and domestic allotment) base, or proportionate share is established pursuant to regulations of the Department implementing Federal law.

(2) Director—Director or Acting Director, Program Performance Division, Agricultural Stabilization and Conservation Service, Department of Agriculture.

(3) Farmer certification—the determination of compliance with acreage allotments or other program require-

ments, by acceptance of the farm operator's certification in lieu of a farm visit.

(4) Normal row width—distance between rows of crops in the field provided such distance is 32 inches or more.

(5) Report—person employed to secure the necessary information and measurements to determine the acreages for which measurement are required.

(6) Disposition date—the day by which a farm operator must complete adjustment of applicable crop or land use acreages for compliance with program provisions. This date shall be the earlier of:

(i) The date a farm operator certifies to a final crop or land use acreage, or

(ii) The date published in § 718.14 for the crop or land use acreage.

§ 718.3 Farm entry authority.

(a) *General.* Any authorized representative of the Agricultural Stabilization and Conservation Service shall have authority to enter any farm for the purpose of measuring or ascertaining acreage or determining compliance with any mandatory or voluntary program administered by ASCS. For voluntary programs, application of the producer to participate in the program shall constitute his consent to the authority to enter the farm to measure or ascertain acreage or determine compliance. The person authorized to enter any farm shall present his written authorization upon request of any producer interested in the farm.

(b) *Refusal to permit measurement.* If a farm operator refuses to permit acreage measurement for any crop or program for which such measurements are required, the county executive director shall notify the farm operator in writing as soon as possible of the following consequences, as applicable, of the refusal to permit measurement and inspection on the farm:

(1) Program benefits will be denied;

(2) For ELS cotton and rice, buyers in the vicinity will be notified that the farm is considered to be in excess of the allotment;

(3) For peanuts and tobacco (except Flue-cured tobacco when acreage-poundage quotas are in effect and burley when poundage quotas are in effect), a 100 percent excess penalty card will be issued;

(4) For Flue-cured tobacco when acreage-poundage quotas are in effect, no marketing card showing the farm is eligible for price support will be issued; and

(5) The farm operator shall have 14 days from the date of the written notice to notify the county office that he will permit measurement and pay the cost thereof.

If the farm operator continue to refuse to permit a farm visit after the 14-day period prescribed in the written notice to him, any case involving a crop subject to a marketing quota (except Flue-cured and burley tobacco) shall be submitted by the county office to the State committee for referral to the applicable field representative of the Office of the General Counsel.

(c) *Refusal to furnish information concerning other interested persons on the farm.* If a farm operator refuses to furnish information concerning other interested persons on the farm, the farm operator may be denied program benefits until such information is furnished to the county committee.

§ 718.4 Committee functions and authority.

(a) *County committee.* The county committee shall provide for determining acreages on farms and compliance with the various farm programs in accordance with this part.

(b) *State committee.* The State committee may:

(1) Take any action required of the county committee which the county committee fails to take.

(2) Correct or require the county committee to correct any action taken by such committee which is not in accordance with this part.

(3) Require the county committee to withhold taking any action which is not in accordance with this part.

(4) Upon approval by the Deputy Administrator, prescribe deviations from standards in § 718.8, § 718.12, or § 718.13 as applicable, for the State so as to establish:

(i) A minimum row width for specific crops or less than 32 inches;

(ii) A minimum area requirement for deduction or adjustment credit larger than 0.03 acre for tobacco or 0.1 acre for other crops and land uses:

(iii) A minimum width requirement for deduction or adjustment credit greater than 32 inches;

(iv) A minimum error equipment of less than 0.5 acre;

(v) A standard perimeter deduction of 3 percent of the area planted to a row crop and zero for a close sown crop in lieu of measuring perimeter deductions on all farms visited in specified counties except that perimeter deductions shall be measured for those crops for which measurement service is provided. The State committee may recommend a different percentage when the 3 percent of zero deduction would cause undue hardship.

(c) *Approved deviations from prescribed standards.* The following deviations from prescribed standards pursuant to paragraph (b) of this section have been recommended by the State committee and approved by the Deputy Administrator:

ALABAMA

Minimum row width. Sixteen inches for peanuts.

ARIZONA

Standard deduction. (i) *Row crops.* Approved counties and percentage deductions are: (*a*) Graham, 5 percent; (*b*) Yuma, 1-20 acres, 12 percent; 21-50 acres, 10 percent; all over 50 acres, 9 percent.

(ii) *Close-sown crops.* "Zero" deduction applies in the counties listed in (i) above.

CALIFORNIA

(1) *Deduction credit.* (i) *Minimum area.* Five-tenths acre for all crops.

(ii) *Minimum width.* (*a*) Perimeter of field, 10 links for all crops; (*b*) Within the planted area:

(*1*) *Row crops.* Four rows except when planted in a skip-row pattern.

(*2*) *Close-sown crops.* Twenty links.

(*3*) *Standard deduction.* Three percent for row crops and zero for close-sown crops applies to Fresno, Imperial, Kern, Kings, Madera, Merced, Riverside, and Tulare.

COLORADO

Standard deduction. Three percent for row crops and zero for close-sown crops.

DELAWARE

(1) *Minimum row width.* Thirty inches all crops.

(2) *Deduction credit. Minimum width.* Six links.

(3) *Remeasurement refund.* The larger of 3 percent of 0.5 acre.

FLORIDA

(1) *Minimum row width.* Eighteen inches for peanuts.

(2) *Standard deduction.* Three percent for row crops and zero for close-sown crops applies to Alachua, Baker, Lake, Levy, Marion, and Union.

GEORGIA

Remeasurement refund. The larger of 3 percent or 0.1 acre.

INDIANA

(1) *Deduction credit. Minimum width.* Five links except 15 links for terraces, permanent irrigation, drainage ditches, and sod waterways.

(2) *Adjustment credit.* (i) *Minimum area.* Five-tenths acre for all crops and land uses except tobacco.

(ii) *Minimum width.* Five links.

(3) *Remeasurement refund.* One-tenth acre for tobacco.

IOWA

Deduction credit. (i) *Minimum width.* Seven links.

(ii) *Minimum area.* Five-tenths acre for all crops and land uses.

KENTUCKY

Adjustment credit. Minimum width for tobacco. (i) *Inside planted area and along end boundaries.* The smaller of 10 links or two rows.

(ii) *Along boundaries parallel to the rows in the field.* One row.

MISSISSIPPI

(1) *Deduction credit. Minimum width.* Ten links.

(2) *Adjustment credit.* (i) *Minimum area.* Total excess or deficiency or three-tenths (0.3) acre, whichever is smaller, except that if the excess or deficiency is more than three-tenths (0.3) acre, one plot may be less than three-tenths (0.3) acre.

(ii) *Minimum width.* Two-tenths (0.2) chain.

(3) *Standard deduction.* Three percent for row crops and zero for close-sown crops applies to Adams, Alcorn, Amite, Attala, Carroll, Claiborne, Copiah, Franklin, Hinds, Issaquena, Jefferson, Lee, Leflore, Lincoln, Madison, Marshall, Noxubee, Pike, Prentiss, Rankin, Warren, Washington, Wilkinson, Winston, and Yalobusha.

MISSOURI

Deduction credit. Minimum width. Ten links.

MONTANA

Minimum row width. Twenty-two inches for sugar beets.

NEBRASKA

Minimum row width. Twenty-two inches for sugar beets.

NEW HAMPSHIRE

Minimum row width. Thirty inches for corn.

NEW MEXICO

Standard deduction. (i) *Row crops.* Approved counties and percentage deductions are: (*a*) 4.5 percent in Chaves Dona Ana, Eddy, Hidalgo, Sierra; (*b*) 3 percent in all other counties.

(ii) *Close-sown crops.* Zero deduction applies to all counties.

NORTH CAROLINA

(1) *Minimum row width.* Eighteen inches for peanuts and 30 inches for corn.

(2) *Remeasurement refund.* One-tenth acre.

NORTH DAKOTA

Minimum row width. Twenty inches for sugar beets.

OHIO

(1) *Minimum row width.* Thirty inches for all crops.

(2) *Deduction credit. Minimum width.* Eight links for all crops except tobacco.

(3) *Adjustment credit. Minimum width.* Eight links for all crops except tobacco.

(4) *Remeasurement refund.* (i) *Tobacco.* Larger of 3 percent or 0.1 acre.

(ii) *Other crops.* Larger of 3 percent or 0.5 acre.

OKLAHOMA

Remeasurement refund. Larger of 3 percent or 0.3 acre.

OREGON

(1) *Minimum row width.* Twenty inches for sugar beets.

(2) *Deduction credit. Minimum width for close-sown crops within the planted area.* Six feet.

SOUTH DAKOTA

(1) *Deduction credit. Minimum area.* Five-tenths acre for all crops except sugar beets.

(2) *Adjustment credit. Minimum area.* Five-tenths acre for all crops except sugar beets.

TENNESSEE

(1) *Adjustment credit. Minimum width.* (i) *Row crops other than tobacco.* Four rows.

(ii) *Tobacco:* (*a*) *Along field boundary.* One row; (*b*) *Within planted area.* Two rows.

(2) *Remeasurement refund.* One-tenth acre for tobacco.

(3) *Standard deduction.* (i) *Row crops.* A 4-percent deduction applies to all fields of 10 acres or less than 3 percent applies to all fields over 10 acres.

TEXAS

(1) *Minimum row width.* Thirty inches for sugar beets.

(2) *Deduction credit. Minimum width.* Nine links.

(3) *Adjustment credit. Minimum width.* Nine links.

(4) *Standard deduction.* (i) *Row crops.* Approved counties and percentage deductions are: (*a*) 1 percent, Archer; (*b*) 2 percent, Baylor, Dickens, Foard, Haskell, Kent, King, Stonewall, Throckmorton, Wichita, and Wilbarger; (*c*) 3 percent, Hardeman and Knox.

(ii) *Close-sown crops.* The percentage deductions for the counties listed in (i) above shall be zero except that the percentage shall be 2.2 in Hardeman, 0.8 in Knox, and 0.5 in Wilbarger.

VIRGINIA

Remeasurement refund. The larger of 0.1 acre or 10 percent of acreage for areas less than 5 acres.

WASHINGTON

Minimum row width. Twenty-two inches for sugar.

WISCONSIN

(1) *Deduction credit. Minimum width.* Ten links for all crops except tobacco.

(2) *Remeasurement refund.* The larger of 0.1 acre or 3 percent for tobacco.

WYOMING

(1) *Minimum row width.* Twenty inches for sugar beets.

(2) *Standard deduction.* Three percent for row crops and zero for close-sown crops applies to all counties except Carbon, Park, and Weston.

§ 718.5 Measurement service.

(a) *Staking and referencing service.* The county committee shall provide a staking service for any crop or land use if the producer requests such service and pays the cost. If a staking and referencing service is found to be in error, and the producer has taken any action in reliance in good faith on such service, the acreage in the staked areas shall be considered to be the acreage for which the service was requested, except that the county committee may use the actual acreage if the producer would be adversely affected by use of the acreage for which the service is requested. Compliance with the farm acreage requirement shall be guaranteed under the following conditions:

(1) *For crops.* The acreage requested to be staked and referenced shall not exceed the farm allotment for marketing quota crops or CAP permitted acreage. If all of the crop(s) for which the service is performed is within the staked area, the farm shall be considered in compliance with the allotment or permitted acreage.

(2) *For set-aside acreage.* If the producer requests that not less than the farm set-aside acreage requirement be staked and referenced and the entire area within the stakes is treated as set-aside acreage in accordance with program regulations, the farm shall be considered as having sufficient designated set-aside acreage.

(b) *Other measurement services.* The county committee shall provide other measurement services if the producer requests such service and pays the cost. An acreage measured under this paragraph shall be considered an official acreage. A producer shall not be adversely affected by an error made by an ASCS employee in performing a measurement service when such producer has acted in reliance in good faith on such service.

§ 718.6 Determination of compliance by farmer certification.

(a) *Certification by farm operator.* A report of acreage and land use on farms shall be furnished to the county committee by the farm operator on a prescribed form for applicable crops and land uses not later than the applicable crop disposition date in § 718.14, except that for:

(1) *Set-aside acres*—(i) *Wheat only farms.* In the case of farms that are enrolled in the wheat program only, certification shall be furnished not later than the disposition date for wheat in the county.

(ii) *Wheat-feed grain and feed grain only farms.* In the case of farms that are enrolled in both the wheat and feed grain programs or in the feed grain program only, certification shall be furnished not later than the latest disposition date for food grain in the county, unless an earlier date is recommended by the State committee and approved by the Deputy Administrator. The following earlier dates under this subdivision have been recommended by the State committee and approved by the Deputy Administrator:

CALIFORNIA

May 1 in Imperial and Riverside Counties.

GEORGIA

All counties. The disposition date established for corn.

TEXAS

All counties. The disposition date established for corn and spring-seeded grain sorghum.

(2) *Peanuts*—(i) *Initial certification.* Certification shall be furnished not later than the latest disposition date for feed grain in the county, unless an earlier date is recommended by the State committee and approved by the Deputy Administrator. The following earlier dates under this subdivision have been recommended by the State committee and approved by the Deputy Administrator:

SOUTH CAROLINA

All counties. The disposition dates established for cotton.

TEXAS

(1) *Spring-seeded peanuts in all counties.* The disposition date for corn and spring-seeded grain sorghum.

(2) *Summer-seeded peanuts in all counties.* The disposition date for summer-seeded grain sorghum.

(ii) *Final certification.* In cases where the initially certified peanuts acreage exceeded the allotment, any final certification shall be furnished after the peanuts are dug, but not later than the date recommended by the State committee and approved by the Deputy Administrator. The following dates under this subdivision have been recommended by the State committee and approved by the Deputy Administrator:

SEPTEMBER 15

Georgia.

OCTOBER 1

Alabama.

OCTOBER 15

California, Louisiana, Mississippi, Missouri, and South Carolina.

NOVEMBER 1

Arizona, Arkansas, New Mexico, North Carolina, Tennessee, and Virginia.

DECEMBER 1

Florida and Oklahoma.

DECEMBER 15

Texas.

(3) *Sugar crops*—(i) *Initial certification for sugar beets.* Certification shall be furnished not later than 30 days after normal completion of planting or such later date approved by the State committee.

(ii) *Initial certification for sugarcane.* Certification shall be furnished not later than 45 days prior to the earliest harvest date or such earlier date approved by the State committee.

(iii) *Final certification for sugar beets and sugarcane.* If the sugar crop acreage initially certified exceeded the farm proportionate share and the farm operator adjusts the acreage, the farm operator shall notify the county office of his intention to adjust not later than 15 days prior to start of harvest of the crop. Upon completion of the acreage adjustment or completion of harvest of an acreage within the farm proportionate share, whichever is earlier, the farm operator shall report such completion to the county office. Where the excess acreage is disposed of prior to harvest, the farm operator shall file the report after completion of acreage adjustment and prior to start of harvest. Where the excess acreage will be disposed of after harvest, the farm operator shall file the report after completion of harvest but prior to disposition of any of the crop.

(b) *Consequences of failure to file a timely certification*—(1) *General.* Except as provided in paragraph (c) of this section, the producers on the farm shall be deemed ineligible for any benefits under the program for which the certification was not timely filed.

(2) *Additional consequences for allotment crops.* Except as provided in paragraphs (c) and (d) of this section, the acreage of an allotment crop for which the farm operator failed to file a certification, shall be considered to be zero for purposes of establishing future allotments. In addition:

(i) *For ELS cotton and rice.* Buyers of the crop in the area shall be notified that the farm is considered in excess of the farm marketing quota.

(ii) *For peanuts.* A 100-percent excess penalty card shall be issued.

(iii) *For all tobacco, except Burley and Flue-cured.* A 100-percent excess penalty card shall be issued, unless the farm operator disposes of all excess tobacco in accordance with § 718.13.

(c) *Failure to file a certification.* If the farm operator fails to file the certification under this section but requests the county committee to measure the crop and pays the cost thereof, the county committee shall determine the acreage if it is possible to accurately measure the acreage within 15 days after such request. In such case, the measured acreage, except as provided in § 718.13 for tobacco, other than Flue-cured, shall be used to determine whether a marketing quota penalty is applicable and the amount of any such penalty, the appropriate action to be taken with respect to collection of penalties or issuance of marketing cards, and whether producers on the farm shall be eligible for any benefits under the program for which the certification was not timely filed.

(d) *Late filed certification.* The county committee may accept a certification under this section after the final date if it determines that the farm operator was prevented from timely filing because of reasons beyond his control.

(e) *Consequences of failure to file an accurate certification*—(1) *Marketing quota crops except Burley tobacco.* In the absence of evidence to the contrary, a producer of a crop specified in subdivision (i) or (ii) of this subparagraph (1) on a farm for which a certification under this section is furnished and for which acreages are subsequently measured shall be presumed not to have knowingly exceeded the farm acreage allotment for the crop for purposes of price support programs except that excess tobacco must be disposed of pursuant to § 724.80 of this chapter (but the farm, except in the case of tobacco, other than Flue-cured, for which the operator disposed of excess tobacco pursuant to § 724.80 of this chapter, shall not be considered in compliance with the allotment for the crop for purposes of determining any marketing quota penalty) when the acreage of the crop on the farm determined by measurement does not exceed the allotment by more than the amount set forth in the appropriate subdivision (i) or (ii) of this subparagraph (1). In any case in which the acreage determined by measurement exceeds the allotment by more than the amount set forth in the appropriate subdivision (i) or (ii) of this subparagraph (1), the allotment shall be considered to have been knowingly exceeded: *Provided,* That the allotment shall not be considered to have been knowingly exceeded for price support purposes (but the farm, except a farm having excess tobacco, other than Flue-cured, which is disposed of by the operator pursuant to § 724.80 of this chapter shall not be considered in compliance for purposes of determining any marketing quota penalty) if it is shown to the satisfaction of the Deputy Administrator that the farm operator did not knowingly exceed the farm acreage allotment.

(i) *Peanuts on farms with an effective allotment of more than 1 acre, rice, and ELS cotton.* The larger of 0.5 acre or 5 percent of the allotment not to exceed 15 acres.

(ii) *Tobacco.* In the case of Flue-cured tobacco, the larger of 0.1 acre or 10 percent of the allotment not to exceed 2 acres. In the case of all other types of tobacco, the larger of 0.03 acre or 5 percent of the allotment not to exceed 1 acre.

(2) *Other crops and programs.* The failure to file an accurate certification in the case of other applicable crops and programs not covered under subparagraph (1) of this paragraph shall render the producers on the farm ineligible for program benefits for such crops and programs except as may be authorized in accordance with the provisions of Part 791 of this chapter.

§ 718.8 Determination of crop and land use acreage by farm visit.

(a) *Applicability.* A representative number of farms as prescribed by the Deputy Administrator shall be visited to determine the accuracy of farmer certifications.

(b) *Equipment and materials.* The Deputy Administrator shall prescribe the basic equipment and materials to be used in the determination of crop and land use acreages. The use of other equipment and materials is not authorized.

(c) *Administrative variance*—(1) *General.* Crop and land use acreages determined in accordance with this section shall be deemed to be in compliance with program requirements when such acreages do not deviate from such program requirements by more than the applicable amount in subdivision (i), (ii), or (iii) of this subparagraph (1). Such administrative variance shall not apply in the case of adjusted acreage.

(i) *Tobacco.* The larger of 0.01 acre or 2 percent of the allotment not to exceed 0.09 acre.

(ii) *Other crop and land use.* The larger of 0.1 acre or 2 percent of the applicable crop or land use acreage limitation or other requirement for the program, not to exceed 0.9 acre.

(iii) *Rural Environmental Assistance Program.* When the difference between the acreage reported by the farmer and the measured acreage does not exceed the larger of 0.1 acre or 2 percent of the reported acreage, not to exceed 0.9 acre.

(2) *Farmer certification.* If the crop or land use acreage certified by the farm operator and the acreage determined by measurement do not differ by more than the applicable amount in subdivision (i) or (ii) of this subparagraph (2), the acreage certified by the operator shall be considered as the crop or land use acreage.

(i) *Tobacco.* The larger of 0.01 acre or 2 percent of the certified acreage not to exceed the 0.09 acre.

(ii) *Other crop and land use.* The larger of 0.1 acre or 2 percent of the certified acreage not to exceed 0.9 acre.

(d) *Official acreages.* If an acreage has been determined for an area delineated on an aerial photograph, such acreage may be recognized by the county committee as the "official acreage" for the area as delineated for purposes of acreage determinations until such time as the boundaries of such area are changed.

(e) *Measurement of row crops.* Measurements of any row crop shall extend beyond the planted area to a point equal to the larger of (1) 16 inches, or (2) one-half the distance between the rows.

(f) *Deviations due to use of mechanical equipment.* Deviations from prescribed width requirements which are attributable to variations normal to the operation of mechanical equipment shall not disqualify a planting pattern or deductible strip.

(g) *Rule of fractions*—(1) *Tobacco.* Each field or subdivision computed for tobacco shall be recorded in acres and hundredths of acre, dropping all thou-

sandths of acre, except where such field or subdivision is less than one-hundredth (0.01) acre, in which case the computation shall be carried to five decimal places and the acreage recorded in acres and thousandths of acre. The total farm acreage of each kind of tobacco shall be the sum of the field and subdivision acreage of each kind of tobacco and shall be recorded in acres and hundredths of acre, dropping all thousandths of acre.

(2) *Other crop and land uses.* For crops and land uses not covered by subparagraph (1) of this paragraph, each field or subdivision acreage shall be computed in acres and tenths of acre, dropping all hundredths of acre.

(h) *Acreage considered as devoted to crop or land use.* The entire acreage in an area devoted to a crop or land use shall be considered as devoted to the crop or land use subject to any allowable deductions or adjustments under this paragraph except as otherwise provided in this part.

(1) *Acreages of row crops planted in skip-row patterns*—(i) *Crops planted in strips of two or more rows alternating with idle land.* The entire area shall be considered as devoted to the crop where (*a*) the crop being measured is planted in strips of two or more rows alternating with idle land, and (*b*) the distance from plant row to plant row of the crop between strips of the crop is not more than 63 inches. However, if the distance from plant row to plant row between strips of the crop is more than 63 inches, the larger of one-half the distance between rows of the crop in the strip or 16 inches shall be considered as devoted to the crop.

(ii) *Crop being measured alternating with another crop.* The entire area shall be considered as devoted to the crop where (*a*) the crop being measured is planted in strips of one or more rows alternating with another crop, and (*b*) the distance from plant row to plant row between the strips of the crop being measured is not more than 63 inches. However, if the distance from plant row to plant row between the strips of the crop being measured is more than 63 inches, one-half the distance between the crops but not to exceed 32 inches shall be considered as devoted to the crop being measured; except that if the crop alternating with the crop being measured does not have substantially the same growing season or is not cared for in a workmanlike manner, the crop being measured shall be treated as alternating with idle land in accordance with subdivision (i) or (iii) of this subparagraph (1), as applicable.

(iii) *Single wide rows.* The entire area shall be considered as devoted to the crop where (*a*) such crop is planted in single wide rows, and (*b*) the distance from plant row to plant row is not more than 63 inches. However, when the distance from plant row to plant row is more than 63 inches, 32 inches beyond the row shall be considered as devoted to the crop.

(2) *Deductions.* Any continuous area which is not devoted to the crop or land use being measured shall be deducted from the acreage of the crop or land use if such area meets the following minimum requirements:

(i) *Minimum width requirement.* Thirty-two inches.

(ii) *Minimum area requirement*—(*a*) *Tobacco.* Three-hundredths (0.03) acre except that a minimum of one-hundredth (0.01) acre shall apply to turn rows and noncropland area which could not be planted to tobacco. Terraces, permanent irrigation and drainage ditches, and sod waterways of at least 32 inches width may be combined to meet the 0.03 acre minimum requirement.

(*b*) *All other crops and land uses.* One-tenth (0.1) acre. Terraces, permanent irrigation and drainage ditches, and sod waterways of at least 32 inches width which contain 0.1 acre or more may be combined to meet any larger minimum prescribed for a State under a State committee option in § 718.4.

(3) *Adjustment credit*—(i) *General.* Any area of land which is not eligible for deductions under subparagraph (2) of this paragraph shall not be eligible for adjustment credit except that an area ineligible because of size may be enlarged to meet the minimum adjustment requirements. Otherwise, adjustment credit may be permitted under subdivision (ii) of this subparagraph (3). Adjustment credit shall be given only for areas of reasonable shape and for a reasonable number of such areas. If a crop is disposed of in alternating pattern so that a single wide row or skip-row pattern of the crop is left standing within the adjusted area, adjustment credit shall not exceed the acreage reduction obtained by recomputing the standing crop acreage of the adjusted area in the same manner as applicable for an initial acreage determination.

(ii) *Crops and land uses.* Subject to the conditions of subdivision (i) of this subparagraph (3), adjustment credit shall be given for any area in which the crop or land use is adjusted in accordance with applicable regulations and which meets one of the following criteria:

(*a*) The area is 32 inches or more in width, and contains at least one-tenth (0.1) acre for crops other than tobacco, and contains at least three-hundredths (0.03) acre for tobacco, or

(*b*) An entire field or subdivision is adjusted, or

(*c*) The area being adjusted constitutes the total excess or deficient acreage of the crop or land use for the farm or is the remaining area required for adjustment after adjusting entire fields or subdivisions.

§ 718.9 Reliance by producer on previously determined acreage.

If a producer relies in good faith on an acreage for an identical area previously determined by the county committee, and the acreage is subsequently determined by the county committee to be incorrect, the county committee shall consider the acreage on which the producer relied to be correct for that program year upon obtaining satisfactory proof from the producer on the circumstances showing his good faith reliance.

§ 718.10 Determining acreage for unusual cases.

The Deputy Administrator shall determine the method for determining acreage in the following two groups of unusual cases which require equitable treatment and cannot be equitably handled under this part:

(a) *Reliance by farm operator on erroneous advice.* The farm operator has acted in good faith in reliance upon advice, which is not in accordance with this part, given by a representative of the State or county committee who is authorized to furnish information concerning the determination of acreage.

(b) *Practices which defeat program intent.* The method of planting the crop or the method of adjusting the crop or land use acreage has the effect of defeating program provisions or is contrary to the intent of the program involved.

§ 718.11 Notice of acreage to farm operator.

(a) *Written notice.* The county committee shall furnish written notice to the farm operator of acreages determined for the farm. Such notice shall be on a prescribed form and shall constitute notice to all producers on the farm.

(b) *Erroneous notice of acreage*—(1) *Within program requirements.* When an erroneous notice of acreage within program requirements is issued by the county committee for a farm determined to be out of compliance for marketing quota, price support, or other program purposes, such farm shall be deemed to be in compliance for such purposes if the county committee determines and the State committee concurs that lack of compliance was caused by all of the following:

(i) Reliance in good faith by the farm operator on the erroneous notice of acreage.

(ii) The erroneous notice was the result of an error made by an employee of the county or State office in reporting, computing, or recording an acreage for the farm.

(iii) Neither the farm operator nor any producer on the farm was in any way responsible for the error.

(iv) The extent of the error was such that the farm operator would not reasonably be expected to question the acreage of which he was erroneously notified.

(2) *Exceeds program requirements.* When an erroneous notice of acreage in excess or deficient of program requirements is issued by the county committee for a farm and such excess or deficiency is not adjusted in accordance with § 718.13, the farm shall not be deemed to be in compliance. However, if the four conditions listed in subparagraph (1) of this paragraph are met with respect to additional excess or deficient acreage not shown on the notice, the acreage shown on the notice shall be used for program purposes.

§ 718.12 Redetermination of acreage.

(a) *General.* A redetermination of crop and land use acreage for a farm may be initiated by the county committee,

State committee, or Deputy Administrator at any time; or by any producer with an interest in the farm upon filing a request within the earlier of 15 days from the date of the notice of acreage or the disposition date for the crop and upon payment of the cost of making the remeasurement. Remeasurement shall be accomplished as prescribed by the Deputy Administrator, and the acreage of crop or land use measured under this section shall be used in lieu of any prior measurement or report of acreage in all cases where such acreage differs from the prior measurement or report.

(b) *Late filed request.* The county committee may accept a late filed request when such request is filed within a reasonable length of time after the final date and the county executive director is satisfied that the late filing was due to conditions beyond the control of producers on the farm.

(c) *Notice to farm operator.* The county committee shall notify the farm operator of the acreage on the farm as redetermined under this section in the manner prescribed under § 718.11.

(d) *Refund of deposit.* The county committee shall refund the deposit for cost of remeasurement of initially determined acreage or of the adjusted acreage where because of an error made in the determination of such acreage:

(1) The redetermined acreage is considered to be within the allotment, permitted acreage, or intended acreage, or

(2) The redetermination of the acreage involved results in a change from the previously determined acreage of as much as 3 percent or 0.5 acre, whichever is larger.

§ 718.13 Adjustment of acreage.

(a) *General.* If the farm operator or other producer on a farm elects to adjust the acreage of a crop or land use in accordance with applicable regulations, the farm shall be visited for the purpose of determining the adjusted acreage. The adjusted acreage shall be used for program purposes except that if requirements of this section are not met, the acreage initially determined shall be considered as the crop or land use acreage for the farm.

(b) *Farmer certification.* No adjustment of crop or land use acreage is permitted after certification has been furnished to the county committee, except that:

(1) *Set-aside acres*—(i) *Adjustment of a deficiency.* An adjustment of a deficiency in set-aside acreage will be permitted when there is additional eligible land on the farm which does not require disposition of a crop to make it eligible. If a producer elects to designate additional set-aside acreage, he must file a notification of intent to adjust within 15 days from the date of notice of failure to comply.

(ii) *Substitution.* Substitution of set-aside acres will be permitted under conditions prescribed by the Deputy Administrator. If a producer elects to substitute set-aside acres, he must notify the county office of his intention.

(2) *Reclassification.* A final crop or land use certification may be revised to show a change in classification to comply with the applicable crop or land use definition except that a revised certification shall not be allowed if such would enable a producer to regain program compliance or escape the consequences of an erroneous certification after the farm is found out of compliance under § 718.18.

(3) *Peanuts.* Adjustment of excess peanut acreage shall be made as provided in Part 729 of this chapter.

(4) *Sugar.* Adjustment of sugar crop acreage shall be made as provided in Parts 850 and 855 of this title.

(5) *Tobacco, except Burley and Flue-cured.* The farm operator may dispose of excess tobacco as provided in § 724.80 of this chapter (i) to avoid marketing quota penalty, and (ii) to regain eligibility for price support when the excess acreage is within the limitations prescribed in § 718.6.

(i) *Timing requirements*—(a) *Initial notice.* Except as provided in subparagraph (6) of this paragraph (b), when the operator or other producer on a farm elects to adjust, an acreage, he shall notify the county executive director not later than 15 days from the date of the notice of acreage for price support purposes or before any marketing to avoid marketing quota penalty that he adjusted the acreage or, that he intends to adjust the acreage. A request for remeasurement will extend the date sufficient to allow such request to be serviced.

(b) *Revised notice.* Not later than the disposition date shown on the original notice or 7 days from the date of the notice, whichever is later.

(ii) *Extension of time for adjustment.* If producers on a farm are unable to adjust an acreage within the time limit specified on the notice of acreage, any producer having an interest in the crop or program involved, may request an extension of time. Upon determination that such producers were prevented from adjusting the acreage in the specified time by reasons beyond their control, the date may be extended to provide a reasonable period of time to make the adjustment.

(6) *Late notification of intent or completion of adjustment*—(i) *Report of adjustment.* A report of an acreage adjustment filed after the applicable date specified in this paragraph (b) may be accepted if it is determined that the adjust was made by the prescribed disposition date.

(ii) *Notice of intention.* A late notification of intention to adjust an acreage, when such notification is required, may be accepted upon determination that the notification was late due to reasons beyond the producer's control.

§ 718.14 Crop disposition dates.

(a) *General.* The final dates for disposal of excess acreage and certification of such acreage and program compliance when applicable under the cotton, rice, tobacco, wheat, and feed grain programs in a county or area within a county shall be the dates specified in paragraph (b) of this section except as otherwise provided in this part. The dates specified for each crop except tobacco are considered to be at least 30 days prior to the date harvest of such crop normally begins in the county or area within the county. In the case of tobacco, the dates specified are considered to be early enough to permit the making of acreage determinations for administrative control purposes prior to the normal start of harvest of such tobacco.

(b) *Crop disposition dates.*

ALABAMA

(1) *Wheat, barley, oats, and rye. May 1.* All counties.

(2) *Cotton, corn, and grain sorghums. July 15.* All counties.

(3) *Flue-cured tobacco. May 15.* All counties.

(4) *Other tobacco. June 15.* All counties.

ARIZONA

(1) *Winter-seeded wheat, barley, and rye. May 5.* All counties.

(2) *Spring-seeded wheat, barley, and rye. August 1.* All counties.

(3) *Oats. May 5.* All counties.

(4) *Early-planted corn. May 1.* All counties.

(5) *Early-planted grain sorghums. June 20.* All counties.

(6) *Cotton, late-planted corn and grain sorghums. August 15.* All counties.

(7) *Rice.* (i) *Fall-seeded. June 1.* All counties.

(ii) *Spring-seeded. September 10.* All counties.

ARKANSAS

(1) *Wheat, barley, oats, and rye. May 1.* All counties.

(2) *Corn, grain sorghums, cotton, and rice. July 15.* All counties.

(3) *Tobacco other than Flue-cured. July 15.* All counties.

CALIFORNIA

(1) *Wheat, barley, oats, and rye.* (i) *May 1.* Early-planted in Imperial and Riverside.

(ii) *May 15.* All counties not otherwise provided for in this subparagraph (1).

(iii) *June 15.* Monterey, San Benito, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, and Santa Cruz.

(iv) *July 1.* Early-planted in Del Norte, Humboldt, Lassen, Mendocino, Plumas, Shasta, and Siskiyou.

(v) *August 15.* Late-planted in Imperial, Riverside, and the counties listed in (iv) above.

(2) *Corn and grain sorghums.* (i) *May 1.* Early-planted in Imperial and Riverside.

(ii) *August 15.* Fresno, Inyo, Kern, Kings, Los Angeles, Madera, Merced, Monterey, Orange, San Benito, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, Tulare, Ventura, and late-planted in Imperial and Riverside.

(iii) *September 1.* All counties not otherwise provided for in this subparagraph (2).

(3) *Cotton. August 15.* All counties.

(4) *Rice. September 1.* All counties.

COLORADO

(1) *Wheat, barley, oats, and rye.* (i) *June 5.* Adams, Arapahoe, Baca, Bent, Boulder, Cheyenne, Crowley, Douglas, Elbert, El Paso, Huerfano, Jefferson, Kiowa, Kit Carson, Larimer, Las Animas, Lincoln, Logan, Morgan, Otero, Phillips, Prowers, Pueblo, Sedgwick, Washington, Weld, and Yuma.

(ii) *July 5.* Alamosa, Archuleta, Chaffee, Conejos, Costilla, Custer, Delta, Dolores, Eagle, Fremont, Garfield, Grand, Gunnison, Jackson, La Plata, Mesa, Moffat, Montezuma,

Montrose, Ouray, Park, Pitkin, Rio Blanco, Rio Grande, Routt, Saguache, San Miguel, and Teller.

(2) *Corn and grain sorghums. August 15.* All counties.

CONNECTICUT

(1) *Wheat and rye. June 1.* All counties.

(2) *Oats and barley. May 15.* All counties.

(3) *Corn and grain sorghums. August 1.* All counties.

(4) *Tobacco types 51 and 52. August 5.* Hartford.

DELAWARE

(1) *Wheat, barley, oats (winter), and rye. May 31.* All counties.

(2) *Oats (spring-seeded). June 15.* All counties.

(3) *Corn and grain sorghums. July 1.* All counties.

(4) *Soybeans. September 1.* All counties.

FLORIDA

(1) *Wheat, barley, oats, and rye. April 9.* All counties.

(2) *Corn, cotton, and Flue-cured tobacco.* (i) *June 1.* All counties except those listed in subdivision (ii) below.

(ii) *June 10.* Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Liberty, Okaloosa, Santa Rosa, Walton, and Washington.

(3) *Grain sorghums.* (i) *June 10.* Counties listed in subparagraph (2)(ii) above.

(ii) *August 1.* All other counties.

(4) *Rice. October 15.* All counties.

GEORGIA

(1) *Wheat, barley, oats, and rye. May 1.* All counties.

(2) *Corn, cotton, and grain sorghums. July 1.* All counties.

(3) *Flue-cured tobacco. June 1.* All counties.

(4) *Other tobacco. July 1.* All counties.

(5) *Soybeans. September 1.* All counties.

IDAHO

(1) *Wheat, barley, oats, and rye.* (i) *July 1.* Ada, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Kootenai, Lincoln, Minidoka, Nez Perce, Owyhee, Payette, Twin Falls, and Washington.

(ii) *July 15.* Adams, Bannock, Bear Lake, Benewah, Bingham, Blaine, Boise, Bonner, Bonneville, Boundary, Butte, Camas, Caribou, Clark, Clearwater, Custer, Franklin, Fremont, Idaho, Jefferson, Latah, Lemhi, Lewis, Madison, Oneida, Power, Teton, and Valley.

(2) *Corn and grain sorghums. August 15.* All counties.

ILLINOIS

(1) *Wheat, barley, and rye.* (i) *June 1.* Alexander, Bond, Calhoun, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Franklin, Gallatin, Greene, Hamilton, Hardin, Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Macoupin, Madison, Marion, Massac, Monroe, Montgomery, Morgan, Moultrie, Perry, Pope, Pulaski, Randolph, Richland, St. Clair, Saline, Sangamon, Scott, Shelby, Union, Wabash, Washington, Wayne, White, and Williamson.

(ii) *June 15.* All other counties.

(2) *Oats.* (i) *June 15.* Counties listed in (1)(i) above.

(ii) *July 1.* All other counties.

(3) *Corn and grain sorghums. July 1.* All counties.

(4) *Cotton. July 15.* All counties.

(5) *Rice. September 15.* All counties.

(6) *Soybeans. August 31.* All counties.

INDIANA

(1) *Wheat, barley, oats, and rye. June 1.* All counties.

(2) *Corn and grain sorghums. July 1.* All counties.

(3) *Soybeans. September 1.* All counties.

(4) *Tobacco (Dark air-cured and Cigar-Filler and Binder). July 15.* All counties.

IOWA

(1) *Wheat, barley, and rye. June 10.* All counties.

(2) *Corn, grain sorghums, and oats. July 1.* All counties.

(3) *Soybeans. August 19.* All counties.

KANSAS

(1) *Wheat, barley, and rye.* (i) *May 15.* Allen, Barber, Bourbon, Butler, Chautauqua, Cherokee, Comanche, Cowley, Crawford, Elk, Greenwood, Harper, Kingman, Labette, Montgomery, Neosho, Sedgwick, Sumner, Wilson, and Woodson.

(ii) *May 22.* Anderson, Atchison, Barton, Brown, Chase, Clark, Clay, Cloud, Coffey, Dickinson, Doniphan, Douglas, Edwards, Ellis, Ellsworth, Finney, Ford, Franklin, Geary, Graham, Grant, Gray, Harvey, Haskell, Hodgeman, Jackson, Jefferson, Jewell, Johnson, Kiowa, Leavenworth, Lincoln, Linn, Lyon, McPherson, Marion, Marshall, Meade, Miami, Mitchell, Morris, Morton, Nemaha, Ness, Osage, Osborne, Ottawa, Pawnee, Phillips, Pottawatomie, Pratt, Reno, Republic, Rice, Riley, Rooks, Ruch, Russell, Saline, Seward, Shawnee, Smith, Stafford, Stanton, Stevens, Trego, Wabaunsee, Washington, and Wyandotte.

(iii) *June 1.* Cheyenne, Decatur, Gove, Greeley, Hamilton, Kearny, Lane, Logan, Norton, Rawlins, Scott, Sheridan, Sherman, Thomas, Wallace, and Wichita.

(2) *Oats.* (i) *May 30.* Counties listed in (1)(i) above.

(ii) *June 6.* Counties listed in (1)(ii) above.

(iii) *June 16.* Counties listed in (1)(iii) above.

(3) *Corn and grain sorghums. August 15.* All counties.

(4) *Cotton. September 1.* Montgomery.

KENTUCKY

(1) *Wheat, barley, oats, and rye. June 1.* All counties.

(2) *Corn, grain sorghums, and cotton. July 15.* All counties.

(3) *Dark air-cured and dark fire-cured tobacco. July 15.* All counties.

(4) *Soybeans. September 15.* All counties.

LOUISIANA

(1) *Wheat, barley, oats, and rye. April 1.* All parishes.

(2) *Corn, grain sorghums, cotton, and rice. July 15.* All parishes.

(3) *Soybeans. September 15.* All parishes.

MAINE

(1) *Fall-seeded wheat, barley, and rye. June 15.* All counties.

(2) *Spring-seeded wheat, barley, oats, and rye. July 15.* All counties.

(3) *Corn and grain sorghums. August 1.* All counties.

MARYLAND

(1) *Wheat.* (i) *June 15.* Allegany, Baltimore, Carroll, Frederick, Garrett, Harford, Howard, Montgomery, and Washington.

(ii) *May 31.* All other counties.

(2) *Barley, oats, and rye. May 31.* All counties except Garrett.

(3) *Barley and rye. June 15.* Garrett County.

(4) *Spring-seeded oats. June 30.* Garrett County.

(5) *Corn, grain sorghums, and soybeans. August 1.* All counties.

MASSACHUSETTS

(1) *Wheat, barley, oats, and rye. July 1.* All counties.

(2) *Corn and grain sorghums. August 1.* All counties.

(3) *Tobacco types 51 and 52. August 1.* Franklin, Hampden, and Hampshire.

MICHIGAN

(1) *Wheat, barley, oats, and rye. June 15.* All counties.

(2) *Corn and grain sorghums. July 1.* All counties.

(3) *Soybeans. August 15.* All counties.

MINNESOTA

(1) *Wheat, barley, rye, corn, and grain sorghums. July 15.* All counties.

(2) *Oats.* (i) *Spring-seeded. July 15.* All counties.

(ii) *Late-seeded. August 1.* All counties.

(3) *Tobacco (cigar filler and binder). August 1.* Fillmore, Freeborn, Houston, Meeker, and Stearns.

MISSISSIPPI

(1) *Wheat, barley, oats, and rye. May 1.* All counties.

(2) *Corn, grain sorghums, cotton, and rice. July 15.* All counties.

MISSOURI

(1) *Wheat, barley, and rye. May 15.* All counties.

(2) *Oats. June 15.* All counties.

(3) *Corn, grain sorghums, and cotton. July 15.* All counties.

(4) *Rice. August 1.* All counties.

(5) *Soybeans. August 15.* All counties.

MONTANA

(1) *Wheat, barley, corn, grain sorghums, and rye. July 22.* All counties.

(2) *Oats. August 1.* All counties.

NEBRASKA

(1) *Wheat, barley, and rye.* (i) *June 1.* Adams, Burt, Butler, Cass, Cedar, Clay, Colfax, Cuming, Dakota, Dixon, Dodge, Douglas, Fillmore, Franklin, Furnas, Gage, Gosper, Hall, Hamilton, Harlan, Jefferson, Johnson, Kearney, Lancaster, Madison, Merrick, Nemaha, Nuckolls, Otoe, Pawnee, Phelps, Pierce, Platte, Polk, Richardson, Saline, Sarpy, Saunders, Seward, Stanton, Thayer, Thurston, Washington, Wayne, Webster, and York.

(ii) *June 5.* Antelope, Blaine, Boone, Boyd, Buffalo, Dawson, Dundy, Frontier, Garfield, Greeley, Hayes, Hitchcock, Holt, Howard, Knox, Loup, Nance, Red Willow, Sherman, Valley, and Wheeler.

(iii) *June 15.* Arthur, Brown, Chase, Cherry, Grant, Hooker, Keith, Keya Paha, Lincoln, Logan, McPherson, Perkins, Rock, and Thomas.

(iv) *June 25.* Banner, Box Butte, Cheyenne, Dawes, Deuel, Garden, Kimball, Morrill, Scotts Bluff, Sheridan, and Sioux.

(2) *Oats.* (i) *June 25.* Adams, Butler, Cass, Clay, Douglas, Fillmore, Franklin, Furnas, Gage, Gosper, Hall, Hamilton, Harlan, Jefferson, Johnson, Kearney, Lancaster, Merrick, Nemaha, Nuckolls, Otoe, Pawnee, Phelps, Polk, Richardson, Saline, Sarpy, Saunders, Seward, Thayer, Webster, and York.

(ii) *July 5.* Antelope, Boone, Buffalo, Burt, Chase, Colfax, Custer, Dakota, Dawson, Dodge, Frontier, Garfield, Greeley, Hayes, Hitchcock, Howard, Keith, Lincoln, Loup, Madison, Nance, Perkins, Pierce, Platte, Red Willow, Sherman, Stanton, Thurston, Valley, Washington, Wayne, and Wheeler.

(iii) *July 15.* Arthur, Banner, Blaine, Box Butte, Boyd, Brown, Cedar, Cherry, Cheyenne, Dawes, Deuel, Dixon, Garden, Grant, Holt, Hooker, Keya Paha, Kimball, Knox, Logan, McPherson, Morrill, Rock, Scotts Bluff, Sheridan, Sioux, and Thomas.

(3) *Corn, grain sorghums, and soybeans. July 15.* All counties.

NEVADA

Wheat, barley, oats, rye, corn, grain sorghums, and cotton. July 1. All counties.

NEW HAMPSHIRE

(1) *Wheat, barley, oats, and rye, July 10.* All counties.
(2) *Corn. July 15.* All counties.
(3) *Grain sorghums. June 30.* All counties.

NEW JERSEY

(1) *Wheat, barley, oats, and rye. June 10.* All counties.
(2) *Corn and grain sorghums. August 1.* All counties.
(3) *Soybeans. September 15.* All counties.

NEW MEXICO

(1) *Wheat, barley, oats, and rye.* (i) *June 1.* Catron, Chaves, Curry, De Baca, Dona Ana, Eddy, Grant, Guadalupe, Hidalgo, Lea, Lincoln, Luna, Otero, Quay, Roosevelt, Sierra, and Socorro.
(ii) *August 1.* Bernalillo, Colfax, Harding, McKinley, Mora, Rio Arriba, Sandoval, San Juan, San Miguel, Santa Fe, Taos, Torrance, Union, and Valencia.
(2) *Corn, grain sorghums, and cotton. September 1.* All counties.

NEW YORK

(1) *Wheat, barley, and rye.* (i) *June 10.* (Long Island) Nassau, and Suffolk.
(ii) *June 15.* All other counties.
(2) *Oats.* (i) *Winter. June 15.* All counties.
(ii) *Spring. July 1.* All counties.
(3) *Corn, grain sorghums, and soybeans. August 1.* All counties.

NORTH CAROLINA

(1) *Wheat, barley, oats, and rye. May 15.* All counties.
(2) *Corn, grain sorghums, cotton, rice, and Flue-cured tobacco.* (i) *June 20.* Anson, Beaufort, Bertie, Bladen, Brunswick, Camden, Carteret, Chowan, Columbus, Craven, Cumberland, Currituck, Dare, Duplin, Edgecombe, Gates, Greene, Halifax, Harnett, Hertford, Hoke, Hyde, Johnston, Jones, Lenoir, Martin, Nash, New Hanover, Northampton, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Pitts, Richmond, Robeson, Sampson, Scotland, Tyrrell, Washington, Wayne, and Wilson.
(ii) *June 30.* All other counties.

NORTH DAKOTA

(1) *Wheat, barley, oats (except late spring-seeded), rye, corn, and grain sorghums.* (i) *July 8.* Adams, Bowman, Dickey, Emmons, Grant, Hettinger, La Moure, Logan, McIntosh, Ransom, Richland, Sargent, Sioux, and Slope.
(ii) *July 15.* Barnes, Billings, Burleigh, Cass, Dunn, Foster, Golden Valley, Griggs, Kidder, McKenzie, McLean, Mercer, Morton, Oliver, Sheridan, Stark, Steele, Stutsman, Traill, and Wells.
(iii) *July 22.* Benson, Bottineau, Burke, Cavalier, Divide, Eddy, Grand Forks, McHenry, Mountrail, Nelson, Pembina, Pierce, Ramsey, Renville, Rolette, Towner, Walsh, Ward, and Williams.
(2) *Late-seeded spring oats. August 20.* All counties.

OHIO

(1) *Wheat, barley, and rye.* (i) *Fall-seeded. June 1.* All counties.
(ii) *Spring-seeded. August 15.* All counties.
(2) *Oats.* (i) *Fall-seeded. June 15.* All counties.
(ii) *Spring-seeded. August 15.* All counties.
(3) *Corn and grain sorghums. July 1.* All counties.
(4) *Cigar-filler and binder tobacco. August 1.* Miami and Montgomery.
(5) *Soybeans. August 30.* All counties.

OKLAHOMA

(1) *Wheat, barley, oats, and rye.* (i) *May 15.* Beaver, Cimarron, and Texas.
(ii) *May 1.* All other counties.
(2) *Corn and grain sorghums.* (i) *September 1.* Beaver, Cimarron, and Texas.
(ii) *August 10.* All other counties.
(3) *Cotton. August 10.* All counties.
(4) *Rice. August 10.* McCurtain.

OREGON

(1) *Wheat, barley, oats (winter), and rye.* (i) *June 15.* Benton, Clackamas, Clatsop, Columbia, Coos, Curry, Douglas, Hood River, Jackson, Josephine, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill.
(ii) *July 1.* Baker (early areas), Gilliam (under 2,000 feet elevation), Malheur (under 3,000 feet elevation), Morrow (under 2,000 feet elevation), Sherman (under 2,000 feet elevation), Umatilla (under 2,000 feet elevation), Union (early areas), and Wasco (except Antelope, Bakeoven, and Warm Springs communities).
(iii) *July 15.* Baker (late area), Gilliam (over 2,000 feet elevation), Jefferson, Malheur (over 3,000 feet elevation), Morrow (over 2,000 feet elevation), Sherman (over 2,000 feet elevation), Umatilla (over 2,000 feet elevation), Union (late area), and Wasco (Antelope, Bakeoven, and Warm Springs communities).
(iv) *August 1.* Crook, Deschutes, Grant, Harney, Klamath, Lake, Wallowa, and Wheeler.
(2) *Oats (spring).* (i) *July 15.* Counties listed in (1) (i) above.
(ii) *August 15.* Wallowa.
(3) *Oats and rye (spring). August 20.* Lake.
(4) *Corn and grain sorghums. August 1.* All counties.

PENNSYLVANIA

(1) *Wheat, barley, and rye.* (i) *June 7.* Adams, Berks, Bucks, Chester, Cumberland, Dauphin, Delaware, Franklin, Lancaster, Lebanon, Lehigh, Montgomery, Northampton, Perry, Philadelphia, Schuylkill, and York.
(ii) *June 21.* All other counties.
(2) *Oats. July 1.* All counties.
(3) *Corn and grain sorghums. August 1.* All counties.

RHODE ISLAND

(1) *Wheat, barley, oats, and rye. July 1.* All counties.
(2) *Corn and grain sorghums. August 1.* All counties.

SOUTH CAROLINA

(1) *Wheat, barley, oats, and rye. May 1.* All counties.
(2) *Cotton, and Flue-cured tobacco. June 5.* All counties.
(3) *Corn. June 20.* All counties.
(4) *Grain sorghums and rice. July 15.* All counties.

SOUTH DAKOTA

(1) *Wheat, barley, oats, and rye.* (i) *June 20.* Bennett, Bon Homme, Charles Mix, Clay, Fall River, Gregory, Jackson, Jones, Lyman, Mellette, Pennington, Shannon, Todd, Tripp, Union, Washabaugh, and Yankton.
(ii) *July 1.* Aurora, Beadle, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Clark, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Faulk, Grant, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jerauld, Kingsbury, Lake, Lawrence, Lincoln, McCook, McPherson, Marshall, Meade, Miner, Minnehaha, Moody, Perkins, Potter, Roberts, Sanborn, Spink, Stanley, Sully, Turner, Walworth, and Ziebach.
(2) *Corn and grain sorghums. July 1.* All counties.

TENNESSEE

(1) *Wheat, barley, oats, and rye. May 15.* All counties.
(2) *Corn, cotton, grain sorghums, and rice. July 15.* All counties.
(3) *Dark air-cured and dark fire-cured tobacco. July 15.* All counties.

TEXAS

(1) *Wheat, barley, oats, and rye.* (i) *May 15.* Archer, Armstrong, Bailey, Baylor, Briscoe, Carson, Castro, Childress, Clay, Cochran, Collingsworth, Cottle, Crosby, Dallam, Deaf Smith, Dickens, Donley, Fisher, Floyd, Foard, Garza, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Haskell, Hemphill, Hockley, Hutchinson, Jones, Kent, Knox, Lamb, Lipscomb, Lubbock, Montague, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Throckmorton, Wheeler, Wichita, Wilbarger, and Young.
(ii) *May 1.* All other counties.
(2) *Corn, cotton, and spring-seeded grain sorghums.*
(i) *May 15.* Cameron, Hidalgo, Starr, and Willacy.
(ii) *June 1.* Aransas, Bee, Brooks, Duval, Jim Hogg, Jim Wells, Kenedy, Kleberg, Nueces, Refugio, San Patricio, and Zapata.
(iii) *June 15.* Atascosa, Austin, Bexar, Brazoria, Caldwell, Calhoun, Colorado, Comal, De Witt, Dimmit, Fort Bend, Frio, Galveston, Goliad, Gonzales, Guadalupe, Harris, Hays, Jackson, Karnes, Kinney, La Salle, Lavaca, Live Oak, McMullen, Matagorda, Maverick, Medina, Uvalde, Val Verde, Victoria, Waller, Webb, Wharton, Wilson, and Zavala.
(iv) *July 1.* Bastrop, Bell, Bosque, Brazos, Burleson, Ellis, Falls, Fayette, Freestone, Grimes, Hill, Johnson, Lee, Limestone, McLennan, Milam, Navarro, Robertson, Tarrant, Travis, Washington, and Williamson.
(v) *July 15.* Anderson, Angelina, Bandera, Blanco, Bowie, Camp, Cass, Chambers, Cherokee, Collins, Cooke, Crockett, Dallas, Delta, Denton, Edwards, Fannin, Franklin, Gillespie, Grayson, Gregg, Hardin, Harrison, Henderson, Hopkins, Houston, Hunt, Jasper, Jefferson, Kaufman, Kendall, Kerr, Kimble, Lamar, Leon, Liberty, Madison, Marion, Menard, Montgomery, Morris, Nacogdoches, Newton, Orange, Panola, Polk, Rains, Real, Red River, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Smith, Sutton, Titus, Trinity, Tyler, Upshur, Van Zandt, Walker, and Wood.
(vi) *August 1.* Andrews, Bailey, Borden, Brewster, Briscoe, Brown, Burnet, Callahan, Castro, Clay, Cochran, Coke, Coleman, Comanche, Concho, Coryell, Crane, Crosby, Culberson, Dawson, Eastland, Ector, El Paso, Erath, Fisher, Floyd, Gaines, Garza, Glasscock, Hale, Hamilton, Hockley, Hood, Howard, Hudspeth, Irion, Jack, Jeff Davis, Jones, Lamb, Lampasas, Llano, Loving, Lubbock, Lynn, McCulloch, Martin, Mason, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Parmer, Pecos, Presidio, Reagan, Reeves, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Swisher, Taylor, Terrell, Terry, Tom Green, Upton, Ward, Winkler, Wise, Yoakum, and Young.
(vii) *August 15.* Archer, Armstrong, Baylor, Carson, Childress, Collingsworth, Cottle, Dallam, Deaf Smith, Dickens, Donley, Foard, Gray, Hall, Hansford, Hardeman, Hartley, Haskell, Hemphill, Hutchinson, Kent, King, Knox, Lipscomb, Moore, Motley, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Stonewall, Throckmorton, Wheeler, Wichita, and Wilbarger.
(3) *Summer-seeded grain sorghums.* (i) *September 1.* Anderson, Andrews, Angelina, Bastop, Bell, Blanco, Borden, Bosque, Bowie, Brazos, Brewster, Brown, Burleson, Caldwell, Callahan, Camp, Cass, Cherokee, Coke, Cole-

man, Collin, Comal, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Culberson, Dallas, Dawson, Delta, Denton, Eastland, Ector, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Franklin, Freestone, Gaines, Garza, Gillespie, Glasscock, Grayson, Gregg, Grimes, Hamilton, Hardin, Harrison, Hayes, Henderson, Hill, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Irion, Jack, Jasper, Jeff Davis, Johnson, Jones, Kaufman, Kendall, Kerr, Kimble, Kinney, Lamar, Lampasas, Lee, Leon, Limestone, Llano, Loving, Lynn, McCulloch, McLennan, Madison, Marion, Martin, Mason, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Morris, Nacogdoches, Navarro, Nolan, Palo Pinto, Parker, Pecos, Polk, Presidio, Rains, Reagan, Real, Red River, Reeves, Robertson, Rockwall, Runnels, Ruck, Sabine, San Augustine, San Jacinto, San Saba, Schleicher, Scurry, Shackelford, Shelby, Smith, Somervell, Stephens, Sterling, Sutton, Tarrant, Taylor, Terrell, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Val Verde, Van Zandt, Walker, Ward, Washington, Williamson, Winkler, Wise, Wood, Yoakum, and Young.

(ii) *September 15.* Aransas, Atascosa, Austin, Bandera, Bee, Bexar, Brazoria, Brooks, Calhoun, Cameron, Chambers, Colorado, De Witt, Dimmit, Fort Bend, Frio, Galveston, Goliad, Gonzales, Guadalupe, Harris, Hidalgo, Jackson, Jefferson, Jim Hogg, Jim Wells, Karnes, Kenedy, Kleberg, La Salle, Lavaca, Liberty, Live Oak, McMullen, Matagorda, Maverick, Medina, Nueces, Orange, Refugio, San Patricio, Starr, Uvalde, Victoria, Waller, Webb, Wharton, Willacy, Wilson, Zapata, and Zavala.

(4) *Rice.* (i) *June 15.* Austin, Brazoria, Calhoun, Colorado, Fort Bend, Galveston, Harris, Jackson, Lavaca, Matagorda, Victoria, Waller, and Wharton.

(ii) *July 1.* Bastrop, Travis, and Washington.

(iii) *July 15.* Chambers, Hardin, Jasper, Jefferson, Liberty, Newton, Orange, Polk, and Walker.

(iv) *September 1.* Bowie.

(5) *Soybeans. September 30.* All counties.

UTAH

(1) *Wheat, barley, oats, rye, corn, and grain sorghums.* (i) *June 20.* Box Elder, Cache, Davis, Grand, Juab, Kane, Millard, Salt Lake, San Juan, Sevier, Tooele, Utah, Washington (except grain sorghums), and Weber.

(ii) *July 1.* Beaver, Carbon, Duchesne, Emery, Iron, Piute, Sanpete, and Uintah.

(iii) *July 10.* Daggett, Garfield, Morgan, Rich, Summit, Wasatch, and Wayne.

(2) *Grain sorghums. July 20.* Washington County.

VERMONT

Wheat, barley, oats, rye, corn, and grain sorghums. July 10. All counties.

VIRGINIA

(1) *Wheat, barley, rye, and fall-sown oats.* (i) *June 1.* Accomack, Albemarle, Amelia, Amherst, Appomattox, Bedford, Brunswick, Buckingham, Campbell, Caroline, Charles City, Charlotte, Chesapeake, Chesterfield, Cumberland, Dinwiddie, Essex, Fluvanna, Franklin, Gloucester, Goochland, Greene, Greensville, Halifax, Hampton, Hanover, Henrico, Henry, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Louisa, Lunenburg, Mathews, Mecklenburg, Middlesex, Nansemond, Nelson, New Kent, Newport News, Northampton, Nottoway, Orange, Pittsylvania, Powhatan, Prince Edward, Prince George, Richmond, Southampton, Spotsylvania, Stafford, Surry, Sussex, Virginia Beach, Westmoreland, and York.

(ii) *June 15.* All other counties.

(2) *Spring-seeded oats. July 1.* All counties.

(3) *Corn, cotton, and grain sorghums. June 30.* All counties.

(4) *Flue-cured, Sun-cured, and Fire-cured tobacco. June 30.* All counties.

(5) *Soybeans. September 15.* All counties.

WASHINGTON

(1) *Wheat, barley, oats, and rye.* (i) *June 30.* Asotin (Area 2), Benton, Columbia (Area 1), Franklin, Garfield (Area 1), Grant (Area 1), Klickitat (Area 1), Walla Walla (Under 1,205 feet elevation), and Yakima.

(ii) *July 15.* Adams, Asotin (Area 1), Chelan, Clallam, Clark, Cowlitz, Douglas (Area 1), Garfield (Area 2), Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Klickitat (Area 2), Lewis, Lincoln, Mason, Okanogan (Area 2), Pacific, Pierce, San Juan, Skagit, Skamania, Snohomish, Spokane, Thurston, Wahkaikum, Walla Walla (Over 1,205 feet elevation), Whatcom, and Whitman.

(iii) *August 1.* Asotin (Area 3), Columbia (Area 2), Douglas (Area 2), Ferry, Grant (Area 2—Wilson Creek Lowlands), Okanogan (Area 1), Pen Oreille, and Stevens.

(2) *Spring-seeded oats. August 1.* Lincoln, Pen Oreille, Spokane, and Stevens.

(3) *Corn and grain sorghums. August 15.* All counties.

WEST VIRGINIA

(1) *Wheat, barley, and rye. June 15.* All counties.

(2) *Oats. June 30.* All counties.

(3) *Corn and grain sorghums. August 15.* All counties.

(4) *Soybeans. September 1.* All counties.

WISCONSIN

(1) *Wheat and rye.* (i) *June 15.* Adams, Buffalo, Columbia, Crawford, Dana, Dodge, Dunn, Eau Claire, Fond du Lac, Grant, Green, Green Lake, Iowa, Jackson, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Marquette, Milwaukee, Monroe, Pepin, Pierce, Portage, Racine, Richland, Rock, St. Croix, Sauk, Trempealeau, Vernon, Walworth, Waukesha, Waushara, and Winnebago.

(ii) *July 1.* All other counties.

(2) *Barley and oats.* (i) *July 1.* Counties listed in (1) (i) above.

(ii) *July 15.* All other counties.

(3) *Corn and grain sorghums. August 1.* All counties.

(4) *Soybeans, September 1.* All counties.

(5) *Tobacco. July 15.* All counties.

WYOMING

(1) *Wheat, barley, oats, and rye.* (i) *June 30.* Goshen, Laramie, and Platte.

(ii) *July 8.* Albany, Converse, and Niobrara.

(iii) *July 13.* Big Horn, Campbell, Carbon, Crook, Fremont, Hot Springs, Johnson, Natrona, Park, Sheridan, Washakie, and Weston.

(iv) *August 1.* Lincoln, Sublette, Sweetwater, Teton, and Uinta.

(2) *Corn and grain sorghums.* (i) *June 30.* Goshen and Laramie.

(ii) *August 1.* All other counties.

Effective date: Upon publication in the FEDERAL REGISTER (8-4-71).

Signed at Washington, D.C., on July 29, 1971.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-1175 Filed 8-3-71;8:51 am]

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

[Valencia Orange Reg. 358, Amdt. 1]

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

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908, 35 F.R. 16625), 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 recommendation 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 amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Valencia oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b)(1) (i), and (ii) of § 908.658 (Valencia Orange Regulation 358, 36 F.R. 13583) during the period July 23, through July 29, 1971, are hereby amended to read as follows:

§ 908.658 Valencia Orange Regulation 358.

* * * * *

(b) *Order.* (1) * * *

(i) District 1: 126,000 cartons.

(ii) District 2: 424,000 cartons.

* * * * *

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

Dated: July 29, 1971.

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

[FR Doc.71-11124 Filed 8-3-71;8:47 am]

[Bartlett Pear Reg. 5]

PART 931—FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement and Order No. 931 (7 CFR Part 931) regulating the handling of fresh Bartlett pears grown in Oregon and Washington, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the recommendations of the Northwest Fresh Bartlett Pear Marketing Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of fresh Bartlett pears, in the manner herein provided, will tend to effectuate the declared policy of the act.

(2) The recommendations of the committee reflect its appraisal of the crop and current and prospective market conditions. Shipments of Bartlett pears from the production area are expected to begin on or about August 9, 1971. The grade and size requirements provided herein are necessary to prevent the handling on and after August 9, 1971, of any Bartlett pears of lower grades and smaller sizes than those herein specified, so as to provide consumers with good quality fruit, consistent with the overall quality of the crop, while maximizing returns to producers pursuant to the declared policy of the act.

The provisions which provide for less stringent grade and size regulations for pears packed in the "Western lug" recognizes the fact that pears in this container are sold primarily to markets in the northwestern States primarily for home canning, and that pears packed in the "14- to 15-pound containers" are sold primarily in markets in the midwestern States also primarily for home canning. Conversely, the application of more stringent grade and size regulations for pears packed in the "standard western pear box", the "L.A. lug", or their carton equivalents, or in "tight-filled" containers, recognizes the fact that pears packed in these containers are primarily sold in supermarkets throughout the country for fresh consumption to be eaten out of hand. The provision which sets a smaller diameter limit for red Bartlett pears recognizes the fact that the demand for this variety differs from that for regular Bartlett pears because of their red color and because they are less desirable for canning. The exemption for individual shipments of 500 pounds or less of Bartlett pears sold for home use and not for resale and for pears in gift packages follows the custom and pattern of prior years. The quantity of pears so handled is relatively inconsequential when compared with the total quantity handled, and it would be administratively impractical to regulate the handling of such shipments due to the nearness to the source of supply.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that, as hereinafter set forth, the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than August 9, 1971. A reasonable determination as to the supply of, and the demand for, Bartlett pears must await the development of the crop and adequate information thereon was not available to the Northwest Fresh Bartlett Pear Marketing Committee until July 13, 1971; recommendation as to need for, and the extent of, regulation of shipments of such pears was made at the meeting of said committee on July 13, 1971, after consideration of all available information relative to the supply and demand conditions for such pears, at which time the recommendation and supporting information were submitted to the Department, necessary supplemental data for consideration in connection with the specifications of the provisions were not available until July 21, 1971; shipments of the current crop of such pears are expected to begin on or about the effective time hereof; this regulation should be applicable, insofar as practicable, to all shipments of such pears in order to effectuate the declared policy of the act; and compliance with the provisions of this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

§ 931.305 Bartlett Pear Regulation 5.

(a) Order: During the period August 9, 1971, through September 12, 1971, no handler shall handle any lot of Bartlett pears unless such pears meet the following applicable requirements, or are handled in accordance with subparagraph (4) or (5) of this paragraph.

(1) *Minimum grade and size requirements.* Such pears grade at least U.S. No. 1, and be of a size not smaller than 165 size when packed in the "standard western pear box", the "L.A. lug", or their carton equivalents, or in "tight-filled" containers, or be at least 2¼ inches in diameter when packed in the "western lug" or in containers containing at least 14 pounds, net weight, but not more than 15 pounds, net weight, of pears: *Provided*, That pears which grade at least U.S. No. 2 which are not smaller than the 120 size, or not smaller than the 150 size for the red Bartlett variety, may be handled if they are packed in the "standard western pear box", the "L.A. lug", or their carton equivalents; or if they are not smaller than 2¼ inches in diameter they may be handled if packed in the "western lug" or in containers containing at least 14 pounds, net weight, but not more than 15 pounds, net weight, of pears; or

(2) *Pack and container requirements.* Such pears are packed in the "standard western pear box", the "L.A. lug" or their carton equivalents, in "tight-filled" containers, in containers containing at least 14 pounds, net weight, but more than 15 pounds, net weight, of pears, or in containers having a capacity equal to, or greater than the "western lug".

(3) *Special inspection requirements for minimum quantities.* During the aforesaid period any handler may ship on any conveyance up to but not to exceed 200 containers (of those types specified herein) of pears without regard to the inspection requirements of § 931.55 under the following conditions: (i) Each handler desiring to make shipment of pears pursuant to this subparagraph shall first apply to the committee on forms furnished by the committee for permissions to make such shipments. The application form shall provide a certification by the shipper that all shipments made thereunder during the marketing season shall meet the marketing order requirements, that he agrees such shipments shall be subject to spot check inspection, and that he agrees to report such shipments at time of shipment to the committee on forms furnished by the committee, showing the car or truck number and destination; and (ii) on the basis of such individual reports, the committee shall require spot check inspection of such shipments.

(4) *Special purpose shipments.* Notwithstanding any other provision of this section, any shipment of pears in gift packages may be handled without regard to the provisions of this paragraph, of § 931.41 (Assessments), and of § 931.55 (Inspection and certification).

(5) Notwithstanding any other provision of this secton, any individual shipment of pears which meets each of the following requirements may be handled without regard to the provisions of this paragraph, of § 931.41 (Assessments), and of § 931.55 (Inspection and certification):

(i) The shipment consists of pears sold for home use and not for resale;

(ii) The shipment does not, in the aggregate, exceed 500 pounds, net weight, of pears; and

(iii) Each container is stamped or marked with the handler's name and address and with the words "not for resale" in letters at least one-half inch in height.

(b) Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order; "U.S. No. 1," "U.S. No. 2", and "size" shall have the same meaning as when used in the U.S. Standards for Summer and Fall Pears (§§ 51.1260-51.1280 of this title); "120 size", "150 size", "165 size" shall mean that the pears are of a size which, as in-

dicated by the size number, will páck, in accordance with the sizing and packing specifications of a standard pack, as specified in said U.S. Standards, 120, 150, or 165 pears, respectively, in a standard western pear box (inside dimensions 18 inches long by 11½ inches wide by 8½ inches deep); the term "L.A. lug" shall mean a container with inside dimensions of 5¾ by 13½ by 16⅛ inches; the term "western lug" shall mean a container with inside dimensions of 7 by 11½ by 18 inches; and the term "tight-filled" shall mean that the pears in any container shall have been well settled by vibration, according to approved and recognized methods.

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

Dated: July 29, 1971.

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

[FR Doc.71-11123 Filed 8-3-71;8:47 am]

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

PART 1121—MILK IN SOUTH TEXAS MARKETING AREA

Notice Suspending Effective Date of Termination of Order

Pursuant to the order of the U.S. District Court for the District of Columbia entered on July 30, 1971, the effective date of the order terminating the order signed July 16, 1971 (36 F.R. 13369), is suspended until further order.

Effective date. July 30, 1971.

Signed at Washington, D.C., on July 30, 1971.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.71-11215 Filed 8-3-71;8:51 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 71-NE-2]

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

Alteration of Transition Area

On page 11221 of the FEDERAL REGISTER for June 10, 1971, the Federal Aviation Administration published a proposed rule which would designate a Fryeburg, Maine, transition area (36 F.R. 11221).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t., October 14, 1971.

Issued in Burlington, Mass., on July 22, 1971.

FERRIS J. HOWLAND,
Director, New England Region.

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Fryeburg, Maine, 700-foot-floor transition area described as follows:

FRYEBURG, MAINE

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 43°59'28" N., 70°56'53" W., of Eastern Slopes Airport, Fryeburg, Maine, and within 4.5 miles north and 6.5 miles south of the 118° bearing and the 298° bearing from the Fryeburg NDB, 43°59'21" N., 70°56'58" W., extending from 5.5 miles west of the NDB to 11.5 miles east of the NDB, excluding the portions within the North Conway, N.H., area.

[FR Doc.71-11118 Filed 8-3-71;8:47 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER A—GENERAL

PART 2—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

Delegations From the Secretary and Assistant Secretary

Under authority vested in the Secretary of Health, Education, and Welfare and delegated to the Commissioner of Food and Drugs (21 CFR 2.120), § 2.120 is amended to conform with the Department's notice of June 18, 1971 (36 F.R. 11770), regarding the Poison Prevention Packaging Act of 1970, by revising the introductory text of paragraph (a) and by adding a new subparagraph to paragraph (a), as follows:

§ 2.120 Delegations from the Secretary and Assistant Secretary.

(a) The Assistant Secretary for Health and Scientific Affairs has redelegated to the Commissioner of Food and Drugs with authority to redelegate (35 F.R. 606, 3000; 36 F.R. 8893, 11770, 12803) all authority delegated to him by the Secretary of Health, Education, and Welfare as follows.

* * * * *

(7) Functions vested in the Secretary and delegated by him to the Assistant Secretary for Health and Scientific Affairs under the Poison Prevention Packaging Act of 1970 (P.L. 91-601).

* * * * *

Effective date: June 18, 1971.

Dated: July 21, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-11130 Filed 8-3-71;8:47 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

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

COMPONENTS OF PAPER AND PAPERBOARD IN CONTACT WITH FOOD

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 9B2420) filed by Sun Chemical Corp., Wood River Junction, R.I. 02894, and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use of the substance set for the below as a water repellent employed as described. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2526(a)(5) is amended by alphabetically inserting in the list of substances a new item, as follows:

§ 121.2526 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(a) * * *
(5) * * *

List of Substances	Limitations
* * *	* * *
Bis(methoxymethyl)tetrakis [(octadecyloxy)-methyl]melamine resins having a 5.8-6.5 percent nitrogen content.	For use only under the following conditions: 1. As a water repellent employed prior to the sheet-forming operation in the manufacture of paper and paperboard in such amount that the finished paper and paperboard will contain the additive at a level not in excess of 1.6 percent by weight of the finished dry paper and paperboard fibers. 2. The finished paper and paperboard will be used in contact with foods only of the types identified in paragraph (c) of this section, table 1, under types I, II, IV-B, VI-B, VII-B, and VIII.
* * *	* * *

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (8-4-71).

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

Dated: July 21, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-11131 Filed 8-3-71;8:47 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER J—BRIDGES

[CGFR 71-292]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Indian River, Fla.

This amendment changes the regulations for the Eau Gallie and Melbourne highway bridges across the Indian River at mile 197.4 and mile 201.2 to increase the closed periods during the morning by ½ hour, i.e., from 7:45 to 8:15. This amendment was circulated as a public notice dated May 12, 1971 in the FEDERAL REGISTER as a notice of proposed rulemaking (CGFR 71-29) on May 5, 1971 (36 F.R. 8382). Several comments were received and considered.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.436(b) to read as follows:

§ 117.436 Indian River, Fla.; Florida State Road Department bridges at Titusville, Eau Gallie, Melbourne, and the National Aeronautics and Space Administration bridge at Addison Point.

* * * * *

(b) The draws of the bridges at Eau Gallie and Melbourne shall open on signal, except on Monday through Friday from 6:45 a.m. to 8:15 a.m. and from 4:15 to 5:45 p.m., the draw may remain closed.

* * * * *

(Sec. 5, Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655 (g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4) (35 F.R. 15922))

Effective date. This revision shall become effective on August 30, 1971.

Dated: July 21, 1971.

R. E. HAMMOND,
Rear Admiral, U.S. Coast Guard, Chief, Office of Operations.

[FR Doc.71-11139 Filed 8-3-71;8:48 am]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

APPORTIONMENT OF DEATH PENSION

In § 3.460, the introductory portion preceding paragraph (a) and paragraph (c)(3) are amended to read as follows:

§ 3.460 Death pension.

Death pension will be apportioned, if the child or children of the deceased veteran are not in the custody of the widow, at the rates specified in this section. Where the widow's rate is in excess of $70 monthly, because of having been the wife of the veteran during his service or because of need for regular aid and attendance, the additional amount will be added to her share.

* * * * *

(c) *Mexican border period, World War I or later war periods.* * * *

(3) On and after January 1, 1969, where pension is payable under 38 U.S.C. 541, the shares for the widow and children will be not less than the rate which would be authorized under subparagraph (2) of this paragraph. If a greater total rate is available, the additional amount will be payable to the widow or children or will be divided. See § 3.451.

(72 Stat. 1114; 38 U.S.C. 210)

This VA Regulation is effective January 1, 1971.

Approved: July 28, 1971.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[FR Doc.71-11143 Filed 8-3-71;8:49 am]

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5093]

[Wyoming 27628]

WYOMING

Partial Revocation of Stock Driveway Withdrawal

By virtue of the authority contained in section 10 of the Act of December 29, 1916, 39 Stat. 865, as amended, 43 U.S.C. sec. 300 (1964), it is ordered as follows:

1. The departmental order of February 5, 1924, modifying Stock Driveway Withdrawal No. 3 (Wyoming No. 1), is hereby revoked so far as it affects the following described lands:

SIXTH PRINCIPAL MERIDIAN

T. 47 N., R. 87 W., sec. 29, NE¼NE¼NW¼NE¼.

The area described contains 2.5 acres in Washakie County.

The land lies approximately 1 mile south of Ten Sleep, Wyo. Vegetation consists of a sagebrush-grassland association of low carrying capacity. The terrain is gently rolling.

2. At 10 a.m. on September 2, 1971, the land shall be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdraws, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on September 2, 1971, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The lands have been and continue to be open to applications and offers under the mineral leasing laws, and to location under the U.S. mining laws.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Cheyenne, Wyo.

HARRISON LOESCH,
Assistant Secretary of the Interior.

JULY 28, 1971.

[FR Doc.71-11109 Filed 8-3-71;8:46 am]

[Public Land Order 5094]

[Wyoming 0118975]

WYOMING

Powersite Restoration No. 567; Partial Revocation of Powersite Reserves No. 5 and No. 30; Opening of Land Subject to Section 24 of Federal Power Act

By virtue of the authority contained in section 24 of the Act of June 10, 1920,

41 Stat. 1075, as amended, 16 U.S.C. sec. 818 (1964), and pursuant to the determination of the Federal Power Commission in DA-149 and DA-150-Wyoming, it is order as follows:

1. The Executive order of July 2, 1910, creating Powersite Reserves No. 5 and No. 30, is hereby revoked so far as it affects the following described land:

SIXTH PRINCIPAL MERIDIAN

T. 35 N., R. 111 W., Sec. 9, NE¼NE¼.

The area described aggregates 40 acres in Sublette County.

2. In DA-150-Wyoming, the Federal Power Commission determined that the following described land, withdrawn in Powersite Reserve No. 5, will not be injured or destroyed by restoration to location, entry, or selection under appropriate public land laws, subject to the provisions of section 24 of the Federal Power Act, *supra*.

SIXTH PRINCIPAL MERIDIAN

T. 35 N., R. 111 W.,
Sec. 3, SE¼NW¼, NW¼SW¼.

The area described aggregates 80 acres in Sublette County.

The State of Wyoming failed to exercise its preference right of application for highway rights-of-way or material sites as provided by section 24 of the Federal Power Act of June 10, 1920, supra, when notified of the proposed restoration of the lands from powersite withdrawals.

3. At 10 a.m. on September 2, 1971, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, the requirements of applicable law. All valid applications received at or prior to 10 a.m. on September 2, 1971, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Any disposals of the land described in paragraph 2, above, shall be subject to the provisions of section 24 of the Federal Power Act, supra.

The lands have been and continue to be open to applications and offers under the mineral leasing laws, and to location under the U.S. mining laws.

Inquiries concerning the land should be addressed to the Assistant Manager, Branch of Lands, Bureau of Land Management, Cheyenne, Wyo. 82001.

HARRISON LOESCH,
Assistant Secretary of the Interior.

JULY 28, 1971.

[FR Doc.71-11110 Filed 8-3-71;8:46 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 71-775]

PART 73—RADIO BROADCAST SERVICES

Station Identification Requirements

Order. 1. Section 73.1201(a) of the Commission's rules regarding station identification requirements specifies that television stations may make their hourly station identification announcements either visually or aurally but must make both a visual and an aural announcement at the beginning and the ending of each broadcast day.

2. The latter requirement for both visual and aural identification was initially imposed to aid the Commission's enforcement activities. The requirement for only two visual identifications in addition to an appreciable number of aural identifications in the entire day's transmissions does not assist appreciably in aiding the Commission's enforcement program and there does not appear to be any other public interest reason why both visual and aural identification announcements should be required at the beginning and ending of each broadcast day. Accordingly, § 73.1201(a) of the Commission's rules is amended to read as follows:

§ 73.1201 Station identification.

(a) *When regularly required*. Broadcast stations shall announce station identification: (1) At the beginning and ending of each time of operation, and (2) regularly, during operation, within 2 minutes of each hour. Standard, FM, and noncommercial educational FM broadcast stations shall, additionally, announce station identification regularly within 2 minutes of each half hour. Television broadcast stations may make these announcements either visually or aurally.

* * * * *

3. This amendment to the rules is adopted pursuant to the authority contained in sections 4 (i) and (j) and 303(r) of the Communications Act of 1934, as amended. Since this amendment will relax restrictions rather than impose new requirements on television stations, and does not appear to adversely affect the rights of either the public or any licensee, prior notice of proposed rule making and the effective date requirements of the Administrative Procedure Act (5 U.S.C. 553 (b)(B) and (d)(3)) do not apply.

4. *Accordingly, it is ordered*, That effective August 6, 1971, § 73.1201(a) of the Commission's rules and regulations is amended to read as set forth above.

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

Adopted: July 28, 1971.

Released: July 30, 1971.

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

[FR Doc.71-11149 Filed 8-3-71;8:51 am]

Title 50—WILDLIFE AND FISHERIES

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

PART 32—HUNTING

Audubon National Wildlife Refuge, N. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (8-4-71).

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

NORTH DAKOTA

AUDUBON NATIONAL WILDLIFE REFUGE

Public hunting of pronghorn antelope on the Audubon National Wildlife Refuge, N. Dak., is permitted only in the area designated by signs as open to hunting. This open area, comprising 13,837 acres, is delineated on a map available at refuge headquarters and from the Regional Director, Bureau of Sports Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, MN 55111. Hunting shall be in accordance with all applicable State regulations covering the hunting of pronghorn antelope, subject to the following special conditions:

(1) Hunting is permitted from 12 noon, c.s.t., until sunset, September 24, and from sunrise until sunset September 25 through October 3, 1971.

(2) Hunting will be by permit only, with a maximum of 25 antelope hunting permits to be issued by the North Dakota Game and Fish Department for Audubon Refuge.

(3) All hunters must exhibit their hunting license, antelope tag and permit, game, and vehicle contents to Federal and State officers upon request.

(4) Vehicular traffic, including the use of boats, is prohibited by hunters on the refuge during the antelope season.

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 October 3, 1971.

DAVID C. MCGLAUCHLIN,
Refuge Manager, Audubon National Wildlife Refuge, Coleharbor, N. Dak.

JULY 28, 1971.

[FR Doc.71-11113 Filed 8-3-71;8:46 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 502—REGULATIONS UNDER SECTION 5(c) OF THE FAIR PACKAGING AND LABELING ACT

"Cents-Off" Representations, Introductory Offers, and "Economy Size"

Notice is given that at the request of the Grocery Manufacturers of America, Inc., 1632 K Street NW., Washington, DC, and for good and sufficient reason, the time period in which any adversely affected party may file written objections to § 502.100 *"Cents-off" representations*, to § 502.101 *Introductory offers*, and to § 502.102 *"Economy size"* which were published in the FEDERAL REGISTER of June 30, 1971 (36 F.R. 12284-12288) is extended to August 30, 1971.

Issued: August 2, 1971.

By direction of the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.71-11241 Filed 8-3-71;9:15 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Ch. IX]

[Docket No. AO-373]

LETTUCE GROWN IN CALIFORNIA, ARIZONA, COLORADO, NEW MEXICO, AND A DESIGNATED PART OF TEXAS

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

Pursuant to the applicable 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, U.S. Department of Agriculture, of this recommended decision of the Department, with respect to a proposed marketing agreement and order (hereinafter referred to collectively as the "order") regulating the handling of lettuce grown in California, Arizona, Colorado, New Mexico, and a designated part of Texas. Any order that may result from this proceeding will 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 persons may file written exceptions to this recommended decision with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the close of business of the 20th day after publication of this recommended decision in the FEDERAL REGISTER. They should be filed in quadruplicate. All such communications will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Preliminary statement. The public hearing, on the record of which the order was formulated, was held in Los Angeles, Calif., March 2-6, 1971, and continued at Albuquerque, N. Mex., March 10-12, 1971, pursuant to a notice thereof which was published in the January 27, 1971, issue of the FEDERAL REGISTER (36 F.R. 1266) with a minor correction in the February 2, 1971, issue (36 F.R. 1541). Such notice set forth a proposed marketing agreement and order prepared and presented with a petition for a hearing thereon by the Western States Lettuce Producers Committee.

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 commodity, the persons, and the marketing 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 committee which shall be the local administrative agency for assisting the Secretary in administration of the order;

(c) The incurring of expenses and the levying of assessments on handlers to obtain revenue for paying such expenses;

(d) The method of regulating the handling of lettuce grown in the production area, including the establishment of base quantities and allocations and other terms and provisions relating to volume regulations;

(e) The establishment of requirements for reporting and recordkeeping on marketing transactions;

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

(g) Additional terms and conditions of miscellaneous provisions published (36 F.R. 1266) as §§ ___.86 through ___.96 which are common to marketing orders and other terms and conditions published as §§ ___.97 through ___.99 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:

The proposed program should regulate the handling of lettuce by restricting the quantity that handlers may purchase from or handle on behalf of any and all producers during an allocation period of 1 or more weeks duration. It should provide a method of allotting the quantity of lettuce during any base quantity period among handlers based on amounts sold by producers during a prior representative period determined by the Secretary to the end that the total quantity to be handled from such crop will be apportioned equitably among producers. This is for the purpose of carrying out the declared policy of the act by establishing and maintaining orderly marketing conditions and increasing returns to producers of lettuce as provided therein.

(1) Lettuce is the Nation's most important fresh vegetable crop in terms of volume and total value. Its average annual farm value during the past 3 years was over $220 million. The average U.S. annual production of lettuce over the past 3 years was nearly 4.5 billion pounds, of which over 90 percent was grown in the proposed production area.

Production area lettuce is marketed in substantial volume in every month of the year. During 1970 the average monthly shipments were approximately 7,800 carlot equivalents. Approximately 65 percent of the unloads of production area lettuce shown in USDA's Market News reports of unloads in 41 cities are accounted for by 38 major cities outside of the production area. Every one of the 41 cities reported unloads of production area lettuce in 1970 and for practically every month. Expert testimony indicates that production area lettuce is shipped to virtually every city in the United States.

Production area lettuce is so grown, harvested, and packed that virtually any given lot may be, and often is, sold or transported to any market in the United States. The industry's domestic market for lettuce is the entire United States and its members are in daily contact with buyers across the Nation. At times shipments are diverted from initial destinations to other destinations either within or outside of the States of origin. With modern communication and transportation systems, lettuce prices or supplies in any one location are promptly known elsewhere and have a direct effect on lettuce prices and supplies in all other locations.

No significant differentiations occur in sales as between lettuce for use within a State in the production area as compared with lettuce for use in other parts of the United States or the world. If a program regulating only interstate and foreign commerce in lettuce were to be made effective, the market for lettuce in some States within the production area would be greatly overburdened with the unregulated supplies resulting in lower prices in such States. In turn, this would adversely affect the price of lettuce in other States. The evidence of record is that all movement of lettuce in marketing channels is inextricably intermingled and in direct competition, and hence it is concluded that the handling of lettuce within the respective States in the production area directly burdens, obstructs, or affects interstate and foreign commerce to such an extent as to make necessary the regulation of intrastate commerce in lettuce as well as the interstate and foreign commerce in lettuce.

Lettuce is an agricultural commodity within the group of vegetables named in the act to which its marketing authority may be applied.

It is determined from substantial evidence in the record of hearing that the right to exercise Federal jurisdiction in the marketing of lettuce grown in the production area hereinafter defined is proper and appropriate under the act and the order hereinafter set forth.

(2) Production of lettuce in the proposed production area has trended upward in the past decade, going from 34.2 million hundredweight in 1961 to over 42.4 million in 1970. Both increased acreage and improving yields accounted for the rise. During most years from 1961 through 1970, some lettuce was not marketed due to adverse market conditions. However, such losses of seasonal crops became more frequent and larger during the latter half of the period. Less than one-tenth of 1 percent of New Mexico's 1965 lettuce tonnage was not marketed. But growers in that State abandoned 3 percent of their 1969 output, and California growers did not market 5 percent of the lettuce that was available for marketing during the last half of 1970.

Season average farm prices for lettuce were less than parity prices each year during the 1961–70 period. The simple average for the 10 years is less than 82 percent of parity, ranging from only 69 percent of parity in 1961 to 95 percent in 1966. The ratio of farm to parity prices has declined since 1966, reaching a low of 70 percent in 1970.

During this period of relatively low prices, producers' costs for virtually all supplies and especially labor have steadily increased. Record evidence shows that costs per acre to grow and harvest lettuce in the Salinas, Calif. area, were approximately $1,067 in 1970. This represented an approximate 57 percent increase over 1964 costs.

Exhibit 47 regarding operations in the Yuma, Ariz., area further illustrates the cost trend, showing increases over the last 10 years in virtually every item. These included increases of 114 percent for growing costs per acre; 100 percent for preharvest labor, 84 percent for harvest labor, and 67 percent in cooling charges.

A number of witnesses presented evidence that lettuce prices have not been returning the cost of production. For example, Exhibit 65 (table 6) shows the North Texas area lettuce industry had negative producer returns in eight of the last 11 years with total losses of $519,000 or more in 1960 and 1969. The average annual total producer return for the 11 years was a minus $181,000.

Exhibits 14 through 17 show lettuce industry losses in Imperial County, Calif., as follows: 1966–67—$8,875,744; 1967–68—$4,558,153; and 1969–70—$10,801,920. Although official figures are not available for the 1970–71 season, it was generally expected that they will show a heavy loss. All of the areas that compete during the Imperial County, Calif., shipping season have about the same costs and experience the same market conditions. So the negative returns likely were common in all competing areas as well.

While burdensome on an annual basis, lettuce supplies vary sharply within the year. Exhibit 36 shows that U.S. weekly shipments during the January 1969–January 1971 period ranged from 1,033 to 2,459 carlot equivalents. Such drastic changes in short-run supply resulted in U.S. average prices ranging in 1970 from a low of 50 percent of parity in February to 127 percent in September.

With both supplies and prices swinging widely, gross returns have been volatile. Production area lettuce has produced agricultural income ranging from about $109 million to nearly $218 million in annual farm value during the last decade. The element of economic risk in lettuce production is among the highest in agriculture.

Many farmers have not been able to withstand the extreme income variability and continuing periods of loss. Census data show that 1,800 farms in the five-State area harvested lettuce for sale in 1959, 1,400 did so in 1964, and by 1970, their number was down to about a thousand. Evidence by hearing witnesses attested that more growers were likely to be forced out soon if the current marketing system continued.

Record evidence also indicates that total lettuce marketings have been below its potential because retailers are reluctant to promote lettuce even in times of abundant supply due to the short-term irregularity in production and price. Growers and shippers believe that by eliminating the wide variations in shipments they can smooth out price levels, reduce the need for the wide spreads between shipping point and retail prices, and sell more lettuce than at present.

It was contended by several witnesses at the hearing that the order would reduce industry income from lettuce because the demand for lettuce was elastic. The foundation for this contention was a statistical analysis of supply-price relationships in New York City published in 1957 by the University of Arizona. The applicability of that study to current conditions is at best questionable in view of the substantial changes in marketing practices that have occurred in the past decade. In addition, the fact that the analysis concerned terminal market relationships discounts its value as a measure of elasticity at the shipping point level. Subsequently, the University of Arizona analyzed economic relationships for more recent years at the shipping point level and concluded in effect that the total demand for lettuce is inelastic throughout almost all of the relevant range, and therefore, it is to be expected that any reduction in total quantity shipped that would likely result from a marketing control program would cause the total net revenue to the grower to increase.

Several witnesses at the hearing testified that although overproduction was a real problem to the lettuce industry, the situation was self-correcting through voluntary reductions in production to bring supply in line with demand. Recent downtrends in New Mexico lettuce output were cited as illustrations of better ways of attaining orderly and stable marketing conditions. Production in New Mexico in 1970 was reduced 29 percent from a year earlier, largely because of less acreage. However, aggregate production in other production area States increased, so for the much smaller crop, New Mexico producers received a 27 percent lower price. This indicates that efforts to regulate supply voluntarily do not succeed.

The record evidence shows that individual lettuce growers have been unable to cope with the industrywide problem of balancing supply with demand. Reductions by individual producers, or in one area, have been negated by increases by other producers or in other producing districts.

On the basis of their experience over the past decade, numerous grower and handler witnesses with long experience in production area lettuce production and marketing attested that in the absence of a program such as they proposed, supplies will likely continue to exceed demand, resulting in depressed prices. The need exists to regulate marketings through allocations to producers, thereby stabilizing supplies, promoting orderly marketing, and tending to improve prices toward parity, with due regard to interests of consumers.

The need for the order hereinafter set forth, is determined to exist in fact. Further, the terms and provisions of such order are authorized by the act as a means of establishing and maintaining orderly marketing conditions for this commodity.

(3) The term "lettuce" should be defined to identify the commodity to be regulated hereunder. Such term should mean all varieties of lettuce classified under the botanic name *Lactuca sativa*, commonly known as iceberg-type head lettuce, grown within the production area. It should exclude "soft lettuce" such as Romaine, endive, and Bibb lettuce and should also exclude iceberg-type lettuce grown outside the production area because these have significantly different characteristics and they are not considered as exact substitutions for production area lettuce.

A definition of the term "production area" should be incorporated into the marketing order to designate the specific area in which the lettuce to be regulated is grown. It should include all of the States of California, Arizona, Colorado, and New Mexico, and those counties in the State of Texas north of and in which no part of U.S. Highway 90 is located. This production area has accounted for over 90 percent of the U.S. lettuce production during the past 3 years. It is the smallest regional production area practicable for application of the order. The lettuce from all districts in the production area is of the same varieties and grown under similar cultural practices. It is harvested, packed, cooled, and transported in a similar manner and is

purchased by the trade at comparable prices for similar quality and is all known as Western iceberg lettuce.

There are numerous producer-shippers who operate in more than one of the States or districts of the production area. Applying the order to any lesser area could materially jeopardize the effectiveness of the program. California usually accounts for two-thirds or more of the annual U.S. lettuce supply. Arizona, New Mexico, Colorado, and a designated part of Texas each account for substantially smaller proportions of annual shipments. But each assumes an important role as a supplier within the year. If any district were excluded from the production area, its shipments could have a very detrimental effect on the program, especially during the months when its shipments are at a peak. The acreage in any one of the production area districts would likely be expanded if it were excluded from the order. Thus, while contributing to the oversupply of lettuce, producers in such districts would benefit from the operation of the order at the expense of other producers whose lettuce was being regulated.

(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. Obligations are placed on such persons for meeting requirements of the order and the regulations issued thereunder such as volume limitations, assessments, and reporting requirements.

Common or contract carriers transporting lettuce owned by another person should be excluded from this definition as their function is solely to supply freight or other services on an agency basis for other persons who own the commodity.

A producer who handles the lettuce he has produced is considered to be a handler when he performs the handling function on such lettuce. However, harvest crews, whether or not permanently employed by the owner of the lettuce, are considered as performing harvest activities on a custom basis, i.e., service on a fee basis, and have no other interest in or control over the commodity or its disposition. It is not necessary for purposes of order operation that the crew or its members be considered as handlers.

"Handle" should mean the act or function, or both, whereby any person places lettuce in the current of the commerce within the production area or between the production area and any point outside thereof.

According to the record, lettuce harvesting and market preparation processes generally are as follows: Lettuce in most fields matures at irregular rates so that in harvesting it is necessary to select and harvest each individual head, leaving the immature heads for later harvest. As many as five different harvestings may be required to complete the harvest on an individual field, but most fields require three.

Nearly all of the production area lettuce volume is harvested and packed by the so-called field pack method. Handlers' crews consist of about 30 to 35 individuals—typically 16 cutters, eight packers, four loaders, and two water boys plus a crew foreman and his assistants—who work as a unit. The cutters examine each individual head, and if the proper size and maturity, cut it from its roots. The head is then inspected for defects, and trimmed to allow four to five wrapper leaves to remain. The packers follow, placing the heads in a two-layer-pack standard corrugated carton. The top layer is washed with water, and the carton is closed, stapled, and loaded on pallets aboard field trucks, to be transported to vacuum cooler plants. The packaged lettuce is cooled to 34° and loaded into rail cars and trucks for shipment to market under controlled refrigeration. Although most harvested lettuce is field packed, some is moved to packing sheds for packaging and other handling.

The harvesting of lettuce terminates its production and brings the harvested lettuce into the visible supply on which trading takes place. Therefore, the harvesting of lettuce should be considered as an act of handling and the person responsible for such act as a handler.

Since harvesting is the initial act of handling, it should be the point of impact for the application of allocations, as hereinafter discussed, and for the determination of compliance therewith, except as otherwise specifically provided.

Applying the allocation in this manner at an early stage of trading should effectively coordinate the quantities of lettuce that may be purchased from producers, and handled on behalf of producers, with the allocations established for a particular allocation period. Conformance with the respective allocations of producers, in terms of the amount that may be handled, should be readily ascertainable by measurement on the basis of number of cartons of harvested lettuce, regardless of whether packed in the field or at the packinghouse.

In addition to the harvesting function, handlers are responsible for packaging, selling, shipping, and transporting harvested lettuce, and such acts should be construed as handling whether or not on behalf of a producer.

The record evidence shows that some lettuce is harvested but subsequently condemned by regulatory authorities because of quality factors, or rendered unsaleable by mishandling during packing, moving, loading, cooling, etc. When such lettuce, condemned or otherwise rendered unsaleable, is destroyed before shipment, the committee may credit an equal quantity to the producer's allocation as a replacement for such quantity of lettuce already charged. It should not be creditable to any allocation period subsequent to the period in which the destroyed lettuce was originally handled.

Although it is normally considered that the handler function begins with the cutting of the lettuce in the field, the harvested heads of lettuce continue as the property of the producer unless and until he sells his lettuce. In such circumstances, the handler acts on behalf of the producer in performing the various handling functions to prepare it for market as a matter of practical convenience in the operation of this industry.

(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.

"Producer" should mean any person engaged in a proprietary capacity in the production of lettuce in the production area for market. Such a person would normally have the right to sell lettuce so that handlers may purchase from such person or may handle it on such person's behalf.

Producers include individuals, partnerships, corporations, or any other business units which in any way own all or a portion of the lettuce produced. The term "partnership" should include husband-and-wife with respect to ownership of the lettuce produced and vested in them as tenants in common, joint tenants by the entirety, or under community property laws as community property.

Record evidence indicates that a substantial amount of production area lettuce is produced under joint venture arrangements by which several persons contribute resources to a single endeavor to produce and market a lettuce crop. In such ventures, one party is the farmer who may contribute one or more factors such as his labor, time, production facilities, or cultural skills. The other party typically is a handler who may contribute money and cultural supervision, the latter particularly as the crop nears the harvest stage. The handler generally also contractually agrees to harvest and market the venture's lettuce at a fixed fee per unit, such as a carton.

For purposes of determining base quantities under the order pursuant to

§ ___.53, all parties to a joint venture should each be considered as a producer, provided they each had a proprietary interest in the lettuce produced by the venture. "Proprietary interest" is construed as sharing in the risk of loss in the production and marketing of a joint venture's crop of lettuce through a direct contractual arrangement between the parties in the venture. The handler usually shares in the risk by financing the production, advancing as a guarantee, part or all of the growing expenses. Each party to the joint venture should be considered a producer in proportion to the share of his proprietary interest as specified in the contract—i.e., each party to a typical 50–50 joint venture should be considered the producer of half of the lettuce that was sold.

Occasionally a field of lettuce may be sold before it is ready to be harvested. The buyer of such unharvested lettuce should then also be considered a "producer" along with the seller as each would be bearing the risks and have proprietary interest. They should share 50-50 in any resulting credit for base quantity purposes unless otherwise specified in a written agreement. If the second producer sells the same crop in the field unharvested he should similarly share his half, or other percentage, ownership with the purchaser.

Since there are so many other possibilities regarding producer arrangements or actions such as foreclosures, bankruptcies, et cetera, rather than try to outline all cases, the order should provide for rule making recommended by the committee and approved by the Secretary to cover such situations.

Some lettuce is also raised by contract farmers, essentially salaried personnel who have no proprietary interest in the crop. Such individuals should not be considered "producers" under this program.

"Registered producer" means any producer registered with the committee pursuant to § ___.53. To obtain a base quantity, a producer should register with the committee, indicate his desire for a base quantity, and report and substantiate the number of cartons of his lettuce sold during a specified prior period or periods. The information furnished should clearly evidence sales by him in the representative period or on his behalf.

"Pack" should be defined as a specific quantity of lettuce in any type of container and which falls within prescribed weight limits, numerical limits, size limits, or any combination of the three, as prescribed by the Secretary upon recommendation by the committee so that whenever a pack regulation is issued under the order its meaning will be readily ascertainable.

"Carton" should be defined as set forth in the order as a basis of providing a standard unit of measure for identifying lettuce production, shipments, sales, base quantities and allocations. Even though containers other than those covered by the term "carton" may be used, the quantity of lettuce in such containers could readily be converted to an equivalent in terms of "cartons."

"Marketing year," "season," and "fiscal period" should be defined to set forth an appropriate annual period of time with respect to financial operations and regulatory provisions and records under the order. Although production area lettuce is produced and marketed in or from the production area each month of the year, the most desirable annual period at the present time is the 12-month period beginning August 1 through the following July 31. This period is appropriate since on August 1 the number of districts engaged in production or marketing is at a seasonal low. Several States in the production area (Arizona, New Mexico, and Texas) are generally not shipping lettuce at that time. Planting of most fall and winter crops is not yet underway. However, to allow sufficient operational flexibility, authority should be provided to permit changing the term of the marketing year to cover a different series of 12 consecutive calendar months. Any such change should, however, be made effective by the Secretary upon recommendation of the committee. In this way the views of the administrative agency, the committee, should be able to apprise the Secretary of needed changes based on operational experiences.

(5) (b) Section 608c(7)(C) of the act provides for an administrative agency for effective operation of an order. It is desirable to establish such an agency to administer this order, as an aid to the Secretary in carrying out the purposes of the order and the declared policy of the act. The term "Western States Lettuce Administrative Committee" is a proper identification of the agency and reflects the character thereof. A committee of 18 members, with representation as hereinafter provided in § ___.20, with a like number of alternates, should be a workable, equitable, representative committee adequate to judiciously recommend marketing regulations and to satisfactorily handle the other various committee duties and responsibilities. Record evidence shows that because of the size of the production area and the nature of the program involved, a committee of 18 is considered the least number which would allow good representation from the various districts while holding, within reason travel and other committee expenses incidental to attendance at potential weekly committee meetings.

Since a primary purpose of the act is to increase returns to producers, a preponderance of committee members should be producers. Therefore, 15 of the committee members should be persons who are producing lettuce for market in the respective districts at the time of selection and during their term of office, or who are officers or employees of such corporate producers in that district. A handler who is also a producer should not be precluded from being appointed as a producer member and vice versa. Three handler members and their alternates, selected from the production area at large and who handled lettuce during each of the 12 months of the season, should complement the producer representation, providing balanced judgments and a broad perspective of the production area lettuce marketing situation from month to month and district to district.

San Luis Obispo County of California, which was listed in District No. 5 in the notice of hearing, should be in District No. 1. The districts (i.e. the geographical divisions of the production area) delineate the producing sections generally in accordance with industry understanding of subdivisions of the production area. Producer representation on the committee should be distributed among such districts on the basis of their past record of acreage and production in each district. This basis should provide equitable representation on the committee and should also provide the separate districts with reasonable representation. This should be accomplished by allowing District No. 5, with one-third of the harvested acres, three producer members. Districts No. 3 and 8, each with over 15 percent of the acreage should have two each. Each of the remaining districts should have one member.

The order should provide for reapportionment and redistricting so that the Secretary may, upon recommendation of the committee, give consideration to adjustments and to make adjustments when warranted in committee representation in the event of significantly changing conditions in the future, such as major shifts in production within the production area.

A 1-year term of office, with no limitation on successions in office, seems reasonable and will allow the lettuce industry to express its approval or disapproval of the committee membership near the end of each marketing year and prior to the beginning of a new one.

The proponents' proposal that a public meeting be held in each district to nominate producer members and alternates prior to May 15 of each year, or such other date as may be specified by the Secretary, is a proper and practical method of providing the Secretary with names of nominees the industry desires to have serve on the committee.

Persons who produce in more than one district have invested time, effort, and resources in each such district and have a direct interest in any regulation affecting their lettuce wherever grown. Thus if a producer grows lettuce in more than one district he should be represented in each such district and able to vote at nomination meetings in each such district.

Since the three handler members and their alternates are elected from the production area at large, an assembled nomination meeting might be impractical. Therefore, a mail balloting procedure should be permitted if recommended by the committee and approved by the Secretary. The committee could submit to every known handler a list of persons affiliated with and designated by handlers who handled production area lettuce during each month of the im-

mediately preceding season. From such list each handler should vote for three persons. The committee should tabulate the returned ballots, with the three handlers having the most votes being nominated as members and the next three as alternates. The handler with the fourth largest vote should be the nominee for alternate to the handler with the highest vote, the fifth highest, alternate to the second, and the sixth highest alternate to the third. The entire voting process should be completed not less than 45 days prior to the pending term of office.

As the Western States Lettuce Administrative Committee will not be in a position to act until after the selection by the Secretary of its initial members, the order should provide a special procedure for selection of the initial members.

Proponent testimony stressed the urgent need for prompt issuance of the order and regulations thereunder. It would be desirable to hold public meetings to nominate the initial committeemen. However, as this procedure might cause undue delay, the Secretary should have the flexibility of accepting nominations obtained in other manners. The Secretary should be authorized to select the committee without regard to nomination in this case, or in other cases if for some reason nominations are not submitted to him in conformance with the procedures prescribed herein. Such selection should, of course, be on the basis of the representation provided in the order.

Each person selected by the Secretary as a committee member or alternate should qualify by filing with the Secretary a written acceptance of his willingness and intention to serve in his position.

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

The order should provide that an alternate member shall be selected for each member of the committee in order to insure that each district has the opportunity to have representation at meetings. Each alternate who is selected shall have the same qualifications for membership as the member for whom he is alternate so that during the member's absence or in the event that the member should die, resign, be removed from office, or be disqualified, the district representation on the committee will remain unchanged. In such cases, the alternate should serve until a successor to such member has been appointed and has qualified.

With regard to committee meetings and procedure, the evidence of record shows that on actions not involving volume regulations, 10 members, including alternates acting as members, should be necessary to constitute a quorum and pass any motion. This should be adequate to reflect a representative and accurate cross section of industry thoughts and attitudes. However, on all motions to recommend volume regulations for a particular base quantity period, the record supports a different voting procedure. Since such action will vitally affect producers whose lettuce is or will be handled during that period of regulation, the only committee men who should qualify to vote are the three handler members including alternates acting as such and those producer members or their alternates from districts which are subject to allocation during that regulation period: *Provided*, That both the quorum and the number of concurring votes needed should be the majority of all those eligible to vote whether they are present or not.

The committee should have authority to follow procedures which will assure its proper and efficient operation. In order to facilitate the transaction of routine, noncontroversial business where it might be expensive and unreasonable to call an assembled meeting, or in other instances when rapid action may be necessary, the committee should be authorized to conduct meetings by telephone, telegraph or other means of communication. Since the committee may find it necessary to meet every week and since individual committeemen may have to travel many miles round trip to attend an assembled meeting, other arrangements may be vital to expedite transactions of the committee. Such possibilities as conference telephone calls or simultaneous meeting of groups of its members in two or more places with direct communications connections should be investigated.

Any votes cast at nonassembled meetings should be confirmed promptly in writing to provide a record of how each member, or the alternate acting in his stead, voted.

It is appropriate that the members and alternates of the committee be reimbursed for necessary expenses incurred when performing authorized committee business, since it would be unfair for them to bear personally such expenses incurred in the interests of all lettuce producers in the production area.

The committee should be given those specific powers which are set forth in section 608c(7)(C) of the act. Such powers are necessary to enable an administrative agency of this character to function properly under the marketing order. The committee's duties 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 nature. It should be recognized that these specified duties are not necessarily all-inclusive and it is probable that there are other duties which the committee may need to perform which are incidental to and not inconsistent with its specified duties or the marketing order.

An annual report should be prepared by the committee as soon as possible after the close of each marketing year to document fully its operations for the season to the industry and the Secretary.

(c) The committee 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 committee 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 committee with 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 funds to cover committee expenses should be obtained by levying 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 lettuce during a fiscal period should pay assessments to the committee at a rate fixed by the Secretary on all lettuce he so handles. In this way, each handler's total payments of assessments during a fiscal period would be proportional to the quantity of lettuce handled by such handler, and assessments would be levied on the same lettuce only once.

The rate of assessment should be established by the Secretary on the basis of the committee'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 unit basis, such as a carton.

Although handling of lettuce from the production area is a continuous 12-month operation, the period near the beginning of the marketing year will be one of extra activity, for the committee will be closing out one marketing year, auditing its account, preparing the annual report, 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 committee's expenses will be incurred before income for the current fiscal period equals expenses.

In order to provide funds for the administration of this program during the

fiscal period prior to the time sufficient assessment income becomes available during such period, the committee should be authorized to accept advance payments of assessments from handlers and also, when such action is deemed to be desirable, to borrow money to meet such deficiency.

The provision for the acceptance by the administrative agency of advance assessment payments is included in other marketing order programs 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 made in an appreciable amount. Revenue accruing to the committee from assessments later in the season would normally 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 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 lettuce handled during the particular fiscal period, so that the total payments by each handler during each fiscal period will be proportional to his share of the total volume of lettuce handled by all handlers during that period.

Should the regulatory provisions of the order be suspended during any portion or all of a fiscal period, it will be necessary to obtain funds to cover expenses during such period unless funds in the reserve are sufficient for such purpose. Thus authorization should be provided to require the payment of assessments to meet any necessary expenses during such periods.

The assessment rates under the program would be set at the beginning of the season based on a crop of an estimated volume. However, lettuce in the production area is susceptible to damage from frosts, wind, hail, and other factors. Should crop failure or partial crop loss reduce the crop so that assessment income falls below expenses, it might be necessary for handlers to cover the deficit through increased assessments. Since this would impose an extra burden on the industry, it would be equitable and less burdensome for handlers to establish an operating reserve during years of normal production. The reserve fund would be built during years when funds exceed expenses. In order that reserve funds not be accumulated beyond a reasonable amount, however, a limit of not to exceed approximately 1 fiscal period's expenses should be provided.

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 funds 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 impractical to ascertain. 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 committee from assessments should be used solely for the purpose of the order. The committee should as a matter of good business practice maintain up-to-date books and records clearly reflecting the operation of its affairs. It should provide the Secretary with periodic reports at appropriate times, such as at the end of each marketing year or at such other times as may be necessary, to enable him to maintain appropriate supervision and control over the activities and operations.

The marketing order should provide authority for production research, market research, and market development. Such activity could contribute to greater efficiency in production and marketing, and stimulate sales and per capita consumption. Since the act contains no authority for paid advertising for lettuce, market development does not include paid advertising.

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

In order to facilitate the operation of the program, the committee should toward the end of each marketing 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 producers and handlers. The policy so established would serve to inform the Secretary and persons in the industry, in advance of the production and marketing of the crop, of the committee's basic plans for regulations, including estimates of the respective total allocations of lettuce and producer allocations with respect thereto. Handlers and producers could then plan their individual operations in accordance therewith and thus reduce the overproduction that has plagued the industry in the past. The policy also should be useful to the committee 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 develop a comprehensive and effective policy for regulating the handling of lettuce in any marketing year, it is necessary that all of the important economic factors having a bearing on the marketing of the crop be considered by the committee. Hence, the committee in preparing its marketing policy should give consideration to the supply and demand factors, as hereinafter set forth in the order, affecting marketing conditions for lettuce since consideration of such factors is essential to the development of an economically sound and practical marketing policy.

The marketing policy report should contain forecasts of the probable demand for lettuce during the applicable base quantity periods. The record shows that the committee should be able to make reasonably accurate estimates of demand since there are detailed USDA records of weekly shipments for many years which can be correlated with economic and other relevant data. Since the committee will also have a record of the total of base quantities for any given base quantity period throughout the year, by relating the aggregate base quantities to the estimated aggregate demand it should be able to determine fairly closely the allocation percentages needed for each such period.

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 lettuce and would need to be considered by the committee.

The committee should also give consideration to prospective production of lettuce and competing vegetables by time periods, both in the production area and in competing areas.

The marketing policy report should also contain information regarding any other factors such as U.S. population and export demand conditions which have a bearing upon the economic and price-making situation for lettuce.

Section ----.50 dealing with marketing policy should also include the total of base quantities during each base quantity period. This is an important factor which must be included in considering any allocation regulation. As the divisor, it is one of two numbers used to calculate the uniform percentage which, when applied to each producer's base quantity, results in his allocation.

These factors should provide adequate criteria to consider in developing a marketing policy statement and should be adopted.

If supply or demand conditions for lettuce change significantly the committee should have authority to revise the marketing policy statement when the situation warrants. A report of each revised marketing policy should be submitted to the Secretary and made available to producers and handlers by bulletins, or other appropriate media.

The order should provide for volume regulations as hereinafter discussed under which the volume of lettuce handled during any allocation period could be limited to such quantity as may be expected to meet market requirements at fair returns to producers. The record evidence indicates that the order, as

hereinafter set forth, would provide an effective method of so regulating the handling of lettuce.

In administration of the order, the committee is given direct responsibilty for recommending to the Secretary the number of cartons of lettuce which should be marketed during an allocation period. To carry out such responsibilities effectively and equitably, and with due regard for the public interest, certain standards of operation and administration are prescribed in the marketing order. Such standards, which are deemed essential in the exercise of authority authorized by the act, relate to all the various elements which experienced lettuce producers take into consideration in planning and managing their production and marketing of production area lettuce.

Thus the order should provide that the committee should recommend to the Secretary whether regulation of lettuce is needed during a particular allocation period. The members of the committee would be represenative of lettuce producers and handlers. Consequently, it is proper that the committee should be qualified to evaluate and recommend to the Secretary whether, and the extent that, the available supplies of lettuce are excessive in relation to demand and whether restriction on the quantity of lettuce which handlers may purchase from, or handle on behalf of, producers during such period is needed to improve producer returns.

"Base quantity" should mean the number of cartons of lettuce determined for a producer pursuant to § ----.53 for a base quantity period. "Base quantity period" should mean each of the 12 calendar months or other specified periods during the marketing year.

"Allocation" means the number of cartons of lettuce which during an allocation period a handler may purchase from or handle on behalf of a producer holding a base quantity. "Allocation period" should mean 1 week or a number of consecutive weeks as established pursuant to § ----.54.

These four terms are used frequently in the order and should be defined to reduce the repetitive language that would otherwise be required.

The authority of the Secretary to limit the total quantity of lettuce to be purchased from, or handled on behalf of producers during an allocation period is granted by the act. Further, the terms and conditions of the order, as hereinafter set forth, are an appropriate means of exercising such authority. Such authority also applies to increasing such quantity previously established.

Whenever the total amount of lettuce which may be purchased from or handled on behalf of producers during any allocation period has been established by the Secretary, such total allocation should then be apportioned equitably among producers in accordance with methods and standards authorized by the act. The act authorizes more than one method of allotting the total amount of a commodity which handlers may market. Equitably allocating such total amount among producers based upon the amounts of lettuce sold by such producers in a representative prior period would best accomplish the declared policy of the act. A program based on producers' current availability of lettuce was rejected because it would stimulate lettuce plantings and thus magnify the problem of excessive production. Therefore an approach utilizing a representative base period should be adopted.

Several criteria were considered in arriving at the representative period. Use of recent years was considered imperative to reflect as nearly as possible the current status of the industry, including relative importance of areas and individual operations. At the same time, mandatory use of only one or two marketing years seemed to be disadvantageous or discriminatory to some districts and would have given excessive weight to extreme situations. On the other hand, if too many years were included, it might be difficult or impossible to obtain and verify accurate historical data on weekly lettuce sales, contracts, etc. It was originally proposed that a 5-year base period beginning the 1965-66 season would satisfy these requirements. According to the record adequate information was available for 1964-65 and inclusion of that season was necessary to provide the most equity among producers in all districts. On the basis of these criteria and considerations it is concluded that the 1964-65 season through the 1969-70 season is a proper initial representative period.

The considerations involved in determining a producer's base quantities are particularly important to producers, singularly and jointly. Vagaries of weather and the market often result in producers selling less lettuce in some years than in others although approximately the same production facilities may have been utilized. These variations may affect some producers more than others in a particular season. Therefore, some flexibility should be provided producers in selecting seasons within the representative period for the purpose of base quantity computation so that the influence of unusual seasons can be minimized. The record shows that this would be in the best interest of all producers and would provide the best method of promoting and preserving equitable apportionment among them.

The mandatory use of all seasons or a specific combination of seasons in the representative period would not treat all producers equitably. Therefore, options should be provided which would allow each producer to minimize or eliminate the influence of an unrepresentative season or seasons. By allowing the various choices or combinations hereinafter specified in the order, individual inequities will tend to be moderated to an acceptable level. These options are found to be both practical and reasonable and are incidental to the other provisions of the order and necessary to effectuate such provisions and should be adopted.

The order should provide that any person who acquired the facilities of another producer who did not grow lettuce for 2 years following the year of sale in the production area prior to the order becoming effective may, in the determination of his initial base quantities, use the lettuce sales of the selling producer during the representative period. As a matter of equity, such acquiring producers should have the same opportunity as is available to other producers to select the historical sales options most favorable to them. In recent years, several large corporations have purchased such facilities as production equipment, leasehold interests, and office equipment of lettuce producing businesses in the production area and employed the people who operated the businesses for the selling producers in the same or similar capacities. Thus, even though there was a change in producer entity, there was continuity in the lettuce producing businesses. In addition to purchase, a producer might acquire a lettuce producing business through inheritance, as a gift, in payment of debts, or in other ways. Regardless of the means whereby one becomes a lettuce producer, there should be written evidence of the transfer of the lettuce producing business.

For most purposes, 12 base quantity periods per year, based on calendar months, appear to best meet program requirements. However, the committee should have the right to recommend and the Secretary to determine modifications of this should conditions so warrant.

While 12 monthly base quantity periods would meet the needs of most producers, it is recognized that exclusive use of this approach might be inequitable for others whose sales within a month are heavily weighted within a particular part of such month. This occurrence most frequently reflects climatic conditions which influence each district's normal harvest season. A district may usually begin harvest in the last week of a calendar month or end harvest in the first week in another. The record also indicates that in some districts a harvest season may extend over only a few weeks in its entirety.

To require that a producer's base quantity be extended over a full month although earned on the basis of sales recorded within a shorter period might be inequitable to such producers in application of a uniform percentage during an allocation period since it could cause an artificial dilution of his historic sales record. To cite an extreme example, a producer's base quantity for a particular month may have been entirely earned during the final week of that month in prior seasons, and because of climatic conditions he may be unable to harvest earlier. Thus to assign this producer allocations during the first weeks of the month would require him to transfer such allocations to others, while in the final week of the month (his normal harvest period) he might be forced to acquire allocations from others by transfer in order to maintain his enterprise. Such requirements might place an unreasonable burden on such a producer,

and means should be provided to avert this. Therefore, at least 120 days prior to any particular base quantity period, each producer not wishing his base quantity for that period to be applied throughout the period should be given the option of requesting the application of his base quantity on a proportional basis within such base quantity period. The producer exemplified above could request that his base quantity be applied entirely to the final week of the month; another producer faced with different circumstances could request 70 percent of his base quantity to be applied during the first week of the month and 30 percent in the second week. Procedures to provide for such proportional application of base quantities within a base quantity period should be recommended by the committee and approved by the Secretary.

This option would require more exact production and harvest timing than under the longer base quantity period, but flexibility would be provided by transfer authority.

Record evidence indicates that a person should have made an effort to produce lettuce in at least one of the 1967-68, 1968-69, or 1969-70 marketing years, or otherwise he should be considered as having ceased being a lettuce producer and thus ineligible for an initial base quantity under § ___.53(b)(1). If a bona fide effort to produce was made during such seasons, even though no lettuce was harvested he should be considered a producer. Determination of bona fide effort would include, but not be limited to, demonstration by the party asserting his producer status of his planting, caring for and investing money in his crop and making arrangements for its handling; then being unable to finish the crop because of a natural disaster. It would be inequitable and inappropriate to include any lettuce produced after the 1969-70 season and prior to issuance of any volume regulations under this proposed program in computing initial base quantities. To provide for such an inclusion during the formative stages of such a program would encourage harmful expansion and production of additional surplus to gain advantage over other producers in anticipation of this regulatory program.

Subsequent to the proposed program's inception, if a producer is granted a base quantity but does not make a bona fide effort during two consecutive seasons to produce and market lettuce thereunder, the committee should be empowered under rules and regulations recommended by the committee and approved by the Secretary, to declare such base quantity invalid and canceled at the end of the second season. This should enhance the committee's ability to evaluate potential production and should contribute to more efficient program operation. This provision should not be mandatory, however, in order that exceptions may be made to recognize extenuating circumstances.

Section ___.53(b)(2) provides for a moving or "rolling" base approach to annually adjust base quantities in order to recognize trends in sales volume of individual operations. This provision should be included in the program to keep base quantities relative to actual sales in recent years and thus preclude excessive rigidity in the industry structure.

For producers with base quantities calculated by use of sales in less than five seasons, each season's sales should be weighted according to the formula in § ___.53(b)(2)(ii) with a weight of one fifth assigned to sales recorded in each subsequent season. In this manner, sales in subsequent seasons would have a uniform effect on each producer's base quantities, regardless of the number of seasons used in calculating his prior base quantities.

For producers with base quantities calculated on a five-season basis, subsequent base quantities in each base quantity period would be computed by (1) arraying all sales used in computing each existing base quantity, (2) dropping the sales in the earliest season included, (3) adding his sales in the most recent season during such period, and (4) dividing by 5. The resulting average(s) would be his new base quantity(ies).

In addition to annual adjustments made on the basis of prior sales, provisions should be included to permit annual additive adjustments in total base quantities which would recognize changes in the demand for lettuce. Such additive adjustments should reflect changes in U.S. population, per capita lettuce consumption, export demand and other factors which affect the aggregate demand for the commodity. For such additive adjustments, a maximum annual limit of 5 percent of the total base quantities of the previous season should be prescribed to insure year to year stability. Such adjustments should be issued to permit new producers to gain entry into the industry, and to allow established producers to expand.

The marketing order should provide that the committee shall, with the approval of the Secretary, establish rules, standards, and procedures to be used in determining additive adjustments in base quantities to be recommended to the Secretary. Such specific criteria would help insure that additive adjustments would be fair and reasonable.

It should also be required that additive adjustments be divided equally among base quantity periods in each marketing season. There was testimony at the hearing against this requirement inasmuch as it would cause future inflation in a base quantity period which might already have an unusually high base quantity, while adding only the same amount to a relatively small total base quantity in another base quantity period. It was contended that the committee should have discretion to make assignments of additive base quantities in base quantity periods in which total base quantities were smallest in relation to market needs. However, the assignment of additive base quantities would not add quantity but would only affect the criteria for assigning allocations. Thus it would have no effect on quantities permitted to be handled. Furthermore, it would fail to provide equity to applicants for additive base quantities or to established producers. Should the committee be permitted to assign additive base quantities in specific base quantity periods and to exclude other such periods, new growers climatically limited to producing in the excluded base quantity periods would be effectively barred from entry. Moreover, the relative importance of base quantities of established producers in the excluded periods would be unaffected. But for those periods in which the base was increased, growers would experience a decline in their share of the base.

New base quantities should be issued on a scale necessary for a minimum economic enterprise. Additive adjustments in base quantities issued to established producers should also recognize the need for a minimum economic enterprise and this consideration should be given priority in authorizing such adjustments. In making its recommendations, the committee should evaluate each application for such adjustments individually, considering the acreage range and crop rotation practices of the lettuce enterprises in the district involved, land, labor, and equipment available, experience of the applicant, other enterprises of the applicant, and such other factors as it may consider relevant.

The proponents requested a postponement of such additive adjustments until the 1974-75 season. They contended that this provision would otherwise impose a substantial hardship on the initial committee struggling to become operational. Also final data on which adjustments would be based would ordinarily be issued about 1 year after the period covered. It appears the committee should be given additional time. However, making this provision effective in the 1973-74 season should provide adequate time for the committee preparations in this regard.

It was contended that the order would deny entry into lettuce growing to any new producer, would restrict expansion of acreage and would create a large monetary value for a base quantity. However, consideration has been given to these matters; and the program has been designed to give equitable treatment to producers consistent with program objectives.

Administrative procedures required to establish volume limitations during any allocation period under the marketing order are (1) determination of a base quantity for each producer and total base quantities for all producers; (2) committee recommendations for and establishment by the Secretary of the total allocation of lettuce; (3) computation of a uniform percentage which the total allocation is of total base quantities and (4) application of such uniform percentage to each producer's base quantity to determine his allocation in cartons for the period.

Administration of the marketing order is facilitated by computation of the uniform percentage. This provides a readily available and easily understood expression of the ratio of total allocation to total base quantities in the form of a ratio or percentage figure applicable to each producer's enterprise. It provides each producer with an equitable apportionment of the total allocation under a uniform rule and his allocation becomes readily ascertainable by multiplying his base quantity by the uniform percentage. The resulting number of cartons thereby becomes his allocation.

A modified procedure to determine producer's allocations should be used when an allocation period falls within two base quantity periods. Under such circumstances, the total allocation should be divided in proportion to the number of days of the allocation period in each of the base quantity periods, and the resulting computed allocations then divided by the applicable total base quantities to compute uniform percentages. Thus, for such an allocation period, the allocation for a producer holding a base quantity should be established by multiplying his base quantity referable to one of the base quantity periods by the applicable computed uniform percentage and adding the product to that derived by multiplying the producer's base quantity referable to the other base quantity period by the applicable computed uniform percentage. It would be unreasonably restrictive to require that the portion of a producer's allocation computed on the basis of a particular uniform percentage be used only in those days of the allocation period within the applicable base quantity period. Therefore, handlers should be permitted to purchase lettuce from a producer or handle lettuce on his behalf throughout the entire allocation period. However, for purposes of determining future base quantities of the producer, any sales by, or on behalf of, the producer during such an allocation period should be prorated to the separate base quantity periods in the same ratio as used in computing the respective components of the producer's allocation, so that the relationship of base quantities to particular base quantity periods continues essentially the same notwithstanding an allocation period which overlaps base quantity periods.

An adaptation of the uniform percentage would be required to apply to base quantities of producers who request proportional application of their base quantities within base quantity periods. Procedures to provide equity in such cases should be established through rules issued by the committee.

As each handler is the one who is putting lettuce in channels of commerce within the production area or between the production area and any point outside thereof, the responsibility for and burden of compliance should be on handlers.

The requirement that no handler may purchase from, or handle on behalf of a producer, lettuce unless it is within the allocation of a producer who has a base quantity provides an appropriate, administratively feasible, and effective method for allotting the amount of lettuce which handlers may purchase from or handle on behalf of any or all producers thereof.

To assist in the administration and effective enforcement of the marketing order each producer who is given an allocation should determine which handler or handlers will handle all or portions of his marketable lettuce. The requirement that each such producer shall notify the committee of the handler or handlers who will handle such lettuce and that the committee advise such handlers of the applicable quantities involved is both a necessary and a reasonable administrative requirement.

If and when marketing conditions arise which make it appropriate that the total allocation should exceed the total base quantities, it is proper that the resulting uniform percentage may be applied to each producer's allocation even though it may be more than 100 percent of his base quantity. This would tend to discourage indiscriminate overplanting by individual producers hoping that no allocation might be set but who collectively may cause the opposite effect.

Just as land, equipment, or other factors involved in producing lettuce may be shifted by loan, sale, inheritance, or in any other manner, provisions should be included in the order for transferring base quantities or allocations, in whole or in part, to other producers along the same general lines. Except as hereinafter discussed, transfers of base quantities should be made at least 4 months prior to the applicable base quantity period to be effective for such period to allow adequate time for planning and allocating the needed production resources.

Transfer of allocations, however, should be permitted at any time so that the market will tend to be provided to the extent practicable with a total allocation comprised of the best quality available. Since lettuce production is not a process which can be precisely adjusted during a growing season to meet needs, it is unlikely that producers will always be able to precisely balance their supplies of lettuce ready for harvest and their allocations. Some producers may have too much and others too little. By transferring allocations, producers should be able to greatly improve the balance of supplies and allocations. With respect to the sales of lettuce covered by a transferred allocation, credit therefor in future base quantity computations for the producers involved in the transfer should be in behalf of the transferor unless otherwise provided in the written agreement between the producers, a copy of which should be delivered to the committee. Details of all transfers should be confirmed to the committee by both parties thereto within 48 hours after the agreement so that the committee will be informed reasonably promptly of the producers and handlers who are relying on transferred allocations for their lettuce and accurate and proper program records can be maintained.

The committee should set up means to act as a clearinghouse of information so that it may assist producers and handlers in locating and identifying any unused allocations and lettuce in excess of allocations so that the total allocation, insofar as practical, is handled.

The proponents proposed two modifications of § ----.55 of the proposal in the notice of hearing which should be adopted. First, that new base quantities or adjustments to base quantities pursuant to §----.53(c) should be prohibited from being transferred for at least 2 years. This requirement should tend to minimize applications from persons who have little desire to actually grow lettuce for market to the extent permitted by the new base quantities or adjustments and inhibit applicants applying for base quantities with the sole intent of selling such base quantities to others. Also, the order should provide for rules by which the committee may facilitate pooling of allocations of producers dealing with a common handler. As discussed heretofore, by transferring allocations producers should be able to improve the balance of supplies and allocations. Authority to overship or compensate for shortages, as in §§----.56 and ----.57, provides additional flexibility. On occasion, however, allocations of producers may go unused. In such an event, a pooling arrangement where each producer would receive credit in proportion to his share of the total allocation would benefit producers for purposes of base quantity history. The proponents used the example of producers A, B, and C, each with 100 units of allocation and each in a separate joint venture with the same handler. However, producer A had a supply of 150 units of preferred lettuce, B had only 25, which were not desirable for market; and C had 75 desirable units. If efforts to transfer unneeded allocations were unsuccessful and the market demanded only the better quality lettuce, the handler might elect to harvest and market all of the lettuce of producers A and C, but none of B's for a total sale of 225 units. With a previously agreed upon pooling arrangement, producers A, B, and C would share equally in the credit of 225 units, or 75 each. Without such a feature, producer B would have gotten no credit for future base quantity history and producer A's lettuce would not have been harvested in an amount more than 100 units and would not have received the remuneration for the additional 50 units harvested.

A pooling arrangement would provide producers insurance of equal treatment, during periods of unusual market conditions, and would contribute to the shipment of the best quality lettuce available. Therefore, to provide benefits to producers and promote efficiency of handlers' operations, while providing the consumer with the best quality lettuce available, authority should be provided for such pooling of allocations, with the provisions of such pooling agreements at the discretion of the parties involved.

Some flexibility in addition to transfer authority is essential for reasonable operation of the proposed allocation program. Otherwise, transfers would have to be made to accommodate minute deviations of available supplies from assigned allocations. Harvesting might have to stop in the middle of a row, or a railroad car might have to be one carton short of a carload qualifying for a lower freight rate. At times, weather limitations or other conditions may cause a producer's allocation to be unfilled and he may find it impractical or otherwise undesirable to acquire lettuce to make up for such deficit. Therefore, there is a need for including authority for overages and shortages as hereinafter specified in §§ ----.56 and ----.57.

While it is necessary to provide a means to maintain efficiency in lettuce harvesting and to permit short run distortions of harvest patterns to be averaged out, the quantities permitted to be handled under this provision should be limited in order to avoid defeat of the general program objectives. Accordingly, the order should provide that handlers may in the aggregate purchase from or handle on behalf of a producer an additional quantity of lettuce not exceeding 10 percent of the producer's allocation pursuant to § ----.54, with the proviso that the quantity of lettuce so handled be deducted from the producer's allocation for the next allocation period. Conversely, if during an allocation period handlers do not purchase from or handle on behalf of a producer the total quantity of lettuce representing the allocation established for the producer less required deductions due to prior overshipments, then a volume not to exceed 25 percent of the producer's allocation for such period may be purchased for or handled on behalf of such producer in excess of such producer's allocation in the next allocation period. The evidence of record shows that a maximum overage of 10 percent and compensating adjustments for shortages of up to 25 percent would be adequate to provide for short term flexibility. However, the order should permit the Secretary, on the basis of a committee recommendation, to determine any other percentage that would be more appropriate so as to accommodate operations to the then current needs therefor. The producers should designate the handler or handlers who are to handle such additional quantities and notify the committee thereof. The committee would then be in a position to apprise the relevant handlers of their respective quantities, the same as with respect to quantities of lettuce that may be handled within a producer's allocation. This will assure a means of checking compliance; also, the committee will know how much lettuce is involved and who is authorized to handle the additional quantities.

In connection with the application of the total quantity of lettuce handled during an allocation period to the allocation established for a producer, if the total quantity of a producer's harvested lettuce handled during such an allocation period is in an amount less than that covered by the allocation and allocations obtained by transfer, the quantity handled should be applied first proportionately to the established allocation less any required reduction due to a prior overage, and to any allocations received by transfer but with credit for sales retained by the transferor. The remaining quantity handled should be applied in order as follows: (1) To the authorized compensation for a prior shortage and (2) the remainder to any allocation transferred to him on which he obtains credit for future base quantities. This requirement is necessary to insure equitable treatment to producers who transfer allocations and retain credit for any sales pursuant thereto, and to avoid pyramiding. If during an allocation period the quantity of a producer's lettuce handled were first applied to any additional quantity authorized to be handled (whether because of a previous shortage, or a transfer, or otherwise) and the total quantity handled failed to exhaust the total quantity permitted to be handled, the unused portions based on available allocations could then be pyramided for all producers and handled in a subsequent allocation period in an amount greatly in excess of the total allocation for such period, thereby tending to diminish the effectiveness of the program.

At times within a marketing year, a producer might not have an allocation needed in order to compensate for an overage that took place in the preceding allocation period. This could occur because he did not have a base quantity during subsequent base quantity periods of that marketing year, allocation regulations might not be issued in the remainder of the marketing year, or for other reasons. The purpose of the overage and shortage authorities is to provide weekly flexibility with respect to operations during a marketing year.

Requiring compensating adjustments during the following marketing year would not meet such an objective, but would instead result in substantial administrative problems for the committee in determining base quantities, and in evaluating allocation requirements. Under such circumstances, the producer should not be obligated to make a compensating adjustment the following marketing year. However, for purposes of determining future base quantities, a producer's sales should be reduced by the amount of overages incurred but not repaid. This would be fair and equitable to producers generally and tend to minimize advantages a producer may have derived from overages for which compensatory adjustments are not made.

The proponents recommended deleting authority for the "Other Regulations" listed in the notice of hearing, except to fix the size, capacity, weight, dimensions, or pack of the container, or containers, which may be used in the packaging, transportation, or shipment of lettuce. It is important that the order provide authority for such regulations to assure standardized containers and packs of such containers to establish a uniform basis for trading. The committee should have authority to recommend the elimination of any containers which introduce an element of competition that adversely affects prices or tends to disrupt orderly marketing conditions for lettuce. Standardization of cointainers to those most suitable for the packing, transportation, or shipment of lettuce, and prescribing the use of containers of sizes and capacities which can readily be distinguished from each other would tend to establish more orderly marketing conditions and increase returns to producers.

However, the exercise of this authority should not be used to close the door on experimenting with new containers more suitable for lettuce, or ones needed due to changes in marketing practices, or to preclude commercial development of new containers of different sizes, weights, dimensions, and capacities.

The order should contain authority for establishing and prescribing such pack specifications for lettuce as would be desirable for the marketing or, and reflect favorably on, production area lettuce so as to tend to improve returns to producers, increase the demand for such lettuce, and otherwise effectuate the declared policy of the act.

Provisions should be included in the order to permit certain shipments such as donation to relief or charitable institutions, and experimental shipments, to be exempt from regulation if they meet the rules and safeguards prescribed by the Secretary upon recommendation of the committee to assure the exempted shipments do not enter regulated channels of trade contrary thereto.

According to the record the committee needs authority to recommend the establishment of rules and regulations to exempt the handling of small quantities of lettuce from regulations or assessments, or both. This should be provided to eliminate expending committee time, effort and expense needed for record keeping and compliance checking far out of proportion to the benefits that such insignificant quantities of lettuce might have on improved returns to producers or assessments.

(e) The committee should have such information and data as may be needed for the performance of its functions under the order including but not limited to those necessary to establish base quantities, allocations, modifications thereof, and to verify compliance with regulations. The industry has routinely maintained such information and has it in its possession and readily available, and the requirement that such information be furnished to the committee in the form of reports would not constitute an undue burden. It is difficult to anticipate every type of report or kind of information which the committee may find necessary in the conduct of its operations under the order. One report that should be submitted each week by each handler is the quantity of lettuce the handler purchased from producers and the quantity of lettuce handled on behalf of each and all producers. Therefore, the com-

mittee should have the authority to require, with approval of the Secretary, reports and information from handlers, as needed, of the type set forth in the order, and at such times and in such manner as may be necessary.

All reports and records furnished or submitted pursuant to the order to the committee should be treated as confidential and be disclosed to no person other than the Secretary and persons authorized by the Secretary. Under certain circumstances, release of information compiled from handlers' reports may be helpful to the committee and the industry generally. However, such reported information should not be released other than on a composite basis, and such releases should not disclose information concerning individual operations. Such prohibition is necessary to prevent the disclosure of information that may affect detrimentally the business operations of the persons who furnished the reports. However, since the operation of this allocation program is inextricably involved with individual producers' base quantities and allocations, this information should not be treated as confidential.

Since it is possible that a question could arise with respect to compliance, it would be appropriate to provide in the order that handlers be required to maintain for each marketing year complete records on their receipts, handling, and disposition of lettuce. Such records should be retained for not less than 2 years after the termination of the marketing year in which the transaction occurred, so that, if needed in connection with enforcement, or other necessary purposes under the order, the requisite records will be available for that purpose. Such a 2-year period should afford an adequate and reasonable time for access thereto and should not impose an unreasonable or burdensome obligation on handlers inasmuch as such records are generally retained for similar time for purposes of business operations.

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 committee's designees for the purpose be given the same authority that the Secretary has to examine and verify records and ascertain the quantity of lettuce handled. The verification of records and reports and the inspection needed in connection therewith should be performed during reasonable working hours and in such manner that normal operations would not be interrupted.

(f) No handler should be permitted to handle lettuce, the handling of which is prohibited pursuant to the order; and no handler should be permitted to handle lettuce 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.

(g) The provisions of §§ ----.86 through ----.96, as hereinafter set forth, are generally similar to those which are included in marketing agreements and orders now operating.

Such provisions, identified by section numbers and heading, as follows: § ----.86 *Right of the Secretary;* § ----.87 *Effective time;* § ----.88 *Termination;* § ----.89 *Proceedings after termination;* § ----.90 *Effect of termination or amendments;* § ----.91 *Duration of immunities;* § ----.92 *Agents;* § ----.93 *Derogation;* § ----.94 *Personal liability;* § ----.95 *Separability* and § ----.96 *Amendments* are incidental to and not inconsistent with the act and are necessary to effectuate the other provisions of the order and to effectuate the declared policy of the act. The hearing record supports the inclusion of each such provision in the order.

The record shows that the order should provide for the periodic presentation to the Secretary through referenda of the views of producers covering the future continuation of the order. Such a provision should be in addition to the one set forth in the act, requiring the termination of the order whenever a majority of the producers favor termination. A referendum every fifth year the order is in effect is reasonable. This should provide the opportunity for producers to express themselves as to whether or not the regulatory program should continue in effect. Five years of operations under the order should provide a sufficient amount of time for producers to evaluate the worth of the program. If the results of a referendum show that more than 50 percent of the producers by number, and volume of production, favor termination of the order, the Secretary should consider termination of the order. If such a number of the producers favor termination, it seems reasonable that the program is not measuring up to expectations. Under such circumstances continuation of the program would be precluded under the act. Therefore, the Secretary should terminate the program in accordance with the act. However, such action should be taken so as to become effective at the end of the then current marketing year provided the proposed termination is announced by June 30 of that year so as to afford producers and handlers reasonable opportunity to arrange for their future operations accordingly.

Those provisions which are applicable to the proposed marketing agreement only, identified by section number and heading, are as follows: § ----.97 *Counterparts;* § ----.98 *Additional parties;* and § ----.99 *Order with marketing agreement.* Such provisions are also included in marketing agreements now in effect and the record supports inclusion of such provisions in the marketing agreement.

Rulings on briefs of interested parties. At the conclusion of the hearing the Presiding Officer fixed April 26, 1971, as the deadline for interested parties to file briefs with respect to the evidence adduced at the hearing and the findings and conclusions to be drawn therefrom. It was later extended to May 3, 1971.

Briefs were filed by the following: Ernest J. Holcomb on behalf of the Western States Lettuce Producers Committee; Stuart H. Russell, Esq., on behalf of the New Mexico Lettuce Growers Committee; William H. Carder, Esq., on behalf of the United Farm Workers Organizing Committee, AFL-CIO; Charles F. Wheatley, Jr., Esq., on behalf of Mr. Thomas M. Bunn; Bruce Parr, on behalf of the Texas Vegetable Marketing Association; and Marshall H. Davis for Mel Finerman Co., Inc. Letters received from the following were also considered with the briefs: William J. Williams for the Irvine Co.; H. S. Raymond for the J. G. Boswell Co.; Nish Noroian for the Nish Noroian Farms; and Bill V. Kontilis for the Pacific Lettuce Co.; Adrian Ogaz; Miss Josephine M. Bunn; Thomas M. Bunn for General Farm Investment Co.; and Allan Grant for the California Farm Bureau Federation.

Every point in the briefs and letters was carefully considered along with record evidence in making the findings and reaching the conclusions herein set forth. To the extent that the findings and conclusions proposed in the briefs and letters are inconsistent with findings and conclusions contained herein, requests to make such findings or to reach such conclusions are denied on the basis of facts found and stated in connection with this recommended decision.

One of the briefs filed objected to the conduct of the hearing in that, "When counsel for UFWOC attempted to introduce farm worker testimony on this point, however, they were first denied an interpreter by the hearing officer; participation in the hearing by Spanish-speaking persons was thus precluded. Moreover, the hearing officer subsequently ruled during the cross-examination of proponent witness William B. Witner (See testimony on March 4, 1971) that such testimony was irrelevant 'under the Act' and thus inadmissible."

The applicable rules of practice governing conduct of the hearing do not provide that interpreters be furnished by the Department of Agriculture. However, statements in Spanish made by a witness were interpreted into English by counsel for the witness and entered as such in the record. No exception or objection was made to the portion of the hearing record containing the statements as so interpreted by counsel. Regarding the alleged ruling that certain testimony was "irrelevant 'under the act' and thus inadmissible," the record contains no ruling, nor any objection, with respect thereto. As provided in said rules of practice, only objections before the presiding officer may subsequently be relied upon in the proceeding. In the absence of any such objections and ruling in the hearing record for review and consideration, the appeal is denied.

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 lettuce 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 application to the smallest regional production area which is practicable, consistent 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 lettuce grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of lettuce 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

§ ----.1 Secretary.

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

§ ----.2 Act.

"Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

§ ----.3 Person.

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

§ ----.4 Production area.

"Production area" means the States of California, Arizona, Colorado, and New Mexico and that part of the State of Texas located north of and in which no part of U.S. Highway 90 is located.

§ ----.5 Lettuce.

"Lettuce" means all varieties of *Lactuca sativa*, commonly known as iceberg type head lettuce, grown within the production area.

§ ----.6 Handler.

"Handler" means any person (except a common or contract carrier transporting, or crews harvesting, lettuce for another person) who handles lettuce on behalf of a producer or on his own behalf.

§ ----.7 Handle.

"Handle" means to harvest lettuce or to package, sell, ship, or transport harvested lettuce or in any other way to place harvested lettuce in the current of the commerce within the production area or between the production area and any point outside thereof.

§ ----.8 Producer.

"Producer" means any person engaged in a proprietary capacity in the production of lettuce for market.

§ ----.9 Registered producer.

"Registered producer" means any producer who is registered with the committee pursuant to § ----.53.

§ ----.10 Pack.

"Pack" means a quantity of harvested lettuce in any specified container and which falls within specific weight limits, numerical limits, or size limits, or any combination of these, prescribed by the Secretary upon recommendation of the committee.

§ ----.11 Carton.

"Carton" means the standard container No. 45B as described in section 43607 of the Agricultural Code of California, as amended, or the equivalent thereof or any other container prescribed by the Secretary upon recommendation of the committee.

§ ----.12 Committee.

"Committee" means the Western States Lettuce Administrative Committee established pursuant to § ----.20.

§ ----.13 Marketing year, season or fiscal period.

"Marketing year," "season," or "fiscal period" means the period from August 1 to the following July 31, both dates inclusive, or such other 12-month period recommended by the committee and approved by the Secretary: *Provided*, That in connection with such a change the period of the then current or an adjoining fiscal period may be shortened or extended to accord therewith, and the initial period shall begin on the effective date of this part and end on the following July 31.

§ ----.14 Base quantity; base quantity period.

"Base quantity" means the number of cartons of harvested lettuce determined for a producer by the committee pursuant to § ----.53 for a base quantity period. "Base quantity period" means each of the 12 calendar months, or other period during the marketing year prescribed by the Secretary upon recommendation of the committee.

§ ----.15 Allocation; allocation period.

"Allocation" means the number of cartons of harvested lettuce which during an allocation period may be purchased from, or handled on behalf of, a producer based on a producer's base quantity. "Allocation period" means 1 week or a number of consecutive weeks as established pursuant to § ----.54.

§ ----.16 District.

"District" means each of the applicable districts specified in, or pursuant to, § ----.20.

COMMITTEE

§ ----.20 Establishment and membership.

(a) There is hereby established a Western States Lettuce Administrative Committee consisting of 18 members, each of whom shall have an alternate who shall have the same qualifications as the member for whom he is an alternate.

(b) Fifteen of the members and their respective alternates shall be individuals who are producers or officers or employees of corporate producers and are hereinafter referred to as "producer members." Three of the members shall be individuals who are handlers, or officers or employees of handlers and are hereinafter referred to as "handler members." An individual who is both a producer and a handler is not precluded from being nominated and appointed as a producer member or handler member.

(1) Nominations for and selections of, producer members and their alternates shall be in such numbers and in such districts as follows:

District No. 1—Santa Barbara and San Luis Obispo Counties in the State of California—one member;

District No. 2—Ventura, Los Angeles and Orange Counties and that part of San Diego County west of a north-south line through the present post office in the city of Julian in the State of California—one member;

District No. 3—Imperial County (excluding that part of the Palo Verde Irrigation District located therein) and that part of San Diego County not located in District No. 2 in the State of California—two members;

District No. 4—Riverside, San Bernardino, Inyo, and Mono Counties and that part of the Palo Verde Irrigation District located in Imperial County in the State of California—one member;

District No. 5—Monterey, San Bonito, San Clara, Santa Cruz, San Mateo, Alameda, Contro Costa, Marin, Napa, Sonoma, Mendocino, Humboldt, and Del Norte Counties in the State of California—three members;

District No. 6—All other counties in the State of California—one member;

District No. 7—Yuma County in the State of Arizona—one member;

District No. 8—All other counties in the State of Arizona—two members;

District No. 9—The State of New Mexico and El Paso County in the State of Texas—one member;

District No. 10—That part of the State of Texas north of U.S. Highway 90 and in which no part of U.S. Highway 90 or El Paso County is located—one member; and

District No. 11—The State of Colorado—one member.

(2) The three handler members and their alternates shall be selected from the production area at large and each shall have handled lettuce during each of the 12 months of the preceding season.

(c) The committee may recommend, and pursuant thereto, the Secretary may approve, the reapportionment of mem-

[1] Sections ----.97-----.99 apply only to the proposed marketing agreement and not to the proposed order.

bers among districts within the production area. With respect to any such changes, the committee and the Secretary shall give consideration to:

(1) Shifts in lettuce acreage and production within the districts and within the production area during recent years; (2) the importance of new production in its relation to existing districts; (3) the equitable relationship of committee membership and districts; (4) economies to result for producers in promoting efficient administration due to redistricting or reapportionment of members within districts; and (5) other relevant factors.

§ ----.21 Term of office.

(a) The initial term of office for members and alternates shall be the initial fiscal period and each subsequent term shall be for a fiscal period, except as otherwise specified by the Secretary pursuant to the Committee's recommendation.

(b) Each member and each alternate shall serve in such capacity during the term of office for which he is selected and has qualified and until his successor is selected and has qualified.

§ ----.22 Nominations.

Nominations for committee members and their alternates shall be made in the following manner:

(a) A meeting of producers shall be held in each district to nominate producer members and alternates of the committee in such numbers and districts as provided in § ----.20. The committee shall hold or cause to be held such meetings prior to May 15 of each year, or by such other date as may be specified by the Secretary.

(b) At each such meeting the eligibility of the nominees for producer member positions and of the producers voting for nominees shall be recorded for the purpose of determining participation.

(c) Each producer shall be entitled to cast only one vote for each producer member position in each district in which the producer's lettuce was or is being grown in the then current season.

(d) The committee shall, prior to May 15 of each year, submit to each handler, a list of persons affiliated with and designated by handlers who are qualified to serve as a handler member in accordance with § ----.20(b) and ask that they nominate at least three members and three alternates from such list to represent them.

(e) The names of nominees shall be supplied to the Secretary in such manner and form as he may prescribe not later than June 15 of each year, or by such other date as may be specified by the Secretary.

(f) Nominations for each of the initial member and alternate member positions of the committee may be submitted to the Secretary individually by growers and handlers. Such nominations may be made by means of a meeting or meetings of handlers, and a meeting or meetings of growers concerned in each district. Such nominations, if made, shall be filed with the Secretary not later than the effective date of this part. In the event such nominations for the initial members are not so filed by such time, the Secretary may select the initial members and alternates without regard to nominations, but selection shall be on the basis of the representation provided for in § ----.20.

§ ----.23 Selection.

The Secretary shall select all members and their alternates on the basis of representation provided for in § ----.20 from the nominations made pursuant to § ----.22, except with respect to the initial members and alternates, or from other eligible persons.

§ ----.24 Failure to nominate.

If recommendations are not made within the time and manner prescribed in § ----.22, the Secretary may, without regard to nominations, select the members and alternates of the committee on the basis of the representation provided for in § ----.20.

§ ----.25 Acceptance.

Any person selected by the Secretary as a member or alternate member of the committee shall, prior to serving as such, qualify by filing a written acceptance with the Secretary within the time specified by the Secretary.

§ ----.26 Vacancies.

To fill committee vacancies, the Secretary may select members or alternates from nominees on the latest nomination reports or from nominations made in the manner specified in § ----.22 or from other eligible persons. If the names of nominees to fill any such vacancy are not made available to the Secretary within 30 days after such vacancy occurs, such vacancy may be filled without regard to nominations, but such selection shall be made on the basis of representation provided for § ----.20.

§ ----.27 Alternate members.

An alternate member of the committee shall act in the place and stead of the member for whom he is an alternate during such member's absence or when designated to do so by the member for whom he is an alternate. 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 selected and has qualified. The committee may request the attendance of alternates at any or all meetings, notwithstanding the expected or actual presence of the respective members.

§ ----.28 Procedure.

(a) Other than to recommend volume regulation and actions relating thereto 10 members (including alternates acting as members) of the committee shall be necessary to constitute a quorum and 10 concurring votes shall be required to pass any motion or approve any committee action. At assembled meetings all votes shall be cast in person. To recommend volume regulation for an allocation period and actions related thereto, those eligible to vote shall be all handler members (including alternates acting as such members) and those producer members (including alternates acting as such members) representing producers for whom allocations are to be established for such allocation period. *Provided*: That both the quorum and the number of concurring votes in voting on volume regulations and related matters shall be a majority of those eligible to vote.

(b) The committee may meet by telephone, telegraph, or other means of communication and any vote cast at such a meeting shall be promptly confirmed in writing.

§ ----.29 Expenses.

Members and alternates of the committee shall serve without compensation, but shall be reimbursed for expenses necessarily incurred by them in attending authorized committee business and in the performance of their duties under this part.

§ ----.30 Powers.

The committee shall have the following powers:

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

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

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

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

§ ----.31 Duties.

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

(a) As soon as practicable after the beginning of each term of office, to meet and organize, to select from among its members and alternates such officers and subcommittees, and to adopt such rules, regulations, and bylaws for the conduct of its business as it deems necessary;

(b) To act as intermediary between the Secretary and any producer or handler;

(c) To furnish to the Secretary such available information as he may request;

(d) To appoint such employees, agents, and representatives as it may deem necessary, to determine the compensation and define the duties of each such person, and to protect the handling of committee funds through fidelity bonds;

(e) To investigate from time to time and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to lettuce;

(f) To prepare a marketing policy;

(g) To recommend regulations pursuant to this part to the Secretary;

(h) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the committee and such minutes, books, and records shall be

subject to examination at any time by the Secretary or by his authorized agent or representative; such minutes to be reported promptly to the Secretary;

(i) At the beginning of each fiscal period, to prepare a budget of its expenses for such fiscal period, together with a report thereon;

(j) To prepare periodic statements of the financial operations of the committee and to make copies of each such statement available to producers and handlers for examination at the office of the committee and to send two copies to the Secretary.

(k) To cause the books of the committee to be audited by a competent accountant at least once each fiscal period, and at such other time as the committee may deem necessary or as the Secretary may request; two copies of a report of each such audit shall be furnished to the Secretary and show the receipt and expenditure of funds collected pursuant to this part; a copy of each such report (excluding therefrom confidential information), shall be made available at the principal office of the committee for inspection by producers and handlers;

(l) To notify producer and handler members and alternates of meetings of the committee to consider recommendations for regulations and to give the Secretary the same notice of such meetings and of meetings of its subcommittees as is given to the applicable membership;

(m) To investigate compliance and use means available to prevent violation of the provisions of this part;

(n) To consult, cooperate, and exchange information with other marketing order committees and other individuals or agencies in connection with all proper committee activities and objectives under this part, and

(o) To the extent practicable, act as a clearing house of information, to facilitate transfers pursuant to this part.

§ ___.32 Annual report.

The committee shall, as soon as is practicable after the close of each marketing season, prepare and mail an annual report to the Secretary and make a copy available to each grower and handler who requests a copy of the report.

EXPENSES AND ASSESSMENTS

§ ___.40 Expenses.

The committee is authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred during each fiscal period for its maintenance and functioning, and for such purposes as the Secretary, pursuant to this subpart, determines to be appropriate. Each handler's pro rata share of such expenses shall be proportionate to the ratio between the total quantity of lettuce handled by him as the first handler thereof during a fiscal period and the total quantity of lettuce so handled by all handlers as first handlers thereof during such fiscal period.

§ ___.41 Budget.

As soon as practicable after the beginning of each fiscal period and as may be necessary thereafter, the committee shall prepare an estimated budget of income and expenditures necessary for the administration of this part. The committee may recommend a rate of assessment calculated to provide adequate funds to defray its proposed expenditures. The committee shall present such budget to the Secretary with an accompanying report showing the basis for its calculations.

§ ___.42 Assessments.

(a) The funds to cover the committee's expenses shall be acquired by the levying of assessments upon handlers as provided for in this subpart. Each handler who first handles lettuce shall pay assessments to the committee upon demand, which assessments shall be in payment of such handler's pro rata share of the committee's expenses.

(b) Assessments shall be levied during each fiscal period upon handlers at a rate per unit established by the Secretary. Such rates may be established upon the basis of the committee's recommendations and other available information.

(c) At any time during, or subsequent to, a given fiscal period the committee may recommend the approval of an amended budget and an increase in the rate of assessment. Upon the basis of such recommendations, or other available information, the Secretary may approve an amended budget and increase the rate of assessment. Such increase shall be applicable to all lettuce which was handled by each first handler thereof during such fiscal period.

(d) The payment of assessments for the maintenance and functioning of the committee may be required irrespective of whether particular provisions of this part are suspended or become inoperative.

§ ___.43 Accounting.

(a) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purposes alternates, employees, agents, and all specified in this part.

(b) The Secretary may at any time require the committee, its members and alternates, employees, agents, and all other persons to account for all receipts and disbursements, funds, property, or records for which they are responsible. Whenever any person ceases to be a member of the committee or alternate, he shall account to his successor, the committee, or to the person designated by the Secretary, for all receipts, disbursements, funds, and property (including but not being limited to books and other records) pertaining to the committee's activities for which he is responsible, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in his successor, the committee, or person designated by the Secretary, the right to all of such property and funds and all claims vested in such person.

(c) The committee may make recommendations to the Secretary for one or more of the members thereof, or any other person, to act as a trustee for holding records, funds, or any other committee property during periods of suspension of this part, or during any period or periods when regulations under this part are not in effect, and, if the Secretary determines such action appropriate, he may direct that such person or persons may act as such trustee or trustees.

§ ___.44 Excess funds.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, each handler entitled to a proportionate refund of any such assessments which represent payments by the handler in excess of his pro rata share, shall be credited with such refund against his operations of the following fiscal period or such excess shall be accounted for in accordance with one of the following:

(1) The committee, with the approval of the Secretary, may establish an operating monetary reserve and may carry over to subsequent fiscal periods excess funds in a reserve so established: *Provided*, That funds in the reserve shall not exceed approximately one fiscal period's expenses. Such reserve funds may be used (i) to defray any expenses authorized under this part, (ii) to defray expenses during any fiscal period prior to the time assessment income is insufficient to cover such expenses, (iii) to cover deficits incurred during any fiscal period when assessment income is less than expenses, (iv) to defray expenses incurred during any period when any or all provisions of this part are suspended or are inoperative, and (v) to cover necessary expenses of liquidation in the event of termination of this part. If upon such termination any funds not required to defray the necessary expenses of liquidation, and after reasonable effort by the committee it is found impracticable to return such remaining funds to handlers, such funds shall be disposed of in such manner as the Secretary may determine to be appropriate.

(2) If such excess is not retained in a reserve or used to defray necessary expenses of liquidation, as provided in subparagraph (1) of this paragraph, it shall be refunded proportionately to the handlers from whom collected: *Provided*, That any sum paid by any handler in excess of his pro rata share of the expenses during any fiscal period may be applied by the committee at the end of such fiscal period to any outstanding obligations due the committee from such handler.

RESEARCH AND DEVELOPMENT

§ ___.48 Research and development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of production research and marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of lettuce. The expenses of such projects shall be paid from funds collected pursuant to § ___.42.

REGULATIONS

§ ___.50 Marketing policy.

(a) For each season, prior to or at the same time as initial recommendations are made pursuant to § ___.51 or § ___.61, or both as applicable, the committee shall submit to the Secretary a report setting forth the marketing policy it deems desirable for such season. The report shall indicate the kinds or types of regulations contemplated during such season and to the extent practical, shall include recommendations for particular volume regulations or other regulations which are deemed necessary to meet market requirements and establish orderly marketing conditions. Additional reports shall be submitted if the committee adopts a new or revised marketing policy because of changes in the supply and demand situation with respect to lettuce.

(b) In determining each such marketing policy, committee considerations shall include:

(1) Prospective lettuce production within the production area by districts and periods and in competing areas;

(2) Prospective lettuce demand for such, recognizing trend and level of consumer income;

(3) Market prices for such lettuce, including prices by grade, size, quality, and pack;

(4) Total of base quantities during each base quantity period; and

(5) Other relevant factors.

(c) The committee shall publicly announce the submission of each marketing policy (including new or revised policies) and notice and contents thereof shall be provided to producers and handlers by bulletins, newspapers, or other appropriate media.

VOLUME REGULATION

§ ___.51 Recommendation for volume regulation.

(a) The committee may recommend to the Secretary of total quantity of lettuce which it deems advisable to be purchased from producers, and otherwise handled on behalf of producers during an allocation period. Each such recommendation shall be made prior to the beginning of the allocation period.

(b) In making its recommendation the committee shall give due consideration to the following factors: Market prices for lettuce, supply of lettuce on track and en route to the principal markets, and the supply, maturity, and condition of lettuce in the production area, and the market prices and supply of lettuce from competing producing areas, and any other relevant factors.

(c) At any time during an allocation period for which the Secretary, pursuant to § ___.52 has fixed the total quantity of lettuce which handlers may purchase from and otherwise handle on behalf of producers, the committee may recommend to the Secretary that such quantity be increased. Each such recommendation, together with the committee's reason for such recommendation, shall be promptly submitted to the Secretary.

§ ___.52 Issuance of volume regulation.

(a) Whenever the Secretary finds on the basis of a committee recommendation or other information, that limiting the total quantity of lettuce which handlers may purchase from, and otherwise handle on behalf of, producers during an allocation period, and establishing a total allocation or increasing a total allocation previously established, would tend to effectuate the declared policy of the act, he shall establish the total allocation which handlers may purchase from, or handle on behalf of, producers for such period, or increase a previously established total allocation.

(b) When a total allocation, including an increased total allocation, is established for any allocation period, no handler may purchase from, or handle on behalf of, producers any lettuce during such period unless (1) it is within the unused allocation of a producer holding a base quantity pursuant to § ___.53, and (2) the committee has been notified of the proposed handling as provided in § ___.54(c).

(c) The committee may, with the approval of the Secretary, establish such rules and regulations regarding obtaining, using, holding, or transferring base quantities or allocations as it feels are necessary to administer the volume regulation provisions of this part. Such rules and regulations may deal with procedures, reports, records, or other requirements, including but not limited to quantities marketed during initial and other representative periods, qualifications as producers, producer arrangements, particulars on harvesting, sale or other handling of lettuce.

§ ___.53 Base quantities.

(a) Upon request of the committee, each producer desiring one or more base quantities shall register with the committee and furnish to it, on forms provided by the committee, a report of the number of cartons of lettuce produced and sold by him, or on his behalf, during the six seasons, 1964–65 through 1969–70, broken down by cartons, handlers, and such time periods thereof as may be required by the committee and approved by the Secretary.

(b) (1) For the initial season the base quantities shall be established for each registered producer in accordance with the option of such producer as either (i) the number of cartons of harvested lettuce produced and sold by him or on his behalf in the corresponding base quantity period during the 1969–70 season or (ii) the average number of cartons of harvested lettuce produced and sold by him or on his behalf in such corresponding periods in one of the following combinations of seasons: 1968–69 and 1969–70; 1967–68 through 1969–70; 1966–67 through 1969–70; 1965–66 through 1969–70; 1967–68 and 1968–69; 1966–67 through 1968–69; 1965–66 through 1968–69; or 1964–65 through 1968–69: *Provided*, That the person must have produced lettuce in at least one of the three seasons 1967–68, 1968–69, or 1969–70 to qualify as a producer under this section: *Provided further*, That only one such option may be employed by any producer to apply to all his base quantity periods and in determining the base quantities of any applicant who acquired the facilities of a producer no longer operating in the production area, the applicant may include the quantity sold by or on behalf of such producer in previous applicable seasons.

(2) For each season subsequent to the initial season under this part, base quantities for each registered producer shall be adjusted to recognize trends in sales volume of individual operations. This shall be accomplished by annually recalculating all base quantities for all base quantity periods according to the applicable one of the following procedures:

(i) The base quantity computed on a five-season basis shall be adjusted by: (*a*) Adding the producer's latest season's sales for the corresponding base quantity period to his five-season total sales used in computing his existing base quantity; (*b*) subtracting the sales recorded for the corresponding base quantity period in the earliest season included in the existing base, and (*c*) recalculating a new five-season simple average which shall be the new base quantity.

(ii) Base quantities computed on a less than five-season basis shall be adjusted by weighting each season in the original base quantity by the following values and adding a weight of one-fifth to the producer's sales during the initial season of regulation under this part and to such producer's sales in each subsequent season:

Number of years in original base	Year of adjustment			
	First	Second	Third	Fourth
	weight of each year in original base			
4	1/5			
3	4/15	1/5		
2	2/5	3/10	1/5	
1	4/5	3/5	2/5	1/5

(iii) For purposes of computing base quantities for seasons subsequent to the initial season, sales pursuant to agreements between producers involving transfers of allotments (§ ___.55) shall be included in the computation in accordance with such agreements.

(3) A condition for the continuing validity of a base quantity is production of lettuce thereunder. If no bona fide effort is made to produce and sell lettuce thereunder for commercial purposes during any two consecutive seasons such base quantity may be declared invalid due to lack of use and canceled at the end of the second consecutive season of non-production.

(c) (1) It shall be a policy under this part to continually provide the American public with high quality lettuce in adequate volume at a reasonable cost. In carrying out this policy the committee shall, for 1973–74 season and each subsequent season, recommend to the Secretary an adjustment in base quantities covered by this part which will reflect

(i) changes in per capita consumption of lettuce in the United States; (ii) changes in population of the United States; (iii) other factors which reflect an increase in consumer demand for lettuce; (iv) desires of new producers to gain entry, and established producers to expand, as evidenced by applications for base quantities or increased base quantities; and (v) any additional factors which bear on industry adjustments to new and changing conditions.

(2) Nothwithstanding the provisions of subparagraph (1) of this paragraph the annual increase in the quantity of lettuce provided for by all base quantities covered by this part shall be no more than 5 percent of the total base quantities encompassed by this part during the previous season. Such increase shall be distributed equally among all base quantity periods in the season.

(3) Any person may apply, under rules and procedures to be established by the committee with the approval of the Secretary either for a new base quantity or for an increase in an existing base quantity. Said applications may be submitted annually, but must be filed with the committee on or before January 1 of a given season in order to be considered for an award of a new base quantity or the adjustment of an existing base quantity to take effect the following season.

(4) The committee may, with the approval of the Secretary, establish rules, guides, bases, or standards to be used in determining base quantity awards or adjustments that are to be recommended to the Secretary taking into account among other things, the minimum economic enterprise requirements for lettuce production.

(5) The committee's recommendations, with justification, supporting data, and a listing and summary of all applications for new or adjusted base quantities, shall be submitted to the Secretary no later than February 1 of each season. Not more than sixty (60) days after receipt of the committee's recommendations, the Secretary shall either approve said recommendations or make whatever alterations therein that he deems necessary in the public interest. The decision of the Secretary shall be final: *Provided*, That he shall communicate his decision and the reasons therefor to the committee in writing.

(6) Within thirty (30) days after receipt of the Secretary's decision, the committee shall notify each applicant of the Secretary's decision and for those awarded base quantities, of their base quantity or quantities, by period, for the following season.

(d) The committee shall have the authority and responsibility to correct any errors or inaccuracies in base quantity determinations. However, the producers and others involved should have an opportunity to discuss such proposed corrections with the committee. All base quantity applications and determinations covered by this section shall be subject to review by the Secretary.

§ ----.54 **Allocations.**

(a) When the Secretary establishes an allocation period consisting of a specified week or number of consecutive weeks, and fixes the total allocation for such period, a uniform percentage for such period shall be determined by dividing such total allocation by the total of all existing base quantities. The percentage so determined shall be the uniform percentage for the entire allocation period unless changed by a revised total allocation.

(b) (1) Except as otherwise provided in subparagraphs (2) and (3) of this paragraph, for each allocation period, the allocation for each producer holding a base quantity shall be established by the committee by multiplying each such base quantity by such period's uniform percentage. The committee shall notify each such producer of the aggregate allocation established for him pursuant to this section.

(2) When an allocation period falls within two base quantity periods the total allocation shall be divided in proportion to the number of days of the allocation period in each of the base quantity periods. The resulting computed allocations shall then be divided by the applicable total base quantities to compute uniform percentages by which the producer's base quantities referable to each of the two base quantity periods are multiplied. The sum of the resulting two products shall be established as his allocation for that allocation period.

(3) Each producer not wishing his base quantity to be applied throughout the regular base quantity period shall be given the option of having it applied on a proportional basis within such base quantity period under rules and regulations established by the Secretary upon recommendation of the committee: *Provided*, That such option be exercised at least 120 days prior to the applicable base quantity period.

(4) Producers dealing with a common handler, who mutually agree prior to handling to pool their allocations, shall receive sales credit for purposes of base quantity history in proportion to their share of the pooled allocations.

(c) Prior to the handling of harvested lettuce during an allocation period, each such producer shall notify the committee in such manner as it may prescribe, of the handler or handlers who will first handle all or a portion of such allocation during such period. The committee shall then notify the respective handlers.

§ ----.55 **Transfers.**

(a) Base quantities, allocations, or both may be transferred in whole or in part, for specified periods of time, in accordance with rules and procedures prescribed by the Secretary and based on recommendations of the committee: *Provided*, That: (1) transfers of base quantities shall be made at least 4 months prior to the applicable base quantity period, and (2) that base quantities issued pursuant to § ----.53(c) shall not be transferred for at least 2 years after issuance.

(b) Details of all such transfers shall be confirmed to the committee within 48 hours by parties thereto.

(c) The committee shall be notified if a different amount will be handled by a handler or handlers due to any transfer authorized in paragraph (a) of this section. The committee, upon receipt of such notification, shall advise the handler or handlers involved of the adjustments in the amount each may handle as the first handler thereof, based upon the number of cartons involved in the transfer, and shall revise as necessary the base quantities of, and allocations to, the producers involved.

(d) As a service to producers and handlers to facilitate transfers, the committee shall act as a clearing house of information on producers with deficits in production and availability of lettuce in excess of allocations. Such information shall be available at the committee office to any producer or handler upon request.

§ ----.56 **Overages.**

Any handler who purchases from or handles on behalf of a producer during any allocation period a quantity of harvested lettuce covered by a regulation issued pursuant to § ----.52 may purchase from or handle on behalf of such producer and in addition to such producer's allocation, established for him pursuant to § ----.54, an amount equal to 10 percent of such producer's allocation: *Provided*, That the quantity of lettuce so handled in excess of each such producer's allocation shall be deducted from such producer's allocation for the next allocation period: *Provided further*, That the committee, with the approval of the Secretary, may change the overage percentage permitted. Similarly they shall adopt rules and regulations to ensure repayment of any overages and to effectuate the provisions of this section.

§ ----.57 **Shortages.**

Any handler who purchases from, or handles on behalf of, a producer during any allocation period a quantity of lettuce covered by a regulation issued pursuant to § ----.52, in any amount less than the allocation established for such producer pursuant to § ----.54 for such period, may so purchase or handle, in addition to such producer's allocation for the next allocation period only, an amount equal to any such shortage but not to exceed 25 percent of the allocation for the period in which the shortage occurred: *Provided*, That the committee, with the approval of the Secretary, may change this percentage.

§ ----.58 **Priority of allocations.**

Any handler who, during any allocation period, has the right to purchase from, or handle on behalf of a producer, a quantity of lettuce in addition to such producer's available allocation for such period pursuant to §§ ----.54 and ----.56 by reason of a shortage of such producer's preceding weekly allocation pursuant to § ----.57 or the transfer of allocation to him from other producers pursuant to § ----.55, and such handler so

purchases from or handles on behalf of such producer a quantity of lettuce which is less than the total quantity of lettuce which he may so purchase or handle during such period then the amount of such lettuce purchased or handled for the account of the producer shall first apply proportionately to the producer's current week's allocation and to any allocation transferred to him pursuant to § ___.55 on which the producer whose allocation was transferred retains the right to include the quantities sold or handled in the calculation of his base quantity in future years. The remainder, if any, shall be applied in the following order: (a) to any shortage of his immediate preceding weekly allocation, (b) to any allocations transferred to him on which he retains the right to include the quantity sold or handled for his account in the calculation of base quantity in future years, and (c) to any overage of his current week's allocation.

OTHER REGULATIONS

§ ___.61 Recommendations for regulation.

(a) Whenever the committee deems it advisable to regulate the handling of lettuce in the manner provided in § ___.62 it shall so recommend to the Secretary.

(b) In arriving at its recommendations for regulation pursuant to paragraph (a) of this section, the committee shall give consideration to current information with respect to the factors affecting the supply and demand for lettuce during the period or periods when it is proposed that such regulation should be made effective. With each such recommendation for regulation, the committee shall submit to the Secretary the data and information of which such recommendation is predicted and such other available information as the Secretary may request.

§ ___.62 Issuance of regulations.

(a) The Secretary shall regulate, in the manner specified in this section the handling of lettuce whenever he finds, from the recommendations and information submitted by the committee, or from other available information, that such regulations will tend to effectuate the declared policy of the act. Such regulations may fix the size, capacity, weight, dimensions, or pack of the container, or containers, which may be used in the packaging or handling of harvested lettuce.

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

§ ___.63 Modification, suspension, or termination of regulations.

(a) In the event the committee at any time finds that, by reason of changed conditions, any regulation issued pursuant to § ___.62 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

(b) Whenever the Secretary finds from the recommendations and information submitted by the committee or from other available information that a regulation should be modified, suspended, or terminated with respect to any or all shipments of lettuce in order to effectuate the declared policy of the act, he shall modify, suspend, or terminate such regulation. If the Secretary finds that a regulation obstructs or does not tend to effectuate the declared policy of the act, he shall suspend or terminate such regulation. On the same basis and in like manner the Secretary may terminate any such modification or suspension.

§ ___.64 Special purpose shipments.

(a) Except as otherwise provided in this section, any person may, without regard to the provisions of §§ ___.42, ___.52, and ___.62 and the regulations issued thereunder, handle lettuce donated (1) for consumption by charitable institutions; or (2) for distribution by relief agencies.

(b) Upon the basis of recommendations and information submitted by the committee, or from other available information, the Secretary may relieve from any or all requirements under or established pursuant to §§ ___.42, ___.52, and ___.62 the handling of lettuce for such specified purposes including shipments to facilitate the conduct of production or marketing research and development projects established pursuant to § ___.48.

(c) The committee shall, with the approval of the Secretary, prescribe such rules, regulations, and safeguards as it may deem necessary to prevent lettuce handled under the provisions of this section from entering the channels of trade for other than the specific purposes authorized by this section. Such rules, regulations, and safeguards may include the requirements that handlers shall file applications and receive approval from the committee for authorization to handle lettuce pursuant to this section, and that such applications be accompanied by a certification by the intended purchaser or receiver that the lettuce will not be used for any purpose not authorized by this section.

MINIMUM QUANTITY EXEMPTION

§ ___.75 Minimum quantity exemption.

The committee, with the approval of the Secretary, may establish a minimum quantity of lettuce which may be handled free from regulations issued pursuant to:
§ ___.52 Issuance of volume regulation;
§ ___.62 Issuance of regulations; and
§ ___.42 Assessments.

REPORTS

§ ___.80 Weekly report.

On or before such day of each week as approved by the Secretary, each handler shall report to the committee, on forms prepared by it, the following information with respect to lettuce handled by such handler during the immediate preceding week:

(a) Quantity handled.

(b) Total quantity disposed of otherwise, showing the manner and quantity of each such disposition.

§ ___.81 Manifest report.

Each handler shall furnish to the committee, at such times and for such periods as the committee may designate, certified reports covering each shipment of lettuce as follows:

(a) Name of shipper and shipping point.

(b) The car or truck license number.

(c) The date of shipment.

(d) The number of cartons of lettuce.

(e) The quantity shipped.

(f) The destination.

§ ___.82 Other reports.

(a) Upon request of the committee, with the approval of the Secretary, each handler shall furnish to the committee such information as may be necessary to enable the committee to perform its duties under this part.

(b) When necessary the committee may request reports from individual handlers. Such reports may include, but are not limited to:

(1) Information regarding specific sales, transportation or other handling of lettuce.

(2) Anticipated lettuce planting intentions for the next 3 successive weeks.

(3) Fields or blocks of lettuce owned or controlled by applicant.

(4) Quantity of lettuce harvested from particular fields or blocks of lettuce with dates of harvest.

(5) Identification of each lot by original base quantity holder and subsequent transfers.

(c) All reports shall be held under appropriate protective classification and custody by the committee, or duly appointed employees or agents thereof, so that the information contained therein which may adversely affect the competitive position of any handler or producer in relation to other handlers or producers will not be disclosed. Compilations of general reports from data submitted by handlers and producers is authorized, subject to the prohibition of disclosure of individual handler's or producer's operations: *Provided*, That all individual base quantities and allocations shall be considered public information.

§ ___.83 Handler records.

Each handler shall maintain for at least 2 succeeding years after the end of the season to which they relate such records of the lettuce received, and of lettuce disposed of by him as may be necessary to substantiate the reports he submits to the committee pursuant to §§ ___.80–___.83.

§ ___.84 Verification of reports and records.

(a) For the purpose of assuring compliance with recordkeeping requirements and certifying reports of producers and handlers, the Secretary and the committee, through their duly authorized employees or agents, shall have access to any premises where applicable records

are located, where lettuce is handled, and at any time during reasonable business hours shall be permitted to inspect such producer and handler premises and any and all records of such persons with respect to matters within the purview of this part.

(b) Any person filing a report, record, or application that is willfully misrepresented shall be subject to the legal penalties for such misrepresentation on Government reports, as well as subject to correcting any base quantity or allocation issued by the committee based upon any such misrepresentation.

§ ___.85 Compliance.

Except as provided in this subpart, no handler shall handle lettuce, the handling of which has been prohibited by the Secretary in accordance with provisions of this subpart, or the rules and regulations thereunder, and no handler shall handle lettuce except in conformity to the provisions of this subpart.

§ ___.86 Right of the Secretary.

The members of the committee (including successors and alternates), and any agent or employee appointed or employed by the committee shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination, or other act of the committee 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 said committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ ___.87 Effective time.

The provisions of this subpart or any amendment thereto, shall become effective at such time as the Secretary may declare and shall continue in force until terminated in one of the ways specified in this subpart.

§ ___.88 Termination.

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

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

(c) The Secretary shall conduct a referendum within the month of February of every fifth year after the effective date of this subpart to ascertain whether continuation of this part is favored by the producers.

(d) The Secretary shall terminate the provisions of this subpart at the end of the then current marketing year whenever he finds that such termination is favored by a majority of the producers who, during a representative period determined by the Secretary, have been engaged in the production for market of lettuce, within the production area: *Provided*, That such majority have during such representative period produced for market more than 50 per centum of the volume of such lettuce produced for market, but such termination shall be effective only if announced on or before June 30 of the current marketing year.

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

§ ___.89 Proceedings after termination.

(a) Upon the termination of the provisions of this subpart the then functioning members of the committee shall continue as joint trustees for the purpose of settling the affairs of the committee by liquidating all funds and property then in the possession of or under control of the committee, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

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

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

§ ___.90 Effect of termination or amendments.

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

§ ___.91 Duration of immunities.

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

§ ___.92 Agents.

The Secretary may, by designation in writing, name any person, including any officer or employee of the U.S. Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

§ ___.93 Derogation.

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

§ ___.94 Personal liability.

No member or alternate of the committee nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatever, to any handler or to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, agent, or employee, except for acts of dishonesty, willful misconduct, or gross negligence.

§ ___.95 Separability.

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

§ ___.96 Amendments.

Amendments to this subpart may be proposed, from time to time, by the committee or by the Secretary.

§ ___.97 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.***

§ ___.98 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.***

§ ___.99 Order with marketing agreement.

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

Signed at Washington, D.C., on July 29, 1971.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.71-11072 Filed 8-3-71;8:45 am]

[7 CFR Part 925]

FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN IDAHO AND IN MALHEUR COUNTY, OREG.

Notice of Proposed Rule Making

Notice is hereby given that the Department is considering the following proposals of the Idaho-Malheur County, Oreg., Fresh Prune Marketing Committee, established under the marketing agreement and Order No. 925 (7 CFR Part 925), regulating the handling of fresh prunes grown in designated counties in Idaho and in Malheur County, Oreg., effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The recommendation of the Idaho-Malheur County, Oreg., Fresh Prune Marketing Committee reflects its appraisal of the fresh prune crop and current and prospective market conditions. Shipments of Idaho-Oregon fresh prunes are expected to begin on or about August 15, 1971. The grade and size requirements specified herein are designed to prevent the handling, on and after August 15, 1971, of prunes grading lower and being smaller in size than those herein specified, so as to provide consumers with good quality fruit, consistent with (1) the overall quality of the crop, and (2) maximizing returns to the producers pursuant to the declared policy of the act.

§ 925.310 Prune Regulation 9.

(a) *Order.* During the period August 15, 1971, through December 31, 1971, no handler shall handle any lot of prunes unless such prunes meet the following applicable requirements, or are handled in accordance with subparagraph (3) of this paragraph:

(1) *Minimum grade and size requirements.* Such prunes grade at least U.S. No. 1 and are a minimum size of 1⅛ inches in diameter: *Provided,* That prunes which are affected by healed hail marks may be shipped if they otherwise grade at least U.S. No. 1.

(2) *Pack of containers.* The net weight of prunes in any container, other than the one-half (½) bushel basket shall be either (1) less than 20 pounds, or (2) more than 30 pounds.

(3) Notwithstanding any other provision of this regulation, any individual shipment of prunes which, in the aggregate, does not exceed 150 pounds net weight may be handled without regard to the restrictions specified in this paragraph (a) or in § 925.41 (Assessment) and § 925.55 (Inspection and Certification) of this part.

(4) The terms "U.S. No. 1," "diameter," and "hail marks" shall have the same meaning as when used in the U.S. Standards for Fresh Plums and Prunes (7 CFR 51.1520-51.1538); and terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in the marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112-A, Administration Building, Washington, D.C. 20250, not later than the 7th day 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)).

Dated: July 29, 1971.

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

[FR Doc.71-11125 Filed 8-3-71;8:47 am]

[7 CFR Part 928]

PAPAYAS GROWN IN HAWAII

Notice of Proposed Rule Making

Consideration is being given to the following proposal submitted by the Papaya Administrative Committee, established under the marketing agreement and Order No. 928 (7 CFR Part 928), regulating the handling of papayas grown in Hawaii, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

It is proposed that shipments of Hawaiian papayas to destinations within the State be required to grade at least Hawaii No. 2 and that such papayas exported to destinations outside the State be required to grade at least Hawaii No. 1 except that exported papayas must be of pyriform shape and must each weigh at least 10 ounces. The higher minimum grade requirement for papayas to be exported is proposed because such papayas better justify the higher transportation costs and are aimed at fostering an expanded export market through superior quality. The proposed minimum grade for intrastate shipments of papayas will provide Hawaiian markets with fruit of satisfactory quality while providing an outlet for papayas that do not qualify for export shipment. The proposed regulation reads as follows:

§ 928.301 Papaya Regulation 1.

(a) *Order:* During the period August 25 through December 31, 1971, no handler shall ship any container of papayas:

(1) To any destination within the production area unless said papayas grade at least Hawaii No. 2;

(2) To any export destination unless said papayas grade at least Hawaii No. 1: *Provided,* That such papayas shall be of pyriform shape and weigh not less than 10 ounces each.

(b) When used herein "Hawaii No. 1", "Hawaii No. 2" and "pyriform shape" shall have the same meaning as set forth in the State of Hawaii Revised Regulation No. 1 subsection 5.32—Wholesale Standards for Hawaiian Grown Papayas. All other terms shall have the same meaning as when used in the marketing agreement and order.

All persons who desire to submit written data, views, or arguments, for consideration in connection with the proposed regulation shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administraton Building, Washington, D.C. 20250, not later than the 10th day 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)).

Dated: July 30, 1971.

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

[FR Doc.71-11173 Filed 8-3-71;8:50 am]

[7 CFR Part 1064]

[Docket No. AO-23-A41]

MILK IN GREATER KANSAS CITY MARKETING AREA

Notice of Emergency Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Notice is hereby given of a public hearing to be held on August 12, 1971, at the Aztec Room, Hotel President, 14th and Baltimore, Kansas City, MO, beginning at 9:30 a.m., with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Greater Kansas City marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR Part 900.12(d)) with respect to proposals Nos. 1 and 2.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Mid-America Dairymen, Inc.:

Proposal No. 1. Amend § 1064.65 of the order to provide that individual producer

bases be established on the 4 months of lowest production during the year, instead of the present period of September through December.

Proposal No. 2. Add a proviso to § 1064.65 to provide that any producer who in the current base establishing period delivered on a daily basis for not less than 90 days at least 75 percent as much milk as was delivered during the September through December 1970 base establishing period will be credited with the base earned in the 1970 base establishing period. Such option to be exercised in succeeding years to use the base earned in 1970, or the current base if higher than 1970, if at least 75 percent of such base is delivered to the market in the base delivery period.

Proposed by the Dairy Division, Consumer and Marketing Service:

Proposal No. 3. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, U. Grant Grayson, Post Office Box 4606, Overland Park, KS 66204, or from the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

Signed at Washington, D.C., on July 30, 1971.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.71-11126 Filed 8-3-71;8:47 am]

[9 CFR Parts 320, 325]

MEAT INSPECTION

Shipment of Certain Inedible Meat Products Under Seal in Lieu of Denaturing

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that the Consumer and Marketing Service is considering amending Parts 320 and 325 of the Federal Meat Inspection Regulations (9 CFR Parts 320, 325) as indicated below, pursuant to the authority contained in the Federal Meat Inspection Act, as amended by the Wholesome Meat Act (21 U.S.C. 601 et seq.).

Statement of Considerations. As a result of comments received with respect to the proposed Federal meat inspection regulations published on August 14, 1969 (34 F.R. 13194), it is proposed at this time to allow certain inedible meat products of livestock to be moved from federally inspected establishments and in commerce from such establishments or State inspected establishments, under seal and other safeguards as an alternative to denaturing as presently provided for in Part 325 of the regulations. Permission for the shipment of such inedible products would be similar to the permission already afforded for the shipment of inedible rendered animal fats from federally inspected establishments and elsewhere.

1. Section 325.11 would be amended by renumbering paragraphs (d) and (e) as paragraphs (e) and (f), respectively, and by adding a new paragraph (d) to read as follows:

§ 325.11 Inedible Articles: Denaturing and other means of identification; certificates; exceptions.

* * * * *

(d) Inedible products (excluding those products condemned except the products specified in § 314.11 of this chapter) which were prepared at any official establishments or at any State inspected establishments in any State not listed in § 331.2 of this chapter, and which have the physical characteristics of a product fit for human food, may be shipped in commerce without denaturing, if the following conditions are met:

(1) Such products shall not be bought, sold, transported, or offered for sale, or offered for transportation in commerce, or imported, except by persons who have obtained a numbered permit for such activity from the Director, Standards and Services Division. Such permit may be obtained upon written application to the Director, Standards and Services Division, Meat and Poultry Inspection Program, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250. The application shall state the name and address of the applicant, a description of the type of his business operations, and the purpose of making such application.

(2) Such inedible products may be distributed under this paragraph (d) only if destined to a manufacturer of technical articles other than for human food, or a manufacturer of animal food, and provided, in the case of such a product consigned to a domestic manufacturer, the product is for use solely by the consignee for manufacturing purposes in nonhuman food articles and may not be further sold or shipped in commerce without first receiving approval of the Director, Standards and Services Division.

(3) When transported from an official establishment or in commerce under this paragraph (d), the outside container of such inedible products shall be marked conspicuously, with the words "Inedible—Not Intended for Human Food" in letters not less than 2 inches high, in the case of containers such as cartons, drums, tierces, barrels, and half barrels, and not less than 4 inches high in the case of tank cars and trucks.

(4) Such inedible products may be transported from an official establishment or in commerce under this paragraph (d) only in cars, trucks, or containers which bear unofficial seals applied by the shipper, which shall include the identification number assigned to the permit holder and an individual seal serial number assigned by the shipper; and the product so transported shall be accompanied by an invoice or bill of lading specifying the identification number. The consignee in the United States must retain a record of the identification and serial numbers shown on the seals in his records as prescribed in Part 320 of this subchapter.

(5) Any diversion or effort to divert product contrary to the provisions of this paragraph (d) or other violation of the provisions of this section may result in the revocation of the permit for shipment of inedible products under this paragraph (d), at the discretion of the Administrator.

* * * * *

2. In § 325.11(a), the phrase "paragraph (c), (d), or (e)" would be deleted and the phrase "paragraph (c), (d), (e), or (f)" would be substituted therefor.

3. In § 320.1(b), a new subparagraph (3) would be added to read: "(3) A record of seal numbers required to be kept by consignees of products shipped under unofficial seals under § 325.11(c) or (d)."

Any person who wishes to submit written data, views, or arguments concerning the proposed amendments may do so by filing them, in duplicate, with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, within 60 days after the date of 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 the regular business hours (7 CFR 1.27(b)).

Done at Washington, D.C., on July 29, 1971.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.71-11174 Filed 8-3-71;8:51 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 121, 135g, 144]

FURAZOLIDONE

Notice of Proposed Rule Making

On the basis of grounds set forth in a notice of opportunity for hearing (Docket No. FDC-D-281) published elsewhere in this issue of the FEDERAL REGISTER, the Commissioner of Food and Drugs proposes (1) to revoke the food additive regulations providing for the use of furazolidone in animal feed for specified purposes and (2) to revoke the exemptions from certification of animal feeds containing furazolidone and antibiotics.

The Commissioner, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under authority delegated to him (21 CFR 2.120), proposes that:

1. Part 121 be amended by revoking § 121.255 *Furazolidone.*

2. Part 135g be amended by revoking § 135g.36 *Furazolidone.*

3. Part 144 be amended in § 144.26 *Animal feed containing certifiable antibiotic drugs:*

a. In paragraph (a) by revoking subparagraphs (4) and (5).

b. In paragraph (b) by revoking subparagraphs (1)(v), (15), (16)(ii), (17)(ii), and (21)(v) and by deleting from the first sentence of subparagraph (21)(vi) the reference to subdivision (v) of that subparagraph.

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: July 22, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-11132 Filed 8-3-71;8:48 am]

[21 CFR Parts 121, 135g, 146a]

FURALTADONE

Notice of Proposed Rule Making

On the basis of grounds set forth in a notice of opportunity for hearing (Docket No. FDC-D-283) published elsewhere in this issue of the FEDERAL REGISTER, the Commissioner of Food and Drugs proposes (1) to revoke the food additive regulations providing for the use of furaltadone for the treatment of mastitis in cattle and (2) to delete drugs containing furaltadone and antibiotics from the list of drugs acceptable for certification.

The Commissioner, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under authority delegated to him (21 CFR 2.120), proposes that:

1. Part 121 be amended in § 121.249 *Food additives for use in milk-producing animals* by revoking paragraph (a)(2) and (5).

2. Part 135g be amended by revoking § 135g.20 *Furaltadone.*

3. Part 146a be amended in § 146a.45 *Procaine penicillin G in oil* by deleting the second sentence in paragraph (a) and by deleting from the fifth sentence of paragraph (a) the words, "except that it is sterile if it is packaged and labeled solely for udder instillations of cattle and it contains furaltadone."

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: July 22, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-11133 Filed 8-3-71;8:48 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Part 72]

[Docket No. R-71-134]

FAIR HOUSING POSTER

Notice of Proposed Rule Making

The Department of Housing and Urban Development is considering amending Title 24 of the Code of Federal Regulations to include a new Part 72 entitled "Fair Housing Poster". The proposed amendment, issued pursuant to the Civil Rights Act of 1968, 42 U.S.C. 3604, et seq., imposes a requirement for the display of a prescribed Fair Housing Poster by persons who are subject to sections 804-806 of the Act (42 U.S.C. 3604-3606).

Interested persons are invited to participate in the making of the proposed rule by submitting written data, views, or statements with regard to the proposed regulations. Communications should identify the proposed rule by the above docket number and title and should be filed in triplicate with the Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development, Washington, D.C. 20410. All relevant material received on or before September 17, 1971, will be considered by the Assistant Secretary before taking action on the proposal. Copies of comments submitted will be available during business hours, both before and after the specified closing date, at the above address, for examination by interested persons.

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).

The proposed Part 72 reads as follows:

PART 72—FAIR HOUSING POSTER

Subpart A—Purpose and Definitions

Sec.
72.1 Purpose.
72.5 Definitions.

Subpart B—Requirements for Display of Posters

72.10 Persons subject.
72.15 Location of posters.
72.20 Availability of posters.
72.25 Description of posters.

Subpart C—Enforcement

72.30 Violation.
72.35 Complaints.

Subpart A—Purpose and Definitions

§ 72.1 Purpose.

The regulations set forth in this Part 72 contain the procedures established by the Secretary of Housing and Urban Development with respect to the display of a Fair Housing Poster by persons subject to sections 804-806 of the Civil Rights Act of 1968, 42 U.S.C. 3604-3606.

§ 72.5 Definitions.

(a) "Department" means the Department of Housing and Urban Development.

(b) "Discriminatory housing practice" means an act that is unlawful under section 804, 805, or 806 of title VIII.

(c) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(d) "Family" includes a single individual.

(e) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

(f) "Secretary" means the Secretary of Housing and Urban Development.

(g) "Fair Housing Poster" means the poster prescribed by the Secretary for display by persons subject to sections 804-806 of the Civil Rights Act of 1968.

(h) "The Act" means title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601 et seq.

(i) "Person in the business of selling or renting dwellings" means a person as defined in section 803(c) of the Act.

Subpart B—Requirements for Display of Posters

§ 72.10 Persons subject.

(a) All persons subject to section 804 of the Act, Discrimination in the Sale or Rental of Housing, shall, when a dwelling covered by the Act is offered for sale or lease, post and maintain a Fair Housing Poster at the dwelling as well as at any place of business where the dwelling is offered for sale or rental. This paragraph shall not apply to any single-family dwelling unless such dwelling is offered for sale or rental through a real estate broker, agent, salesman, or person in the business of selling or renting dwellings who shall post and maintain the Fair Housing Poster required by this part.

(b) All persons subject to section 805 of the Act, Discrimination in the Financing of Housing, shall post and maintain a Fair Housing Poster at all their places of business which participate in the financing of housing.

(c) All persons subject to section 806 of the Act, Discrimination in the Provi-

sion of Brokerage Services, shall post and maintain a Fair Housing Poster at all their places of business.

§ 72.15 **Location of posters.**

All Fair Housing Posters shall be prominently displayed so as to be readily apparent to all persons seeking housing accommodations or financial assistance or brokerage services in connection therewith as contemplated by sections 804-806 of the Act.

§ 72.20 **Availability of posters.**

All persons subject to this Part 72 may obtain Fair Housing Posters from the Department's Regional and Area Offices. A facsimile may be used if the poster and the lettering are equivalent in size and legibility to the poster available from the Department.

§ 72.25 **Description of posters.**

The Fair Housing Poster shall be 11 inches by 14 inches and shall bear the following legend:

WE DO BUSINESS IN ACCORDANCE WITH THE FEDERAL "FAIR HOUSING LAW"

(TITLE VIII OF THE CIVIL RIGHTS ACT OF 1968)

IT'S ILLEGAL, BECAUSE OF RACE, COLOR, RELIGION, OR NATIONAL ORIGIN, TO

Refuse to sell or rent a dwelling to any person.

Discriminate in terms or conditions of sale or rental of a dwelling.

Discriminate in advertising with respect to the sale or rental of a dwelling.

Represent that any dwelling is not available when it is.

Engage in "Blockbusting"—For profit, to induce any person to sell or rent any dwelling by representations regarding minorities moving into the neighborhood.

Deny or offer different terms or conditions in making residential real estate loans.

Deny membership or participation in real estate brokers' organizations, multiple-listing services, or other real estate services or organizations.

YOUR RIGHTS

Send complaints to:

The Department of Housing and Urban Development, Washington, D.C. 20410

OR

CONTACT HUD FOR MORE INFORMATION

[Regional Stamp]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PUBLICATION

Subpart C—Enforcement

§ 72.30 **Violation.**

A failure to display the Fair Housing Poster as required by this Part 72 shall be deemed a discriminatory housing practice and prima facie evidence of a violation of sections 804-806 of the Act, as applicable.

§ 72.35 **Complaints.**

Any person who claims to have been injured by a violation of these regulations or who believes that he will be irrevocably injured by a violation of these regulations may file a complaint with the Secretary. Complaints filed hereunder will be processed pursuant to Part 71 of this subtitle.

SAMUEL J. SIMMONS,
Assistant Secretary for Equal Opportunity.

[FR Doc.71-11176 Filed 8-3-71;8:51 am]

ENVIRONMENTAL PROTECTION AGENCY

[18 CFR Part 608]

WATER QUALITY ENHANCEMENT AWARDS

Notice of Proposed Rule Making

The document proposing to add a new Part 608 of Chapter V of Title 18 of the Code of Federal Regulations, published in the FEDERAL REGISTER on July 16, 1971, at 36 F.R. 13217 is corrected as follows:

Section 608.2 (d) and (e) are redesignated as (e) and (f) respectively.

Add new § 608.2(d) to read:

(d) "Preceding year" means the calendar year immediately prior to the year in which an application for award is submitted.

In § 608.9, change the period to a comma and add "and notice of the award shall be published in the FEDERAL REGISTER."

Interested persons may submit, in triplicate, written suggestions or comments concerning the above corrections to the Director, State and Interstate Programs, Office of Water Programs, Environmental Protection Agency, Washington, D.C. 20242. All relevant material received no later than 30 days after publication of this notice will be considered.

Dated: July 30, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator,
Environmental Protection Agency.

[FR Doc.71-11142 Filed 8-3-71;8:48 am]

FEDERAL POWER COMMISSION

[18 CFR Parts 141, 260]

[Docket No. R-423]

NONUTILITY DIVERSIFIED BUSINESS ACTIVITIES

Annual Report Forms; Notice of Extension of Time

JULY 23, 1971.

Amendments to certain schedule pages of FPC Annual Report Forms No. 1 and No. 2 to obtain additional information on nonutility diversified business activities.

On July 19, 1971, and July 21, 1971, the American Gas Association and the Independent Natural Gas Association of America, respectively, filed requests for a 60-day extension of time within which to file comments in the above-designated matter.

Upon consideration, notice is hereby given that the time is extended to and including September 27, 1971, within which any interested person may submit data, views, comments, or suggestions in writing to the notice of proposed rule making (36 F.R. 11943), issued June 15, 1971, in the above-designated matter.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-11108 Filed 8-3-71;8:46 am]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

KANEKALON WIGS FROM HONG KONG

Antidumping Proceeding Notice

JULY 28, 1971.

On June 14, 1971, information was received in proper form pursuant to sections 153.26 and 153.27, Customs regulations (19 CFR 153.26, 153.27), indicating a possibility that kanekalon wigs from Hong Kong are being, or likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Having conducted a summary investigation as required by § 153.29 of the Customs regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the Bureau of Customs is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to § 153.30 of the Customs regulations (19 CFR 153.30).

[SEAL] MYLES J. AMBROSE,
Commissioner of Customs.

[FR Doc.71-11138 Filed 8-3-71;8:48 am]

Office of the Secretary

CLEAR SHEET GLASS FROM FRANCE

Determination of Sales at Less Than Fair Value and Discontinuance of Antidumping Investigation

AUGUST 2, 1971.

Information was received on January 8, 1970, that clear sheet glass weighing over 16 ounces per square foot from France was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act").

A "Withholding of Appraisement Notice" issued by the Acting Commissioner of Customs was published in the FEDERAL REGISTER of May 4, 1971. A statement of reasons was published in the abovementioned notice and interested parties were afforded until May 14, 1971, to make written submissions and to present oral views in connection with the withholding of appraisement.

The attorneys for the exporters submitted written requests for an opportunity to present views in person in opposition to the notice. The opportunity was afforded to the attorneys, and all interested parties were notified and were represented.

After consideration of all written and oral arguments presented, I hereby determine that clear sheet glass from France weighing over 28 ounces per square foot is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Act; and I hereby discontinue the antidumping investigation of clear sheet glass weighing over 16 ounces but not over 28 ounces per square foot from France.

Statement of reasons on which this determination and discontinuance of investigation are based.

The information currently before the Bureau reveals that the proper basis of comparison is between purchase price and home market price of such or similar merchandise.

Purchase price was calculated by deducting discounts, inland freight in the United States, Customs clearance charges, U.S. duty, ocean freight, marine insurance, and inland freight in France from the c.i.f. delivered price for exportation to the United States.

Home market price was based on a delivered customer warehouse or job site price list price. Deductions were made for discounts and inland freight. Adjustments were made for differences in credit terms, breakage compensation, technical assistance, selling expenses and commissions, advertising expenses, cutting and handling, and packing costs, as applicable.

Comparisons made with respect to clear sheet glass weighing over 28 ounces per square foot revealed that purchase price was lower than adjusted home market price.

Comparisons made with respect to clear sheet glass weighing over 16 ounces but not over 28 ounces per square foot revealed some instances in the case of one exporter where purchase price was lower than adjusted home market price. However, these were determined to be minimal in terms of the volume of sales involved. Formal assurances subsequently were received from this exporter that no future sales of clear sheet glass weighing over 16 ounces but not over 28 ounces per square foot would be made at less than fair value within the meaning of the Act. These facts constitute evidence warranting the discontinuance of the investigation of clear sheet glass of this weight from France.

The U.S. Tariff Commission is being advised of the determination that clear sheet glass from France weighing over 28 ounces per square foot is being, or is likely to be, sold at less than fair value.

This determination of sales at less than fair value and notice of discontinuance of investigation is published pursuant to sections 153.36 and 153.15(b) of the Customs Regulations (19 CFR 153.36, 153.15(b)).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-11243 Filed 8-3-71;9:25 am]

CLEAR SHEET GLASS FROM ITALY

Determination of Sales at Less Than Fair Value

AUGUST 2, 1971.

Information was received on December 29, 1969, that clear sheet glass weighing over 16 ounces per square foot from Italy was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act").

A "Withholding of Appraisement Notice" issued by the Commissioner of Customs was published in the FEDERAL REGISTER of May 4, 1971.

I hereby determine that for the reasons stated below, clear sheet glass weighing over 16 ounces per square foot from Italy is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Act.

Statement of reasons on which this determination is based.

Information currently before the Bureau reveals that the proper basis of comparison is between purchase price and home market price of such or similar merchandise.

Purchase price was calculated by deducting from the c.i.f. duty-paid delivered price to the United States, confidential trade and cash discounts, U.S. inland freight, duty, port, and brokerage charges, ocean freight, insurance, and Italian inland freight. Italian I.G.E. taxes refunded or not collected upon exportation are added back.

Home market price was based on the delivered price less quantity or trade discounts, confidential discounts, cash discounts, sales commission, and delivery costs. Other adjustments to be made to this price are advertising differential, after sales expenses, credit or finance costs, bad debt loss, loyalty discount and differences in commissions and packing, as applicable.

Comparison between purchase price and the adjusted home market price revealed the adjusted home market price to be higher than purchase price by an amount that is considered more than minimal in relation to the total volume of sales.

The U.S. Tariff Commission is being advised of this determination.

This determination is being published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-11244 Filed 8-3-71;9:25 am]

CLEAR SHEET GLASS FROM WEST GERMANY

Determination of Sales at Less Than Fair Value and of Sales at Not Less Than Fair Value

AUGUST 2, 1971.

Information was received on January 14, 1971, that clear sheet glass weighing over 16 ounces per square foot from West Germany was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as the "Act").

A "Withholding of Appraisement Notice" issued by the Commissioner of Customs was published in the FEDERAL REGISTER of May 4, 1971. A statement of reasons was published in the abovementioned notice and interested parties were afforded until May 14, 1971, to make written submissions or requests for an opportunity to present views in connection with the withholding of appraisement.

The attorney for the exporter submitted a written request for an opportunity to present views in person in opposition to the notice. The opportunity was afforded to the attorney, and all interested parties were notified and were represented.

After consideration of all written and oral arguments presented, I hereby determine that clear sheet glass from West Germany weighing over 28 ounces per square foot is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Act; and that clear sheet glass from West Germany weighing over 16 ounces per square foot but not over 28 ounces per square foot is not being, nor is it likely to be, sold at less than fair value within the meaning of section 201(a) of the Act.

Statement of reasons on which this determination is based:

Information currently before the Bureau reveals that the proper basis of comparison is between purchase price and home market price of such or similar merchandise.

Purchase prices were calculated by deducting from the c.i.f., duty paid, prices for exportation to the United States the following included charges: a cash discount, a rebate, U.S. inland freight, customs clearance charges, U.S. duty, a selling commission, ocean freight, marine insurance, and German inland freight.

Home market prices were based on weighted average delivered prices after adjustments were made for various discounts, rebates, premiums, selling expenses, and inland freight.

Comparison between purchase price and the adjusted home market price on clear sheet glass weighing over 28 ounces per square foot revealed the adjusted home market price to be higher than purchase price.

Comparison between purchase price and the adjusted home market price on clear sheet glass weighing over 16 ounces per square foot but not over 28 ounces per square foot revealed the adjusted home market price to be lower than purchase price.

The U.S. Tariff Commission is being advised with regard to the determination on clear sheet glass weighing over 28 ounces per square foot.

This determination is being published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-11245 Filed 8-3-71;9:25 am]

6½ PERCENT TREASURY NOTES OF SERIES C-1973

Offering of Notes

[Department Circular, Public Debt Series No. 8-71]

AUGUST 2, 1971.

I. *Offering of notes.* 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders at a price not less than 99.76 percent of their face value for $2,500 million, or thereabouts, of notes of the United States, designated 6½ percent Treasury Notes of Series C-1973. Tenders will be received up to 1:30 p.m., e.d.s.t., Thursday, August 5, 1971, under competitive and noncompetitive bidding, as set forth in section III hereof. The 8¼ percent Treasury Notes of Series F-1971 and 4 percent Treasury Bonds of 1971 maturing August 15, 1971, will be accepted at par in payment, in whole or in part, to the extent tenders are allotted by the Treasury.

II. *Description of notes.* 1. The notes will be dated August 16, 1971, and will bear interest from that date at the rate of 6½ percent per annum, payable on a semiannual basis on February 15 and August 15, 1972, and February 15, 1973. They will mature February 15, 1973, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000 and $1 million. Provision will be made for the interchange of notes of different denominations and of coupon and registered notes, and for the transfer of registered notes, under rules and regulations prescribed by the Secretary of the Treasury.

5. The notes will be subject to the general regulations of the Department of the Treasury, now or hereafter prescribed, governing United States notes.

III. *Tenders and allotments.* 1. Tenders will be received at Federal Reserve Banks and Branches and at the Office of the Treasurer of the United States, Washington, D.C. 20220, up to the closing hour, 1:30 p.m., e.d.s.t., Thursday, August 5, 1971. Each tender must state the face amount of notes bid for, which must be $1,000 or a multiple thereof, and the price offered, except that in the case of noncompetitive tenders the term "noncompetitive" should be used in lieu of a price. In the case of competitive tenders, the price must be expressed on the basis of 100, with two decimals, e.g., 100.00. Tenders at a price less than 99.76 will not be accepted. Fractions may not be used. Noncompetitive tenders from any one bidder may not exceed $200,000. It is urged that tenders be made on the printed forms and forwarded in the special envelopes marked "Tender for Treasury Notes", which will be supplied by Federal Reserve Banks on application therefor.

2. Commercial banks, which for this purpose are defined as banks accepting demand deposits, may submit tenders for account of customers provided the names of the customers are set forth in such tenders. Other than commercial banks will not be permitted to submit tenders except for their own account. Tenders will be received without deposit from banking institutions for their own account, federally insured savings and loan associations, States, political subdivisions, or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks and foreign states, dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, and Government accounts. Tenders from others must be accompanied by payment (in cash or the securities referred to in section I which will be accepted at par) of 5 percent of the face amount of notes applied for.

3. Immediately after the closing hour tenders will be opened, following which public announcement will be made by the Department of the Treasury of the amount and price range of accepted bids. Those submitting tenders will be advised of the acceptance or rejection thereof. In considering the acceptance of tenders, those at the highest prices will be accepted to the extent required to attain the amount offered. Tenders at the lowest accepted price will be prorated if necessary. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders, in whole or in part, and his action in any such respect shall be final. Subject to these reservations, noncompetitive tenders for $200,000 or less without stated price from any one bidder will be accepted in full at the average price[1] (in two decimals) of accepted competitive tenders.

4. All bidders are required to agree not to purchase or to sell, or to make any agreements with respect to the purchase or sale or other disposition of any notes of this issue at a specific rate or price, until after 1:30 p.m., e.d.s.t., Thursday, August 5, 1971.

[1] Average price may be at, or more or less than $100,000.

5. Commercial banks in submitting tenders will be required to certify that they have no beneficial interest in any of the tenders they enter for the account of their customers, and that their customers have no beneficial interest in the banks' tenders for their own account.

IV. *Payment*. 1. Settlement for accepted tenders in accordance with the bids must be made or completed on or before August 16, 1971, at the Federal Reserve Bank or Branch or at the Office of the Treasurer of the United States, Washington, D.C. 20220, in cash, securities referred to in section I (interest coupons dated Augst 15, 1971, should be detached) or other funds immediately available by that date. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. In every case where full payment is not completed, the payment with the tender up to 5 percent of the amount of notes allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. Any qualified depositary will be permitted to make settlement by credit in its Treasury Tax and Loan Account for not more than 50 percent of the amount of notes allotted to it for itself and its customers. When payment is made with eligible securities a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities submitted and the amount payable on the notes allotted.

V. *Assignment of registered securities*. 1. Registered securities tendered as deposits and in payment for notes allotted hereunder should be assigned by the registered payees or assignees thereof, in accordance with the general regulations of the Department of the Treasury, in one of the forms hereafter set forth. Securities tendered in payment should be surrendered at the Federal Reserve Bank or Branch or at the Office of the Treasurer of the United States, Washington, D.C. 20220. The securities must be delivered at the expense and risk of the holder. If the notes are desired registered in the same name as the securities surrendered, the assignment should be to "The Secretary of the Treasury for 6½ percent Treasury Notes of Series C-1973"; if the notes are desired registered in another name, the assignment should be to "The Secretary of the Treasury for 6½ percent Treasury Notes of Series C-1973 in the name of ________________"; if notes in coupon form are desired, the assignment should be to "The Secretary of the Treasury for 6½ percent Treasury Notes of Series C-1973 in coupon form to be delivered to ____________________".

VI. *General provisions*. 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid tenders allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

[SEAL] JOHN B. CONNALLY,
Secretary of the Treasury.

[FR Doc.71-11258 Filed 8-3-71;9:47 am]

POSTAL SERVICE

ASSISTANT GENERAL COUNSEL, CONTRACTS AND PROPERTY DIVISION

Delegation of Authority; Determination of Protests Against Contract Awards

Pursuant to the authority of 39 CFR 212.4 (36 F.R. 12404), I hereby delegate to the Assistant General Counsel, Contracts and Property Division the authority vested in me (see section 6 of Part IIa of the Interim Procurement Regulations of the Postal Service, 36 F.R. 12452) to decide and determine protests against contract award and to exercise all powers and functions of my authority to decide and determine such protests.

(39 U.S.C. 401)

DAVID A. NELSON,
Senior Assistant Postmaster General and General Counsel.

[FR Doc.71-11117 Filed 8-3-71;8:46 am]

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

LICENSING DEPARTMENT INVENTIONS

Pursuant to authority delegated by the Secretary in 7 CFR 19.3 (35 F.R. 7493), the Administrator of the Agricultural Research Service has determined that certain Department inventions shall be made available for exclusive licensing under the provisions of Government Patent Policy (28 F.R. 10943) and 7 CFR 19.5 (35 F.R. 7493) and has made an initial selection of exclusive licensees involving four inventions. In accordance with 7 CFR 19.5(d) (35 F.R. 7493), notice thereof is published as follows:

1. Identifications of Department inventions: (1) Process for Making Powdered Fruit Juices, U.S. Patent 2,816,039; (2) Process for Making Full-Flavored Powdered Fruit Juice, U.S. Patent 2,-816,840; and (3) Process for Dehydrating Liquid Foodstuffs with Preservation of Volatile Flavors, U.S. Patent 2,906,630.

Identification of the contemplated licensee: Welch Foods, Inc., Westfield, N.Y.

Terms and conditions of contemplated license: (1) The license will be granted to make, use, and sell the inventions to an unlimited field of use throughout the United States of America, its territories and possessions; (2) the period of the license will be 3 years, 3 months for patents 2,816,039 and 2,816,840; and 5 years for patent 2,906,630; (3) the maximum price of sale for the products of the inventions will not be fixed by the Administrator; (4) the license will not require the payment of royalties; (5) the license will permit the licensee to grant sublicenses; and (6) all other terms and conditions shall be in accordance with requirements specified in 7 CFR 19.5(c) (35 F.R. 7493).

2. Identification of Department invention: Cycloheximide as an Abscission Aid in Harvesting Citrus Fruit, patent application S.N. 865,199, filed October 8, 1969.

Identification of contemplated licensee: The Upjohn Co., Kalamazoo, Mich.

Terms and conditions of contemplated license: (1) The license will be granted to make, use, and sell the invention in a unlimited field of use for citrus throughout the United States of America, its territories and possessions; (2) the period of the license will be 5 years from the date of issuance; (3) a maximum price of sale for the products of the invention will not be fixed by the Administrator; (4) the license will not require the payment of royalties; (5) the license will permit the licensee to grant sublicenses; and (6) all other terms and conditions shall be in accordance with requirements specified in 7 CFR 19.5(c) (35 F.R. 7493).

The license(s) will be granted unless:

(1) A nonexclusive licensee of the invention(s) files a protest with the Administrator within 30 days after this publication, stating that he has already brought or is likely to bring the invention(s) to the point of practical application without an exclusive license, and submitting documentation in support thereof; or

(2) An application for nonexclusive license on the invention(s) is filed with the Administrator within 30 days after this publication, such application stating that the applicant is likely to bring the invention(s) to the point of practical application without an exclusive license, and containing documentation in support thereof; or

(3) A protest is filed by any person with the Administrator within 30 days after this publication, setting forth reasons why it would not be in the public interest to grant the proposed exclusive license(s).

The Administrator shall make a decision with respect to any application or protest under subparagraphs (1), (2), and (3) above, which decision shall be final and conclusive unless appeal is made therefrom as provided in 7 CFR 19.11.

This notice shall become effective upon the date of publication in the FEDERAL REGISTER (8-4-71).

Done at Washington, D.C., this 30th day of July 1971.

T. W. EDMINSTER,
Acting Administrator,
Agricultural Research Service.

[FR Doc.71-10833 Filed 8-3-71;8:51 am]

SELECTION OF CHEMICALS FOR RESEARCH POTENTIALLY BENEFICIAL TO AGRICULTURE

Statement of Policies, Terms, and Conditions

I. *Purpose.* Pursuant to 7 USC 427, this notice states policy for the initial selection of, and conditions governing, the conduct of research and evaluation of potential agricultural chemicals produced by individuals or companies outside the Department. The Department will aggressively seek to assist in the evaluation of candidate chemicals under the terms set forth in this notice.

II. *Background.* In its research and action programs, the Department is interested in research to develop useful chemicals for agricultural production and for the protection of crops, livestock, and agricultural products, especially chemicals which have a low order of toxicity to man, livestock, crop and forest plants, and are compatible with a quality environment. Chemicals are needed for use as antibiotics, antiparasitic agents, antiseptics, attractants, biologics, chemotherapeutics, defoliants, desiccants, disinfectants fumigants, fungicides, herbicides, insecticides, nematocides, plant and animal growth regulators, plant and animal nutrients, repellents, seed protectants, soil conditioners, and other agricultural needs.

Many of the chemicals useful for these purposes have been synthesized and developed by industry, sometimes with the aid of the Department's research divisions or with other public research agencies. In some instances, the chemicals have been discovered by the Department or other public research agencies with subsequent commercial development by industry. Generally, the Department's programs of synthesis and analysis relate to long-term basic problems such as chemical investigations of naturally occurring products and certain classes of chemicals of importance to specific pest control programs in which the Department is engaged.

III. *Policy.* In order to achieve the objectives of its research and action programs, the Department will evaluate the effectiveness and environmental safety of biologically active and otherwise useful compounds and of formulations thereof that are proprietary and/or patented products, when such evaluation serves the best interest of the public, and when such compounds and formulations are useful in connection with an official program. However, the Department cannot assume the role of a public testing laboratory for the purpose of establishing commercial utility of proprietary materials. The results of such tests and evaluations will be made known to the public through technical or popular publications. This notice sets forth the conditions under which the Department will select chemicals and make such evaluations.

Implementation of the policy of this notice shall be consonant concerning adherence with Public Law 91-190, the National Environmental Policy Act of 1969, and Executive Order No. 11514 on Protection and Enhancement of Environmental Quality, and with any other applicable directives.

IV. *Selection and evaluation of chemicals.* The Department's Research Divisions will conduct research on agricultural chemicals when (a) they fit into a Division's program needs; (b) adequate Division personnel and facilities are available; and (c) the Division believes that the research will serve the best interests of the public.

Divisions may conduct research on chemicals, experimental formulations, proprietary compounds, and/or commercial formulations (hereafter referred to as "chemicals") developed by industry provided the supplier agrees to certain conditions. These are:

A. The supplier shall provide data to show that evaluation is warranted.

B. A statement giving the name of the chemical and its structural formula, if known, shall be furnished. If the exact formula is not known, sufficient information regarding the chemical nature of the material shall be furnished to enable the Division concerned to ascertain whether it has been previously evaluated.

C. If the supplier requests, a Division is authorized to accept chemicals and agree to hold identities in confidence for a reasonable period of time provided the chemical identity and other information required in this notice are made known to the Division. The period of confidence must be determined at the time of acceptance. A reasonable period of time is defined as up to 1 year. If there is a need for an extension and there is mutual agreement, the period of confidence may be extended for up to 1 additional year, but the total period of confidence may not exceed 2 years. Any such agreement as to confidence, and any extension thereof, must be in writing and signed by an authorized representative of the supplier and of the Division Director. It is the policy of the Department to publish results of scientific research as soon as the research data justify publication. Therefore, an agreement of confidence should be entered into only when it is determined to be in the best interest of the public.

D. The supplier will furnish to the cooperating Division available data on the toxicity of the chemical and its major impurities to man, animals, and plants; precautions necessary for safe evaluation and experimental use of the chemical; its solubility in available ordinary solvents; and other pertinent characteristics. Information on the toxicity of degradation, reaction, or metabolic products shall be fully disclosed. Compounds of unknown biological activity that are of special interest because of their chemical structure or other properties may be requested by the Research Divisions. In such cases, the provisions of this section pertaining to toxicity shall not apply.

E. The supplier shall be required to state in writing at the time of acceptance of the chemical whether steps for patent application(s) with respect to the chemical furnished have been taken or are contemplated. This information will be held in confidence. Unless the written statement specifies that the supplier reserves such patent rights, the Department shall be free to take such steps in reference to patent application(s) as it may deem to be in the public interest. No portion of the information or data generated by the Department during evaluation shall be used by the supplier in a patent application to meet the statutory requirement of utility; nor shall such information or data constitute the sole evidence of unobviousness in establishing patentability. Patentable ideas, products, processes, and equipment developed in the course of the research shall be reserved to the public in accordance with existing laws and regulations. The supplier must state his agreement to the conditions set forth in this paragraph in his written statement.

F. If a chemical is accepted for evaluation under the conditions stated in this notice, a Division may conduct preliminary evaluation under laboratory conditions or in small-plot tests. The extent to which any evaluations are made after the initial preliminary evaluations will be determined by the Division. Arrangements for large-scale field evaluations will be made with the supplier if the Division determines that such evaluations are justified. In such instances appropriate quantities of chemical formulated as specified by the Division may be accepted from the supplier as part of the cooperative arrangement.

G. Progress reports will be made to the supplier at the discretion of the Division. Upon completion of the evaluation, the Division will report its findings to the supplier for his information and comment. Information and results in progress reports or final reports shall not be published by the supplier in whole or in part without the consent of the Department and shall not be used in any advertisement to imply endorsement by the U.S. Department of Agriculture. The Department will publish promptly or make available to the public all information resulting from its research subject to any agreement as to confidence.

H. No recommendation for specific use of a chemical shall be made by any Division until the uses have been registered by appropriate Federal or State agencies if such registration is required by Federal or State laws.

I. In addition to the provisions outlined above, the following information shall be obtained for the evaluation of proprietary materials and/or commercial formulations:

1. The commercial name or designation of the product.

2. A common name of the active ingredient(s), if there is such.

3. The chemical name of the active ingredient(s).

4. The structural formula(s) of the active ingredient(s).

5. The chemical composition of impurities present, so far as they are known.

6. Percent active ingredient(s) of formulations.

7. Solubility in water and common organic solvents.

8. Adequate toxicological information to permit the investigator's taking reasonable precautions to safeguard health and other components of the environment.

9. Inert ingredients of formulations with information on the grade or purity of the inert ingredients.

V. *Forms to be used by USDA.* The supplier will complete a separate ARS Form 409, Request for Research Evaluation of Chemical, for each chemical to be evaluated. This form is a 3-part carbon-interleaved set. The supplier will retain the "Supplier's Copy" and submit the "Original" and "Notice of Acceptance Copy" with carbon intact to the appropriate USDA Division Representative. The USDA Division Representative will complete items 28 through 31 on the "Original" and the "Notice of Acceptance" copies. The original will be retained by the appropriate USDA Division as the "Agreement" copy. The "Notice of Acceptance" copy will be returned to the supplier and will constitute the Agreement for the supplier.

If there is a need for an extension of the period of confidence, the supplier will complete ARS Form 410, Request for Extension of Period of Confidence. This form will be submitted in an original and one copy to the appropriate USDA Division. The USDA Division Representative will complete items 10 through 13 and return the copy to the supplier as a record of the new period of confidence.

T. W. EDMINSTER,
Acting Administrator,
Agricultural Research Service.

CLAYTON YEUTTER,
Acting Administrator,
Consumer and Marketing Service.

R. KEITH ARNOLD,
Acting Chief,
Forest Service.

[FR Doc.71-11159 Filed 8-3-71;8:51 am]

Consumer and Marketing Service

SELECTION OF CHEMICALS FOR RESEARCH POTENTIALLY BENEFICIAL TO AGRICULTURE

Statement of Policies, Terms and Conditions

CROSS REFERENCE: For a document regarding selection of chemicals for research potentially beneficial to agriculture, see F.R. Doc. 71-11159, *supra.*

Forest Service

SELECTION OF CHEMICALS FOR RESEARCH POTENTIALLY BENEFICIAL TO AGRICULTURE

Statement of Policies, Terms, and Conditions

CROSS REFERENCE: For a document regarding selection of chemicals for research potentially beneficial to agriculture, see F.R. Doc. 71-11159, *supra.*

DEPARTMENT OF COMMERCE

[Dept. Administrative Order 203-18]

Office of the Secretary

SURETY BONDS

Delegation of Authority and Reporting Requirements

This material supersedes the material appearing at 33 F.R. 3033 of March 27, 1968.

SECTION 1. *Purpose.* The purpose of this order is to delegate authority and prescribe reporting requirements for obtaining surety bonds to cover officers and employees of the Department under the provisions of the Act of August 9, 1955 (6 U.S.C. 14).

SEC. 2. *Delegation of authority.* .01 Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10-5, the heads of operating units and the Director, Office of Financial Management Services, Office of the Secretary, are hereby authorized to obtain appropriate surety bonds to cover officers and employees of the Department who are required by law or administrative ruling to be bonded.

.02 The purchase of bonds pursuant to this authority shall be in accordance with the regulations prescribed in Treasury Department Circular No. 969, as amended, "The Purchase of Surety Bonds to Cover Civilian Officers and Employees and Military Personnel in the Executive Branch of the Federal Government," all of which are made a part hereof by reference.

.03 The authority delegated herein may be redelegated to such officers or employees as the heads of operating units and the Director, Office of Financial Management Services may designate.

SEC. 3. *Reports.* .01 In order to comply with the reporting requirements of the Act of August 9, 1955, and the Treasury Department Circular No. 969, as amended, each operating unit and the Office of Financial Management Services, Office of the Secretary, shall prepare and submit to the Director, Office of Financial Management Services, not later than August 1 of each year, a report of operations under the act for the preceding fiscal year.

.02 The reports prescribed herein shall contain the information specified in the pertinent regulations of the Department of the Treasury.

Effective date: July 22, 1971.

LAWRENCE E. IMHOFF,
Acting Assistant Secretary for Administration.

[FR Doc.71-11127 Filed 8-3-71;8:47 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-369; NDA 7-519, etc.]

ENDO LABORATORIES, INC., ET AL.

New Drug Applications; Notice of Withdrawal of Approval

The following firms, listed with their addresses, respective drugs, and new-drug application number, have discontinued marketing of said products and requested withdrawal of approval of the new-drug applications, thereby waiving opportunity for hearing.

NDA	Drug name	Applicant's name and address
7-519	Cumertilin Tablets and Injection (mercumatilin sodium and theophylline).	Endo Laboratories, Inc., 1000 Stewart Ave., Garden City, N.Y. 11530.
9-075	Eudicalma Cream (ethylaminobenzoate, thenylpyramine hydrochloride zinc oxide and camphor).	Rexall Drug Co., 3901 North Kingshighway, St. Louis, Mo. 63115.
9-447	Rauwolfia Serpentina Tablets.	Cooper Laboratories, Inc., 2900 North 17th St., Philadelphia, Pa. 19132.
9-616	Rauwolfia Serpentina with Veratrum Virades Tablets.	
9-626	Reserpine Tablets	
9-874	Tronolen Lotion (pramoxine hydrochloride and chlorcyclizine hydrochloride).	Abbott Laboratories, 14th and Sheridan Rd., North Chicago, Ill. 60064.
11-022	Predsem Tablets (prednisone, calcium pantothenate, aluminum hydroxide and magnesium trisilicate).	The S. E. Massengill Co., 527 Fifth St., Bristol, Tennessee 37620.
11-530	Op-Predrin Drops (prednisolone and phenylephrine hydrochloride).	Broemmel Pharmaceuticals, 1235 Sutter St., San Francisco, California 94109.
11-638	Nilevar Drops (norethandrolone).	G. D. Searle & Co., Post Office Box 5110, Chicago, Ill. 60680.
11-704	Magcyl Liquid (polymer of ethylene oxide and propylene oxide).	Paul B. Elder Co., 705 East Mulberry St., Box 31, Bryan, Ohio 43506.
16-541	Pen-Nitrate with phenobarbital (pentaerythritol tetranitrate and phenobarbital).	Tilden-Yates Laboratories, Inc., 328 Shrewsbury St., Worcester, Mass. 01604.
16-790	Pentaerythritol Tetranitrate Tablets (pentaerythritol tetranitrate).	Philadelphia Pharmaceuticals & Cosmetics, Inc., 5051 Lancaster Ave., Philadelphia, Pa. 19131.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 52 Stat. 1053, as

amended, 21 U.S.C. 355(e) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), approval of new-drug applications Nos. 7-519, 9-075, 9-447, 9-616, 9-626, 9-874, 11-022, 11-530, 11-638, 11-704, 16-541, and 16-790 including all amendments and supplements thereto, are hereby withdrawn on the grounds that certain reports of experience with the drug required under section 505(j) of the Act (21 U.S.C. 355(j) and § 130.13 or § 130.35 of the new-drug regulations (21 CFR 130.13 and 130.35) have not been submitted.

This order shall become effective on its date of publication in the FEDERAL REGISTER (8-4-71).

Dated: July 19, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-11060 Filed 8-3-71;8:45 am]

[Docket No. FDC-D-281; NADA No. 9-073V et al.]

HESS AND CLARK ET AL.

Furazolidone; Notice of Opportunity for Hearing

Notice is hereby given to Hess and Clark Division of Richardson-Merrell, Inc., Ashland, Ohio 44205, to Eaton Laboratories, Division of the Norwich Pharmacal Co., Post Office Box 191, Norwich, N.Y. 13815, to the Norwich Pharmacal Co., Post Office Box 191, Norwich, N.Y. 13815, and to any interested persons who may be adversely affected that the Commissioner of Food and Drugs proposes to issue an order under section 512(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(e)) with drawing approval of NADA (new animal drug application) Nos. 9-073V, 11-405V, 11-698V, 11-016V, 11-810V, and 9-393V with respect to furazolidone for the treatment of specified conditions in poultry, swine, and rabbits.

The Commissioner, based on an evaluation of new information before him with respect to such drugs together with the evidence available to him when the applications were approved, concludes that the drugs are not shown to be safe under the conditions of use upon the basis of which the applications were approved.

Information available to the Commissioner establishes that the drugs, when administered to laboratory animals, have been shown to produce tumors. The drugs are, therefore, not considered to be safe for use in the absence of appropriately sensitive methods of analysis to establish their absence in food derived from treated animals.

In accordance with the provisions of section 512 of the act (21 U.S.C. 360b), the Commissioner hereby gives the applicants and any interested persons who would be adversely affected by an order withdrawing such approval, an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of the above listed new animal drug applications should not be withdrawn. Promulgation of the order will cause any such preparation containing furazolidone to be a new animal drug for which no approved new animal drug application is in effect. Any such drug or any animal feed bearing or containing such drug then on the market would be subject to regulatory proceedings.

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Office of the General Counsel, Food, Drug, and Environmental Health Division, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing or
2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner, without further notice, will enter a final order withdrawing approval of the new animal drug applications.

Failure of such persons to file a written appearance of election within 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing concerning a method or process that the Commissioner finds is entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file a written appearance requesting the hearing and giving the reasons why the approval of the new animal drug applications should not be withdrawn together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition to the grounds for the notice of opportunity for a hearing. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, the Commissioner will enter an order stating his findings and conclusions on such data. If a hearing is requested and is justified by the response to the notice of hearing, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence. Such time shall be not more than 90 days after the expiration of said 30 days, unless the hearing examiner and the applicant otherwise agree.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: July 22, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-11134 Filed 8-3-71;8:48 am]

[Docket No. FDC-D-283; NADA Nos. 12-738V, 14-283V]

HESS AND CLARK ET AL.

Furaltadone; Notice of Opportunity for Hearing

Notice is hereby given to Hess and Clark, Division of Richardson-Merrell, Inc., Ashland, Ohio 44205, to the Norwich Pharmacal Co., Post Office Box 191, Norwich, N.Y. 13815, and to any interested persons who may be adversely affected that the Commissioner of Food and Drugs proposes to issue an order under section 512(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(e)) withdrawing approval of NADA (new animal drug application) Nos. 12-738V and 14-283V with respect to furaltadone for the treatment of bovine mastitis.

The Commissioner, based on an evalution of new information before him with respect to such drugs together with the evidence available to him when the applications were approved, concludes that the drugs are not shown to be safe under the conditions of use upon the basis of which the applications were approved.

Information available to the Commissioner establishes that the drugs, when administered to laboratory animals, have been shown to produce tumors. The drugs are, therefore, not considered to be safe for use in the absence of appropriately sensitive methods of analysis to establish their absence in food derived from treated animals.

In accordance with the provisions of section 512 of the act (21 U.S.C. 360b), the Commissioner hereby gives the applicants and any interested persons who would be adversely affected by an order withdrawing such approval an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of NADA Nos. 12-738V and 14-283V should not be withdrawn. Promulgation of the order will cause any such preparation containing furaltadone to be a new animal drug for which no approved new animal drug application is in effect. Any such drug then on the market would be subject to regulatory proceedings.

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Office of the General Coun-

sel, Food, Drug, and Environmental Health Division, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner, without further notice, will enter a final order withdrawing approval of the new animal drug applications.

Failure of such persons to file a written appearance of election within 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing concerning a method or process that the Commissioner finds is entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file a written appearance requesting the hearing and giving the reasons why the approval of the new animal drug applications should not be withdrawn together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition to the grounds for the notice of opportunity for a hearing. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, the Commissioner will enter an order stating his findings and conclusions on such data. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence. Such time shall be not more than 90 days after the expiration of said 30 days, unless the hearing examiner and the applicant otherwise agree.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: July 22, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-11135 Filed 8-3-71;8:48 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 71-76]

AMCHITKA ISLAND, ALASKA

Security Zone

By virtue of the authority vested in the Commandant, U.S. Coast Guard, by Executive Order 10173, as amended (33 CFR Part 6), sec. 6(b)(1), 80 Stat. 937, 49 U.S.C. 1655(b)(1), 49 CFR 1.46(b) and the redelegation of authority to Chief, Office of Operations, U.S. Coast Guard, as contained in the FEDERAL REGISTER of May 27, 1970 (35 F.R. 8279) I hereby affirm for publication in the FEDERAL REGISTER the order of J. A. Palmer, Rear Admiral, U.S. Coast Guard, Commander, 17th Coast Guard District, who has exercised authority as District Commander, such order reading as follows:

AMCHITKA ISLAND, ALASKA

SECURITY ZONE

Under the present authority of section I of title II of the Espionage Act of June 15, 1917, 40 Stat. 220, as amended, 50 U.S.C. 191, and Executive Order 10173, as amended, I declare that from 12 o'clock Bering Sea daylight time on Wednesday, August 25, 1971, until 12 o'clock Bering Sea daylight time on Thursday October 14, 1971, the following area is a security zone and I order it be closed to any person or vessel due to U.S. Atomic Energy Commission experiments:

The waters of Amchitka Island, Alaska, and those waters extending seaward to the limits of the U.S. Territorial Sea of Amchitka Island, Alaska.

No person or vessel shall remain in or enter this security zone without the permission of the U.S. Coast Guard.

The Commander, 17th Coast Guard District, Juneau, Alaska, shall enforce this order. In the enforcement of this order, the Coast Guard may utilize, by appropriate agreement, personnel and facilities of any other Federal agency, or of any State or political subdivision thereof.

For violation of this order, section 2 of title II of the Espionage Act of June 15, 1917 (40 Stat. 220 as amended, 50 U.S.C. 192), provides:

If any owner, agent, master, officer, or person in charge, or any member of the crew of any such vessel fails to comply with any regulation or rule issued or order given under the provisions of this chapter, or obstructs or interferes with the exercise of any power conferred by this chapter, the vessel, together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws, and the person guilty of such failure, obstruction, or interference, shall be punished by imprisonment for not more than 10 years and may, in the discretion of the court, be fined not more than $10,000.

(a) If any other person knowingly fails to comply with any regulation or rule issued or order given under the provisions of this chapter, or knowingly obstructs or interferes with the exercise of any power conferred by this chapter, he shall be punished by imprisonment for not more than 10 years and may, at the discretion of the court, be fined not more than $10,000.

Dated: July 29, 1971.

R. E. HAMMOND,
Rear Admiral, U.S. Coast Guard, Chief, Office of Operations.

[FR Doc.71-11140 Filed 8-3-71;8:48 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23595; Order 71-7-181]

BUCKEYE AIR SERVICE, INC.

Order to Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority, July 29, 1971.

The Postmaster General filed a notice of intent July 7, 1971, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air taxi operator, a final service mail rate of 68.4 cents per great circle aircraft mile for the transportation of mail by aircraft between Youngstown, Akron/Canton, Columbus, Ohio, Indianapolis, and South Bend, Ind., based on 10 one-way trips weekly.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Postal Service and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with two Beechcraft C-45 or 99 or equivalent aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusons:

The fair and reasonable final service mail rate is to be paid to Buckeye Air Service, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful

[1] As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

therefor, and the services connected therewith, shall be 68.4 cents per great circle aircraft mile between Youngstown, Akron/Canton, Columbus, Ohio, Indianapolis, and South Bend, Ind., based on 10 one-way trips weekly, flown with two Beechcraft C-45 or 99 or equivalent aircraft.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16(f),

It is ordered, That:

1. Buckeye Air Service, Inc., the Postmaster General, Allegheny Airlines, Inc., American Airlines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Buckeye Air Service, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the Rules of Practice (14 CFR 302.307); and

5. This order shall be served on Buckeye Air Service, Inc., the Postmaster General, Allegheny Airlines, Inc., American Airlines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., Trans World Airlines, Inc., and United Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK, *Secretary*.

[FR Doc.71-11169 Filed 8-3-71;8:50 am]

[Docket No. 23596; Order 71-7-177]

JIM HANKINS AIR SERVICE, INC.

Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority, July 29, 1971.

The Postmaster General filed a notice of intent July 7, 1971, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air taxi operator, a final service mail rate of 58.7 cents per great circle aircraft mile for the transportation of mail by aircraft between Bristol, Va., Bluefield and Charleston, W. Va., Columbus and Cleveland, Ohio, based on 10 one-way trips weekly.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Postal Service and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with two Beech S-18 or equivalent twin-engine aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Jim Hankins Air Service, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 58.7 cents per great circle aircraft mile between Bristol, Va., Bluefield and Charleston, W. Va., Columbus and Cleveland, Ohio, based on 10 one-way trips weekly flown with two Beech S-18 or equivalent twin-engine aircraft.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16(f),

It is ordered, That:

1. Jim Hankins Air Service, Inc., the Postmaster General, Allegheny Airlines, Inc., American Airlines, Inc., Eastern Air Lines, Inc., Pidemont Aviation, Inc., United Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Jim Hankins Air Service, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the Rules of Practice (14 CFR 302.307); and

5. This order shall be served on Jim Hankins Air Service, Inc., the Postmaster General, Allegheny Airlines, Inc., American Airlines, Inc., Eastern Air Lines, Inc., Piedmont Aviation, Inc., and United Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK, *Secretary*.

[FR Doc.71-11170 Filed 8-3-71;8:50 am]

[1] As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

[Dockets Nos. 20398, 22859; Order 71-7-184]

MINIMUM CHARGES PER SHIPMENT OF AIR FREIGHT

Order of Suspension

Adopted by the Civil Aeronautical Board at its office in Washington, D.C., on the 28th day of July 1971.

By tariff revisions[1] bearing a posting date of June 14 and an issue date of July 2 for American Airlines, Inc. (American), and an issue date of July 13 for Braniff Airways, Inc. (Braniff), the carriers propose to increase the minimum charges per shipment of air freight, effective August 13 1971, as follows: For

[1] Revisions to Airline Tariff Publishers, Inc., agent's Tariff CAB No. 8 (Agent J. Aniello series) and CAB No. 158.

general commodity rate traffic, from the charges for 50 pounds but not less than $10, to the charges for 100 pounds but not less than $12; for exception-rated traffic, from the charges for 50 pounds but not less than $10 to a minimum of $12, the 50-pound rule remaining unchanged; and for specific commodity traffic from the charges for the minimum weights in effect but not less than $10 to a minimum of $12, the minimum-weight rule remaining unchanged.

Complaints requesting investigations and suspension were filed by the Society of American Florists and Ornamental Horticulturists and the Allied American Bird Co., division of Hartz Mountain Products Corp. against American's proposed increases for general commodity and exception-rated shipments. The complaints variously assert, inter alia, that (1) the proposed increases are premature, since the current minimum charges are now under investigation, (2) rising costs have been met by rising minimum charges since 1968 to the extent that they are based on the charges for 50 pounds, (3) the proposed increases are exorbitant, and would have a serious effect on the movement of live animals and floral products, since they would be added to previous increases in minimum charges, (4) American's cost methodology is questionable and its justification inadequate, (5) it is not practicable for live animal shipments to be consolidated and such shipments will be fully subject to the increases proposed.

In justification of their proposals and in American's answer to the complaints, the carriers variously assert that (1) all-cargo services are being operated at substantial losses, to which the losses from small shipments contribute significantly, (2) costs of handling small shipments have increased and generally exceed charges, (3) the increased minimum charges are designed to encourage shippers to use "specialists," that transport small shipments more efficiently and at lower charges, (4) the increases proposed will not have an adverse effect on the movement of cut flowers, and (5) American's cost computation method is reasonable.[2]

The higher minimum charges proposed come within the scope of Minimum charges per shipment of air freight, Docket 20398, and the forthcoming Domestic Air Freight Rate Investigation, Docket 22859, and the lawfulness of those charges will be determined in those proceedings. The issue now before us is whether to suspend the proposed charges or to permit them to become effective, pending the final determination of their lawfulness in those investigations.

The minimum charges proposed will produce increases of 10 to 26 percent for eastbound traffic and increases of 20 to 54 percent for westbound traffic. These significant increases would contravene the Board's concept that carriers should not be permitted large increases that may have significant impact upon shippers.[3] It should be noted that the proposed increases would be on top of the minimum dollar charge increase from $6 to $10 per shipment, effective in the latter part of 1968.[4]

We do not believe that the carriers have adequately justified their proposals. In support of their proposed higher charges, the carriers present cost data estimated for 1971 or 1972 for selected shipments sizes at certain lengths of haul. The costs are based upon the carriers' methodologies presented in the Minimum Charge case, Docket 20398, which were challenged by the noncarrier parties, but the Board has not yet issued its decision in that case. Moreover, regardless of the accuracy of the cost data, Docket 20398 involves a number of highly controversial issues as to the proper basis for minimum charges. One such issue is the propriety of basing minimum charges on the charges for a given shipment weight, 50 pounds. In light of the pendency of this issue, the Board would not be prepared to permit to become effective the carriers' present proposal, a minimum based on the charge for a 100-pound shipment.[5]

In view of the foregoing, we shall suspend the changes in air freight minimum charges as herein proposed.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, and 1002 thereof,

It is ordered, That:

1. Pending hearing and decision by the Board, the charges and provisions described in Appendix A hereto[6] are suspended and their use deferred to and including November 10, 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;

2. Except to the extent granted herein, the complaints by the Society of American Florists and Ornamental Horticulturists, in Docket 23562, and the Allied American Bird Co., division of Hartz Mountain Products Corp., in Docket 23569, are dismissed;

3. Copies of this order shall be filed with the tariffs and served upon all parties in Docket 20398, and upon the Allied American Bird Co., division of Hartz Mountain Products Corp., which is hereby made a party to that proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary*.

[FR Doc.71-11171 Filed 8-3-71;8:50 am]

[2] In its answer, American also stated that its proposed minimum charges for exception-rated shipments, the charges for 50 pounds (reduced from its initial proposal of 100 pounds) but not less than $12, should dispose of Allied's complaint.

[3] See, for example, Orders 69-2-111, 69-3-94, 69-5-65, 69-5-105, and 71-2-119.

[4] Since 1968, furthermore, the alternative minimum charges, those for 50-pound shipments, have also risen significantly.

[5] For general commodity-rated traffic.

[6] Appendix A filed as part of the original document.

[Docket No. 23597; Order 71-7-175]

WRIGHT AIRLINES, INC.

Order to Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority, July 29, 1971.

The Postmaster General filed a notice of intent July 7, 1971, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air taxi operator, a final service mail rate of 83 cents per great circle aircraft mile for the transportation of mail by aircraft between Cleveland, Columbus and, Cincinnati, Ohio, based on 10 one-way trips weekly.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Postal Service and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with two Beech C-45 or 99 or equivalent twin-engine aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Wright Airlines, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 83 cents per great circle aircraft mile between Cleveland, Columbus, and Cincinnati, Ohio, based on 10 one-way trips weekly flown with two Beech C-45 or 99 or equivalent twin-engine aircraft.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16(f),

It is ordered, That:

1. Wright Airlines, Inc., the Postmaster General, Allegheny Airlines, Inc., American Airlines, Inc., Delta Air Lines, Inc., Trans World Airlines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft,

[1] As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Wright Airlines, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the Rules of Practice (14 CFR 302.307); and

5. This order shall be served on Wright Airlines, Inc., the Postmaster General, Allegheny Airlines, Inc., American Airlines, Inc., Delta Air Lines, Inc., and Trans World Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71-11168 Filed 8-3-71;8:50 am]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 71-763]

JERSEY CAPE BROADCASTING CORP.

Declaratory Ruling Regarding Broadcast of Lottery Information

JULY 27, 1971.

It has been brought to the attention of the Commission that certain licensees and/or news services may be misinterpreting the declaratory ruling (FCC 71-722) handed down by the Commission on July 14, 1971, which concerned the broadcast of the winning New Jersey State lottery number (36 F.R. 13813).

The ruling was given in response to a request for a declaratory ruling made by Jersey Cape Broadcasting Corp. in which it was stated that the winning numbers would be announced on news programs. The Commission stated that such broadcasting of winning New Jersey State lottery numbers was prohibited by 18 U.S.C. § 1304 and Commission regulations.

The Commission noted that the proposed broadcast of the winning lottery numbers was of interest only to that limited class of persons who actually hold tickets and did not have the general news interest of announcements of the names of persons who have won.

The Commission's ruling appears to have been interpreted in some quarters as holding that winning numbers may be broadcast if they are given as part of a news item. All licensees and other interested persons should note that this is not a correct interpretation of the ruling, and that the Commission considers such announcement of winning lottery numbers to be prohibited by the statute and its rules.

Action by the Commission July 23, 1971.[1]

FEDERAL COMMUNICATIONS COMMISSION,

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

[FR Doc.71-11150 Filed 8-3-71;8:51 am]

[Dockets Nos. 19291, 19292; FCC 71-768]

KFPW BROADCASTING CO. AND GEORGE T. HERNREICH

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of George T. Hernreich, trading as KFPW Broadcasting Co. (KFPW-TV), Fort Smith, Ark., Docket No. 19291, File No. BLCT-2093, for license to cover construction permit; and George T. Hernreich (KAIT-TV), Jonesboro, Ark., Docket No. 19292, File No. BRCT-623, for renewal of license.

1. We have before us for consideration: (a) the captioned applications; (b) the request of George T. Hernreich Hernreich), trading as KFPW Broadcasting Co., for program test authority (PTA) for Station KFPW-TV, filed in conjunction with the captioned licensed application;[1] (c) our letter of June 30, 1971, which stated that action on Hernreich's request for PTA would be withheld pending consideration of the license application; and (d) a "Petition for Reconsideration and Urgent Request for Immediate Grant of Program Test Authority," filed July 20, 1971, by Hernreich, directed against "c", above.

2. On May 28, 1969, the Commission granted Hernreich's application for a construction permit for Station KFPW-TV. After that date, matters came to our attention as a result an investigation in Docket No. 18811,[2] which raise a substantial question as to Hernreich's qualifications to be a licensee of the Commission. Accordingly, when Hernreich filed his license application and his request for program test authority (PTA) on June 11, 1971, we advised him that action on his request for PTA would be withheld pending Commission consideration of his license application (BLCT-2093). Hernreich now urges an immediate grant of his request for PTA.

3. In view of the evidence adduced in Docket No. 18811 and representations made to this Commission by Hernreich, we are unable to conclude that a grant of the captioned applications would serve the public interest. Accordingly, it is necessary to designate the applications for hearing. Since the evidence taken will be relevant to our disposition of both applications, we shall order a consolidated hearing.

4. There are also pending before the Commission the application for the renewal of license of standard broadcast stations KFPW (BR-623) and WZNG (BR-2913) for Fort Smith and Hot Springs, Ark., respectively. Action on these two applications will be held in abeyance pending final resolution of the issues in this docketed proceeding. George T. Hernreich, the principal in this docketed proceeding, is also the licensee

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[1] Commissioners Bartley, Robert E. Lee, Johnson and H. Rex Lee.

[1] Requests for program test authority are governed by § 73.629 of our rules. That section states:

(a) Upon completion of construction of a television broadcast station in accordance with the terms of the construction permit, the technical provisions of the application therefor, and the rules and regulations, and when an application for station license has been filed showing the station to be in satisfactory operating condition, the permittee may request authority to conduct program tests: *Provided*, That such request shall be filed with the Commission at least 10 days prior to the date on which it is desired to begin such operation and that the Engineer in Charge of the radio district in which the station is located is notified. (All data necessary to show compliance with the terms and conditions of the construction permit must be filed with the license application.)

(b) Program tests shall not commence until specific Commission authority is received. The Commission reserves the right to change the date of the beginning of such tests or to suspend or revoke the authority for program tests as and when such action may appear to be in the public interest, convenience, and necessity.

(c) Unless sooner suspended or revoked, the program test authority continues valid during Commission consideration of the application for license and during this period further extension of the construction permit is not required. Program test authority shall be automatically terminated by final determination upon the application for station license.

(d) All operations under program test authority shall be in strict compliance with the rules governing television broadcast stations and in strict accordance with representations made in the application for license pursuant to which the tests were authorized.

(e) The granting of program test authority shall not be construed as approval by the Commission of the application for station license.

[2] In Docket No. 18811, the Commission, pursuant to sections 403 and 409(1) of the Communications Act of 1934, as amended, instituted an inquiry to determine whether broadcast licensees or permittees, or any principal, agent or employee thereof, made payments to employees or principals of networks for the purpose of obtaining affiliation with such networks. The Commission emphasized that any such payment raises questions as to the particular party's qualifications to remain a licensee or permittee of the Commission, FCC 70-267, released Mar. 16, 1970.

of Stations KZNG and KFPW. The Commission's resolution of the issues in this docketed proceeding will be binding on George T. Hernreich and will be res judicata as to him. Gordon County Broadcasting Co. (WCGA) v. Federal Communications Commission, slip opinion No. 24,093, decided June 29, 1971, U.S. Court of Appeals for the District of Columbia Circuit. There is presently in hearing status (Docket No. 18241) an application of George T. Hernreich for a construction permit for a new FM broadcast station at Fort Smith, Ark. (BPH-6180). In the event that the issues in that proceeding are resolved in favor of the applicant, final action on that application (BPH-6180) should be withheld until dispositive action in taken in the instant docketed proceeding. Further, the final resolution in the instant proceeding will be determinative of Hernreich's qualifications in Docket No. 18241, Peoples Broadcasting Co. (WPBC), FCC 63-102, 24 RR 1169 (Rev. Bd. 1963).

5. We turn now to Hernreich's request for PTA for station KFPW-TV. The only local television station now serving Fort Smith is VHF Station KFSA-TV, which is owned by the only local Fort Smith newspaper, The Southwest American and Times Record. No other television signals are reliably received off the air in Fort Smith and the immediately surrounding area. Therefore, a grant of PTA would provide the Fort Smith area with its second television outlet and its first competing local television station. Under these circumstances, we believe that a grant of PTA, subject to whatever action we may deem appropriate as a result of the hearing ordered herein, would serve the public interest.

6. *Accordingly, it is ordered*, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the captioned 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 all of the facts and circumstances surrounding the payments made by George T. Hernreich to a representative of the American Broadcasting Co. and the changes in the Station KAIT-TV affiliation agreement relevant thereto.

2. To determine whether George T. Hernreich made any misrepresentations to the Commission or was lacking in candor in connection with his representations to the Commission.

3. To determine in light of the evidence adduced pursuant to the above issues, whether George T. Hernreich has the requisite qualifications to be a licensee of the Commission.

4. To determine in light of the evidence adduced pursuant to the above issues, whether a grant of the applications would serve the public interest, convenience and necessity.

7. *It is further ordered*, That the Chief of the Broadcast Bureau shall serve upon the captioned applicants, within ninety (90) days of the release of this order, a bill of particulars setting forth the basis for the adoption of the above hearing issues (1) and (2).

8. *It is further ordered*, That the Broadcast Bureau shall proceed with the initial introduction of evidence with respect to issues (1) and (2) and the applicants shall have the burden of proof with respect to all the issues.

9. *It is further ordered*, That the request for programs test authority, for Station KFPW-TV, Fort Smith, Ark. is granted subject to whatever action the Commission may deem appropriate as a result of the hearing ordered herein.

10. *It is further ordered*, That the petition filed by George T. Hernreich, trading as KFPW Broadcasting Co., is granted to the extent indicated herein and denied in all other respects.

11. *It is further ordered*, That the Commission's Order (FCC 68-705, released July 11, 1968) designating the Hernreich application for a new FM broadcast station at Fort Smith, Ark., is amended to provide that in the event the application (BPH-6180) is not dismissed or denied, final action on such application will be withheld until dispositive action is taken in the instant proceeding and that action in the instant proceeding shall be determinative as to Hernreich's qualifications to build the proposed new FM broadcast station at Fort Smith, Ark.

12. *It is further ordered*, That the evidence adduced in this proceeding shall be res judicata in connection with any further proceedings which the Commission may subsequently institute with respect to George T. Hernreich's ownership and operation of stations KFPW, Fort Smith, Ark., and KZNG, Hot Springs, Ark.

13. *It is further ordered*, That to avail themselves of the opportunity to be heard, the applicant's 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.

14. *It is further ordered*, That the applicants 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 within the time and in the manner specified in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: July 27, 1971.

Released: July 28, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-11152 Filed 8-3-71;8:51 am]

[2] Commissioners Johnson and H. Rex Lee concurring in part and dissenting in part; Commissioner Houser not participating.

[Dockets Nos. 19157-19159; FCC 71R-235]

PETTIT BROADCASTING CO. ET AL.

Memorandum Opinion and Order Enlarging Issues

In regard applications of Claud M. Pettit and Margaret E. Pettit, doing business as Pettit Broadcasting Co., Brush, Colo., Docket No. 19157, File No. BP-18125; A. V. Bamford, Colorado Springs, Colo., Docket No. 19158, File No. BP-18467; and Enid C. Pepperd and Dona B. West, doing business as Brocade Broadcasting Co., Boulder, Colo., Docket No. 19159, File No. BP-18470; for construction permits.

1. This proceeding, involving the mutually exclusive applications of Pettit Broadcasting Co. (Pettit), A. V. Bamford (Bamford), and Brocade Broadcasting Co. (Brocade) for a new standard broadcast station in Brush, Colo., Colorado Springs, Colo., and Boulder, Colo., respectively, was designated for hearing under various issues, including a 307(b) issue by Commission memorandum opinion and order, FCC 71-189, 36 F.R. 4634, published March 10, 1971. Presently before the Review Board is a petition to enlarge issues, filed March 25, 1971, by Brocade seeking the addition of a financial qualifications issue, as well as as a programing issue, against Pettit.[1]

Financial issue. 2. The main focus of Brocade's petition is its questioning of the value and marketability of certain real estate relied upon by Pettit's principals to satisfy their financial commitments to the applicant. According to its application, Pettit proposes to meet its estimated construction and first-year operating costs of $56,870 by reliance on the financial resources of its two principals, Claud M. Pettit and Margaret E. Pettit. To meet their commitments, the Pettits' balance sheet shows net liquid assets of at least $17,215.63[2] and real estate appraised by experienced real estate agents in the area[3] at $69,466.27 which the Pettits have indicated they will sell or pledge. Specifically, the real

[1] Other pleadings before the Review Board are: (a) Opposition, filed May 10, 1971, by Pettit; (b) comments, filed May 10, 1971, by the Broadcast Bureau; and (c) reply, filed June 2, 1971, by Brocade.

[2] This figure is increased to approximately $23,000 according to the balance sheet filed with Pettit's opposition.

[3] Traditionally, the Commission has accepted the appraisals of experienced local real estate agents with respect to the fair market value of real estate in a particular area. Although the qualifications or experience of the local real estate agents here were not set forth in their original appraisals, such information was supplied after this deficiency had been pointed out by the petitioner. Now that this information has been supplied and there is no question that the real estate agents are experienced persons in this area, petitioner suggests a new standard of qualification, i.e., that such real estate appraisers be "registered appraisers or an appraiser associated with the Master Appraisers Institute." Under the circumstances of this case, we find no need for such a stringent requirement.

estate appraised valuations are, as follows:

	Appraised valuations
Truitt Subdivision, Arvada, Colo.	$50,350.00
Rhoades Subdivision (Allison Street), Arvada, Colo.	7,500.00
Residence, 2761 East 93d Place, Thornton, Colo. ($19,000 value minus $7,383.73 mortgage outstanding)	11,616.27
Total, real estate, appraised valuations	69,466.27

3. As indicated above, the Pettits would have to acquire approximately $34,000–$40,000—[4] or approximately 50–60 percent of the appraised value ($69,500) of this property—from a sale or pledge of this property in order to meet their commitment to the applicant company for the financing of construction costs and first-year operating expenses. Section III, paragraph 4b, FCC Form 301, the application for a construction permit, requires an applicant to make a supplementary showing as to the manner in which such a nonliquid asset as real estate will provide the necessary cash funds. As further shown above, the Pettits made such a supplementary showing by submitting real estate appraisals of the property which were deemed acceptable and adequate by the Commission in accordance with its traditional and customary practice of accepting such appraisals as constituting prima facie evidence of the approximate fair market value, as well as the marketability, of such real estate. Hence, without discussion in its designation order, the Commission accepted the Pettits' prima facie showing, and did not specify a financial qualifications issue.

4. By the subject petition, Brocade attempts to challenge this prima facie showing with respect to the value and marketability of this real estate. Petitioner (a) cites a Colorado statute[5] which provides that tax assessments are to be made at 30 percent of actual value; (b) specifies the actual tax assessments of the properties in question; and (c) applying the 30 percent tax formula, calculates the fair market value at approximately $25,000 rather than the $69,500 figure as appraised and represented by the Pettits. Significantly, in our view, petitioner does not contend that the Pettits' real estate appraisals are not objective ones, or are inconsistent with the fair market value of similar properties situated in this area.

5. Thus, with due regard for the terms of the Colorado statute which petitioner relies upon to challenge the Pettit's prima facie showing, the Board believes that the Colorado statute, standing alone, does not controvert this showing under the circumstances here (a) where the Pettits have proffered competent evidence that there is a "generally accepted practice" in Colorado for unimproved land to be assessed at much less than the 30 percent formula prescribed by the statute, and (b) where this competent evidence of such a "generally accepted practice" has not been contradicted, let alone rebutted, by the petitioner. More specifically, the Board believes that petitioner had a burden of coming forward with evidence from the County Assessor setting forth the method and basis of his assessment of this property, or, alternatively, with verified statements from other real estate agents or lawyers in the area either (a) disputing the "generally accepted practice" alleged by the Pettits, or (b) disputing the fair market values as appraised by Pettits' real estate agents. Considering the grossly deficient state of this record, the contentions of Brocade, which attempt to challenge the value of this property, in our view, narrow down to mere cavilling.[6]

6. We also believe the Pettits have established reasonable assurance of marketability. This is land located in the suburban area of Denver and, in addition to comparing the saleability of nearby land, the Pettits have submitted undisputed evidence of inquiries from prospective purchasers for lots in the Truitt Subdivision at a minimum price level of $4,000 per lot.[7] There is also undisputed evidence that most of the available acreage in the Rhoades Subdivision is now selling for $7,500 to $10,000 per acre.[8]

7. It is our further view that any support for petitioner's position drawn from the language of Orange County Broadcasting Co., 15 FCC 2d 991, 15 RR 2d 306 (1969) and of Nelson Broadcasting Co., FCC 64R-505, 4 RR 2d 86, is decisively repelled by the difference in the facts of the instant case. Unlike the situation in Orange, supra, there are no conflicting allegations here with respect to the meaning of certain terms of valuation in tax records; nor is there a substantial question concerning unreported encumbrances which was the major basis of the specification of the financial issue in Orange, *supra*. *Cf.* Note 6, *supra*. Further, it is of significance in Nelson, *supra*, that (a) there was a narrow margin of only 11 percent as between the appraised value of certain real estate and the applicant's cash requirements, and (b) in light of this narrow margin, the Board held that an applicant must provide concrete assurance that such real estate could be sold at approximately the appraised value by demonstrating the availability of a prospective purchaser. Here, there is a wide margin (paragraph 3) between the appraised value and the Pettits' cash requirement to the applicant company. John M. Traxler, FCC 65R-191, 5 RR 2d 738, also relied upon by the petitioner, involved personal property of an applicant, such as automobiles, household and business furnishings, etc., and there the Board held that an applicant cannot rely on such types of personal property to meet its financial qualifications unless those assets are several times greater than the cash requirements. The instant case involves real property, unlike Traxler, and in any event, there is a wide margin (paragraph 3) as betweenthe appraisals and the Pettits' cash requirements.

Local programing issue. 8. The requested issue "to determine the extent to which the programing of existing stations meet the local needs of Brush, Colo.," derives from these facts: Brush, Colo., with a population of approximately 4,000 persons, is located 9 miles from Fort Morgan, Colo., where KFTM AM and FM are situated. On the basis of the allegations in the pleadings before us, there is no question that Brush receives a 5 mv./m. daytime service from KFTM (AM), and that this station does broadcast some programs on a regular basis geared to serve the local needs of Brush.

9. The Brush proposal is mutually exclusive with the proposals for the use of this frequency in Boulder, Colo., and in Colorado Springs. Brocade, the petitioner here seeking the requested issue, is the Boulder applicant. The population of the city of Boulder is 66,870, according to the 1970 Census of Population, Advance Report of Final Population Counts. Boulder has one AM station (KBOL), and two operating FM stations, one of which is KBVL(FM), under common ownership with KBOL. The other FM station is KRNW(FM). The thrust of petitioner's position seeking the requested issue is that its proposal for Boulder would represent a second AM station or first competitive AM station in Boulder, just as Pettit's (Brush) proposal would—in petitioner's view—represent a second AM station and first com-

[4] See Note 2, supra.

[5] The applicable Colorado Statute reads:

137-1-4 Valuation for assessment.—(1) (a) Except when otherwise prescribed in this chapter, the calculation for assessment of all taxable property in the State shall be 30 percent of the actual value thereof as determined by the assessor and the commission in the manner prescribed by law, and such percentage shall be uniformly applied, without exception, to the actual value, so determined, of the various classes and subclasses of real and personal property located within the territorial limits of the authority levying a property tax, and all property taxes shall be levied against the aggregate valuation for assessment resulting from the application of such percentage.

[6] The facts also do not support Brocade's allegation that the properties are encumbered: Pettit has clearly demonstrated that the encumbrance on the Truitt Subdivision was transferred to others, and that the mechanics liens on the Pettit's residence in Thornton have either been disposed of or are invalid. Similarly, Brocade's footnote one, questioning Pettit's cost estimates with regard to the latter's transmitter site, is equally without merit. As Pettit explains, the site was purchased from payments received by the Pettits on notes receivable not included in their financial statement and no improvements are necessary to render the property suitable for use as a transmitter site. Thus, there is no basis for petitioner's request: It is not unreasonable for an applicant to make such an expenditure with funds other than those set aside to prosecute its application, see Central Westmoreland Broadcasting Co., 27 FCC 2d 298, 20 RR 2d 1267 (1971), and Brocade does not dispute that the transmitter site, while once a city dump 35 years ago, has long been filled in and is now usable for a transmitter site without the expenditure of additional resources.

[7] Claud Pettit possesses at least 13 lots in this subdivision.

[8] Petit indicates ownership by Claud Pettit of 1.3 acres of the Rhoades Subdivision.

petitive AM station for Brush considering KFTM(AM) as a station serving the local needs of Brush, as well as Fort Morgan where it is situated.

10. On the basis of substantially the same basic facts detailed above, the Broadcast Bureau does not believe that the petitioner has made the required threshhold showing that the requested programing issue might be of decisional significance. And it is the position of Pettit, the Brush applicant, that the Commission's first local outlet preference, combined with "Brush's demonstrable need for a first local outlet, require denial of the request for addition of the specified issue."

11. Without deciding or prejudging any of the issues of fact which are patently revealed by the above recitations and which must await the outcome of the forthcoming evidentiary hearing, the Board believes that it is evident from the foregoing factual recitation that evidence concerning the programing of existing stations may be material to a determination under section 307(b) of the Communications Act, of which community has the greater need for the broadcast facility. However, in accordance with our usual practice, the requested issue will be added on a contingent basis and is authorized only in the event that the Brush proposal otherwise would prevail under the standard section 307(b) criteria. See, e.g., Radio Collinsville, Inc., 14 FCC 2d 1058, 14 RR 2d 559 (1968).

12. *Accordingly, it is ordered*, That the petition to enlarge issues, filed March 25, 1971, by Enid C. Pepperd and Dona B. West doing business as Brocade Broadcasting Co., is granted to the extent indicated below, and is denied in all other respects; and that the issues in this proceeding are enlarged by the addition of the following issue:

In the event that Pettit Broadcasting Co. should be deemed superior under the existing section 307(b) issue in this proceeding, to determine the extent to which programing of existing stations meet the local needs and interest of Brush, Colo., and to determine in light of such evidence which of the applicants should be preferred.

13. *It is further ordered*, That the burden of proceeding with the introduction of evidence on the contingent issue added herein will be on Brocade Broadcasting Co. and the burden of proof will be on Pettit Broadcasting Co.

Adopted: July 27, 1971.

Released: July 28, 1971.

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

[FR Doc.71-11153 Filed 8-3-71;8:51 am]

[Docket No. 19290; FCC 71-764]

JOHN M. SPOTTSWOOD

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In regard application of John M. Spottswood, for renewal of license for Station WKWF, Key West, Fla., File No. BR-1229.

1. The Commission has before it for consideration (1) the above-captioned renewal application; (2) a petition to deny the above-captioned renewal application filed January 16, 1970, by the Florida Keys Broadcasting Co.; (3) an opposition to the petition to deny filed April 2, 1970, by the above-captioned licensee; (4) a reply to the opposition to the petition to deny filed April 24, 1970, by the petitioner; (5) a "further opposition" to the petition to deny filed June 18, 1970, by the above-captioned licensee; and (6) other correspondence relating to these pleadings.

2. John M. Spottswood (hereinafter referred to as "Spottswood") is the licensee of Station WKWF, Key West, Fla. He is also the owner of Cable-Vision, Inc., a CATV system serving Key West. Petitioner, Florida Keys Broadcasting Co. (hereinafter referred to as "Florida Keys") is the licensee of Stations WKIZ and WFYN-FM, Key West, Fla. WKWF, WKIZ, and WFYN-FM are the only stations licensed to Key West.

3. Initially, there is a question regarding the timeliness of Florida Keys' petition to deny. Section 1.581 of the Commission rules requires that petitions to deny be filed on or before the first day of the last full month of the expiring license term of the station against which the petition is directed. The license for WKWF expired February 1, 1970. Therefore, a petition to deny renewal of license for WKWF was due on or before January 1, 1970. The petition was filed on January 16, 1970.

4. Florida Keys acknowledges the timeliness problem in its petition to deny and urges waiver of the provisions of § 1.580(i) on the grounds that a family illness occupied most of the time of the president and principal stockholder of Florida Keys for approximately 10 weeks ending December 24, 1969. Florida Keys also states that the serious public interest questions presented in the petition warrant waiver of the requirements of § 1.580(i).

5. Spottswood opposes waiver of § 1.580(i), stating that other officers and owners of Florida Keys reside in Key West and could have prepared a timely petition. Spottswood also argues that RKO General, Inc., 17 R.R. 2d 1126 (Broadcast Bureau 1969), held against a "similarly untimely pleading filed against a renewal application for obvious purposes of harassment."

6. The Commission is of the opinion that RKO General, Inc., supra, is inapposite to this case. RKO General, Inc. involved a petition for reconsideration of grants of renewal of license for Washington, D.C., and Bethesda, Md., stations on the alleged ground that a company controlled by the licensee of the stations had been harassing the petitioner, a television station in Colorado. Certain distinctions between RKO General, Inc., and the present case are apparent: in the former, the dispute was far removed from the operation of the stations against which the petition was directed; in the present case, the petition alleges abuse in the operation of the station petitioned against. Furthermore, in RKO General, Inc., the petition was not filed until after the grant of the renewal applications; in this case, the petition preceded action on the renewal application. The Commission is not convinced that the sound decision would be to ignore allegations of abusive operation of a station by its licensee at the time it is examining that licensee's qualifications to remain a licensee for an additional 3 year period. In RKO General, Inc. the Broadcast Bureau stated:

> In spite of the procedural deficiencies outlined above, the Bureau could set aside the grant of the renewal applications and treat the petitions as informal objections filed pursuant to § 1.587 of the rules.

The Commission chooses to so treat the petition in this case for the reasons discussed above.

7. According to the 1970-1971 edition of Television Factbook Services Volume (No. 40), p. 393-a, Cable-Vision, Inc. is a five channel CATV system with 10,000 subscribers. One channel carries a weather scan on video and WKWF on audio. Florida Keys states that it has requested that Cable-Vision, Inc. carry the signal of WKIZ but that that request has not been granted. Florida Keys asserts that:

> The exclusive carriage of the WKWF signal on the Key West cable system and the refusal by Mr. Spottswood to grant similar carriage to the competing signal of WKIZ is an unfair competitive practice detrimental to free radio broadcasting in Key West and contrary to the public interest.

Florida Keys argues that because Cable-Vision, Inc. serves approximately 85 percent of the homes in Key West, the advantage to WKWF of carriage on the CATV system poses a threat to Florida Keys and could result in Spottswood "eventually assuming a position of absolute control of the broadcast-cable communications media on Key West," a situation which Florida Keys suggests would be abhorrent in an isolated area such as Key West because Spottswood could control all outlets for local self-expression. In conclusion, Florida Keys states that Spottswood's carriage of his own station on the CATV system and

refusal to carry the competitor station constitutes an unfair business practice contrary to the public interest and that, therefore, the renewal application for Station WKWF should be denied unless Spottswood agrees to carry Stations WKIZ and WFYN-FM on the CATV system on a par with Station WKWF.

8. In the opposition to the petition to deny, Spottswood asserts that Florida Keys, as the licensee of two of the three radio stations in Key West, is in an "awkward" position to raise the spectre of concentration of control. Furthermore, Spottswood asserts that he has never refused Florida Keys carriage on the CATV system. Spottswood states that Florida Keys originally inquired about carriage of Station WKIZ on the Cable-Vision, Inc. CATV system in 1966, but that he (Spottswood) suggested that any arrangement await a planned move of Cable-Vision, Inc's. facilities. He continues that this move was delayed 18 months due to essential telephone company construction Spottswood states that the petitioner made no attempts to contact him to further discuss carriage of Florida Keys' stations during the period from after the original discussion to a few days prior to the filing of the petition to deny, at which time he was not in his office. Finally, Spottswood argues that it is irrelevant whether or not he has refused carriage to petitioner's stations because they have no right to carriage and his carriage of WKWF on the CATV system does not violate any Commission Rules. Harvit Broadcasting Corp., 16 R.R. 2d 713 (Review Board 1969) is cited as authority for this proposition.[1]

9. In its reply to Spottswood's opposition to the petition to deny, Florida Keys states that

> Although Spottswood had been smart enough not to explicitly "refuse" WKIZ's request for carriage, the fact is that his continuing delaying tactics over the past four years has [sic] resulted in an effective denial of WKIZ's request.

Florida Keys also disputes Spottswood's assertion that it did not pursue the question of WKIZ's carriage on the CATV system. Florida Keys states that it responded to Spottswood's 1966 letter with a request for treatment equivalent to that given WKWF by the CATV system but that it received no response to this request. In January 1970 Florida Keys again tried to contact Spottswood but he was not available. At this point, Florida Keys states that it concluded that "Spottswood's excuses for delay in granting WKIZ's request for carriage was [sic] merely his method of denying the request" and therefore the petition to deny was filed.

10. Florida Keys' reply cites United States v. Radio Corporation of America, 358 U.S. 334 (1959), for the proposition that the Commission has and should consider anticompetitive practices of licensees as bearing on their qualifications to be licensees. Florida Keys also argues that Harvit Broadcasting Corp., supra, is not relevant because in that case the petitioner had been offered equivalent carriage on the CATV system, whereas the opposite is true in this case. Florida Keys continues that it does not assert that common ownership of a broadcast station and a CATV system in the same community is per se contrary to the public interest, but rather that Spottswood has unfairly utilized his common ownership contrary to the public interest.

11. Florida Key's reply then states that Florida Keys is attempting to establish a CATV system to compete with Cable-Vision, Inc. and asserts that there is dissatisfaction in Key West with the service and rates of Cable-Vision, Inc. The Commission considers these allegations completely irrelevant to the question of whether Spottswood's renewal application should or should not be granted.

12. Spottswood requests permission pursuant to § 1.41 of the Commission's rules to file a "further opposition to [the] petition to deny", asserting that such filing is necessary because the reply of Florida Keys contained new material. In the further opposition, Spottswood states that the operation of Cable-Vision, Inc. is a matter of local concern only. He reasserts that Florida Keys did not pursue the carriage issue for 3½ years between 1966 and 1970, thus revealing the "lack of bona fides" in its argument. Finally, Spottswood states that:

> Despite WKIZ's blatent allegations, there has been no refusal to carry the signal of WKIZ, merely a reasonable request on the part of the cable system that WKIZ perform in a business-like manner.

13. On October 19, 1970, the Chief, Renewal and Transfer Division wrote counsel for Spottswood requesting that the Commission be given an unequivocal answer whether Cable-Vision, Inc. would or would not carry the signal of Station WKIZ. By letter dated October 28, 1970, counsel for Spottswood stated that a meeting between representatives of Cable-Vision, Inc. and WKIZ had been scheduled "to work out the details for the carriage of WKIZ on the CATV system" and that the Commission would be provided with details of the carriage arrangement. That meeting was held November 20, 1970. No further written information was forthcoming for a period of a few months and telephone inquiries of the Commission staff were answered by counsel for Spottswood with statements that the initial meeting had been held and that further meetings would be necessary. On February 18, 1971, the Chief, Renewal and Transfer Division again wrote counsel for Spottswood requesting an immediate answer whether or not the Cable-Vision, Inc. intended to offer WKIZ carriage on the CATV system. By letter dated February 19, 1971, counsel for Spottswood informed the Commission that Spottswood and Cable-Vision, Inc. did not intend to carry WKIZ on the CATV system at this time, but that Spottswood proposes to cease carriage of WKWF on the system until the number of channels on the CATV system is expanded, at which time both WKWF and WKIZ would be accorded equal opportunities for carriage.

14. Counsel for Florida Keys submitted a letter to the Commission February 19, 1971, in which they state that they left the November 20, 1970, meeting between representatives of Cable-Vision, Inc. and WKIZ with the impression that Cable-Vision, Inc. would submit a written carriage offer to WKIZ within 1 or 2 weeks. They state that nothing further was heard until January 20, 1971, at which time Spottswood informed Florida Keys' counsel that he (Spottswood) proposed to accord WKWF and WKIZ equivalent treatment by ceasing carriage of WKWF on the CATV system. Counsel for Florida Keys state that they do not find this proposal satisfactory, that WKWF was carried on the CATV system for many years while similar carriage was denied WKIZ, and that Spottswood only used the "negotiating" time from November to January to further delay carriage of WKIZ. The letter concludes that Spottswood's failure to ever present a firm carriage offer to WKIZ after informing the Commission that he intended to make such an offer reflects adversely on Spottswood's qualifications to remain a licensee.

15. In a letter dated March 5, 1971, counsel for Florida Keys stated that the possibility of Cable-Vision, Inc. ceasing carriage of WKWF as a solution to the dispute had not been discussed at any length at the November 20, 1970, meeting, that there is an available channel on the CATV system which could be used for the carriage of WKIZ, and that Spottswood's actions in this matter indicate that he never had any intention of carrying WKIZ on the CATV system, contrary to his statements to the Commission.

16. On March 25, 1971, counsel for Spottswood submitted another proposal: to cease carriage of WKWF as of April 1,

[1] Harvit Broadcasting Corp., supra, involved mutually exclusive applications for construction permits for FM stations by AM licensees in two neighboring communities. The petitioner requested addition of an "unfair competition" issue to the hearing on the grounds that the other licensee was importing the signal of its AM station via a CATV system it owned into the principal community of the petitioner's AM station. The petitioner contended that this constituted an attempt to establish a second broadcast station in the petitioner's community without Commission approval and that the "second station" so established violated the Commission's duopoly rules; that the CATV carriage was an improper extension of the service area of the AM station beyond the area authorized by its license and contemplated by the Commission's allocation system; and that, at the least, such carriage was an unfair business practice which had produced increased revenues for the station carried on the CATV system. The respondent stated that there had been no ascertainable increase in revenue for the station, and that the petitioner's station had declined an opportunity to have its station carried on the CATV system. The Review Board held that the requested issue would not be added, stating that the carriage of the AM signal on the CATV system was not per se prohibited and that the petitioner had not submitted any specific facts to establish economic injury or unfair competition.

1971, and to afford equivalent carriage to WKWF and WKIZ once the Cable-Vision, Inc. CATV system is all-banded, with a guarantee that whether or not all-banding is completed, WKIZ will be given carriage opportunity within eight months from March 25, 1971. The offer is contingent upon WKIZ's submission to Cable-Vision Inc. of a formal demand for carriage, WKIZ's guarantee that it will provide audio plus a moving video picture for the channel, and a statement describing the source of the signals and the arrangements for delivering the signals to the CATV input. The offer is also contingent upon Florida Keys seeking to dismiss the pending petition to deny.

17. By letters of April 22, 1971, and May 4, 1971, counsel for Florida Keys reject the proposal of March 25, 1971, stating that they believe that the facts in the case indicate an unfair competitive practice for a number of years and excessive delaying tactics by Spottswood in the course of the attempt to arrange for carriage of WKIZ. Further, they state that Spottswood is attempting to sell WKWF and may be attempting to sell Cable-Vision, Inc., and that the sale of either might render an agreement for future carriage of WKIZ worthless. Florida Keys suggests that the proper resolution of this matter would be for the Commission to order carriage of WKIZ on the Cable-Vision, Inc. CATV system and to make that order binding on subsequent owners of the CATV system if it is sold or transferred. Finally, Florida Keys states that it is ready now to provide an audio and moving video signal for the CATV system and therefore there is no reason that its signal cannot be carried immediately by Cable-Vision, Inc.

18. Commission rules do not prohibit the common ownership of a standard broadcast station and a CATV system in the same community. However, cross-ownership of communications media is not authorized when that cross-ownership is utilized in an unfair manner against competitors. In view of the foregoing, the Commission finds that there exist substantial and material questions of fact as to whether Spottswood utilized his cross-ownership of Station WKWF and Cable-Vision, Inc. in an unfair manner against Florida Keys.

19. *Therefore, it is ordered*, That the above-captioned renewal application is designated for hearing on the following issues:

1. To determine whether John M. Spottswood's carriage of Station WKWF on the Cable-Vision, Inc. CATV system and refusal to afford equivalent carriage to Stations WKIZ and WFYN-FM constituted an unfair method of competition.

2. To determine, in light of the evidence adduced under the foregoing issue, whether a grant of the application for renewal of license for Station WKWF would serve the public interest, convenience, and necessity.

20. *It is further ordered*, That the Florida Keys Broadcasting Co. shall be made a party and shall have the right to appear as such in the proceeding ordered herein.

21. *It is further ordered*, That the hearing ordered herein shall be held at Key West, Fla., with the date to be specified in a subsequent order.

22. *It is further ordered*, That respecting Issue No. 1, the initial burden of coming forward with the introduction of evidence shall be on Florida Keys Broadcasting Co., and that the Broadcast Bureau shall then proceed with the introduction of the evidence it has with respect to such issue. The burden of proof on all issues shall be on the applicant.

23. *It is further ordered*, That to avail himself of the opportunity to be heard, the applicant 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 to present evidence on the issues specified in this Order.

24. *It is further ordered*, That the applicant shall, pursuant to section 311(a) (2) of the Communications Act of 1934, as amended, and § 1.594(a) of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: July 23, 1971.

Released: July 29, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[2]

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-11151 Filed 8-3-71;8:51 am]

[2] Commissioners Burch, Chairman; Wells and Houser absent; Commissioner Bartley dissenting.

FEDERAL MARITIME COMMISSION

W. R. GRACE & CO. AND LYKES-YOUNGSTOWN CORP.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mark P. Schlefer, Esquire
Kominers, Fort, Schlefer & Boyer
Tower Building
1401 K Street, N.W.
Washington, D.C. 20005

Ly-Gra Corp.'s sole operating asset is Gulf & South American Steamship Co., a wholly owned subsidiary. Agreement No. 9963 is a stock purchase agreement between W. R. Grace & Co. and Lykes-Youngstown Corp., each of whom owns 50 percent of the capital stock of Ly-Gra Corp. Lykes-Youngstown Corp. will buy from W. R. Grace & Co. its 50 percent of the capital stock of Ly-Gra Corp.

The purchase is being made for Lykes-Youngstown Corp.'s account for investment purposes and not with a view to resale or distribution of all or any part of the shares. The closing of the purchase shall take place on the later of September 15, 1971, or the fifth calendar day following the day on which both Lykes-Youngstown Corp. and W. R. Grace & Co. have received notice of the last of the approvals specified in the agreement.

Lykes-Youngstown Corp. intends to continue the operations of Gulf & South American Steamship Co. by integrating them into the existing subsidized operations of Lykes Bros. Steamship Co., Inc., its wholly owned subsidiary. Agreement No. 9963 will supersede and cancel Agreement No. 7612, as amended, which authorized the formation of Gulf & South American Steamship Co. by Grace Line, Inc. and Lykes Bros. Steamship Co., Inc.

Dated: July 30, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-11158 Filed 8-3-71;8:49 am]

[Docket No. 71-49; Special Permission No. 5369]

GULF PUERTO RICO LINES, INC.

General Increases in Rates in the U.S. Gulf/Puerto Rico Trade; Third Supplemental Order

By the original order in this proceeding served April 30, 1971, the Commission placed under investigation a general rate increase of the subject carrier, and suspended to and including September 1, 1971, supplement No. 7 and various revised pages to Tariff FMC-F No. 1. The Commission's order prohibits changes in tariff matter held in effect by reason

of suspension, during the period of suspension, unless otherwise ordered by the Commission.

By Special Permission Application No. 56 authority is sought to depart from the terms of Rule 20(c) of Tariff Circular No. 3 and the terms of the original order in this proceeding to permit the filing, upon not less than 1 day's notice, to make changes in rates and provisions held in effect by reason of suspension in said docket, but only to the extent that such changes will result in the filing of maximum trailerload charges on furniture, n.o.s.

A full investigation of the matters involved in the application having been made, which application is hereby referred to and made a part thereof:

It is ordered, That:

1. Authority to depart from Rule 20(c) of Tariff Circular No. 3 and the terms of the order in Docket No. 71-49 to make the changes in rates and provisions as set forth in Special Permission Application No. 56, said charges to become effective on not less than 1 day's notice, is hereby granted.

2. The authority granted hereby does not prejudice the right of this Commission to suspend any publications submitted pursuant thereto, either upon receipt of protest or upon the Commission's own motion under section 3 of the Intercoastal Shipping Act, 1933.

3. Publications issued and filed under this authority shall bear the following notation, "Issued under authority of Third Supplemental Order in Docket No. 71-49 and Federal Maritime Commission Special Permission No. 5369."

4. This special permission does not modify any outstanding formal orders of the Commission except insofar as it allows the aforementioned changes, nor waive, except as herein authorized, any of the requirements of its rules relative to the construction and filing of tariff publications.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary*.

[FR Doc.71-11156 Filed 8-3-71;8:49 am]

[First Supplemental Order; Docket No. 71-68]

HAWAIIAN FREIGHT SERVICE, INC.

Increases in Rates in the New York/Hawaiian Trade; Order of Investigation and Suspension

Hawaiian Freight Service, Inc., has filed with the Federal Maritime Commission 3d Revised Page No. 9 to its Tariff FMC-F No. 2 to become effective August 2, 1971. This page increases delivery rates on the Island of Oahu.

Upon consideration of said tariff page, the Commission is of the opinion that the above designated tariff matter may be unjust, unreasonable, or otherwise unlawful and that a public investigation and hearing should be instituted to determine its lawfulness under section 18(a) of the Shipping Act, 1916, and/or sections 3 and 4 of the Intercoastal Shipping Act, 1933, and good cause appearing therefore;

It is ordered, That pursuant to the authority of section 22 of the Shipping Act, 1916, and sections 3 and 4 of the Intercoastal Shipping Act, 1933, an investigation is hereby instituted into the lawfulness of said increased rates with a view to making such findings and orders in the premises as the facts and circumstances warrant. In the event the matter hereby placed under investigation is further changed, amended, or reissued, such matter will be included in this investigation.

It is further ordered, That pursuant to section 3, Intercoastal Shipping Act, 1933, 3d Revised Page 9 to Tariff FMC-F No. 2 is suspended and the use thereof deferred to and including December 1, 1971, unless otherwise ordered by this Commission;

It is further ordered, That there shall be filed immediately with the Commission by Hawaiian Freight Service, Inc., a consecutively numbered supplement to the aforesaid tariff which supplement shall bear no effective date, shall reproduce the portion of this order wherein the suspended matter is described and shall state that the aforesaid matter is suspended and may not be used until December 2, 1971, unless otherwise authorized by the Commission; and the rates and charges heretofore in effect, and which were to be changed by the suspended matter shall remain in effect during the period of suspension, and neither the matter suspended, nor the matter which is continued in effect as a result of such suspension, may be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission;

It is further ordered, That the current proceeding in Docket 71-68, investigation of Hawaiian Freight Service, Inc.'s general commodity rate increase published on 5th Revised Page No. 8 to its Tariff FMC F No. 2, be expanded to include this investigation of increased delivery rates published on 3d Revised Page No. 9 to Hawaiian Freight Service, Inc.'s Tariff FMC-F No. 2;

It is further ordered, That copies of this order shall be filed with the said tariff schedules in the Bureau of Compliance of the Federal Maritime Commission;

It is further ordered, That the provisions of Rule 12 of the Commission's rules of practice and procedure which require leave of the Commission to take testimony by deposition or by written interrogatory if notice thereof is served within 20 days of the commencement of the proceeding, are hereby waived for this proceeding inasmuch as the expeditious conduct of business so requires. The provisions of Rule 12(h) which requires leave of the Commission to request admissions of fact and genuineness of documents of the proceeding, is similarly waived;

It is further ordered, That (I) a copy of this order shall forthwith be served on the respondent herein and published in the FEDERAL REGISTER; and (II) the said respondent be duly served with notice of time and place of the hearing.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 5(1) of the Commission's rules of practice and procedure (14 CFR 502.72) with a copy to all parties to this proceeding.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary*.

[FR Doc.71-11155 Filed 8-3-71;8:49 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 11(p)(1) of the Federal Water Pollution Control Act, as amended, and, accordingly, have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	*Owner/operator and vessels*
01014	Robert Bornhofen Reederei: Don Roberto.
01146	Joklar H.F.: Hofsjokull.
01185	Aksjeselskapet Kosmos: Jasankoa.
01190	A/S Gerrards Rederi & A/S Gerrards: M/S Gerlena.
01302	Boston Fuel Transportation, Inc.: Fuel Oil.
01304	Furness Withy & Co. Ltd.: Stolt Tudor.
01306	Shaw Savill & Albion Co. Ltd.: Langstone. Atlantic Bermudian.
01428	The Ocean Steam Ship Co. Ltd.: Machaon. Telamon.
01547	Costa Armatori S.P.A.: Enrico C.
01758	Chotin Transportation, Inc.: Scott Chotin. Joey Chotin. Sugarland. Olinda Chotin. Universal Trader. Irene Chotin. Cypress. Pat Chotin.
01886	Navigas S.A.C.I.M.: Arquimedes.
01991	Malmros Rederi Aktiebolag: Jarl Malmros.
02032	D. B. Deniz Nakliyati T.A.S.: Namik Kemal. Minar Sinan. M/S General Z. Dogan. M/S Dicle.
02151	Anchor Line Ltd.: Fernmoor.
02330	Oriental Shipping Corp.: Asia Loyalty. Asia Flamingo.

Certificate No.	Owner/operator and vessels
02397	Astrocampeon Compania Naviera S.A.: Clairhill.
02498	Chevron Oil Co.: PBI No. 1.
02499	Union Oil Co. of California: M 609.
02509	Viafiel Compania Naviera S.A.: Kynthia.
02602	Fyffes Group Ltd.: Musa.
02712	Tarpon Towing, Inc.: TC-8.
02717	Court Line Ltd.: Halcyon the Great.
02862	Ocean Shipping & Enterprises, Ltd.: Sea Dolphin.
02914	Spimar S.P.A.: Zenobia Martini.
02194	Compagnie Generale Transatlantique: Atlantic Champagne. Atlantic Cognac.
02958	Kawasaki Kisen K.K.: Asukagawa Maru.
03277	Duncan Bay Tankships, Ltd.: Cedros Pacific.
03362	Compania de Navegacion Rivabella S.A.: Lugano.
03363	Compania de Navegacion Somerset S.A.: Sangaetano. Santagata. Simeto.
03436	Iino Kaiun K.K.: Olympus.
03447	K.K. Kyouko: Kyokuyo Maru No. 2.
03458	Marsuoka Kisen Kabushiki Kaisha: Alps Maru.
03467	Nichiro Gyogyo K.K.: Akebono Maru No. 27.
03506	Taiheiyo Kaiun K.K.: Sanyo Maru.
03510	Takeda Kigyo Kabushiki Kaisha: Genkai Maru No. 18.
03561	Skibsaksjeselskapet Solvang: Kongsborg.
03875	Ingram Ocean Systems, Inc.: Martha B. Ingram. Carole G. Ingram.
03883	Ohio Barge Line, Inc.: A2. A1.
04004	Koninklijke Java-China-Paketvaart Lijnen N.V.: Straat Korea.
04007	Egon Oldendorff: Dorthe Oldendorff.
04126	Kugoslavenska Linijska Plovidba, Rijeka: Kranjcevic.
04212	Nilo Barge Line, Inc.: OMCC 7. OMCC 8. OMCC 9. OMCC 11. NL 10. SBI 550. SBI 551.
04235	Bollinger & Boyd Barge Service, Inc.: SBA-200. SBA-100.
04289	Dixie Carriers, Inc.: ETT-115. BUTCHER-1. BUTCHER-2. BUTCHER-3. BUTCHER-4. BUTCHER-5.
04357	Koninklijki Nedlloyd N.V.: Nedlloyd Katwijk.
04387	Seatankers Inc.: Seaway.
04428	Franco Compania Naviera S.A.: Rea.
04504	Sumiyoshi Gyogyo Kabushiki Kaisha: Sumiyoshi Maru No. 11. Sumiyoshi Maru No. 16.
04510	Nikko Suisan Kabushiki Kaisha: Nikkomaru No. 17.
04512	Seiju Gyogyo Kabushiki Kaisha: Seijumaru No. 5.
04842	Universal Dredging Corp.: Olympia. Mac Leod. Hydro-Pacific.
04878	Leland Bowman: BB-796. BB-797.
04987	Scheepvaartkantoor Oceaanvaart (Shipping Office Oceancross) N.V.: Jal Importer.
05046	Magnolia Marine Transport Co.: MM 3. MM 4. MM 5. MM 6.
05204	Steuart Transportation Co.: STC 110.
05281	Slade, Inc.: S-2014.
05636	Takashiromaru Kaiun Kabushiki Kaisha: M/S Takashiro Maru No. 18.
05691	Canadian Tugboat Co. Ltd.: CZ No. 1. CZ No. 4. CZ No. 5. CZ No. 6. Hecate Crown. Ocean Crown.
05743	Reederei Barthold Richters: Bari.
05750	Veb Deutfracht Internationale Befrachtung und Reederei Rostock, Rostock-Ubersee-hafen: Theodor Storm.
05815	Compania Argentina de Navegacion de Ultramar S.A.: Rogresso Argentino.
05865	Chelsea Compania Naviera S.A.: Aegis Strength.
05902	N.V. Scheepvaartmaatschappij Mariot: Valkenburg. Valkenswaard.
05981	Seawise Foundations Ltd.: Seawise University.
05997	Good Will Shipping Co. Ltd.: Good Will.
05999	The Big D Lines Ltd.: Alfred W. Cytacki.
06000	Orient Marine Associates Ltd.: Queena.
06040	Spanpol Marine Enterprises Co. Ltd.: Elpis.
06046	Partenreederei M/S Helga Witt: M/S Helga Witt.
06047	Gebr. Rademacher: M/S Hinrich Will.
06068	Ikon Corp.: M/V Loussios.
06074	Quinto Navigation Corp.: M/V Island Engineer.
06078	Interessentskapet Car Master: Blue Master.
06084	Sameiet 1145 and 1152: Jalta. Jalna.
06087	Rudolf Harmstorf Wasserbau Gmbh: Seeleivhter I (SL I).
06100	Anglomar Shipping Co. Ltd. London: Stolt Lion.
06102	Skyline Shipping Ltd.: Skyline.
06103	Valiant Shipping Co. Inc.: M/V Valiant Trader.
06104	Perseveranza S.p.A. di Navigazione: Maddalena.
06108	First Stratton Shipping Co. Ltd.: Fina Britannia.
06112	Triad Shipping Co.: Island Archon.
06114	Masahei Yamamoto: Seishu Maru No. 22.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-11157 Filed 8-3-71;8:49 am]

FEDERAL POWER COMMISSION

[Docket No. CP68-231; Phase II]

TENNESSEE GAS PIPELINE CO., ET AL.

Order Granting Interventions, Prescribing Procedures and Setting Hearing

JULY 27, 1971.

On March 8, 1971, Tennessee Gas Pipeline Co., a division of Tenneco Inc., Columbia Gulf Transmission Co., Bonita Transmission Co., and Columbia Offshore Pipeline Co. filed a third amendment to the original application for certificate of public convenience and necessity. The authorization requested would permit the construction and operation of pipeline and related facilities in the Gulf of Mexico, offshore Louisiana, for the transportation and sale for resale of natural gas and associated liquids from gas fields in the Vermilion Block 255 Field and Eugene Island Block 292 Field, and additional gas from Vermillion Block 272 Field referred to by applicants as the "Blue Water Project". Other facilities indirectly related to the "Blue Water Project" are also included in the proposal.

By order issued March 6, 1969, in Phase I of this Docket, 41 FPC 231, Columbia Gulf Transmission Co. was authorized to construct and operate related onshore facilities. The application by the Columbia Co. to construct the offshore project was designated as Phase II and consideration thereof has been held in abeyance until the present time.

Bonita Transmission Co., presently owned and controlled by Mr. Roy H. Bettis and Mr. Frank S. McGee, proposes to construct, own and lease the "Blue Water Project" facility to Tennessee Gas Pipeline and Columbia Gulf Transmission Co., which will operate and maintain the facilities.

The total estimated cost of all proposed facilities is $44,196,000 which includes $41,592,700 for the facilities covered by the "Blue Water Project" agreement. The total costs including filing fees attributable to Bonita Transmission Company is $39,930,000. Bonita

proposes to finance its cost of facilities with a capital structure with approximately 83.3 percent debt and 16.7 percent equity.

The initial capacity of the proposed "Blue Water Project" is 1,083,000 Mcf per day of which 59 percent will be allocated to Tennessee Gas Pipeline Co. and 41 percent to Columbia Gulf Transmission Co.

Pursuant to the letter agreement between Bonita Transmission Co., Columbia Gulf Transmission and Tennessee Gas Pipeline, the lease payments (estimated in the third year of operation at $6,682,000) will consist of Bonita's actual interest expense, depreciation at 5 percent per annum, all of Bonita's Federal income tax, net income to Bonita by prescribed method of computation and other expenses. Based on estimated interest at 9 percent per annum on Bonita's long-term debt, estimated net income to Bonita is $900,170.

Columbia Offshore Pipeline Co. states that it is no longer participating in the project as described in the "Blue Water Project" amendment and requests permission to withdraw as an applicant in this proceeding. Columbia Offshore proposed to construct a 30-inch diameter pipeline to connect these reserves prior to the proposal of Bonita Transmission Co.

Petitions to intervene have been filed by:

Brooklyn Union Gas Co.; Michigan Wisconsin Pipe Line Co.; Public Service Commission of New York; Sea Robin Pipeline Co.; Southern Natural Gas Co.; United Gas Pipe Line Co.

No other petitions to intervene or notice of intervention or protest to the granting of the third amendment to the application have been filed.

At the public hearing to be held in this proceeding, the following subjects, among others, will be explored by the participants in determining whether a certificate of public convenience and necessity shall be issued to the joint applicants:

(1) Whether the proposed "Blue Water Project" owned by Bonita Transmission Co. is more desirable in the public interest than a pipeline connecting the offshore fields owned by the principal pipeline companies here involved;

(2) Whether the proposed 36-inch diameter or a 30-inch diameter pipeline extending approximately 74.5 miles to transport the reserves dedicated in this area to the major transmission companies is required by the public interest;

(3) Whether the terms and conditions of the lease agreement proposed by Bonita Transmission Co. are in the public interest and should be authorized without modification or condition;

The Commission finds:

(1) It is desirable and in the public interest to allow the above-named petitioners to intervene in this proceeding in order that they may establish the facts and the law from which the nature and validity of their alleged rights and interest may be determined and show what further action may be appropriate under these circumstances in the administration of the Natural Gas Act.

(2) The expeditious disposition of this proceeding will be effectuated by providing for service of testimony by applicants and persons in support thereof prior to the convening of formal hearing.

(3) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that a public hearing be held on the issues presented by the pending applications in Docket No. CP68-231 (Phase II) and as identified above herein.

The Commission orders:

(A) Pursuant to the authority conferred on the Federal Power Commission by the Natural Gas Act and the Commission's rules of practice and procedure, a public hearing will be held on August 24, 1971, at 10 a.m. e.d.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, respecting the matters set forth above and more fully by the applications in this docket. Cross-examination of the presentations submitted pursuant to this order by applicants and other persons in support of the applications will commence at the above-stated hearing date. Upon completion of the examination of the case-in-chief in support of the applications, all parties shall be permitted further opportunity to present additional evidence as required so that the complete record may be made on all issues in this proceeding.

(B) A hearing examiner to be hereinafter designated by the Chief Examiner shall preside at the hearing and, in his discretion, shall control the proceedings hereafter.

(C) The applicants, and persons in support of the applications, shall serve prepared evidence in support of the applications, including prepared testimony of witnesses and exhibits, on the Office of Hearing Examiners, the Commission's staff and every party to this proceeding on or before August 16, 1971. Included in such prepared evidence shall be testimony and exhibits relative to the issues and subjects hereinabove mentioned; in addition, Columbia Gas Transmission and Tennessee Gas Pipeline shall submit evidence indicating the economic and financial feasibility of the construction and ownership by such companies, either singularly or jointly, of the abovementioned 30-inch line and 36-inch line.

(D) The petitioners named above are hereby permitted to intervene in this proceeding subject to the Commission's rules and regulations: *Provided, however,* That they shall comply with the terms of this order and that their participation shall be limited to matters affecting rights and interests expressly asserted in the petitions to intervene: *And provided further,* That granting of the petitions to intervene shall not be construed as recognition by the Commission that any intervener might be aggrieved by any orders entered in this proceeding. Persons granted intervention in Phase I in this proceeding (order issued March 6, 1969, 41 FPC 231), are hereby granted the right to continued participation in this proceeding without the necessity of filing further petitions to intervene.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.71-11107 Filed 8-3-71; 8:46 am]

[Docket No. RP72-13]

LOUISIANA-NEVADA TRANSIT CO.

Notice of Proposed Changes in FPC Gas Tariff To Establish Policy Regarding Curtailment of Deliveries

JULY 28, 1971.

Take notice that on May 14, 1971, as supplemented on July 20, 1971, Louisiana-Nevada Transit Co. (Louisiana-Nevada) filed a written report, pursuant to paragraph (A)(2) of the Commission's Order No. 431, issued April 15, 1971, in Docket No. R-418, and tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1, consisting of Fourth Revised Sheet No. 3A and Original Sheet Nos. 3B, 12C, and 12D, to become effective August 19, 1971, in order to establish curtailment procedures which Louisiana-Nevada will employ in the event curtailments of gas deliveries become necessary.

Louisiana-Nevada's report states that because of a critical shortage of gas supply on peak days, it may have to invoke a curtailment program during the 1971-72 heating season. Original Sheet No. 12C would add a new Section 10 to the General Terms and Conditions of its tariff providing that if for any cause whatsoever it is unable to deliver to all its customers all of their natural gas requirements which it is obligated to supply, it will operate its system to the best of its ability to apportion deliveries from the impaired system as described below.

First, deliveries to direct sale customers served under interruptible contracts and interruptible overrun gas delivered to Louisiana-Nevada's sole resale customer will be curtailed proportionately or interrupted entirely to the extent necessary to protect deliveries to customers served under firm contracts. Thereafter, its direct sale customers and one resale customer served under firm contracts shall be entitled to such proportion of the total impaired deliveries from Louisiana-Nevada's pipeline as the maximum daily quantity of gas which Louisiana-Nevada is then obligated to deliver to each such customer bears to the total maximum daily quantities of gas Louisiana-Nevada is then obligated to deliver to all customers affected by such impairment, provided that at such time as it becomes necessary to reduce deliveries below the customer's firm maximum daily quantity which Louisiana-Nevada is obligated to deliver, priority shall be given to deliveries for domestic consumers' use, up to the volume of such firm maximum daily quantity.

Louisiana-Nevada also proposes to add a new section 11 to the General Terms and Conditions of its tariff stating that until it can obtain adequate additional gas supplies, its policy concerning additional requests for gas will be not to add any new firm customers or increase its obligation to deliver additional firm maximum daily quantities to any of its existing customers.

In addition to the foregoing tariff revisions concerning curtailment of deliveries for any reason, Louisiana-Nevada has submitted proposed Fourth Revised Sheet No. 3A Superseding Substitute Third Revised Sheet No. 3A and Original Sheet No. 3B in order to insert three new sections in its Rate Schedule G-1 which would permit Louisiana-Nevada to charge an unauthorized overrun penalty of $10 per Mcf for any gas taken by any buyer in excess of 2 percent of Louisiana-Nevada's maximum daily delivery obligation to such buyer, or 100 Mcf in excess of such delivery obligation, whichever is greater. The proposed overrun sections further state that payment of the overrun penalty will not entitle a buyer to take such excess gas nor be considered a substitute for any other remedies Louisiana-Nevada might employ to curb violations by customers of their contracts or orders issued pursuant to its curtailment procedures contained in the proposed new Section 10 of the General Terms and Conditions of its tariff. In December of each year any amount collected in the form of unauthorized overrun penalties will be proportionately distributed among its customers who would have purchased gas to which they were entitled except for the unauthorized takes by the offending buyer or buyers.

In view of the fact that comments are desirable prior to the requested effective date of August 19, 1971, good cause exists to shorten the notice period with respect to Louisiana-Nevada's filing.

Louisiana-Nevada's report states that copies of its filing have been served on its resale and direct sale customers and on the Arkansas and Louisiana Public Service Commissions.

Any person desiring to be heard or to make any protest with reference to the proposed tariff sheets submitted by Louisiana-Nevada to establish curtailment procedures in response to Order No. 431 should on or before August 9, 1971, file with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as parties in any hearing therein must file petitions to intervene in accordance with the Commission's rules. Louisiana-Nevada's report and proposed tariff sheets, submitted pursuant to Order No. 431, are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-11146 Filed 8-3-71;8:48 am]

[Dockets Nos. RP71-11, RP71-58]

TENNESSEE NATURAL GAS LINES, INC.

Notice of Proposed Change in Rates and Charges

JULY 29, 1971.

Take notice that on July 13, 1971, Tennessee Natural Gas Lines, Inc. (Tennessee Natural) tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1, to track increases in purchased gas costs from its supplier, Tennessee Gas Pipeline Co. which are proposed to become effective as of August 1, 1971, in Docket No. RP72-1. The tendered filing designated as 10th Revised Sheet No. 4, is proposed to supersede rates currently in effect subject to further order in Dockets Nos. RP71-11 and RP71-58. The increased rates reflected in the filing are stated to increase Tennessee Natural's revenues from jurisdictional customers by approximately $76,500 per year based on sales volumes realized during the calendar year 1970. The company requests waiver of the rules to permit an effective date of August 1, 1971, coincident with the proposed increase from its supplier.

Any person desiring to be heard or to make protest with reference to said tender should on or before August 13, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file applications to intervene in accordance with the Commission's rules. The tender is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-11147 Filed 8-3-71;8:48 am]

[Docket No. E-7645]

PUBLIC SERVICE COMPANY OF INDIANA

Notice of Proposed Rate Schedule Changes

JULY 29, 1971.

Take notice that on July 9, 1971, the Public Service Company of Indiana (applicant) filed rate schedule changes for wholesale service to municipal utilities and rural electric membership corporations. The changes are proposed to become effective on September 8, 1971.

The new schedules, designated FPC Electric Tariff Original Volume No. 1 (first revision) and REMC-1 will supersede FPC Electric Tariff Original Volume No. 1, and REMC-X and REMC-O. Also, REMC-1 is also proposed to apply to firm power sales to Hoosier Energy Division of Indiana Statewide Rural Electric Cooperative, Inc. (Statewide), on and after March 9, 1974, pursuant to the provisions of Exhibit I of an Interconnection Agreement, dated March 9, 1971, between the United States of America, acting by and through the Administrator of the Rural Electrification Administration, Statewide, Southern Indiana Gas and Electric Company, and the applicant. Concurrently with the new rate schedules, applicant filed a revised Exhibit I to the interconnection agreement amended to include the new rate levels, and requested that the Commission waive the 90 day requirement of § 35.3 of the regulations under the Federal Power Act and permit the revised Exhibit I to become effective as of March 9, 1974.

Applicant states that revised Tariff Volume No. 1 and REMC-1 will provide increases of approximately 1.61 mills per kilowatt hour and 3.66 mills per kilowatt hour, respectively. Applicant further states that these raise the rate of return from 5.24 percent to 7.75 percent for the municipal customers and from 2.29 percent to 7.73 percent for the electric membership corporations.

Applicant requests that in view of the 11.5 percent reduction in its earnings the first 5 months of 1971, the Commission suspend the operation of the proposed rate schedules for only 1 day rather than statutory maximum of 5 months.

Any person desiring to be heard or to make any protest with any reference to said application should on or before August 16, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission rules of practice and procedure. (18 CFR 1.8 or 1.10.) All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-11148 Filed 8-3-71;8:49 am]

[Dockets Nos. RI 17-1062, etc.]

ATLANTIC RICHFIELD CO. ET AL.

Order Providing for Hearing and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund; Correction

JUNE 17, 1971.

Atlantic Richfield Co. et al.; Docket Nos. RI71-1062, etc.; Felmont Oil Corp., Docket No. RI71-1069; Cities Service Oil Co., Docket No. RI71-1070.

In the order providing for hearing on and suspension of proposed changes in rates, and allowing rate changes to become effective subject to refund, issued June 2, 1971, and published in the FEDERAL REGISTER, June 10, 1971 (36 F.R. 11236), Appendix "A" Docket No. RI71-1069, Felmont Oil Corp., under column headed "Supp. No." change footnote "15" to "15a", and under column headed "Proposed Increased Rate" add footnote "[illegible]". Docket No. RI71-1070, Cities Service Oil Co., under column headed "Supp. No." change footnote "2" to "[illegible]". Add the following footnote: "15a Pertains only to casinghead gas."

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-11101 Filed 8-3-71;8:45 am]

[Docket No. RP71-137]

EL PASO NATURAL GAS CO.

Notice of Proposed Changes in Rates and Charges, Correction

JULY 13, 1971.

In the notice of proposed changes in rates and charges, issued July 6, 1971, and published in the FEDERAL REGISTER, July 19, 1971 (36 F.R. 13297): Third paragraph, change "July 22" to "July 20".

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-11102 Filed 8-3-71;8:45 am]

[Docket No. G-3732, etc.]

GETTY OIL CO. ET AL.

Findings and Order; Correction

JUNE 17, 1971.

In the findings and order after statutory hearing issuing certificates of public convenience and necessity, amending orders issuing certificates, canceling docket number, dismissing applications, permitting and approving abandonment of service, terminating certificates, terminating proceedings, substituting respondent, making successors correspondent, redesignating proceedings, and accepting related rate schedules and supplements for filing, issued May 24, 1971, and published in the FEDERAL REGISTER, June 3, 1971 (36 F.R. 10819), paragraph (O): Change the Refund Docket related to Abandonment Docket No. CI68-970 from "RI70-1184" to "RI70-619"

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-11103 Filed 8-3-71;8:45 am]

[Dockets Nos. RI71-1024, etc.]

MARATHON OIL CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund; Correction

JUNE 9, 1971.

Marathon Oil Co. et al., Dockets Nos. RI71-1024, etc., Texaco Inc., Docket No. RI71-1029, Atlantic Richfield Co., Dockets Nos. RI68-90, RI68-468.

In the order providing for hearing on and suspension of proposed changes in rates, and allowing rate changes to become effective subject to refund, issued May 14, 1971 and published in the FEDERAL REGISTER May 26, 1971 (36 F.R. 9577), Appendix "A", Docket No. RI71-1029, Texaco Inc., opposite Rate Schedule No. 57, under column headed "Date Suspended Until" change "6-22-71" to "6-20-71". Docket No. RI68-90, Atlantic Richfield Co., under column "Amount of Annual Increase" add footnote reference "18". Docket No. RI68-468, Atlantic Richfield Co., under column "Amount of Annual Increase" add footnote reference "18". Docket No. RI68-468, Atlantic Richfield Co., under column "Docket No." change "RI68-468" to "RI71-480".

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-11104 Filed 8-3-71;8:45 am]

[Docket No. RP71-125]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Order Providing for Hearing, Suspending Proposed Revised Tariff Sheets, Providing Hearing Procedures, and Rejecting for Filing Revised Tariff Sheets Containing Rate Adjustment Provision for Advance Payments; Correction

JULY 13, 1971.

In the order providing for hearing, suspending, proposed revised tariff sheets, providing hearing procedure, and rejecting for filing revised tariff sheets containing rate adjustment provision for advance payments, issued June 30, 1971 and published in the FEDERAL REGISTER July 7, 1971 (36 F.R. 12811): In ordering paragraph (A), change "September 10, 1971" to "September 16, 1971".

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-11105 Filed 8-3-71;8:45 am]

[Docket No. CP71-230]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Application; Correction

JULY 26, 1971.

In the notice of application, issued July 19, 1971, and published in the FEDERAL REGISTER July 24, 1971 (36 F.R. 13819), delete "in Vermilion Parish, offshore Louisiana." and substitute "offshore Vermilion Parish, Louisiana."

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-11106 Filed 8-3-71;8:46 am]

FEDERAL RESERVE SYSTEM

BTNB CORP.

Proposed Acquisition of Cobbs, Allen & Hall Mortgage Co., Inc.

BTNB Corp., Birmingham, Ala., a registered bank holding company, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 222.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Cobbs, Allen & Hall Mortgage Co., Inc., Birmingham, Ala. Notice of the application was published in newspapers and circulated in:

Huntsville, Ala., The Huntsville Times, June 17, 1971.
New Orleans, La., Times-Picayune, June 18, 1971.
Birmingham, Ala., The Birmingham News, June 18, 1971.
Montgomery, Ala., The Montgomery Advertiser, June 18, 1971.
Pensacola, Fla., The Pensacola Journal, June 19, 1971.
Mobile, Ala., The Mobile Register, June 21, 1971.

Applicant states that, upon consummation of its proposal, the proposed subsidiary would engage solely in activities (specifically mortgage lending) already specified by the Board in § 222.4(a)(1) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 222.4(b). The permissibility of such activities in general is not in issue with respect to this application.

The application may be inspected in Room 1020 of the Board's building or at the Federal Reserve Bank of Atlanta.

Interested persons may express their views on the question whether performance of the mortgage banking function by Cobbs, Allen & Hall Mortgage Co., Inc., as an affiliate of Applicant can, as set forth in section 4(c)(8) of the Act "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competi-

tion, conflicts of interests, or unsound banking practices". Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 30, 1971.

Board of Governors of the Federal Reserve System, July 29, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-11128 Filed 8-3-71;8:47 am]

FIRST UNION NATIONAL BANCORP, INC.

Proposed Acquisition of Reid-McGee & Co.

First Union National Bancorp, Inc., Charlotte, N.C., a bank holding company, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 222.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Reid-McGee & Co., Jackson, Miss. Notice of the application was published in newspapers and circulated in:

Monroe, La., Monroe News Star, June 10, 1971.
Jackson, Miss., The Clarion-Ledger, June 11, 1971.
Gulfport, Miss., The Daily Herald, June 11, 1971.
Greenville, Miss., Delta Democrat Times, June 11, 1971.

Applicant states that, upon consummation of its proposal, the proposed subsidiary would engage solely in activities (specifically mortgage lending) already specified by the Board in § 222.4(a)(1) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 222.4(b). The permissibility of such activities in general is not in issue with respect to this application.

The application may be inspected in Room 1020 of the Board's building or at the Federal Reserve Bank of Richmond.

Interested persons may express their views on the question whether performance of the mortgage banking function by Reid-McGee & Co. as an affiliate of Applicant can, as set forth in section 4(c)(8) of the Act "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices". Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 30, 1971.

Board of Governors of the Federal Reserve System, July 28, 1971.

KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-11129 Filed 8-3-71;8:47 am]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

HAZEL DELL COAL CORP.

Applications for Renewal Permits; Notice of Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Electric Face Equipment Standard specified in the Federal Coal Mine Health and Safety Act of 1969 have been received as follows:

ICP Docket No. 3045 000, HAZEL DELL COAL CORP., USBM ID NO. 11 00567 0, New Windsor, Mercer County, Ill., ICP Permit No. 3045 001 (Joy Cutting Machine, Ser. No. 13696), ICP Permit No. 3045 002 (Joy Loading Machine, Ser. No. 6482).

In accordance with the provisions of section 305(a)(7) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be completed in accordance with 30 CFR, Part 505 (35 F.R. 11296, July 15, 1970), copies of which may be obtained from the Panel on request.

Copies of renewal applications are available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Eighth Floor, 1730 K Street NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

JULY 28, 1971.

[FR Doc.71-11114 Filed 8-3-71;8:46 am]

NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH

OCCUPATIONAL SAFETY AND HEALTH

Notice of Meeting Open to the Public

Advice, consultations, and recommendations under the Williams-Steiger Occupational Safety and Health Act of 1970.

Notice is hereby given that the first meeting of the newly appointed National Advisory Committee on Occupational Safety and Health will commence at 9 a.m., on August 11, 1971, in Conference Room 102 A, B, C, and D of the Department of Labor building, 14th and Constitution Avenue NW., Washington, D.C.

The National Advisory Committee on Occupational Safety and Health is established under section 7(a) of the Williams-Steiger Occupational Safety and Health Act (29 U.S.C. 656). The Committee is directed to advise, consult with, and make recommendations to the Secretary of Labor and the Secretary of Health, Education, and Welfare on matters relating to the administration of the Act.

The meeting of the Committee shall be open to the public. A verbatim transcript shall be kept. The transcript shall be available for public inspection and copying at the office of the Committee's Executive Secretary, which is located in Room 1064, 1726 M Street NW., Washington, D.C. Copies may also be obtained by making arrangements at the meeting with the Executive Secretary. If copies are subsequently requested, the applicants shall be referred to the reporting service.

Signed at Washington, D.C., this 28th day of July 1971.

ROGER N. GRANT,
Executive Secretary.

[FR Doc.71-11116 Filed 8-3-71;8:46 am]

RENEGOTIATION BOARD

EXCESSIVE PROFITS AND REFUNDS

Interest Rate

Notice is hereby given that, pursuant to section 105(b)(2) of the Renegotiation Act of 1951, as amended by Public Law 92-41, 92d Cong., approved July 1, 1971, the Secretary of the Treasury has determined that the rate of interest applicable, for the purposes of said section 105(b)(2) and section 108 of such Act, to the period beginning on July 1, 1971 and ending on December 31, 1971, is 7⅜ per centum per annum.

LAWRENCE E. HARTWIG,
Chairman.

JULY 30, 1971.

[FR Doc.71-11141 Filed 8-3-71;8:49 am]

INTERSTATE COMMERCE COMMISSION

[Notice 725-B]

MOTOR CARRIER TRANSFER PROCEEDINGS

JULY 27, 1971.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-73038. By application filed July 20, 1971, BUF-AIR FREIGHT, INC., 160 Sugg Road, Cheektowaga, NY 14225, seeks temporary authority to lease the operating rights of CARDINAL AIR SERVICE CORP. (WILLIAM E. LAWSON, TRUSTEE IN BANKRUPTCY), 500 Walbridge Building, Buffalo, N.Y. 14202, under section 210a(b). The transfer to BUF-AIR FREIGHT, INC., of the operating rights of CARDINAL AIR SERVICE CORP. (WILLIAM E. LAWSON, TRUSTEE IN BANKRUPTCY), is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.71-11095 Filed 8-3-71;8:45 am]

ASSIGNMENT OF HEARINGS

JULY 30, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-F-10950, All American Transport, Inc.—Purchase—Orville Gragg; MC-F-11050, All American Transport, Inc.—Purchase—Kolb, Inc.; MC-F-11189, All American Transport, Inc.—Investigation of Control—Kolb, Inc., and MC 29120 Sub 123, All American Transport, Inc., assigned for continued hearing August 10, 1971, in Room 140, New Federal Building, 601 East 12th St., Kansas City, MO.

MC-F-10914, Jones Transfer Co.—Purchase—W & W Express, Inc., MC 4966 Subs 17 and 18, Jones Transfer Co., assigned for continued hearing August 30, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 135285, Jackson Rapid Delivery Service, Inc., assigned September 20, 1971, in Suite 404, Sun-N-Sand Motel, North Laman Street, Jackson, MS.

MC 14321 Sub 7, Engle Brothers, Inc.—Extension—40 States, now assigned for continued hearing August 10, 1971, advanced to August 9, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 120098 Sub 19, Uintah Freightways, now assigned September 13, 1971, at Denver, Colo., is postponed indefinitely.

FD 26435, Kansas Southwestern Railway Co. & Atchison, Topeka & Santa Fe, Railway Co., now assigned September 13, 1971, at Wichita, Kans., is canceled and reassigned to September 13, 1971, in Room 201, Summer County District Court, 500 North Washington Street, Wellington, KS.

MC 114818 Sub 14, Barton Truck Line, Inc., now assigned September 13, 1971, at Carson City, Nev., postponed to October 4, 1971, same time and place.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-11160 Filed 8-3-71;8:49 am]

RAYMOND R. MANION

Statement of Changes in Financial Interests

Pursuant to subsection 302(c), Part III, Executive Order 10647 (20 F.R. 8769) "Providing for the appointment of certain persons under the Defense Production Act of 1950, as amended," I hereby furnish for filing with the Office of the Federal Register for publication in the FEDERAL REGISTER the following information showing any changes in my financial interests and business connections as heretofore reported and published (30 F.R. 8809; 31 F.R. 930; 31 F.R. 13405; 32 F.R. 769; 32 F.R. 10786; 33 F.R. 522; 33 F.R. 10544; 33 F.R. 20067; 34 F.R. 11341; 35 F.R. 131; 35 F.R. 12175; and 32 F.R. 1235) for the 6 months' period ended July 3, 1971.

Revised list of securities—7/23/71:
Combustion Engineering, Ginos, I.B.M., IT&T, International Nickel, Kraftco, Marriott, Minnesota Mining & Manufacturing, Phillips Petroleum, Stirling Homes, Texaco, Union Carbide.

Dated: July 23, 1971.

R. R. MANION.

[FR Doc.71-11115 Filed 8-3-71;8:46 am]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

JULY 30, 1971.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's Rules of Practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. 24953 (Sub-No. 1), filed May 4, 1971. Applicant: BRUCE BROWN, 2119 Dublin Road, Oklahoma City, OK. Applicant's representative: Glen Ham, Box 198, Pauls Valley, OK. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities*, over the following route: Oklahoma City to Watonga via Highways 3, 81, and 33 to Thomas via Highway 33 to Custer City via Highway 33 to Arapaho via Highways 33 and 183 to Clinton via Highway 183 to Weatherford via Highway 66 to Oklahoma City via Highway 66; with Burns Flat as off route point. Applicant proposes to serve the towns of Oklahoma City, Watonga, Thomas, Custer City, Arapaho, Clinton, Weatherford, with Burns Flat as off route point; and with terminals at Oklahoma City and Clinton with no towns to be passed through and not served. The total mileage of above route is 242 miles with daily arrivals and departures in the a.m., from Clinton terminal and in the p.m. from the Oklahoma City terminal. Both intrastate and interstate authority sought.

HEARING: August 9, 1971, at Corporation Commission Court Room, Jim Thorpe Building, State Capitol, Oklahoma City, Okla. Requests for procedural information including the time for filing protests concerning this application should be addressed to Corporation Commission of Oklahoma, Jim Thorpe Building, State Capitol, Oklahoma City, Okla., and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-11161 Filed 8-3-71;8:49 am]

FOURTH SECTION APPLICATION FOR RELIEF

JULY 30, 1971.

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. 42256—*Chlorine from Gramercy, La.* Filed by M. B. Hart, Jr., agent (No. A6272), for interested rail carriers. Rates on chlorine, in tank carloads, as described in the application, from Gramercy, La., to New Johnsonville, Tenn.

Grounds for relief—Rate relationship.

Tariff—Supplement 196 to Southern Freight Association, agent, tariff ICC S-699. Rates are published to become effective on September 9, 1971.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-11162 Filed 8-3-71;8:49 am]

[Notice 21]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JULY 30, 1971.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c) (9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC-1515 (Deviation No. 590) (Cancels Deviation No. 437), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, OH 44113, filed July 22, 1971. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation route as follows: (1) From Chattanooga, Tenn., over Interstate Highway 24 to junction Interstate Highway 59, thence over Interstate Highway 59 to junction U.S. Highway 11 at Argo, Ala., with the following access roads: (a) From Fort Payne, Ala., over Alabama Highway 35 to junction Interstate Highway 59, (b) from Collinsville, Ala., over Alabama Highway 68 to junction Interstate Highway 59, and (c) from Asheville, Ala., over U.S. Highway 231 to junction Interstate Highway 59, and (2) from Bessemer, Ala., over Interstate Highway 59 to junction Alabama Highway 19, thence over Alabama Highway 19 to junction U.S. Highway 11 at Boligee, Ala., with the following access roads: (a) From Tuscaloosa, Ala., over U.S. Highway 82 to junction Interstate Highway 59, and (b) from Eutaw, Ala., over Alabama Highway 14 to junction Interstate Highway 59, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service routes as follows: (a) From Murfreesboro, Tenn., over U.S. Highway 41 to Chattanooga, Tenn., thence over U.S. Highway 11 to Attalla, Ala., thence over U.S. Highway 411 to Asheville, Ala., thence over Alabama Highway 23 to Springville, Ala., thence over U.S. Highway 11 to Birmingham, Ala. (also from Attalla over U.S. Highway 11 to Springville), and (2) from Birmingham, Ala., over U.S. Highway 11 via Bucksville and Box Springs, Ala., to New Orleans, La., and return over the same routes.

No. MC-2890 (Deviation No. 86), AMERICAN BUSLINES, INC., 1501 South Central Avenue, Los Angeles, CA 90021, filed July 20, 1971. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passegers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From junction Interstate Highway 80 and Interstate Highway 880 east of Sacramento, Calif., over Interstate Highway 880 to junction Interstate Highway 80 west of Sacramento, Calif., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Salt Lake City, Utah, over U.S. Highway 40 (portion now Interstate Highway 80) via Reno, Nev., and Roseville, Calif., to junction unnumbered highway near Fairfield, Calif., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.71-1164 Filed 8-3-71;8:50 am]

[Notice No. 26]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JULY 30, 1971.

The following letter-notices of proposals to operate other deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)), and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12), at any time, but will not operate to say commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices, by number.

MOTOR CARRIERS OF PROPERTY

No. MC-45657 (Deviation No. 11), PIC-WALSH FREIGHT CO., 731 Campbell Avenue, St. Louis, MO 63147, filed July 20, 1971. Carrier's representative: G. M. Rebman, Suite 1230, Boatmen's Bank Building, St. Louis, Mo. 63102. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Cincinnati, Ohio, over Interstate Highway 71 to Louisville, Ky., thence over Interstate Highway 65 to Nashville, Tenn., thence over Interstate Highway 40 to Memphis, Tenn., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent regular routes as follows: (1) From Cincinnati, Ohio, over Ohio Highway 264 to junction U.S. Highway 50, thence over U.S. Highway 50 to East St. Louis, Ill., thence over Illinois Highway 3 to junction Illinois Highway 146, thence over Illinois Highway 146 and the Mississippi River bridge to Cape Girardeau, Mo., thence over U.S. Highway 61 to junction U.S. Highway 60 near Sikeston, Mo., thence over U.S. Highway 60 to Dexter, Mo., thence over Missouri Highway 25 to junction Missouri Highway 84 (formerly Missouri Highway 25), thence over Missouri Highway 84 via Kennett, Mo., to junction County Highway EE, thence over County Highway EE to junction Missouri Highway 25, thence over Missouri Highway 25 to the Missouri-Arkansas State line, thence over Arkansas Highway 25 via Paragould, Ark., to junction Arkansas Highway 1, thence over Arkansas Highway 1 to Jonesboro, Ark., thence over Arkansas Highway 1 (formerly U.S. Highway 63) to junction U.S. Highway 63, thence over U.S. Highway 63 to junction unnumbered highway (formerly U.S. Highway 63), thence over unnumbered highway to junction U.S. Highway 63, thence over U.S. Highway 63 to junction unnumbered highway (formerly U.S. Highway 61), thence over unnumbered highway to junction U.S. Highway 63 (formerly U.S. Highway 61), thence over U.S. Highway 63 to West Memphis, Ark., thence over U.S. Highway 70 to Memphis, Tenn., and (2) from Memphis, Tenn., over U.S. Highway 51 to junction Illinois Highway 37, thence over Illinois Highway 37 to Salem, Ill., and return over the same routes.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.71-11165 Filed 8-3-71;8:50 am]

[Notice 340]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 30, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such pro-

tests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 21455 (Sub-No. 22 TA) (Correction), filed June 10, 1971, published FEDERAL REGISTER, issues June 22, 1971, and July 2, 1971, respectively, corrected and republished as corrected this issue. Applicant: GENE MITCHELL CO., 1106 Division Street, West Liberty, IA 52776. Applicant's representative: Kenneth F. Dudley, Post Office Box 279, Ottumwa, IA 52501. NOTE: The purpose of this partial republication is to reflect the correct *MC No. 21455 Sub-22 TA*, in lieu of MC 21445 Sub-No. 22 TA, shown erroneously in previous publication. The rest of the notice remains the same.

No. MC 26377 (Sub-No. 15 TA), filed July 22, 1971. Applicant: LEONARDO TRUCK LINES, INC., 511 South First Street, Selah, WA 98942. Applicant's representative: David C. White, Farley Building, 2400 Southwest Fourth Avenue, Portland, OR 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas and agricultural commodities*, otherwise exempt from economic regulation under section 203(b) (6) of the Interstate Commerce Act, when moving in mixed shipments with bananas, from Los Angeles and Long Beach, Calif., and Seattle, Wash., to ports of entry on the international boundary line between the United States and Canada in Washington and Idaho, for 180 days. Supporting shippers: Slade and Steward, Ltd., Post Office Box 3687, Seattle, WA 98124.; Vance Bros., Ltd., Post Office Box 500, Trail, BC, Canada. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 31600 (Sub-No. 653 TA), filed July 22, 1971. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham, MA 02154. Applicant's representative: Frank Hand (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed ingredients*, dry, in bulk, in tank vehicles, from Chicago, Ill., to Woburn, Mass., for 150 days. Supporting shipper: Lipton Pet Foods, Inc., Box 89, 209 New Boston Street, Woburn, MA 01801. Send protests to: James F. Martin, Jr., Assistant Regional Director, Interstate Commerce Commission, Bureau of Operations, John F. Kennedy Building, Government Center, Boston, Mass. 02203.

No. MC 52014 (Sub-No. 1 TA), filed July 22, 1971. Applicant: LAFAYETTE STORAGE AND MOVING CORPORATION, Sheldon and West Drullard Streets, Lancaster, NY 14086, 285 Lathrop Street, Buffalo, NY 14211. Applicant's representative: Thomas J. Runfola,, 631 Niagara Street, Buffalo, NY 14201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated new furniture and applicances, and returned and rejected shipments moving in shipper-owned containers*, between points in Erie County, N.Y., and points in Erie County, Pa., for 150 days. Supporting shipper: W. T. Grant Co., 1441 Broadway, New York, NY. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Office Building, 121 Ellicott Street, Buffalo, NY 14203.

No. MC 56244 (Sub-No. 27 TA) (Correction), filed June 18, 1971, published FEDERAL REGISTER, July 1, 1971, corrected and republished in part as corrected this issue. 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. NOTE: The purpose of this partial republication is to include points in Missouri, Iowa, Illinois, Indiana, and Kentucky as destination points, which were inadvertently omitted in previous publication. The rest of the notice remains the same.

No. MC 60607 (Sub-No. 1 TA), filed July 22, 1971. Applicant: NEW BELL STORAGE CORPORATION, Post Office Box 2140, Office: 3489 West Minster Avenue (23504), Norfolk, VA 23501. Applicant's representative: Robert J. Gallagher, 1776 Broadway, New York, NY 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in North Carolina, South Carolina, Virginia, Maryland, Delaware, and the District of Columbia. Restriction: The service authorized herein is restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized, for 180 days. Supporting shippers: Getz Bros. & Co. (U.S.), 640 Sacramento Street, San Francisco, CA 94111; International Export Packers, Inc., 5340 Eisenhower Avenue, Alexandria, VA 22304; Jet Forwarding, Inc., 200 West Central Avenue, Santa Ana, CA 92707; Home Pack Transport, Inc., 57-48 49th Street, Maspeth, NY 11378; MC&D Moving and Storage Co., Inc., 321 Valencia Street, San Francisco, CA 94103; Asiatic Forwarders, Inc., 335 Valencia Street, San Francisco, CA 94103; Smyth Worldwide Movers, Inc., 11616 Aurora Avenue North, Seattle, WA 98133. Send protests to: R. W. Waldron, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 10-502 Federal Building, Richmond, Va. 23240.

No. MC 76032 (Sub-No. 285 TA) (Correction), filed July 12, 1971, published FEDERAL REGISTER, July 23, 1971, corrected and republished in part as corrected this issue. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, CO 80223. Applicant's representative: David N. Inwood (same address as above). NOTE: The purpose of this partial republication is to include the tacking possibilities. Applicant states requested authority can be tacked with applicant's presently existing authority, but applicant has no present intention to tack and therefore cannot identify points or territories which can be served through tacking. The rest of the notice remains the same.

No. MC 82492 (Sub-No. 56 TA), filed July 22, 1971. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, Post Office Box 2853, Kalamazoo, MI 49003. Applicant's representative: William C. Harris (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 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from the plantsite of Tama Corp., near Tama, Iowa, to points in Illinois, Indiana, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin, for 180 days. Supporting shipper: Fred Shove, President, Tama Corp., Tama, Iowa 52339. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, Mich. 48933.

No. MC 107295 (Sub-No. 539 TA), filed July 22, 1971. Applicant: PRE-FAB TRANSIT CO., Post Office Box 146, 100 South Main Street, Farmer City, IL 61842. Applicant's representative: Bruce J. Kinnee (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wallboard, fiberboard, plastic sheeting, wall and ceiling panels, tile, molding, and materials and accessories required for the installation thereof* (except commodities in bulk), from Lodi, N.J., to points in Ohio, Kentucky, Louisiana, and Texas, for 180 days. Supporting Shipper: Larry Kurnentz, Traffic Manager, Barclay Industries, Inc., 65 Industrial Road, Lodi, NJ 07644. Send protests to: Harold C. Jolliff, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 325 West Adams Street, Room 476, Springfield, IL 62704.

No. MC 107496 (Sub-No. 817 TA), filed July 22, 1971. Applicant: RUAN TRANSPORT CORPORATION, Keosauqua Way at Third Street, Post Office Box 855 (50304), Des Moines, IA 50309. Applicant's representative: Henry L. Fabritz (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, in tank vehicles, having prior movement by

rail or barge, from Winona, Minn., to points in Minnesota and Wisconsin, for 150 days. Supporting shipper: Dewey Portland Cement Co., a division of Martin Marietta, 802 Kahn Building, Davenport, Iowa 52808. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 107515 (Sub-No. 762 TA), filed July 22, 1971. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, 3901 Jonesboro Road SE., Forest Park, GA 30050. Applicant's representative: Alan E. Serby, Suite 1600, First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, from Sabetha, Kans., and Norfolk, Nebr., to points in Georgia, and Florida, for 150 days. Supporting shipper: Breakstone Sugar Creek Foods, 450 East Illinois Street, Chicago, IL 60611. Send protests to: William L. Scroogs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 108241 (Sub-No. 7 TA), filed July 21, 1971. Applicant: BARROWS TRANSFER & STORAGE COMPANY, Armory Road, Post Office Box 560, Waterville, ME 04901. Applicant's representative: Arthur E. Finger, Jr., 30 Boylston Street, Cambridge, MA 02138. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Maine, for 100 days. NOTE: Applicant states it is my opinion that tacking is not applicable due to the nature of authority sought. Supporting shipper: Department of the Army, Office of the Judge Advocate General, Washington, D.C. 20310. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 307, 76 Pearl Street, Post Office Box 167, PSS, Portland, ME 04112.

No. MC 113024 (Sub-No. 114 TA), filed July 22, 1971. Applicant: ARLINGTON J. WILLIAMS, INC., Rural Delivery No. 2, South DuPont Highway, Smyrna, Del. 19977. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rubber hose and materials, and materials and supplies*, except commodities in bulk, used in the manufacture thereof, between Wilmington, Del., on the one hand, and points in Allen, Huntington, and Kosciusko Counties, Ind., Jefferson County, Ky., and Franklin, Lake, Paulding, and Van Wert Counties, Ohio, on the other. The above to be performed under a continuing contract or contracts with Electric Hose & Rubber Co., Wilmington, Del., for 180 days. Supporting shipper: F. H. Evick, Traffic Manager, Electric Hose & Rubber Co., Post Office Box 910, Wilmington, DE 19899. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 227 Old Post Office Building, Salisbury, MD 21801.

No. MC 116947 (Sub-No. 18 TA), filed July 22, 1971. Applicant: HUGH H. SCOTT, doing business as SCOTT TRANSFER CO., 920 Ashby Street SW., Atlanta, GA 30310. Applicant's representative: William Addams, 1776 Peachtree Street NW., Atlanta, GA 30309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers, metal container ends and crowns, wooden pallets, and parts and accessories* used in the distribution of the above named commodities, from Fruitland, Md., to Atlanta and Tucker, Ga., and Wilson, N.C., for 150 days. Supporting shipper: Crown Cork and Seal Co., Inc., 9300 Ashton Road, Philadelphia, PA 19136. Send protests to: William L. Scroogs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 123325 (Sub-No. 9 TA), filed July 22, 1971. Applicant: WRIGHT MOTOR LINES, INC., 24 Pisgah View Avenue, Asheville, NC 28803. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated houses, buildings, and parts thereof*, from Fletcher, N.C., to points in the United States, except Alaska and Hawaii, for 180 days. Supporting shipper: Carolina Log Buildings, Inc., Post Office Box 368, Fletcher, NC. Send protests to: District Supervisor, Interstate Commerce Commission, Bureau of Operations, 316 East Morehead, Suite 417 (BSR Bldg.), Charlotte, NC 28202.

No. MC 128273 (Sub-No. 101 TA) (Correction), filed June 30, 1971, published FEDERAL REGISTER, issue of July 16, 1971, and republished as corrected this issue. Applicant: MIDWESTERN EXPRESS, INC., Post Office Box 189, 121 Humboldt Street, Fort Scott, KS 66701. Applicant's representative: Harry Ross, 848 Warner Building, Washington, D.C. 20004. NOTE: The purpose of this republication is to show the correct name of the supporting shipper, in lieu of others that were shown in error. Supporting shipper: The Mead Corp., Talbott Tower, Dayton, Ohio 45402. This notice also shows the name of applicant's representative which was omitted from previous publication. The rest of the notice of filing remains as previously published.

No. MC 129830 (Sub-No. 3 TA), filed July 22, 1971. Applicant: JACOBSMA TRANSPORTATION COMPANY, 108 South Virginia Street, Sioux City, IA 51101. Applicant's representative: Patrick E. Quinn, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum casting, and iron and steel articles* as defined in Appendix V to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 (1952), from the plantsite and warehouse facilities of State Steel Supply Co. at or near Sioux City, Iowa to points in Iowa, Minnesota, Kansas, Nebraska, South Dakota, North Dakota, and Missouri, for 180 days. Supporting shipper: State Steel Supply Co., 214 Court Street, Sioux City, IA 51101. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 304 Post Office Building, Sioux City, Iowa 51101.

No. MC 134286 (Sub-No. 11 TA), filed July 22, 1971. Applicant: ARCTIC TRANSPORT, INC., 1005 West South Omaha Bridge Road, Council Bluffs, IA 51501. Applicant's representative: Charles J. Kinball, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen food*, from the plantsite and storage facilities of Platte Valley Foods at Wahoo, Nebr., to points in Arkansas, Alabama, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Michigan, Missouri, New York, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, Maryland, Wisconsin, and Minnesota, for 180 days. Supporting shipper: Platte Valley Foods, Wahoo, Nebr. 68066. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 705 Federal Office Building, Omaha, Nebr. 68102.

No. MC 134430 (Sub-No. 1 TA), filed July 22, 1971. Applicant: RICHARD LONG SYSCUE, Route 1, Box 3, Kelford, N.C. 27847. Applicant's representative: John R. Jenkins, Jr., Post Office Box 187, Aulander, NC. 27805. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood residuals* (woodbark, wood chips, wood shavings, wood sawdust), from Franklin, Va., to Moncure, N.C., for 180 days. Supporting shipper: Union Camp Corp., 1600 Valley Road, Wayne, NJ 07070. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 26896, Raleigh, NC 27611.

No. MC 134806 (Sub-No. 2 TA), filed July 22, 1971. Applicant: B-D-R TRANSPORT, INC., Post Office Box 813, Brattleboro, VT 05301. Applicant's representative: Francis J. Ortman, 1100 17th Street NW., Suite 613, Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tanned leather*, from points in San Francisco, Alameda, Napa, Solano, San Mateo, and Santa Cruz Counties, Calif., to points in Maine, New Hampshire, Massachusetts, and New York, for 180 days. Supporting shipper: West Coast Tanners Production Club, Post Office Box 1120, Santa Cruz, CA 95060. Send protests to: Martin P. Monaghan, Jr., District Supervisor, Interstate Commerce, Commission, Bureau

of Operations, 52 State Street, Room 5, Montpelier, VT 05602.

No. MC 135234 (Sub-No. 2 TA), filed July 22, 1971. Applicant: FRANK C. DODGE, JR., 618 Maywood Avenue, Schenectady, NY 12303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed motor vehicles and component parts thereof*, from points in Albany, Columbia, Dutchess, Fulton, Greene, Montgomery, Orange, Rensselaer, Saratoga, Ulster, Schenectady, and Washington Counties, N.Y., to Boston, Mass., Champlain N.Y., New Haven, Conn., and Providence, R.I. and from points in Dutchess, Fulton, Montgomery, Orange, and Ulster Counties, N.Y., to Lewiston, N.Y., and Jersey City, N.J., for 150 days. Supporting shipper: Barbata's Auto Parts, 1892 Central Avenue, Albany, NY. Send Protests to: Charles F. Jacobs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Building, Albany, N.Y. 12207.

No. MC 135705 AT (CORRECTION), filed June 18, 1971, published FEDERAL REGISTER, July 1, 1971, corrected and republished in part as corrected this issue. Applicant: LELAND L. MELROSE, doing business as MELROSE TRUCKING COMPANY, Post Office Box 6360, Casper, WY 82601. Applicant's representative: Max F. Parrish, Center at Second, Pocatello, ID 83201. NOTE: The purpose of this partial republication is to reflect that applicant intends to *interline* with railroad carriers at railroad siding near Casper and Douglas, Wyo. The rest of the notice remains the same.

No. MC 135706 (Sub-No. 1 TA), filed July 21, 1971. Applicant: AAA CONTRACTING COMPANY, 2634 North Foster Drive, Baton Rouge, LA 70805. Applicant's representative: Bryan E. Bush, Jr., 610 Reymond Building, Baton Rouge, La. 70801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bauxite*, in bulk, from Sharp Station, Baton Rouge, La., to Burnside Terminal Co., Burnside, La., with a subsequent movement by water, for 180 days. Supporting shipper: Burnside Terminal Co., division of Leonard J. Buck, Inc., Burnside, La. 70738. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room T-4009, Federal Building, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 135787 TA, filed July 21, 1971. Applicant: TENNANT & PIERCE TRUCKING, INC., 7450 Northeast 122d, Kirkland, WA 98133. Applicant's representative: George R. LaBissoniere, 1424 Washington Building, Seattle, Wash. 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plumbing and heating fixtures, equipment, supplies, and accessories*, from San Pablo, Montebello, Torrance, and city of Industry, Calif., to points in Oregon on and west of U.S. 97 and points in Washington, under contract with American Standard, Inc., for 180 days. Supporting shippers: American Standard, Post Office Box 2003, New Brunswick, NJ 08903; Johnson's Wholesale Plumbing, Inc., Post Office Box 3025, Seattle, WA 98114. Send protests to: E. J. Casey, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 135794 TA, filed July 22, 1971. Applicant: ROBERT G. SCHNUCKLE, doing business as B & B TRUCKING, 2101 West Fifth Street, Duluth, MN 55806. Applicant's representative: Steven J. Seiler, 811 First American National Bank Building, Duluth, Minn. 55802. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail department stores and mail order houses, between the facilities of Montgomery Ward & Co. at Duluth, Minn., and Superior, Wis., on the one hand, and, on the other, to points in Douglas, Bayfield, Burnett, Sawyer and Washburn Counties, Wis., for 180 days. Supporting shipper: Montgomery Ward & Co., Duluth, Minn. Send protests to: District Supervisor Raymond T. Jones, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 135795 TA, filed July 22, 1971. Applicant: WILLIAM J. JAMES, doing business as BILL JAMES, 541 Willow Lane, Hereford, TX 79045. Applicant's representative: Bill James (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feeds*, from Hereford, Tex., to points in Oklahoma and New Mexico, under a continuing contract with Moorman Manufacturing Co., for 180 days. Supporting shipper: Arnold L. Walter, Traffic Manager, Moorman Manufacturing Co., 1000 North 30th Street, Quincy, IL 62301. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room H-4395, Herring Plaza, Amarillo, Tex. 79101.

No. MC 135796 TA, filed July 22, 1971. Applicant: ASSELIN TRANSPORT LTEE, 263 106th Avenue, Laviolette County, St.-Georges de Champlain, PQ, Canada. Applicant's representative: Adrien R. Paquette, 200, rue St-Jacques, Suite 1010, Montreal 126, PQ, Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber*, from the ports of entry between the international boundary line at or near Champlain, N.Y., Derby Line, Vt., to Norton, Vt.; Ashland, Maine, and to Ticonderoga, Tonawanda, and Amityville, N.Y.; Orleans, Bellows Falls, Brattleboro, Bennington, Randolph, and Newport, Vt., Athol, Baldwinville, Boston, Gardner, Tewksbury, Winchendon, and Clinton, Mass.; Roxbury, Conn.; Suncook and Merriwack, N.H., and Beecher Falls, Vt. Restrictions: The operations authorized above are limited to a transportation service originating from Beaumont and points within a radius of 100 miles, St-Rock-de-Mekinac, Ste-Thecle, and St-Georges-de-Champlain in Laviolette County, Province of Quebec, Canada; (2) *concrete porous pipes*, from international boundary line at or near Derby Line, Vt., to points in Massachusetts, Rhode Island, and Connecticut, returned with special equipment for transportation of material used in connection with outbound traffic. Restrictions: The operations authorized above are limited to a transportation service originating from St-Georges-de-Champlain, Laviolette County, Province of Quebec, Canada; and (3) *canoes, boats, and accessories*, from the international boundary line at or near Trout River to Maline, N.Y., returned with special equipment for transportation of material used in connection with outbound traffic. Restrictions: The operations authorized above are limited to a transportation service originating from Grand'Mere, Laviolette County, Province of Quebec, Canada, for 150 days. Supporting shippers: St-Maurice Hardwood, Inc., Garneau Junction, Laviolette County, Province of Quebec, Canada; Groleau, Inc., Ste-Thecle, P.Q., Canada; Interprovincial Lumber Co., Inc., La Tuque, P.Q., Canada; Gelinite, Inc., St-Georges de Champlain, P.Q., Canada; and Canots Cadorette Canoes, Inc., Grand'Mere, P.Q., Canada. Send protests to: Martin P. Monaghan, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 52 State Street, Room 5, Montpelier, VT 05602.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.71-11166 Filed 8-3-71;8:50 am]

[Notice 61]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JULY 30, 1971.

The following publications are governed by the new Special Rule 247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC 66886 (Sub-No. 16) (Republication), filed March 23, 1970, published in the FEDERAL REGISTER, issue of April 16, 1970, and republished this issue. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut Street, Kansas City, MO 64108. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, MO 64105. A report and order of the Commission, Division 1,

Acting as an Appellate Division, decided July 6, 1971, and served July 13, 1971, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of (1) tractors, and (2) accessories, attachments, and parts of tractors when moving in connection therewith, from the plantsite and storage facilities of the Daybrook-Ottawa Division, Gulf & Western Metal Forming Co., at Ottawa, Kans., to points in the United States (except Alaska and Hawaii), restricted to the transportation of traffic originating at the above-named plantsite and storage facilities; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder; that a certificate authorizing such operation should be granted, subject to the condition that the grant of authority to applicant herein, and the existing authority of applicant that it duplicates, shall be construed as conferring only a single operating right. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition or other pleading setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 111545 (Sub-No. 125) (Republication), filed November 3, 1969, published in the FEDERAL REGISTER, issue of December 11, 1969, and republished this issue. Applicant: HOME TRANSPORTATION COMPANY, INC., Post Office Box 6426, Station A, Marietta, GA 30060. Applicant's representative: Robert E. Born, 1425 Franklin Road SE., Marietta, GA 30060. A report and order of the Commission, Division 1, Acting as an Appellate Division, decided July 6, 1971, and served July 13, 1971, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of (1) tractors, and (2) accessories, attachments, and parts of tractors when moving in connection therewith, from the plantsite and storage facilities of the Daybrook-Ottawa Division, Gulf & Western Metal Forming Co., at Ottawa, Kans., to points in the United States (except Alaska and Hawaii), restricted to the transportation of traffic originating at the above-named plantsite and storage facilities; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder; that a certificate authorizing such operation should be granted, subject to the condition that the grant of authority to applicant herein, and the existing authority of applicant that it duplicates, shall be construed as conferring only a single operating right. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings, a notice of the authority actually granted will be published in the FEDERAL REGISTER and the issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition or other pleading setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 125771 (Sub-No. 6) (Republication), filed October 26, 1970, published in the FEDERAL REGISTER, issue of November 26, 1970, and republished this issue. Applicant: CAYUGA SERVICE, INC., Post Office Box 74, South Lansing, NY 48901. Applicant's representative: E. Stephen Heisley, 705 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. An order of the Commission, Review Board No. 3, dated July 15, 1971, and served July 27, 1971, finds: That operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of salt products: (1) From the facilities of Cayuga Rock Salt Co., Inc., at or near South Lansing, N.Y., to points in New Jersey, Connecticut, Massachusetts, and Vermont; (2) from points in Coxsackie Township, Green County, N.Y., to points in New Jersey, New York, Connecticut, Massachusetts, and Vermont; (3) from Schenectady and Delanson, N.Y., to points in Connecticut, New York, Massachusetts, and Vermont; (4) from Castleton, Vt., to points in Massachusetts, Vermont, New Hampshire, and New York; and (5) from Warwick Township, N.Y., to points in Connecticut, Pennsylvania, and New Jersey (except points in Cumberland, Salem, Gloucester, Cape May, Atlantic, Camden, and Burlington Counties, N.J.) under a continuing contract or contracts with (1) Cayuga Rock Salt Co., Inc., of Myers, N.Y., (2) Highway Materials, Co., Inc., of South Lansing, N.Y., and (3) Yankee Salt Corp., of Castleton, Vt., respectively, will be consistent with the public interest and the national transportation policy. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 134153 (Sub-No. 1) (Republication), filed July 21, 1970, published in the FEDERAL REGISTER, issue of August 27, 1970, and republished this issue. Applicant: JOSEPH O. DICKERSON, Jr., AND JOSEPH O. DICKERSON, Sr., a partnership, doing business as D & D TRANSPORTATION COMPANY, 1415 Park Boulevard, Camden, NJ 08103. Applicant's representative: Robert D. Stair, 71 Knox Boulevard, Marlton, NJ 08053. A report and order of the Commission, Review Board No. 4, decided July 1, 1971, and served July 27, 1971, finds: That operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of steel articles from Philadelphia, Pa., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virgina, and the District of Columbia, under a continuing contract or contracts with Bayou, Ltd., of Pennsauken, N.J., will be consistent with the public interest and the national transportation policy. Because it is possible that other persons who may have relied upon the notice of the application as published in the FEDERAL REGISTER may have an interest in and would be prejudiced by the lack of proper notice, a notice of the authority actually granted applicant will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE OF FILING OF PETITIONS

No. MC 95540 (Sub-No. 565) (Notice of Filing of Petition To Modify), filed July 16, 1971. Petitioner: WATKINS MOTOR LINES, INC., Lakeland, Fla. Petitioner's representative: Clyde W. Carver, Suite 527, 1776 Peachtree Street NW., Atlanta, GA 30309. Petitioner holds authority in No. MC 95540 (Sub-No. 565), to perform transportation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of: *Canned lemon juice*, in vehicles equipped with mechanical refrigeration, from Covina, Fresno, and Los Angeles, Calif., to points in Mississippi, Tennessee, Florida, Georgia, Alabama, North Carolina, and South Carolina, with no transportation for compensation on return except as otherwise authorized; *frozen foods and canned goods*, in vehicles equipped with mechanical refrigeration, from Mesa, Ariz., to points in Georgia, Florida, Alabama, and South Carolina, with no transportation for compensation on return except as otherwise authorized; *canned whipping cream and topping*, in vehicles equipped with mechanical refrigeration, from Gustine, Calif., to points in Mississippi, Tennessee, Georgia, Florida, Alabama, North

Carolina, South Carolina, with no transportation for compensation on return except as otherwise authorized; *citrus products*, frozen and nonfrozen in vehicles equipped with mechanical refrigeration, from Ontario and Corona, Calif., to points in North Carolina, South Carolina, Georgia, Florida, Alabama (except Mobile), and Tennessee (except Memphis), with no transportation for compensation on return except as otherwise authorized; *canned fish*, in vehicles equipped with mechanical refrigeration, from Los Angeles, Calif., to points in North Carolina, South Carolina, Alabama, Florida, and Georgia (except points in Bartow, Catoosa, Chattooga, Cherokee, Cobb, Fannin, Floyd, Gilmer, Gordon, Haralson, Murray, Paulding, Pickens, Polk, Walker, and Whitfield Counties, Ga.), with no transportation for compensation on return except as otherwise authorized; and *fresh fruit and fresh vegetables*, in vehicles equipped with mechanical refrigeration, when moving in the same vehicle and at the same time as commodities the transportation of which is subject to economic regulation under part II of the Interstate Commerce Act, from points in California and Litchfield Park, Ariz., to points in Mississippi, Tennessee, Georgia, Florida, Alabama, North Carolina, and South Carolina, with no transportation for compensation on return except as otherwise authorized. The purpose of this petition, is to request that the commodity description "Canned whipping cream and topping", be modified to "Foodstuffs", and to request that the restrictive language, ". . . , in vehicles equipped with mechanical refrigeration, . . .", be eliminated from each of the six granting paragraphs. Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 116810 and No. MC 116810 (Sub-No. 4) (Notice of Filing of Petition for Alternate Gateways and Elimination of Gateways), filed June 23, 1971. Petitioner: BAIR TRANSPORT, INC., Riverside, N.J. Petitioner's representative: Kenneth R. Davis, 999 Union Street, Taylor, PA 18517. Petitioner is authorized in No. MC 116810 to transport: *General commodities*, except those of unusual value, classes A and B explosives, liquor, commodities in bulk, household goods as defined by the Commission, commodities requiring special equipment, and those injurious or contaminating to other lading, between Philadelphia, Pa., and New York, N.Y., serving all intermediate points, and serving the off-route points of Riverside, N.J., those in New Jersey within 25 miles of Riverside, N.J., those in New Jersey within 25 miles of Newark, N.J., and New Brunswick, N.J. From Philadelphia across the Delaware River to Camden, N.J., thence over U.S. Highway 130 to junction U.S. Highway 1, and thence over U.S. Highway 1 to New York, and return over the same route. From Philadelphia across the Delaware River to Camden, N.J., thence over New Jersey Secondary Highway 543 via Burlington, N.J., to junction U.S. Highway 130, thence over U.S. Highway 130 to junction U.S. Highway 206, thence over U.S. Highway 206 to Trenton, N.J., and thence over U.S. Highway 1 to New York, and return over the same route. *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, and those injurious or contaminating to other lading, between points in Bergen, Passaic, and Sussex Counties, N.J., on the one hand, and, on the other, Providence, R.I., Corning, N.Y., points in that part of Pennsylvania east of the Susquehanna River, that part of New York within 150 miles of Newark, N.J., that part of Massachusetts on and east of U.S. Highway 5, and that part of Connecticut on and east of U.S. Highway 5 and those on U.S. Highway 1 between the Connecticut-New York State line and New Haven, Conn., between points in Philadelphia, Pa. *General commodities*, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, films, silk, tobacco, new automobiles, commodities requiring tank trucks or refrigeration, and those injurious or contaminating to other lading. Between Wilmington, Del., and points in Delaware within 50 miles thereof, and points in Pennsylvania within 15 miles of Wilmington, Del., on the one hand, and, on the other, Washington, D.C., points in the New York, N.Y., commercial zone as defined by the Commission, points in that part of Pennsylvania bounded on the north by a line beginning at the Susquehanna River and extending east along U.S. Highway 22 to junction unnumbered highway near Walbert, Pa., and thence along unnumbered highway via Allentown, Bethlehem, Kutztown, Wilson, and Easton, Pa., to the Pennsylvania-New Jersey State line, and on the west by the Susquehanna River, and points in that part of New Jersey and Maryland on and east of U.S. Highway 1.

MC-116810 Sub 4, *General Commodities*, except those of unusual value, classes A and B explosives, liquor, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between New York, N.Y., on the one hand, and, on the other, Providence, R.I., points in that part of Massachusetts on and east of U.S. Highway 5, and points in that part of Connecticut on and east of U.S. Highway 5 and points on U.S. Highway 1 between Connecticut-New York State line and New Haven, Conn. By the instant petition, petitioner requests an *alternate gateway* of *Delanco, N.J.*, in serving points in that part of New Jersey and Maryland on and east of U.S. Highway 1, on the one hand, and, on the other, points in that part of Massachusetts on the east of U.S. Highway 5 and that part of Connecticut on and east of U.S. Highway 5 and those on U.S. Highway 1 between the Connecticut-New York State line and New Haven, Conn. Petitioner requests the elimination of the Gateway of Passaic County, N.J., and points within 15 miles of Wilmington, Del., allowing the following between points in Pennsylvania east of the Susquehanna River, north of U.S. Route 309, on the one hand, and, on the other, points in New Jersey and Maryland on and east of U.S. Highway 1 observing the Philadelphia, Pa., commercial zone—Points in Pennsylvania within 15 miles of Wilmington, Del., gateway. Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC-125293 (Sub-No. 2) (Notice of Filing of Petition To Modify Permit), filed June 17, 1971. Petitioner: INDUSTRIAL CONTRACT CARRIERS, INC., 617 Southwest 17th Avenue, Portland, OR. Petitioner's representative: George R. LaBissoniere, 1424 Washington Building, Seattle, Wash. 98101. Petitioner holds Permit No. MC-125293 (Sub-No. 2) authorizing operations as a motor contract carrier, transporting: (1) Aluminum sulphate, sodium sulphate, soda ash, methylene chloride, copper sulphate, carbon tetrachloride mixtures, boric acid, pentachlorophenol, metasilicates, trichloroethylene, nitric, phosphoric, acetic, and hydrofluoric acids, plating and buffing compounds, detergents, and filtering agents, all moving in drums, cartons, or bags, from points in California, to points in Oregon, Washington, and Idaho, under a continuing contract, or contracts, with the Great Western Chemical Co. of Richmond, Calif., and (2) aluminum and steel sheet-metal building materials and supplies, space heaters, furnace pipe, furnace accessories, garbage cans, and pails, from Portland, Oreg., to points in Washington, Idaho, Utah, and California, under a continuing contract, or contracts, with General Metalcraft, Inc., of Portland, Oreg. By the instant petition, petitioner requests that Permit No. MC-125293 (Sub-No. 2) be modified: (a) In part (1) above, by adding the following territorial authorization: From Seattle and Tacoma, Wash., to points in Montana; (b) in part (1) above, by adding the following authority: Soda ash, from Green River, Wyo., to points in Oregon and Washington, under a continuing contract, or contracts with the shipper specified; and (c) in part (2) above, by adding the destination States of Arizona and Nevada. Any interested person desiring to participate, may file an original and six copies of his written representation, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 128648 (Sub-No. 1), (Notice of Filing of Petition For Modification of Permit To Add a Contracting Shipper),

filed July 20, 1971. Petitioner: TRANS-UNITED, INC., Torrance, Calif. Petitioner's representative: William J. Lippman, Suite 960, 1819 H Street NW., Washington, DC 20006. Its permit No. MC 128648 (Sub-No.), now authorizes the following contract carrier service: Tractor parts, loader parts, tractor attachments, and equipment, materials and supplies used in the manufacture of the above-named commodities, between Mercer, Pa., Torrance, Calif., Montgomery, Ala., Aurora, Ill., Portland, Oreg., Phoenix, Ariz., Salt Lake City, Utah, Dallas and Houston, Tex., Tulsa, Okla., Topeka, Kans., Cedar Rapids, Iowa, New Orleans, La., Memphis, Tenn., Defiance, Columbus, and Cleveland, Ohio, Atlanta, Ga., Jacksonville and Tampa, Fla., Boston, Mass., Denver, Colo., and the storage and distribution facilities of Pettibone Mulliken Corp. at East Rutherford, N.J., between the points described above, on the one hand, and, on the other, points in the United States, except Alaska and Hawaii. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with Pettibone Mulliken Corp. of Torrance, Calif. By the instant petition, petitioner seeks to add the name of Industrial Parts Depot as a contracting shipper. Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 134560 (Notice of Filing of Petition To Add Additional Shipper), filed July 21, 1971. Petitioner: ROBERT J. LITTLE, Jackson, Miss. 39212. Petitioner holds authority in No. MC 134560 to conduct operations as a motor contract carrier,, over irregular routes, transporting: Lumber (1) from Memphis, Tenn., to points in Alabama, Louisiana, Mississippi, and Texas, and (2) between points in Alabama, Louisiana, Mississippi, and Texas under continuing contract, or contracts with Owens Lumber, Inc., of Jackson, Miss. By the instant petition, petitioner requests permission to add the contracting shipper, Southern Pacific Lumber Co., Inc., Jackson, Miss. Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 59583 (Sub-No. 130) filed June 30, 1971. Applicant: THE MASON AND DIXON LINES, INC., Post Office Box 969, Eastman Road, Kingsport, TN 37662. Applicant's representative: Carl W. Eilers, Post Office Box 3740, Kingsport, TN 37664. 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, those requiring special equipment, and those injurious or contaminating to other lading), between Birmingham, Ala., and points within 15 miles thereof, and Mobile, Ala., and points within 10 miles thereof, over U.S. Highway 31, serving all intermediate points and the off-route points of Kilby, Prattville, and Siluria, Ala. NOTE: This application is a matter directly related to MC-F-11150, published in the FEDERAL REGISTER issue of April 28, 1971. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Montgomery, Ala.

No. MC 112617 (Sub-No. 292), filed July 20, 1971. Applicant: LIQUID TRANSPORTERS, INC., Post Office Box 21395, Louisville, KY 40221. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street, NW., Suite 501, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, in bulk, in tank vehicles, between Midway, Meade County, Ky., and Louisville, Jefferson County, Ky., from Midway over Kentucky Highway 448 to junction U.S. Highway 60 at Flaherty Road, thence over U.S. Highway 60 to junction U.S. Highway 31-W at Tip Top, thence over U.S. Highways 60 and 31-W to Louisville, restricted to a closed door operation on U.S. Highway 31-W between Tip Top and Louisville, Ky. NOTE: Applicant states that the requested authority will be tacked at Louisville and/or Doe Run, Ky. This application is a matter directly related to MC-F-11243, published in the FEDERAL REGISTER issue of August 4, 1971. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Washington, D.C.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1100.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-10684. CLARK ENTERPRISES, INC.—Control—HARMS PACIFIC TRANSPORT, INC., AND SERVICE TANK LINES, INC., published in December 24, 1969 issue of the FEDERAL REGISTER. Amended application filed July 21, 1971, the prior applicant CLARK ENTERPRISES, INC., has assigned the agreement to its affiliated motor carrier CLARK TANK LINES COMPANY, INC.

No. MC-F-11228. (Correction) (REFRIGERATED TRANSPORT CO., INC.—Purchase (Portion)—SUBLER TRANSFER, INC.), published in the July 21, 1971, issue of the FEDERAL REGISTER on page 13418. Prior notice should be modified to show. *Agricultural commodities, packinghouse products, groceries, and canned goods*, from Baltimore, Md., Harrisburg, York, Scranton, and Philadelphia, Pa., and New York, N.Y., to Richmond, Va.

No. MC-F-11243. Authority sought for purchase by LIQUID TRANSPORTERS, INC., 1292 Fern Valley Road, Louisville, KY 40221, of a portion of the operating rights of ROBBINS TRUCK LINE, INC., Hardinsburg, Ky. 40143, and for acquisition by CHARLES E. CRANMER, Post Office Box 21395, Louisville, KY 40221, of control of such rights through the purchase. Applicants' attorney: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, DC 20036. Operating rights sought to be transferred: Under a certificate of registration in Docket No. MC-9847 Sub-3, covering the transportation of commodities, as a common carrier, in interstate commerce, within the State of Kentucky. Vendee is authorized to operate as a common carrier in all States in the United States (except Alaska and Hawaii). Application has not been filed for temporary authority under section 210a(b). NOTE: No. MC-112617 Sub-292, is a matter directly related.

No. MC-F-11244. Authority sought for purchase by H. C. GABLER, INC., Rural Delivery No. 3, Chambersburg, PA 17201, of the operating rights of H. DAVID PITZER, Post Office Box 276, Biglerville, PA 17307, and for acquisition by HAROLD C. GABLER, Montgomery Avenue Extended, Chambersburg, Pa. 17201, of control of such rights through the purchase. Applicants' attorney: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Operating rights sought to be transferred: *Canned goods*, as a *common carrier*, over irregular routes, from New Freedom and Hanover, Pa., and points in Adams and Franklin Counties, Pa., except Biglerville, Gardners, Greencastle, and Roxbury, Pa., to points in Maine, New Hampshire, and Vermont, and *return* with (reshipped) *shipments of canned goods; processed foods products, advertising materials, and materials, equipment and supplies* (except commodities in bulk, and frozen food products) used in the production, sale, and distribution of processed food products, from Biglerville and Gardners, Pa., and from the H. J. Heinz Company Distribution Center, at Mechanicsburg, Pa., to points in Maine, New Hampshire, and Vermont; and *return* with *shipments* of the above-specified commodities. Vendee is authorized to operate as a *common carrier*, in Pennsylvania, Maryland, District of Columbia, Virginia, West Virginia, New Jersey, New York, Iowa, Kentucky, Massachusetts, Michigan, Missouri, New Hampshire, Rhode Island, Vermont, Maine, Connecticut, Delaware, Ohio, Indiana, Illinois, North Carolina, Alabama, Mississippi, Louisiana, Tennessee, Wisconsin, South Carolina, Georgia, Florida, and Minnesota. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11246. Authority sought for purchase by CAMPBELL SIXTY-SIX EXPRESS, INC., 2333 East Trafficway, Post Office Box 807, Springfield, MO 65801, of the operating rights of ELGIN STORAGE & TRANSFER COMPANY, 1601 Villa Street (Route 20), Elgin, IL 60120, and for acquisition by F. G. CAMPBELL, also of Springfield, Mo. 60120, of control of such rights through the purchase. Applicants' attorneys: Phineas Stevens, Post Office Box 22567, Jackson, MS 39205 and Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Operating rights sought to be transferred: *General commodities*, except those of unusual value, and except dangerous explosives, livestock, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier*, over irregular routes, between points and places in certain specified counties in Illinois and Lake County, Ind. Vendee is authorized to operate as a *common carrier* in Missouri, Kansas, Illinois, Oklahoma, Arkansas, Tennessee, Texas, Mississippi, Alabama, Louisiana, Georgia, Wisconsin, and Indiana. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11247. Authority sought for purchase by T.I.M.E.-DC, INC., 2598 74th Street, Lubbock, TX 79408, of the operating rights of ASCOT TRUCKING CORP., 453 North May Street, Chicago, IL 60622, and for acquisition by NATIONAL CITY LINES, INC., 700 Security Life Building, Denver, Colo. 80202, of control of such rights through the purchase. Applicants' attorneys: Frank M. Garrison, Post Office Box 2550, Lubbock, TX 79408, and Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC-121156 Sub-1, covering the transportation of general commodities, as a common carrier, in interstate commerce, within the State of Illinois. Vendee is authorized to operate as a *common carrier* in Texas, Oklahoma, New Mexico, Arizona, California, Tennessee, Arkansas, Kentucky, Ohio, Georgia, Missouri, Illinois, Indiana, Kansas, Pennsylvania, New York, New Jersey, Virginia, Alabama, West Virginia, Maryland, Massachusetts, Rhode Island, Colorado, Washington, Michigan, Oregon, Nebraska, Wyoming, Idaho, and Utah. Application has not been filed for temporary authority under section 210a(b). NOTE: MC-35320 Sub-126 is a matter directly related.

No. MC-F-11248. Authority sought for purchase by CHEM-HAULERS, INC., Post Office Drawer M, Sheffield, AL 35660, of a portion of the operating rights of WAVERLY TRANSFER COMPANY, INC., 111 Tredco Drive, Nashville, TN 37211, and for acquisition by WILLIAM D. BIGGS, also of Sheffield, Ala. 35660, of control of such rights through the purchase. Applicants' attorneys: Walter Harwood, 1822 Parkway Towers, Nashville, Tenn. 37219, and A. O. Buck, 500 Court Square Building, Nashville, Tenn. 37201. Operating rights sought to be transferred: Under a certificate of registration in Docket No. MC-120693 Sub-1, covering the transportation of general commodities, as a common carrier, in interstate commerce, within the State of Tennessee. Vendee is authorized to operate as a common carrier in all States in the United States (except Alaska and Hawaii). Application has not been filed for temporary authority under section 210a(b). NOTE: No. MC-116254 Sub-No. 126, is a matter directly related.

No. MC-F-11249. Authority sought for purchase by ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, OH 44309, of a portion of the operating rights of CHIPPEWA MOTOR FREIGHT, INC., Post Office Box 269, 2645 Harlem Street, Eau Claire, WI 54701, and for acquisition by GALEN J. ROUSH, 1077 Gorge Boulevard, Akron, OH 44309, of control of such rights through the purchase. Applicants' attorney and representative: William O. Turney, 2001 Massachusetts Avenue NW., Washington, DC 20036 and Douglas W. Faris, Post Office Box 471, Akron, OH 44309. Operating rights sought to be transferred: *General commodities*, except those of unusual value, livestock, high explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier* over regular routes, between Mendota, Ill. and Davenport, Iowa serving the intermediate and off-route points of La Moille, Ohio, Walnut, Normandy, Yorktown, Joselin, Carbon Cliff, Silvis, and East Moline. Vendee is authorized to operate as a *common carrier* in Ohio, Texas, Oklahoma, Connecticut, Michigan, Missouri, Indiana, Massachusetts, Pennsylvania, Kansas, Illinois, Kentucky, Rhode Island, Alabama, Georgia, North Carolina, Tennessee, South Carolina, New Jersey, New York, Virginia, Delaware, Maryland, West Virginia, Wisconsin, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11250. Authority sought for purchase by PIEDMONT MOVERS, INC., 422 South Spring Street, Burlington, NC 27215, of the operating rights of LEONARD L. CARPENTER, doing business as CARPENTER VAN LINES, 6301 East 120th Street, Grandview, MO 64030, and for acquisition by D. C. MORROW, 422 South Spring Street, Burlington, NC 27215, ROLAND M. HEARTREADEY, WILMA RHODES, O. CHARLES CARTER, LOUIS P. LOTSPEICH, and F. B. TANKERSLEY-TRUSTEES OF R. G. DAWE TRUST, all of Suite 403, Southwest Bank Building, Irving, Tex. 75060, of control of such rights through the purchase. Applicant's attorney and representatives: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City MO 64105 and D. C. Morrow, 422 South Spring Street, Burlington, NC 27215. Operating rights sought to be transferred: *Household goods*, as defined by the Commission, as a *common carrier* over irregular routes, between points in Greene, Lawrence, Monroe, and Orange Counties, Ind., on the one hand, and, on the other, points in Tennessee, between points in Jackson and Martin Counties, Ind., on th eone hand, and, on the other, points in Ohio, Pennsylvania, New York, West Virginia, Maryland, Virginia, Illinois, Wisconsin, Missouri, Iowa, Michigan, Kentucky, and the District of Columbia, between Grainfield, Kans., and points within 25 miles of Grainfield, on the one hand, and, on the other, points in Colorado, Nebraska, and Missouri, between points in Connecticut, Rhode Island, Massachusetts, and New Jersey, those in New York on and southeast of New York Highway 7, and those in Pennsylvania east of a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 220 to Muncy, Pa., thence along the Susquehanna River to the Pennsylvania-Maryland State line, between Glassport, Pa., and points within 10 miles thereof, on the one hand, and, on the other, points in West Virginia and Maryland. Vendee holds no authority from this Commission. However, it is affiliated with CAROLINA EAST FURNITURE TRANSPORT, INC., Post Office Box 1426, Sumter, SC 29130, which is authorized to operate as a *common carrier* in South Carolina, Arkansas, Louisiana, Mississippi, Oklahoma, Tennessee, Texas, Maryland, New Jersey, New York, Pennsylvania, Virginia, Connecticut, Delaware, North Carolina, Rhode Island, Alabama, Georgia, Florida, Massachusetts, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.71-11167 Filed 8-3-71;8:50 am]

[Notice 337]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 23, 1971.

The following are notices of filing of applications for temporary authority under section 210(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such

protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 111 (Sub-No. 8 TA), filed July 16, 1971. Applicant: VIGEANT MOTOR FREIGHT, INC., Post Office Box 157, Castleton-on-Hudson, NY 12033. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pharmaceutical products*, except in bulk, from Rouses Point, N.Y., to Lenexa, Kans., Mesquite, Tex., Los Angeles, Calif., and Seattle, Wash., with stopoff and pickup for same shipper at Chicago, Ill., for 150 days. Supporting shipper: Ayerst Laboratories, Inc., Division of American Home Products Corp., Rouses Point, N.Y. Send protests to: Charles F. Jacobs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Building, Albany, N.Y. 12207.

No. MC 41432 (Sub-No. 115 TA), filed July 19, 1971. Applicant: EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, Post Office Box 10125, Dallas, TX 75207. Applicant's representative: W. P. Furrh (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, and those requiring special equipment), serving Norcross, Ga., and points in its commercial zone as defined by the Commission, as off-route points in connection with carrier's authorized regular-route operations in MC 41432 and Subs thereunder. NOTE: Applicant does not intend to transport any traffic, direct or interline, between Atlanta, Ga., on the one hand, and points within 15 miles thereof, on the other and is willing to accept a restriction to that effect, for 180 days. Supporting shippers: Wittaker Corp., Jenks Metals, 4570 Northeast Expressway, Doraville, GA 30340; J. M. Tull Industries, Inc., Post Office Box 4628, Atlanta, GA 30302; Zim Chemical Co., Inc., Post Office Box 13641, Station K, Atlanta, GA 30324; Kearney Division of Kearney National, Post Office Box 49167, Atlanta, GA 30329; Kan-Dee Pak, Inc., Post Office Box 47726, Atlanta, GA 30340; Peachtree Doors, Inc., Post Office Box 700, Norcross, GA 30071; Lamex, Inc., 1245 Old Peachtree Road, Norcross, GA. Send protests to: District Supervisor E. K. Willis, Jr., Bureau of Operations, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75202.

No. MC 4687 (Sub-No. 10 TA), filed July 19, 1971. Applicant: BURGESS & COOK, INC., 21 North Second Street, Post Office Box 458, Fernandina Beach, FL 32034. Applicant's representative: Archie B. Culbreth, 1252 West Peachtree Street NW., Atlanta, GA 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polystyrene plastic products, such as expanded plastic foam egg cartons, meat and produce trays* (except commodities in bulk) from Lithonia, Ga., to points in Florida, for 180 days. NOTE: This authority will, however be used in conjunction with the authority to serve the shipper from Covington, Ga., under Sub 9TA, copy attached. Supporting shipper: Mobil Chemical Co., Plastics Division, Covington, Ga. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, 288 Federal Building, Box 35008, Jacksonville, FL 32202.

No. MC 107227 (Sub-No. 123 TA), filed July 16, 1971. Applicant: INSURED TRANSPORTERS, INC., 1944 Williams Street, Post Office Box 1697, San Leandro, CA 94577. Applicant's representative: A. J. Jackson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New foreign made automobiles and busses*, in secondary movements, in truckaway service, in foreign commerce, from points in California on the international boundary between the United States and Mexico to (1) points in California, north of the northern boundaries of San Luis Obispo, Kern, and San Bernardino counties; (2) points in Nevada, excepting Las Vegas, Nev.; and (3) points in Utah, restricted to shipments having a prior movement by water, for 180 days. Supporting shipper: Reynold C. Johnson Co., 7100 Johnson Industrial Drive, Pleasanton, CA 94566. Send protests to: District Supervisor William E. Murphy, Bureau of Operations, Interstate Commerce Commission, 450 Golden Gate Avenue, Box 36004, San Francisco, CA 94102.

No. MC 107295 (Sub-No. 534 TA), filed July 19, 1971. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, Farmer City, IL 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: *Hardwood flooring systems, hardwood flooding, lumber and lumber products, and accessories*, used in the installation thereof, from Dollar Bay, Mich., to points in Illinois, Iowa, Missouri, Ohio, and Kansas, for 180 days. Supporting Shipper: Edward J. Stone, Horner Flooring Co., Dollar Bay, Mich. 49922. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 325 West Adams Street, Room 475, Springfield, IL 62704.

No. MC 107496 (Sub-No. 816 TA), filed July 8, 1971. Applicant: RUAN TRANSPORT CORPORATION, Keosauqua Way at Third Street, Post Office Box 855, Des Moines, IA 50309. Applicant's representative: H. L. Fabritz (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean oil*, in bulk, in tank vehicles, from Belmond, Iowa, to Rockford, Ill. for 150 days. Supporting shipper: Central Soya Co., Inc., Belmond, Iowa 50421. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 112617 (Sub-No. 291 TA), filed July 16, 1971. Applicant: LIQUID TRANSPORTERS, INC., Post Office Box 21395, 1292 Sern Valley Road, Louisville, KY 40219. Applicant's representative: Charles R. Dunford (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vericles, from Murray, Ky., to points in Illinois, Indiana, Missouri, Texas, and Oklahoma, for 180 days. Supporting shipper: Mr. E. H. Magnuson, Traffic Manager, R. T. Vanderbuilt Co., Inc., 230 Park Avenue, New York, NY. Send protests to: Wayne L. Merilatt, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

No. MC 115481 (Sub-No. 2 TA), filed July 16, 1971. Applicant: GILCHRIST BROS., INC., Coastwise and Tyler Streets, Port Newark, NJ 07114. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Port Newark, N.J., to New York, N.Y., and points in Dutchess, Orange, Nassau, Putnam, Rockland, Suffolk, Sullivan, Ulster, and Westchester Counties, N.Y., for 180 days. Supporting shippers: Futter & Co. Lumber Corp., 15 Maiden Lane, New York, NY 10038.; Kramer Lumber Co., 85 Central Avenue, Clifton, NJ 07011; Furman Lumber, Inc., 108 Massachusetts Avenue, Boston, MA 02115; Weyerhaeuser Co., Post Office Box 710, Camden, NJ 08101. Send protests to: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 117613 (Sub-No. 5 TA), filed July 16, 1971. Applicant: DONALD M. BOWMAN, JR., 5 North Clifton Drive, Williamsport, MD 21795, Office: 15 East Oak Ridge Drive, Box 26, Hagerstown, MD 21740. Applicant's representative: S. Harrison Kahn, Suite 733 Investment Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick* (except refractory brick) *and tile*, from Somerset, Va., to points in Frederick and Washington Counties, Md., Jefferson and Berkeley Counties, W. Va., and Franklin, Adams, Cumberland, and Fulton Counties, Pa., for 180 days. Supporting shipper: Victor Cushwa & Sons, Inc., 201 West Potomac Street, Williamsport, MD 21794. Send protests to: District Supervisor Robert D. Caldwell, Interstate Commerce Commission, Bureau of Operations, 12th and Constitution Avenue NW., Washington, DC 20423.

No. MC 118745 (Sub-No. 10 TA), filed July 19, 1971. Applicant: JOHN PFROMMER, INC., Post Office Box 307, Douglassville, PA 19518. Applicant's representative: Theodore Polydoroff, 1140 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crushed limestone*, from the plantsite of G. & W. H. Corson, Inc., at or near Plymouth Meeting, Pa., to Washington, D.C., for 180 days. Supporting shipper: G. & W. H. Corson, Inc., Plymouth Meeting, Pa. 19462. Send protests to: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 123255 (Sub-No. 11 TA), filed July 19, 1971. Applicant: B & L MOTOR FREIGHT, INC., 140 East Everett Avenue, Newark, OH 43055. Applicant's representative: C. F. Schnee, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Toledo, Ohio, to Chicago, Ill., and Buffalo, N.Y., and from Buffalo, N.Y., to Toledo, Ohio; *empty beverage containers*, from the above desinations to the above origins, for 180 days. Supporting shipper: Buckeye Brewing Co., Division of Meister Brau, Inc., 1501 Michigan Street, Toledo, OH 43604. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, Bureau of Operation, 255 Federal and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 127816 (Sub-No. 1 TA) (Correction), filed June 28, 1971, published FEDERAL REGISTER, July 13, 1971, corrected and republished in part as corrected this issue. Applicant: RAYMOND FOWLER, doing business as BLUE STEM TRUCK LINE, 509 Elm Street, Emporia, KS 66801. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66603. NOTE: The purpose of this partial republication is to include *Beaver County, Okla.*, as a destination point, which was inadvertently omitted in previous publication. The rest of the notice remains the same.

No. MC 128820 (Sub-No. 3 TA), filed July 16, 1971. Applicant: JAMES A. STURDEVANT, doing business as PACKAGE DELIVERY SERVICE, 2117 Laburnum Lane, Toledo, OH 43624. Applicant's representative: Arthur R. Cline, 420 Security Building, Toledo, Ohio 43604. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in and sold by retail department stores, in delivery (retail) service, from Toledo, Ohio, to points in Hillsdale, Jackson, Lenawii, Monroe, Washtenaw, and Wayne Counties, Mich., and *damaged, refused, or rejected shipments of the above-specified commodities*, from the above-specified destination points in Toledo, Ohio, for 180 days. Supporting shipper: J. C. Penney Co., Inc., 400 West Washington Street, Ann Arbor, MI 48103. Send protests to: Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5234 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 134777 (Sub-No. 16 TA), filed July 19, 1971. Applicant: SOONER EXPRESS, INC., Office: Sonner Building, Highway 70 South, Post Office Box 219, Madill, OK 73446. Applicant's representative: Dale Waymire (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, from Oklahoma City, Okla., to points in Arkansas, Colorado, Kansas, Louisiana, Mississippi, and Nebraska, for 180 days. NOTE: Carrier does not intend to tack authority. Supporting shipper: Harold P. Simpsen, Wilson Certificated Foods, Inc., Subsidiary of Wilson & Co., Inc., 4545 North Lincoln Boulevard, Oklahoma City, OK. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas TX 75202.

No. MC 133566 (Sub-No. 12 TA), filed July 16, 1971. Applicant: ROBERT GANGLOFF AND ROBERT DOWNHAM, doing business as GANGLOFF AND DOWNHAM, Post Office Box 676, Logansport, IN 46947. Applicant's representative: Jack H. Blanshan, 29 South La Salle Street, Chicago, IL 60603. 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 Co., at or near Dodus, Mich., to points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, Ohio, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, for 180 days. Supporting shipper: Wilson-Sinclair Co., Prudential Plaza, Chicago, Ill. 60601. Send protests to: Acting District Supervisor John E. Ryden, Bureau of Operations, Interstate Commerce Commission, Room 204, 345 West Wayne Street, Fort Wayne, IN 46802.

No. MC 135281 (Sub-No. 6 TA), filed July 16, 1971. Applicant: RAYMOND LANGLEY, doing business as LANGLEY TRUCKING, Route No. 4, Post Office Box 61, Elizabethtown, KY 42701. Applicant's representative: George M. Catlett, 703-706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum shot*, in bulk, in dump vehicles, from the plantsite of the National Aluminum Corp., in Hancock County, Ky., to Cleveland, Ohio, for 180 days. Supporting shipper: Mr. Paul L. Klinvex, Manager, Traffic and Transportation, National Aluminum Corp., 2800 Grant Building, Pittsburgh, Pa. 15219. Send protests to: Wayne L. Merilatt, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 135704 TA (Amendment), filed June 20, 1971, published FEDERAL REGISTER, July 1, 1971, amended and republished as amended this issue. Applicant: LEON PRICKETT AND GARY PRICKETT, a partnership, doing business as LEON PRICKETT & COMPANY, 3223 East Broadway, North Little Rock, AR 72114. Applicant's representative: L. C. Cypert, 206 Fifteen, Fifteen Building, 1515 West Seventh Street, Little Rock, AR 72201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Deflourinated phosphate feed supplements* (except in bags), from the plantsite and warehouse facilities of Olin Corp., Agricultural Division, North Little Rock, Ark., to points in St. Louis, Mo., East St. Louis, Ill., and also points in St. Louis County, Mo., Bellville, Ill., and Memphis, Tenn., and the commercial zones of named points, for 180 days. Supporting shipper: Olin, Post Office Box 991, Little Rock, AR 72203. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201. NOTE: The purpose of this republication is to redescribe the authority sought.

No. MC 135719 (Sub-No. 1 TA), filed July 16, 1971. Applicant: THOMAS BENES, doing business as MIDWEST TRUCK SERVICE, 703 Burleigh Street, Yankton, SD 57078. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and packinghouse products, meats*, fresh or frozen, hanging or other than hanging, canned, cured, preserved or prepared, and *such equipment and materials and supplies* used by meatpackers, between Norfolk, Nebr., and Sioux City, Iowa, and Yankton, S. Dak., for 180 days. Supporting shipper: Cimpl Packing Co., Post Office Box 80, Yankton, SD 57078. Send protests to: J. L. Hammond, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 135778 TA, filed July 19, 1971. Applicant: RONALD E. McLEOD, Rural Route 2, Ashland, IL 62612. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feeds and animal and poultry feed ingredients*, between Beardstown, Ill., on the one hand, and, on the other, points in Iowa and Missouri, for 180 days. Supporting shipper: Thomas D. Donis, Traffic Manager, Kent Feeds, Inc., 1600 Oregon Street, Muscatine, IA 52761. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operation, 325 West Adams Street, Room 476, Springfield, IL 62704.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.71-10819 Filed 8-2-71;8:48 am]

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