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AUTHORITY: §§ 52.3311 to 52.3324 issued under sec. 205, 60 Stat. 1090, as amended; 7 U. S. C. 1624.

PRODUCT DESCRIPTION, TYPES, STYLES, AND GRADES

§ 52.3161 *Product description.* Frozen sweet cherries are prepared from the clean, sound, properly matured fresh fruit of any commercial variety of sweet cherries, which are sorted, washed, and drained; which may be packed with or without the addition of nutritive sweetening ingredient(s), and which are frozen in accordance with good commercial practice and maintained at temperatures necessary for the preservation of the product.

§ 52.3162 *Types of frozen sweet cherries.* (a) Light Sweet Type (such as Napoleon or Royal Ann variety).

(b) Dark Sweet Type (such as Bing or Lambert varieties).

§ 52.3163 *Styles of frozen sweet cherries.* (a) "Pitted" means frozen sweet cherries that are whole, stemmed cherries with pits removed.

(b) "Unpitted" means frozen sweet cherries that are whole, stemmed cherries without the pits removed.

§ 52.3164 *Grades of frozen sweet cherries.* (a) "U. S. Grade A" or "U. S. Fancy" is the quality of frozen sweet cherries that possess similar varietal characteristics; that possess a normal flavor; that possess a good color; that possess a good appearance with respect to size and symmetry; that are practically free from defects; that possess a good character; and that for those factors which are rated in accordance with the scoring system outlined in this subpart, the total score is not less than 85 points: *Provided*, That frozen sweet cherries may have a reasonably good appearance with respect to size and symmetry, if the total score is not less than 85 points.

(b) "U. S. Grade B" or "U. S. Choice" is the quality of frozen sweet cherries that possess similar varietal characteristics; that possess a normal flavor; that possess a reasonably good color; that possess a reasonably good appearance with respect to size and symmetry; that are reasonably free from defects; that possess a reasonably good character; and that for those factors which are rated in accordance with the scoring system outlined in this subpart, the total score is not less than 70 points: *Provided*, That frozen sweet cherries may vary in size and symmetry, if the total score is not less than 70 points.

(c) "Substandard" is the quality of frozen sweet cherries that fail to meet the requirements of U. S. Grade B or U. S. Choice.

FACTORS OF QUALITY

§ 52.3165 *Ascertaining the grade—(a) General.* The grade of frozen sweet cherries is determined immediately after thawing to the extent that the units may be separated easily and are free from ice crystals. In addition to considering other requirements outlined in the standards, the following quality factors are evaluated:

(1) *Factors not rated by score points.*

(i) Varietal characteristics,

(ii) Flavor.

(2) *Factors rated by score points.* The relative importance of each factor which is scored is expressed numerically on the scale of 100. The maximum number of points that may be given such factors are:

Factors:	Points
Color	30
Size and Symmetry.....	10
Defects	30
Character	30

Total score..... 100

(b) "Normal flavor" means that the product has a normal, characteristic fla-

vor and odor for the varietal type and is free from objectionable flavors and objectionable odors of any kind.

§ 52.3166 *Ascertaining the rating for the factors which are scored.* The essential variations within each factor which is scored are so described that the value may be ascertained for such factors and expressed numerically. The numerical range within each factor which is scored is inclusive (for example, "25 to 30 points" means 25, 26, 27, 28, 29, or 30 points).

§ 52.3167 *Color—(a) (A) classification.* Frozen sweet cherries that possess a good color may be given a score of 25 to 30 points. "Good color" means that the sweet cherries possess a reasonably uniform color that is bright and typical of well ripened sweet cherries and not more than 10 percent, by count, of cherries may vary markedly from this color because of discoloration due to oxidation, improper processing, or other causes, or because of not well ripened sweet cherries.

(b) (B) *classification.* Frozen sweet cherries that possess a reasonably good color may be given a score of 21 to 24 points. Frozen sweet cherries that fall into this classification shall not be graded above U. S. Grade B or U. S. Choice, regardless of the total score for the product (this is a limiting rule). "Reasonably good color" means that the sweet cherries possess a color that is reasonably bright and typical of well ripened sweet cherries and that not more than 20 percent, by count, of cherries may vary markedly from this color because of discoloration due to oxidation, improper processing, or other causes, or because of sweet cherries that are not well ripened.

(c) (SStd.) *classification.* Frozen sweet cherries that fail to meet the requirements of paragraph (b) of this section may be given a score of 0 to 20 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.3168 *Size and symmetry—(a) General.* The factor of size and symmetry refers to the shape and uniformity of diameter of the frozen cherries.

(1) "Diameter" of a cherry is determined on the basis of the diameter of a rigid round hole through which the cherry will just pass without using force. In pitted cherries, the diameter is determined as that which approximates the apparent original size had the cherry not been pitted.

(2) "Well formed" means that the cherries, including halves of doubles, have the shape characteristic of the variety.

(b) (A) *classification.* Frozen sweet cherries that possess a good appearance with respect to size and symmetry may be given a score of 9 or 10 points. "Good appearance with respect to size and symmetry" has the following meanings:

(1) No unseparated doubles are present;

(2) 95 percent, by count, of the cherries are well formed; and

(3) The diameter of the cherry with the greatest diameter may exceed the

diameter of the cherry with the smallest diameter by not more than 1/4 inch; and in 90 percent, by count, of all the cherries which are most uniform in diameter the diameters do not vary by more than 1/16 inch.

(c) (B) *classification.* Frozen sweet cherries that possess a reasonably good appearance with respect to size and symmetry may be given a score of 7 or 8 points. "Reasonably good appearance with respect to size and symmetry" has the following meanings:

(1) Not more than 10 percent, by count, of the cherries may be unseparated doubles;

(2) 85 percent, by count, of the cherries are well formed;

(3) In 90 percent, by count, of all the cherries which are most uniform in diameter the diameters do not vary more than 1/4 inch.

(d) (SStd.) *classification.* Frozen sweet cherries that fail to meet the requirements of paragraph (c) of this section may be given a score of 0 to 6 points and shall not be graded above U. S. Grade B or U. S. Choice, regardless of the total score for the product (this is a partial limiting rule).

§ 52.3169 *Defects—(a) General.* The factor of defects refers to the degree of freedom from harmless extraneous material, pits, and from damaged and seriously damaged cherries.

(1) "Cherry" means a whole cherry, whether or not pitted, or portions of such cherries which in the aggregate approximate the average size of the cherries.

(2) "Harmless extraneous material" means any vegetable substance (including, but not being limited to, a leaf or a stem and any portions thereof) that is harmless.

(3) "Pit" means a whole pit or portions of pits computed as follows:

(i) A single piece of pit shell, whether or not within or attached to a whole cherry, that is larger than one-half pit shell is considered as one pit;

(ii) A single piece of pit shell, whether or not within or attached to a whole cherry, that is not larger than one-half pit shell is considered as one-half pit;

(iii) Pieces of pit shell, within or attached to a whole cherry, when their combined size is larger than one-half pit shell are considered as one pit; and

(iv) Pieces of pit shell, within or attached to a whole cherry, when their combined size is not larger than one-half pit shell are considered as one-half pit.

(4) "Damaged" means any injury which materially affects the appearance or eating quality of the cherry and includes, but is not limited to:

(i) Blemished cherries that are affected by:

(a) Any surface blemish having an aggregate area equivalent to that of a circle 3/32 inch in diameter but not exceeding that of a circle 1 1/32 (3/8) inch in diameter and not extending into the tissue of the fruit.

(b) Any blemish having an aggregate area less than that of a circle 3/32 inch in diameter and extending into the tissue of the fruit.

(ii) Checks or cracks with slight discoloration and equivalent to $\frac{3}{32}$ inch in length but not more than $\frac{1}{16}$ ($\frac{3}{16}$) inch in length.

(5) "Seriously damaged" means any injury which seriously affects the appearance or eating quality of the cherry and includes, but is not limited to:

(i) Blemished cherries that are affected by:

(a) Any surface blemish having an aggregate area exceeding that of a circle $\frac{1}{32}$ ($\frac{3}{8}$) inch in diameter and not extending into the tissue of the fruit.

(b) Any blemish having an aggregate area exceeding that of a circle $\frac{3}{32}$ inch in diameter and extending into the tissue of the fruit.

(ii) Checks or cracks with discoloration and more than $\frac{1}{32}$ ($\frac{3}{8}$) inch in length.

(b) (A) classification. Frozen sweet cherries that are practically free from defects may be given a score of 25 to 30 points. "Practically free from defects" means that:

(1) For each 20 ounces net weight there may be present not more than:

(i) 1 piece harmless extraneous material,

(ii) 1 pit in pitted cherries,

(2) Not more than 7 percent, by count, of the cherries may be damaged and seriously damaged: *Provided*, That not more than 3 percent, by count, of all of the cherries are seriously damaged.

(c) (B) classification. Frozen sweet cherries that are reasonably free from defects may be given a score of 21 to 24 points. Frozen cherries that fall into this classification shall not be graded above U. S. Grade B or U. S. Choice, regardless of the total score for the product (this is a limiting rule). "Reasonably free from defects" means that:

(1) For each 20 ounces, net weight, there may be present not more than:

(i) 2 pieces of harmless extraneous material;

(ii) 1 pit in pitted cherries;

(2) Not more than 15 percent, by count, of the cherries may be damaged and seriously damaged: *Provided*, That not more than 5 percent, by count, of all the cherries are seriously damaged.

(d) (SStd.) classification. Frozen sweet cherries that fail the requirements of paragraph (c) of this section may be given a score of 0 to 20 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.3170 *Character*—(a) *General*. The factor of character refers to the degree of ripeness, the texture and tenderness, and the relative thickness of flesh of the frozen sweet cherries.

(b) (A) classification. Frozen sweet cherries that possess a good character may be given a score of 26 to 30 points. "Good character" means that the cherries possess a tender, fleshy texture, typical of well-ripened, properly processed frozen sweet cherries; and that not more than 10 percent, by count, of the cherries may possess a reasonably good character.

(c) (B) classification. Frozen sweet cherries that possess a reasonably good character may be given a score of 21 to

25 points. Frozen sweet cherries that fall into this classification shall not be graded above U. S. Grade B or U. S. Choice, regardless of the total score for the product (this is a limiting rule). "Reasonably good character" means that the cherries possess the texture of reasonably well-ripened frozen sweet cherries that are properly processed; the texture is reasonably fleshy and the cherries reasonably tender, or the tenderness may be variable from slightly soft to slightly firm; and that not more than 15 percent, by count, of the cherries may be overripe or immature or otherwise fail to meet at least a reasonably good character.

(d) (SStd.) classification. Frozen sweet cherries that fail to meet the requirements of paragraph (c) of this section may be given a score of 0 to 20 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

LOT INSPECTION AND CERTIFICATION

§ 52.3171 *Ascertaining the grade of a lot*. The grade of a lot of frozen sweet cherries covered by these standards is determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (§§ 52.1 through 52.87, 22 F. R. 3535).

SCORE SHEET

§ 52.3172 *Score sheet for frozen sweet cherries*.

Number, size and kind of container.....		-----
Label, style of pack; fruit-sugar ratio (if shown).....		-----
Container mark or identification.....		-----
Net weight (ounces).....		-----
Type.....		-----
Style.....		-----
Factors	Score points	
Color.....	30	{(A) 25-30 {(B) 121-24 {(SStd.) 10-20 {(A) 9-10 {(B) 7-8 {(SStd.) 20-6
Size and symmetry.....	10	{(A) 25-30 {(B) 121-24 {(SStd.) 10-20
Defects.....	30	{(A) 26-30 {(B) 121-25 {(SStd.) 10-20
Character.....	30	{(A) 26-30 {(B) 121-25 {(SStd.) 10-20
Total score.....	100	
Normal flavor.....		-----
Grade.....		-----

¹ Indicates limiting rule.
² Indicates partial limiting rule.

The United States Standards for Grades of Frozen Sweet Cherries (which is the second issue) contained in this subpart shall become effective March 1, 1958, and thereupon will supersede the Tentative United States Standards for Grades of Frozen Sweet Cherries (7 CFR Part 52) which have been in effect since June 1, 1946.

Dated: January 24, 1958.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Marketing Services.

[F. R. Doc. 58-694; Filed, Jan. 28, 1958; 8:52 a. m.]

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

PART 975—MILK IN CLEVELAND, OHIO, MARKETING AREA

ORDER SUSPENDING CERTAIN PROVISION

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), hereinafter referred to as the "act", and of the order, as amended (7 CFR Part 975), regulating the handling of milk in the Cleveland, Ohio, marketing area, hereinafter referred to as the "order", it is hereby found and determined that:

(a) The phrase, "within April, May, June, or July", appearing in § 975.8 (b) of the order will not tend to effectuate the declared policy of the act for the delivery periods of January, February and March 1958:

This provision could prevent a substantial group of producers regularly associated with the market from participating in the pool. One hundred and sixteen producers, all members of a single cooperative association, were notified by the handler receiving their milk that such milk would not be received after October 31. Effectiveness of this notice was stayed during adjudication of its legality in a state court, but became effective without further advance notice following the court's decision upholding legality.

It is doubtful if all such milk can be placed immediately with other handlers, and the cooperative association will need to divert milk to non-pool plants. The provision to be suspended limits producer status with respect to milk so diverted to the months of April, May, June and July.

(b) By notice of proposed rule making issued January 7, 1958, (23 F. R. 166), interested parties were advised that this action was under consideration and were given opportunity to submit written views, data and arguments with respect thereto.

(c) Thirty days notice of the effective date hereof, is impracticable, unnecessary, and contrary to the public interest in that:

(1) It is found necessary to issue and make effective, as stated below, this suspension order to reflect current marketing conditions and to facilitate, promote, and maintain orderly marketing conditions in the marketing area; and

(2) This suspension order does not require of persons affected substantial or extensive preparation prior to its effective date nor will it affect the cost of milk to handlers.

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

It is therefore ordered, That the phrase, "within April, May, June, or July," appearing in § 975.8 (b) of the order be and hereby is suspended for the delivery periods of January, February and March 1958.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Done at Washington, D. C., this 24th day of January 1958.

[SEAL] DON PAARLBERG,
Assistant Secretary.

[F. R. Doc. 58-693; Filed, Jan. 28, 1958; 8:52 a. m.]

[Docket No. AO-184-A16]

PART 978—MILK IN NASHVILLE, TENN.,
MARKETING AREA

ORDER AMENDING ORDER

Sec. 978.0 Findings and determinations.

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- 978.4 Person.
- 978.5 Nashville, Tennessee, marketing area.
- 978.6 Cooperative association.
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AUTHORITY: §§ 978.0 to 978.111 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c.

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

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Nashville, Tennessee, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden,

obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such amount not to exceed 4 cents per hundredweight as the Secretary may prescribe, with respect to producer milk (including such handler's own production) and other source milk allocated to Class I milk pursuant to § 978.45.

(b) *Additional findings.* It is hereby found and determined that good cause exists for making this order amending the order, as amended, effective February 1, 1958. Such action is necessary in the public interest in order to reflect current marketing conditions and to insure the production of an adequate supply of milk for the Nashville marketing area. Any delay beyond February 1 in the effective date of this order will tend to affect adversely the production of an adequate supply of milk for the Nashville marketing area.

The changes effected by this order amending the order, as amended, do not require of persons affected substantial or extensive changes prior to the effective date. The provisions of the said order are well known to handlers, the public hearing having been held on July 16-19, 1957, the recommended decision having been issued on November 12, 1957 (22 F. R. 9111), and the final decision having been issued on January 9, 1958 (23 F. R. 247). Therefore, reasonable time, under the circumstances, has been afforded persons affected to prepare for its effective date and it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER.

In view of the foregoing, it is hereby found that good cause exists for making this order amending the order, as amended, effective February 1, 1958 (sec. 4 (c), Administrative Procedure Act, 5 U. S. C. 1003 (c)).

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing or shipping milk covered by this order amending the order) of more than 50 percent of the volume of milk covered by this order amending the order, which is marketed within the said marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

1. The refusal or failure of such handlers to sign said marketing agreement tends to prevent the effectuation of the declared policy of the act;

2. This issuance of this order amending the order is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

3. The issuance of this order amending the order is approved or favored by at least three-fourths of the producers who participated in a referendum and who,

during the representative period (November 1957), were engaged in the production of milk for sale in the said marketing area.

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

DEFINITIONS

§ 978.1 *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 (7 U. S. C. 601 et seq.).

§ 978.2 *Secretary.* "Secretary" means the Secretary of Agriculture or any officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ 978.3 *Department of Agriculture.* "Department of Agriculture" means the United States Department of Agriculture or any other Federal agency as may be authorized by act of Congress, or by Executive order, to perform the price reporting functions of the United States Department of Agriculture.

§ 978.4 *Person.* "Person" means any individual, partnership, corporation, association, or other business unit.

§ 978.5 *Nashville, Tennessee, marketing area.* "Nashville, Tennessee, marketing area", hereinafter called the "marketing area", means all the territory within the boundaries of the counties of Davidson, Cheatham and Rutherford, all in the State of Tennessee, including all municipalities within such boundaries, and including all territory within such boundaries occupied by government (municipal, state or Federal) reservations, installations, institutions, or other establishments.

§ 978.6 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers which the Secretary determines to be qualified pursuant to the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act", and is authorized by its members to make collective sales or to market milk or its products for the producers thereof.

§ 978.7 *Producer-handler.* "Producer-handler" means any person who produces Grade A milk under a dairy farm inspection permit issued by any duly constituted health authority, and who processes milk from his own production, all or a portion of which is distributed within the marketing area as Class I milk, but who receives no milk from producers.

§ 978.8 *Fluid milk plant.* "Fluid milk plant" means all the premises, buildings and facilities of any milk receiving, processing or packaging plant from which plant:

(a) Any fluid milk product is disposed of during the month on routes (including routes operated by vendors, and sales through plant stores) to retail or wholesale outlets (except fluid milk plants) in the marketing area;

(b) Grade A milk or skim milk is shipped during the month for any of the months of January through August to a plant (except any portion thereof from which no fluid milk product may be disposed of under a Grade A label) specified under paragraph (a) of this section; or

(c) Grade A milk or skim milk equal to more than 70,000 pounds is shipped during the month for any of the months of September through December to plants (except any portions of such plants from which no fluid milk product may be disposed of under a Grade A label) specified under paragraph (a) of this section.

§ 978.9 *Nonfluid milk plant.* "Nonfluid milk plant" means any milk manufacturing, processing, or packaging plant other than a fluid milk plant described in § 978.8.

§ 978.10 *Handler.* "Handler" means (a) any person in his capacity as the operator of one or more fluid milk plants, or (b) any cooperative association of producers with respect to producer milk diverted by it from a fluid milk plant to a nonfluid milk plant for the account of such association.

§ 978.11 *Producer.* "Producer" means any person, except a producer-handler, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, or produces milk acceptable for fluid consumption at Federal Government, state or municipal establishments within the marketing area, which milk is received at a fluid milk plant: *Provided*, That if such milk is diverted for his account by a handler from a fluid milk plant to any other milk plant any day during the month, the milk so diverted shall be deemed to have been received by the diverting handler at a fluid milk plant at the location of the plant from which it was diverted.

§ 978.12 *Producer milk.* "Producer milk" means only that skim milk or butterfat contained in milk (a) received at a fluid milk plant directly from producers' farms, or (b) diverted from a fluid milk plant to any other milk plant (except a plant which is fully subject to the pricing provisions of another order issued pursuant to the act) in accordance with the provisions of § 978.11.

§ 978.13 *Fluid milk product.* "Fluid milk product" means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, yogurt, cream or any mixture in fluid form of milk, skim milk and cream (except sterilized products packaged in hermetically sealed containers, eggnog, ice cream mix and aerated cream).

§ 978.14 *Other source milk.* "Other source milk" means all skim milk and butterfat contained in: (a) Receipts during the month of fluid milk products except (1) fluid milk products received

from other fluid milk plants, or (2) producer milk; and (b) products, other than fluid milk products, from any source (including those from a plant's own production), which are reprocessed or converted to another product in the fluid milk plant during the month.

§ 978.15 *Base milk.* "Base milk" means milk received at fluid milk plants from a producer during any of the months specified in § 978.72 for the computation of base and excess prices, which is not in excess of such producer's daily average base computed pursuant to § 978.60, multiplied by the number of days in such month.

§ 978.16 *Excess milk.* "Excess milk" means milk received at fluid milk plants from a producer during any of the months specified in § 978.72 for computation of base and excess prices, which is in excess of the base milk of such producer for such month, and shall include all milk received during such months from a producer for whom no daily average base can be computed pursuant to § 978.60.

MARKET ADMINISTRATOR

§ 978.20 *Designation.* The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 978.21 *Powers.* The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

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

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 978.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including, but not limited to, the following:

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary, a bond, effective as of the date on which he enters upon his duties, and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 978.85 (1) the cost of his bond and of the bonds of his employees, (2) his own compensation, and (3) all other expenses (except those incurred under § 978.86) necessarily incurred by him in the maintenance and functioning of his office, and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly disclose to handlers and producers, at his discretion, the name of any person who, within 5 days after the day upon which he is required to perform such acts, has not made (1) reports pursuant to §§ 978.30 and 978.31, or (2) payments pursuant to §§ 978.80, 978.85 and 978.87;

(g) Submit his books and records to examination by the Secretary, and furnish such information and reports as may be required by the Secretary;

(h) Prepare and make available for the benefit of producers, consumers, and handlers, general statistics and information concerning the operation of this part;

(i) Verify all reports and payments by each handler by audit, if necessary, of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends; and

(j) On or before the date specified, publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate the following: (1) The 6th day of each month, the Class II price and the Class II butterfat differential, both for the preceding month; and (2) the 5th day of each month, the Class I price, and the Class I butterfat differential, both for the current month; and (3) the 10th day after the end of each month, the uniform price(s) for each handler, computed pursuant to § 978.71 or § 978.72, and the producer butterfat differential for the preceding month.

REPORTS, RECORDS AND FACILITIES

§ 978.30 *Reports of receipts and utilization.* On or before the 6th day after the end of each month each handler, except a producer-handler, shall report for each of his fluid milk plants for such month, to the market administrator in the detail and on forms prescribed by the market administrator:

(a) The quantities of skim milk and butterfat contained in receipts of producer milk;

(b) The quantities of skim milk and butterfat contained in fluid milk products received from other fluid milk plants;

(c) The quantities of skim milk and butterfat contained in other source milk;

(d) Inventories of fluid milk products on hand at the beginning and end of the month; and

(e) The utilization of all skim milk and butterfat required to be reported pursuant to this section.

§ 978.31 *Other reports.* (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may request.

(b) Each handler, except a producer-handler, shall report to the market administrator, in the detail and on forms

prescribed by the market administrator, as follows:

(1) On or before the 6th day after the end of each month for each producer from whom milk was received (i) his name and address, (ii) the total pounds and butterfat content of milk received from such producer during the month, (iii) his total pounds of base milk and his total pounds of excess milk for the month, and (iv) the amount of any deductions authorized in writing by such producer to be made from payments due for milk delivered;

(2) On or before the 21st day of each month, the name and address of each producer from whom milk was received during the first 15 days of such month, and the pounds of milk so received during said period from such producer; and

(3) On or before the first day in any month during which other source milk is received in the form of fluid milk products, his intention to receive such milk, and on or before the last day such milk is received, his intention to discontinue such receipts.

§ 978.32 *Records and facilities.* Each handler shall keep adequate records of receipts and utilization of skim milk and butterfat and shall, during the usual hours of business, make available to the market administrator, or his representative, such records and facilities as will enable the market administrator to (a) verify the receipts and utilization of all skim milk and butterfat, and, in case of errors or omissions, ascertain the correct figures; (b) weigh, sample and test for butterfat content all milk and milk products handled; (c) verify deductions authorized by producers and the disbursement of moneys so deducted; and (d) make such examinations of operations, equipment, and facilities as the market administrator deems necessary.

§ 978.33 *Retention of records.* All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided*, That if within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation, or when the records are no longer necessary in connection therewith.

§ 978.34 *Reports to cooperative associations.* On or before the 15th day after the end of each delivery period, the market administrator shall report to each cooperative association, as described in § 978.86 (b), upon request by such association, the percentage of milk caused to be delivered by such association or by its members which was used in each

class by each handler receiving any such milk. For the purpose of this report, any milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers of such handler are used in such class.

CLASSIFICATION OF MILK

§ 978.40 *Skim milk and butterfat to be classified.* The skim milk and butterfat to be reported for fluid milk plants pursuant to § 978.30 shall be classified each month by the market administrator, pursuant to the provisions of §§ 978.41 through 978.45.

§ 978.41 *Classes of utilization.* Subject to the conditions set forth in §§ 978.42 through 978.45, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat (1) disposed of in the form of fluid milk products, except those classified pursuant to paragraph (b) (3) of this section, and (2) not specifically accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat (1) used to produce any products other than fluid milk products; (2) contained in inventories of fluid milk products on hand at the end of the month; (3) disposed of and used for livestock feed, and skim milk dumped after prior notification to, and opportunity for verification by, the market administrator; and (4) in shrinkage not to exceed 2 percent respectively of the skim milk and butterfat contained in producer milk (except that diverted pursuant to § 978.11) and other source milk: *Provided*, That if shrinkage of skim milk or butterfat is less than 2 percent of such amounts, it shall be assigned pro rata, respectively, to the skim milk and butterfat contained in such producer milk and other source milk.

§ 978.42 *Responsibility of handlers.* All skim milk and butterfat to be classified pursuant to this part shall be classified as Class I milk unless the handler who first receives such skim milk and butterfat establishes to the satisfaction of the market administrator that it should be classified as Class II milk.

§ 978.43 *Transfers.* (a) Skim milk and butterfat transferred to the fluid milk plant of another handler (except a producer-handler) in the form of fluid milk products shall be classified as Class I milk unless the operators of both plants claim utilization thereof in Class II milk in their reports submitted pursuant to § 978.30: *Provided*, That skim milk or butterfat so assigned to Class II milk for any month shall be limited to the amount thereof remaining in Class II milk in the fluid milk plant(s) of the transferee for such month after the computations pursuant to § 978.45 (a) (1), (2) and (3), and the corresponding steps of § 978.45 (b), and any additional amounts of such skim milk or butterfat shall be assigned to Class I milk.

(b) Skim milk and butterfat transferred to the plant of a producer-handler in the form of fluid milk products, shall be classified as Class I milk.

(c) Skim milk and butterfat transferred or diverted in bulk form as milk,

skim milk or cream to a nonfluid milk plant located less than 100 miles from the State Capitol at Nashville, Tennessee, by the shortest hard-surfaced highway distance, as determined by the market administrator, shall be classified as Class I milk unless (1) the transferring or diverting handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 978.30, for the month within which such transaction occurred, (2) the operator of the nonfluid milk plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification, and (3) not less than an equivalent amount of skim milk and butterfat was actually utilized in the nonfluid milk plant in the use indicated in such report: *Provided*, That if it is found that an equivalent amount of skim milk and butterfat was not actually used in such plant during the month in such indicated use the pounds transferred in excess of such actual use shall be classified as Class I milk.

(d) Skim milk and butterfat transferred in bulk form as cream to a nonfluid milk plant located 100 miles or more from the State Capitol in Nashville, Tennessee, by the shortest hard-surfaced highway distance, as determined by the market administrator, shall be classified as Class I milk unless (1) the transferring handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 978.30, (2) such cream is disposed of and used as other than Grade A under a Grade A certification or label, (3) the handler attaches tags or labels to each container of such cream bearing the words "for manufacturing uses only", (4) the handler gives the market administrator sufficient notice to allow him to verify or inspect such shipment, and (5) the operator of the nonfluid milk plant maintains books and records showing the utilization of all skim milk and butterfat at such plant, which are made available if requested by the market administrator for the purpose of verification.

§ 978.44 *Computation of skim milk and butterfat in each class.* For each month, the market administrator shall correct for mathematical and other obvious errors the reports of each handler submitted pursuant to § 978.30 and compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk in the fluid milk plant(s) of such handler.

§ 978.45 *Allocation of skim milk and butterfat classified.* After making the computations pursuant to § 978.44, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II milk the pounds of skim milk in producer milk classified pursuant to § 978.41 (b) (4);

(2) Subtract from the remaining pounds of skim milk in Class II milk the

pounds of skim milk in other source milk: *Provided*, That if the pounds of skim milk in other source milk are greater than the remaining pounds of skim milk in Class II milk, an amount equal to the excess shall be subtracted from the pounds of skim milk in Class I milk;

(3) Subtract from the remaining pounds of skim milk in Class II milk the pounds of skim milk contained in inventory of fluid milk products on hand at the beginning of the month: *Provided*, That if the pounds of skim milk in such inventory are greater than the remaining pounds of skim milk in Class II milk, an amount equal to the excess shall be subtracted from the pounds of skim milk in Class I milk;

(4) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk transferred from the fluid milk plants of other handlers in the form of fluid milk products according to the classification thereof as determined pursuant to § 978.43 (a);

(5) Add to the remaining pounds of skim milk in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph; and

(6) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk contained in producer milk, subtract such excess from the remaining pounds of skim milk in series beginning with Class II milk. Any amount so subtracted shall be known as "overage".

(b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a) of this section; and

(c) Add the pounds of skim milk and the pounds of butterfat allocated to producer milk in each class, pursuant to paragraphs (a) and (b) of this section, and determine the percentage of butterfat in each class.

MINIMUM PRICES

§ 978.50 *Basic formula price.* The basic formula price shall be the highest of the prices per hundredweight for milk of 4.0 percent butterfat content computed pursuant to paragraphs (a), (b), (c), or (d) of this section, rounded to the nearest whole cent.

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

Location and Present Operator

Borden Company, Mount Pleasant, Mich.
Borden Company, New London, Wis.
Borden Company, Orfordville, Wis.
Carnation Company, Oconomowoc, Wis.
Carnation Company, Richland Center, Wis.
Carnation Company, Sparta, Mich.
Pet Milk Company, Bellsville, Wis.
Pet Milk Company, Coopersville, Mich.
Pet Milk Company, Hudson, Mich.
Pet Milk Company, New Glarus, Wis.
Pet Milk Company, Wayland, Mich.
White House Milk Company, Manitowoc, Wis.

White House Milk Company, West Bend, Wis.

add an amount computed by multiplying the butterfat differential computed pursuant to § 978.82 by 5.

(b) The price per hundredweight obtained by adding any plus amounts obtained pursuant to subparagraphs (1) and (2) of this paragraph:

(1) Multiplying by 4.0 the average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) of 92-score bulk creamery butter per pound at Chicago, as reported by the Department of Agriculture during the month, and add 20 percent thereof;

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

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

Location and Present Operator

Cudahy Packing Company, Lafayette, Tenn.

Carnation Company, Murfreesboro, Tenn.
Kraft Foods Company, Gallatin, Tenn.
Kraft Foods Company, Pulaski, Tenn.
Borden Company, Fayetteville, Tenn.
Borden Company, Lewisburg, Tenn.
Lakeshire-Marty Cheese Company, Carthage, Tenn.
Sumner County Cooperative Creamery, Gallatin, Tenn.

Swift & Company, Lawrenceburg, Tenn.
Wilson & Company, Murfreesboro, Tenn.

(d) The price per hundredweight computed as follows:

(1) Multiply by 6 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the month;

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

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

§ 978.51 *Class prices.* Subject to the provisions of §§ 978.52 and 978.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I milk price.* The Class I milk price shall be basic formula price for the preceding month, plus \$1.40 during the months of August through January; and plus \$1.10 during all other months plus or minus a supply-demand adjustment calculated for each month as follows: *Provided*, That any fluid milk

plant which, during the second preceding month, did not dispose of at least an average of 1,000 pounds of fluid milk products per day on routes (including routes operated by vendors and sales through plant stores) to retail or wholesale outlets in the marketing area shall not be included in the supply-demand computation:

(1) For each month calculate a utilization ratio as follows:

(i) Calculate a utilization percentage by dividing the total hundredweight of producer milk of all fluid milk plants during the twelve-month period ending with the beginning of the preceding month by the net hundredweight of Class I milk disposed of from all fluid milk plants during the same period, and multiply the result by 100,

(ii) Add or subtract, respectively, any amount by which the percentage computed pursuant to subdivision (i) of this subparagraph is greater or less than a comparable utilization percentage calculated using the twelve-month period ending with the beginning of the fourth preceding month, and

(iii) The resultant figure rounded to the nearest whole percentage shall be known as the utilization ratio.

(2) For each percentage by which the utilization ratio calculated for the month pursuant to subparagraph (1) of this paragraph exceeds 130, subtract from, or for each percentage by which it is less than 125, add to, the Class I price, two cents: *Provided*, That any subtraction or addition shall be limited to 50 cents during December 1957, and any month thereafter.

(b) *Class II milk price.* The Class II milk price shall be the price determined pursuant to § 978.50 (c) plus 25 cents during the months of February through August, and plus 35 cents during all other months: *Provided*, That such price shall not exceed the basic formula price.

§ 978.52 *Butterfat differentials to handlers.* For milk containing more or less than 4.0 percent butterfat, the class prices for the month calculated pursuant to § 978.51 shall be increased or decreased, respectively, for each one-tenth percent variation in butterfat content at the appropriate rate determined as follows:

(a) *Class I price.* Multiply by 0.12 the average of the daily wholesale prices (using the midpoint of any price range as one price) of 92-score bulk creamery butter per pound at Chicago, as reported by the Department of Agriculture during the previous month, and round to the nearest one-tenth cent.

(b) *Class II price.* Multiply by 0.115 the average of the daily wholesale prices (using the midpoint of any price range as one price) of 92-score bulk creamery butter per pound at Chicago, as reported by the Department of Agriculture during the month, and round to the nearest one-tenth cent.

§ 978.53 *Location differentials to handlers.* For that milk which is received from producers at a fluid milk plant located outside the marketing area and 50 miles or more from the State Capitol, Nashville, Tennessee, by shortest hard-

surfaced highway distance, as determined by the market administrator, and which is transferred to another fluid milk plant in the form of fluid milk products and assigned to Class I milk pursuant to the proviso of this section, or otherwise classified as Class I milk, the price specified in § 978.51 (a) shall be reduced at the rate set forth in the following schedule according to the location of the fluid milk plant where such milk is received from producers:

	<i>Rate per hundred- weight (cents)</i>
Distance from the State Capitol, Nashville, Tenn. (miles):	
50 but not more than 60.....	10.0
For each additional 10 miles or frac- tion thereof an additional.....	1.5

Provided, That for purpose of calculating such location differential, fluid milk products which are transferred between fluid milk plants shall be assigned to any remainder of Class II milk in the plant to which transferred after making the calculations prescribed in § 978.45 (a) (1), (2) and (3), and the comparable steps in § 978.45 (b) for such plant, such assignment to the plant from which transferred to be made in sequence according to the location differential applicable at each plant, beginning with the plant having the largest differential.

§ 978.54 *Use of equivalent price.* If for any reason a price quotation required by this part for computing class prices or for any other purpose is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

DETERMINATION OF BASE

§ 978.60 *Computation of daily average base for each producer.* Subject to the rules set forth in § 978.61, the daily average base for each producer shall be an amount calculated by dividing the total pounds of producer milk received from such producer at all fluid milk plants during the months of September through January immediately preceding by 153: *Provided*, That the base of a producer, who delivers milk during August and whose deliveries are temporarily discontinued during the base-forming period, shall be determined by dividing by the number of days for which deliveries are made or by 138, whichever is higher.

§ 978.61 *Base rules.* The following rules shall apply in connection with the establishment and assignment of bases:

(a) Subject to the provisions of paragraph (b) of this section, the market administrator shall assign a base as calculated pursuant to § 978.60 to each person for whose account producer milk was delivered to fluid milk plants during the months specified in § 978.60 for computation of base.

(b) An entire base or any portion thereof shall be transferred from a person holding such base to any other person, effective as of the end of any month during which an application for such transfer is received by the market administrator, such application to be on forms approved by the market administrator, and signed by the baseholder, or his heirs, and by the person to whom

such base is to be transferred: *Provided*, That if a base is held jointly, the entire base or any portion thereof shall be transferrable only upon the receipt of such application signed by all joint holders or their heirs.

§ 978.62 *Announcement of established bases.* On or before February 25 of each year, the market administrator shall notify each producer and the handler receiving milk from such producer of the daily average base established by such producer.

DETERMINATION OF UNIFORM PRICES

§ 978.70 *Net obligation of handlers.* The net obligation of each handler for producer milk received at his fluid milk plant(s) each month shall be a sum of money computed by the market administrator as follows: (a) Multiply the total pounds of such milk in each class by the applicable class price; (b) add together the resulting amounts; (c) add the amounts computed by multiplying the pounds of overage deducted from each class pursuant to § 978.45 (a) (6) and (b) by the applicable class price; and (d) add the amount computed by multiplying the difference between the appropriate Class II price for the preceding month and the appropriate Class I price for the current month by the hundredweight of skim milk and butterfat in Class II milk after making the calculations for such handler pursuant to § 978.45 (a) (4) and (b) for the preceding month, or by the hundredweight of milk subtracted from Class I milk pursuant to § 978.45 (a) (3) and (b) for the current month, whichever is less.

§ 978.71 *Computation of uniform prices for handlers.* For each month, except those months specified in § 978.72 for the computation of base and excess prices, the market administrator shall compute a uniform price for the producer milk received by each handler as follows:

(a) Add to the amount computed for such handler pursuant to § 978.70, the sum of the location differential deductions to be made pursuant to § 978.82 (b);

(b) Add or subtract for each one-tenth percent that the average butterfat content of producer milk received by such handler is less or more, respectively, than 4.0 percent, an amount computed by multiplying such difference by the butterfat differential to producers, and multiplying the result by the total hundredweight of his producer milk;

(c) Add the amount remaining in the reserve fund for such handler;

(d) Divide the resulting amount by the total hundredweight of producer milk received by such handler; and

(e) Subtract not less than 4 cents nor more than 5 cents. The resulting figure shall be known as the uniform price for such handler for milk of 4.0 percent butterfat content, f. o. b. marketing area.

§ 978.72 *Computation of the uniform price for base milk and for excess milk for handlers.* For each of the months of February through July, the market administrator shall compute for each handler, with respect to his producer

milk, a uniform price for base milk and for excess milk as follows:

(a) Add to the amount computed for such handler pursuant to § 978.70, the sum of the location differential deductions to be made pursuant to § 978.82 (b);

(b) Add or subtract for each one-tenth percent that the average butterfat content of producer milk received by such handler is less or more, respectively, than 4.0 percent, an amount computed by multiplying such difference by the butterfat differential to producers, and multiplying the result by the total hundredweight of his producer milk;

(c) Add the amount remaining in the reserve fund for such handler;

(d) Compute the value of excess milk on a 4.0 percent basis in the producer milk of such handler by multiplying the hundredweight of such milk not in excess of the total quantity of the Class II milk of such handler by the price for Class II milk of 4.0 percent butterfat content, multiplying the hundredweight of such milk in excess of the total quantity of such Class II milk of such handler by the price for Class I milk of 4.0 percent butterfat content and adding together resulting amounts;

(e) Divide the total value of excess milk obtained in paragraph (d) of this section by the total hundredweight of such milk and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 4.0 percent butterfat content f. o. b. marketing area: *Provided*, That such excess price shall not exceed the uniform price for base milk computed pursuant to paragraph (g) of this section. Any additional value remaining shall be prorated on a volume basis between excess and base milk.

(f) Subtract the value of excess milk determined by multiplying the uniform price obtained in paragraph (e) of this section, times the hundredweight of such excess milk from the total value of producer milk determined according to the calculations in paragraph (a) through (c) of this section; and

(g) Divide the amount obtained in paragraph (f) of this section by the total hundredweight of base milk in the producer milk of such handler and subtract not less than 4 cents nor more than 5 cents. The resulting figure shall be the uniform price for base milk of 4.0 percent butterfat content f. o. b. marketing area.

§ 978.73 *Notification of handlers.* On or before the 10th day after the end of each month, the market administrator shall mail to each handler, at his last known address, a statement showing:

(a) The amount of his producer milk allocated to each class;

(b) The calculation of such handler's net obligation pursuant to § 978.70;

(c) The uniform price(s) computed for such handler pursuant to §§ 978.71 and 978.72 and the producer butterfat differential computed pursuant to § 978.82 (a); and

(d) The amounts to be paid by such handler pursuant to §§ 978.80, 978.85 and 978.87.

PAYMENTS

§ 978.80 *Payments to market administrator.* (a) On or before the 25th day of each month each handler shall pay to the market administrator for deposit into the reserve fund for such handler a sum of money calculated by multiplying the hundredweight of producer milk received by him during the first 15 days of such month by the Class II price for the preceding month.

(b) On or before the 12th day after the end of each month, each handler shall pay to the market administrator for deposit into the handler's reserve fund an amount of money equal to such handler's net obligation for such month as determined pursuant to § 978.70 less payments made pursuant to paragraph (a) of this section for such month and less proper deductions authorized in writing by producers from whom such handler received milk.

§ 978.81 *Payments to producers.* (a) On or before the last day of each month, the market administrator shall make payment to each producer for milk received from such producer during the first 15 days of such month by handlers from whom the appropriate payments have been received pursuant to § 978.80 (a) at not less than the Class II price per hundredweight for the preceding month.

(b) On or before the 15th day after the end of each month, the market administrator shall make payment to each producer for milk received from such producer during the month by each handler from whom the appropriate payments have been received pursuant to § 978.80 (b), such payments by the market administrator to be at not less than the uniform price computed pursuant to § 978.71 for such handler for the months for which such uniform prices are computed, and such payments to be for base and excess milk at not less than the uniform base and excess prices, respectively, computed pursuant to § 978.72 for such handler for the months for which such base and excess prices are computed, subject to the following adjustments: (1) Butterfat and location differentials pursuant to § 978.82, (2) less payments made pursuant to paragraph (a) of this section, (3) less marketing service deductions pursuant to § 978.86, (4) less proper deductions authorized in writing by the producer, and (5) adjusted for any error in calculating payment to such individual producer for past months: *Provided*, That if the market administrator has not received full payment from any handler for such month, pursuant to § 978.80, he shall reduce uniformly per hundredweight his payments due such handler's producers for milk received by such handler by a total amount not in excess of the amount due from such handler: *Provided further*, That the market administrator shall make such balance of payment to such producers on or before the next date for making payments pursuant to this paragraph following that on which such balance of payment is received from such handler.

(c) In making payments to producers pursuant to paragraphs (a) and (b) of this section the market administrator shall pay, on or before the second day prior to the date payments are due to individual producers, to a cooperative association which is authorized to collect payment for milk of its members and from which a written request for such payment has been received, a total amount equal to, but not less than, the sum of the individual payments otherwise payable to such producers pursuant to this section.

§ 978.82 *Butterfat and location differentials to producers.* (a) The applicable uniform prices to be paid each producer pursuant to § 978.81 (b) shall be increased or decreased for each one-tenth of one percent which the average butterfat content of his milk is above or below 4.0 percent, respectively, at the rate determined by multiplying the average of the daily wholesale prices per pound of 92-score butter in the Chicago market as reported by the Department of Agriculture during the month in which the milk was received by 0.12 and adjusting to the nearest even one-tenth of a cent.

(b) In making payment to producers pursuant to § 978.81 (b), the applicable uniform prices to be paid for producer milk received at a fluid milk plant located 50 miles or more from the State Capitol, Nashville, Tennessee, by the shortest hard-surfaced highway distance as determined by the market administrator, shall be reduced according to the location of the fluid milk plant where such milk was received at the following rate:

Rate per
hundred-
weight
(cents)

Distance from the State Capitol, Nashville, Tenn. (miles):	
50 but not more than 60.....	10.0
For each additional 10 miles or frac- tion thereof an additional.....	1.5

§ 978.83 *Statement to producers.* In making payments required by § 978.81 (b), the market administrator shall furnish each producer or cooperative association with a supporting statement in such form that it may be retained by the producer or cooperative association which shall show:

(a) The month and the identity of the handler and of the producer;

(b) The total pounds and the average butterfat content of milk delivered by the producer, including, for the months in which base and excess prices apply, the pounds of base and excess milk;

(c) The minimum rate or rates at which payment to the producer or cooperative association is required under the provisions of §§ 978.81 and 978.82;

(d) The amount or the rate per hundredweight of each deduction claimed by the handler including any deduction made pursuant to § 978.86, together with a description of the respective deductions; and

(e) The net amount of payment to the producer or cooperative association.

§ 978.84 *Reserve funds.* The market administrator shall maintain for each handler a reserve fund into which he shall deposit the appropriate payments made by such handler pursuant to §§ 978.80 and 978.87, and out of which he shall make the appropriate payments required for such handler pursuant to §§ 978.81 and 978.87.

§ 978.85 *Expense of administration.* As his pro rata share of this part, each handler shall pay to the market administrator, on or before the 15th day after the end of each month, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to receipts, during the month, of (a) producer milk (including such handler's own production), and (b) other source milk allocated to Class I milk pursuant to § 978.45.

§ 978.86 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, the market administrator, in making payments to producers pursuant to § 978.81, shall deduct an amount not exceeding 6 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk received by a handler(s) from producers during the month. Such moneys shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association. Such services shall be performed in whole or in part by the market administrator or an agent engaged by and responsible to him.

(b) In the case of producers who are members of a cooperative association which the Secretary determines is performing the services specified in paragraph (a) of this section for its members, the market administrator shall, in lieu of the deductions provided in paragraph (a) of this section, make such deductions as are authorized by such producers, and on or before the 15th day after the end of each month, pay the money so deducted to such cooperative association.

§ 978.87 *Adjustment of accounts.* Whenever audit by the market administrator of any handler's reports, books, records or accounts or other verification discloses errors, resulting in money due the market administrator from such handler, or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 978.88 *Termination of obligations.* The provisions of this section shall apply to any obligation under this part for the payment of money, irrespective of when such obligation arose, except an obligation involved in an action instituted before March 1, 1950, under section 8c (15) (A) of the Act or before a court.

(a) The obligation of any handler to pay money required to be paid under the terms of this part, shall except as provided in paragraphs (b) and (c) of this section, terminate two years after the

last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligations, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representative.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

APPLICATION OF PROVISIONS

§ 978.90 *Producer-handlers.* Sections 978.40 through 978.45, 978.50 through 978.53, 978.60 through 978.62, 978.70 through 978.73, and 978.80 through 978.87 shall not apply to a producer-handler.

§ 978.91 *Plants subject to other Federal orders.* A plant specified in paragraph (a) or (b) of this section shall be treated as a nonfluid milk plant except that the operator of such plant

shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require (in lieu of the reports required pursuant to § 978.30), and allow verification of such reports by the market administrator.

(a) Any plant qualified pursuant to § 978.8 (a) which would otherwise be subject to the classification and pricing provisions of another order issued pursuant to the act, unless a greater volume of Class I milk is disposed of from such plant to retail or wholesale outlets (except fluid milk plants) in the Nashville marketing area than in the marketing area regulated pursuant to such other order.

(b) Any plant qualified pursuant to § 978.8 (b) or (c) which would be subject to the classification and pricing provisions of another order issued pursuant to the act, unless such plant qualified as a fluid milk plant pursuant to § 978.8 (c) for each of the preceding months of September through December.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 978.100 *Effective time.* The provisions of this part or any amendments to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 978.101 *Suspension or termination.* The Secretary shall suspend or terminate any or all of the provisions of this part, whenever he finds that it obstructs or does not tend to effectuate the declared policy of the Act. This part shall, in any event, terminate whenever the provisions of the Act authorizing it cease to be in effect.

§ 978.102 *Continuing power and duty of the market administrator.* (a) If, upon the suspension or termination of any or all of the provisions of this part, there are any obligations arising under this part, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination. *Provided,* That any such acts required to be performed by the market administrator, shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(b) The market administrator, or such other person as the Secretary may designate, shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all funds or property on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct; and (3) if so directed by the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

§ 978.103 *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions of this part, the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator, or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 978.110 *Separability of provisions.* If any provision of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

§ 978.111 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

Issued at Washington, D. C., this 23d day of January 1958, to be effective on and after February 1, 1958.

[SEAL] DON PAARLBERG,
Assistant Secretary.

[F. R. Doc. 58-691; Filed, Jan. 28, 1958; 8:51 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

Subchapter C—Miscellaneous Excise Taxes

PART 315—LICENSING OF MANUFACTURERS OF, AND DEALERS IN FIREARMS OR AMMUNITION

SUPERSEDURE OF PART

CROSS REFERENCE: For supersedure of Part 315, see Title 26 (1954), Chapter I, Part 177, § 177.1, 23 F. R. 343.

TITLE 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 20—SPECIAL REGULATIONS

COLONIAL NATIONAL HISTORICAL PARK

1. Paragraph (b), *Travel on roads and trails* of § 20.1 *Colonial National Historical Park* is amended to read as follows:

(b) *Travel on roads and trails.* Any road, trail or area within the Park may be closed to public use by order of the Superintendent when, in his judgment, conditions such as fire hazards, work

operations, or other dangers make such action necessary for the protection of the Park and of the public.

2. Section 20.1 *Colonial National Historical Park* is amended by adding a new paragraph (e), reading as follows:

(e) *Landing or launching of boats.* Except when authorized by the Superintendent, no privately-owned boat, canoe, raft or other floating craft shall be launched from land within Colonial National Historical Park and no boat, canoe, raft or other floating craft shall be beached or landed on land within said Park.

(Sec. 3, 39 Stat. 535, as amended; 16 U. S. C. 3)

Issued this 29th day of November 1957.

STANLEY W. ABBOTT,
Superintendent,
Colonial National Historical Park.

[F. R. Doc. 58-659; Filed, Jan. 28, 1958; 8:46 a. m.]

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

Subchapter A—General Rules and Regulations

PART 145—PASSENGER SERVICE SCHEDULES

PART 148—POSTING TARIFFS AT STATIONS

Subchapter B—Carriers by Motor Vehicle

PART 186—PASSENGER AND EXPRESS TARIFFS AND SCHEDULES

Subchapter C—Carriers by Water

PART 311—PASSENGER TARIFFS OF COMMON CARRIERS BY WATER

In the matter of Ex Parte No. 204, Passenger Tariff Rules, Rail, Water, and Joint Rail, Water, Motor.

At a Session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D. C., on the 23d day of May A. D. 1957.

It appearing that on June 5, 1956, notice to the public was given of proposed changes to be made in the regulations governing the construction, filing, and posting of tariffs of passenger fares, rates, and charges of common carriers by railroad and by water, and tariffs containing joint rail-motor, motor-water, and rail-motor-water fares, which notice was published in the FEDERAL REGISTER on June 14, 1956 (21 F. R. 4085); that written statements containing data, views, and arguments have been received; and that full consideration has been given to the matters and things involved.

It is ordered, That Part 145—Passenger Service Schedules be revised by deleting the current regulations, including all notes and cross references, in their entirety, and substituting in lieu thereof a new Part 145 as set forth below, which is made a part of this order; and Part 145 is hereby approved and prescribed to govern the construction, filing, and posting of passenger tariffs filed under section 6, Part I, section 217, Part II, and section 306, Part III, of the Interstate Commerce Act containing fares or charges of common carriers by railroad or by water, and tariffs containing joint

rail-motor, motor-water, or rail-motor-water fares or charges;

It is further ordered, That Part 148—Posting Tariffs at Stations, Part 186—Passenger and Express Tariffs and Schedules, and Part 311—Passenger Tariffs of Common Carriers by Water; be, and the same are hereby, amended as follows:

1. Sections 148.100-148.103, inclusive, delete the entire text and, immediately following the title of Subpart B, insert a note reading as follows:

CROSS REFERENCE: For posting regulations applicable to passenger tariffs of common carriers by rail or water and passenger tariffs of motor common carriers containing joint motor-rail, motor-water, and/or motor-rail-water fares, also passenger tariffs of sleeping car companies, see Part 145 of this chapter.

2. Sections 148.300-148.305, inclusive, delete the entire text, including the note and cross reference, and, immediately following the title of Subpart D, insert a note reading as follows:

CROSS REFERENCE: For posting regulations applicable to passenger tariffs of common carriers by water see Part 145 of this chapter.

3. In Part 186, immediately following the cross reference now shown at the beginning, insert an additional note reading as follows:

CROSS REFERENCE: For regulations governing the construction, filing, and posting of tariffs containing passenger fares of motor common carriers joint with railroads and/or water carriers see Part 145 of this chapter.

4. In Part 311, retaining the part number and title, delete the entire text and insert in lieu thereof a note reading as follows:

CROSS REFERENCE: For regulations governing the construction, filing, and posting of passenger tariffs of common carriers by water see Part 145 of this chapter.

It is further ordered, That this order shall become effective on the first day of May, A. D. 1958.

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

By the Commission, Division 2.

[SEAL] HAROLD D. McCoy,
Secretary.

Part 145—Passenger Service Schedules is revised as set forth below:

PASSENGER FARE SCHEDULES

Sec.	
145.0	General provisions; definitions.
145.1	Form, size, and printing.
145.2	Indicating changes in tariff or amendment.
145.3	Title page arrangement.
145.4	Content of tariffs.
145.5	Fares maintained for emergency or basing purposes.
145.6	Loose-leaf tariffs.
145.7	Cancellation or transfer of fares or other provisions.
145.8	Amendment procedure.
145.9	[Reserved.]
145.10	Index of tariffs.
145.11	Filing tariffs; rejections.
145.12	Tariffs issued through an agent.
145.13	Powers of attorney.

- Sec.
- 145.14 Concurrences.
- 145.15 Filing of powers of attorney and concurrences.
- 145.16 Certificate stating correct name of carrier to be filed.
- 145.17 Transfer of authority from one agent to another agent.
- 145.18 Procedure when one publishing agent succeeds another.
- 145.19 I. C. C. numbers of tariffs issued by a new agent or alternate agent.
- 145.20 Powers of attorney and concurrences in special situations.
- 145.21 Amendment and revocation of powers of attorney and concurrences.
- 145.22 Round-trip excursion fares.
- 145.23 Fares in special car or train service.
- 145.24 Newly inaugurated regular sleeping-car or parlor-car service.
- 145.25 Temporary rates for sleeping cars or parlor cars.
- 145.26 Newly constructed lines of railroad and newly established service by water carriers.
- 145.27 Transportation of circus and show outfits.
- 145.28 Party-fare tickets.
- 145.29 Round-trip tickets on certificate plan.
- 145.30 Validation of round-trip passenger tickets.
- 145.31 Emergency extension of time limit of tickets and granting stopovers.
- 145.32 Free transportation of caretakers in connection with shipments of property.
- 145.33 Ocean carriers' fares to or from foreign countries.
- 145.34 Posting of tariffs.
- 145.35 Applications for authority to make changes in tariffs.

AUTHORITY: §§ 145.0 to 145.35 issued under sec. 12, 24 Stat. 383, as amended, 49 Stat. 546, as amended; 49 U. S. C. 12, 304. Interpret or apply secs. 5, 6, 24 Stat. 380, as amended, 49 Stat. 560, as amended; secs. 304, 306, 54 Stat. 933, 935; 49 U. S. C. 5, 6, 317, 906.

NOTE: This part is applicable to the construction, filing, and posting of passenger tariffs of common carriers by railroad (including sleeping car companies) and by water, and passenger tariffs containing joint fares or charges between motor common carriers and common carriers by railroad or by water.

PASSENGER FARE SCHEDULES

§ 145.0 *General provisions; definitions*—(a) *Conformation to rules; re-issue.* All tariffs filed on or after May 1, 1958, shall conform to the regulations in this part. The Commission may direct the reissue of any tariff, power of attorney or concurrence at any time.

(b) *Definitions*—(1) *Local fare.* The term "local fare" as used in this part, means a fare for service by one carrier only. A local tariff is one which contains fares or charges for service by one carrier only.

(2) *Joint fare or joint charge.* The terms "joint fare" or "joint charge", as used in this part, mean a fare or charge for service by two or more carriers that is made by agreement between or among such carriers.

(3) *Joint tariff.* Joint tariffs are those which contain joint fares or charges.

(c) *Tariff includes amendments.* Except where the context indicates the contrary, the word "tariff" as used in this part also includes supplements and other amendments to tariffs.

(d) *Reference to section designations, shortcut method.* For convenience, that portion of a section designation appearing to the right of the decimal point in this part may be used in referring to such section in correspondence with the Commission; for example, § 145.4 (f) (1) may be referred to as section 4 (f) (1).

§ 145.1 *Form, size, and printing*—(a) *Form and size.* All tariffs must be in book, pamphlet, single-sheet or loose-leaf form, of size 8 by 11 inches, except that tariffs and supplements also intended for use in collecting passenger fares and charges on trains may be in book or pamphlet form smaller in size than 8 by 11 inches.

(b) *Paper; size of type.* Tariffs must be plainly printed on paper of durable quality and in type not less than 6-point bold or full face, except as provided in § 145.8 (i) as to vacation notice, and except, further, that not less than 4-point full face type may be used for reference marks. Explanation of reference marks must be in type not less than 6-point bold or full face.

(c) *Method of printing.* Stereotype, planograph, mimeograph or other similar durable process may be used, provided the copies posted and filed are clear and legible in every respect. Reproduction by hectograph or similar process, typewritten sheets or proof sheets must not be used for posting or filing.

(d) *Alterations.* Erasures or alterations must not be made in tariffs filed with the Commission or posted at stations.

(e) *Margin.* A margin of not less than five-eighths of an inch with no printing thereon must be allowed at the binding edge of each tariff.

(f) *Tables, ruling of.* When tables of numerals are used, the page shall be vertically ruled in columns of sufficient width to accommodate the matter to be shown therein (including reference marks) without crowding.

(g) *Pages, numbering.* Except as provided in § 145.6 (e), the pages of a tariff shall be consecutively numbered. The title page shall be considered as page 1, but shall not be numbered; and the interior pages shall be numbered beginning with 2, except that in looseleaf tariffs the title page shall be designated as "Title Page" and the next page as page 1.

§ 145.2 *Indicating changes in tariff or amendment*—(a) *Reference marks.* All tariffs, supplements, and loose-leaf pages must indicate any change in existing fares, rates, or charges, and in rules, regulations, or practices except when a change in wording results in neither increase nor reduction, by use of uniform reference marks in connection with the change. The reference marks used shall be those specified for the purpose in § 145.4 (d).

(b) *General changes indicated at top of page.* (1) When a change of the same character is made in all or in substantially all of the fares or rates in a tariff or supplement, or a page thereof, the fact and the nature of such change may be indicated in distinctive type at the top of the title page of such issue, or at the top

of each page, respectively, in substantially the following manner:

All fares in this issue are increases
or

All fares on this page are reductions, except as otherwise provided in connection with the fares.

(2) Fares which are not changed or changes not consistent with the notation shall be appropriately symbolized.

§ 145.3 *Title page arrangement.* The title page of every tariff and of every supplement shall show:

(a) *I. C. C. number and cancellations.* On the upper right-hand corner, the I. C. C. number of the tariff and immediately thereunder the I. C. C. number or numbers of tariffs or supplements canceled thereby. If the number of publications canceled is so large as to make it impracticable to enter them on the title page, the cancellation notice must be shown on page 2 and specific reference thereto shown on the title page directly under the I. C. C. number. Separate series of I. C. C. numbers must be used for freight and passenger tariffs.

(b) *Name of carrier or agent.* The name of the issuing carrier or the name of the agent issuing under power of attorney. See § 145.4 (b) (1).

(c) *Kind of tariff.* Whether tariff or supplement contains local or joint, or local and joint fares, rates, or charges; whether it applies for passengers, baggage, milk, or other kind of service; whether fares are one-way, round-trip, proportional, or basing; and whether it contains all-rail, rail-motor, all-water, or rail-water, motor-water, etc. fares or charges, or any combination of such types of fares or charges.

(d) *Territory.* The territory or points from and to which the tariff applies, briefly stated.

(e) *Effective date.* (1) Date of issue and effective date. Every publication which contains fares or other provisions effective upon a date different from the general effective date of such publication must show on its title page the following notation: "Effective -----, 19 -- (except as otherwise provided herein)" or "(except as provided in Item ----)" or "(except as provided on page ----)."

(2) A provision in a tariff or supplement that it or any part of it will expire with a given date is not a guaranty that the tariff or supplement or such part thereof will remain effective until and including that date. Such provision, if used, will be held to mean that the tariff or supplement or specified part of it will expire with the date named, unless the date is changed on statutory notice, or under special permission. Where used, the expiration notice must read: "Expires with -----, (Date)

unless sooner canceled, changed or extended."

(f) *Issuing officer or agent.* At the bottom of the title page, the name, title, and mail address of the individual actually responsible for compiling and filing the schedule. If the tariff is issued by a natural person as agent, his name must be shown with the title of "Agent."

If issued by a corporation or association as agent, the name and title of the person responsible for the actual compilation and filing must be shown.

§ 145.4 *Content of tariffs.* Tariffs shall contain:

(a) *Table of contents.* A full and complete statement, alphabetically arranged, of general subject headings and the exact location where they will be found. If a tariff contains so small a volume of matter that its title page or interior arrangement clearly discloses its contents, the table of contents may be omitted.

(b) *Names of participating carriers.*
(1) A list of the correct names of all carriers participating therein, subdivided according to (i) initial carriers, and (ii) intermediate and terminating carriers, each subdivision alphabetically arranged, together with the form and number of power of attorney or certificate of concurrence, except as provided in paragraph (b) (2), (3) and (4) of this section. If there be not more than 10 participating carriers, their names and power of attorney and concurrence forms and numbers may be shown on the title page. Reference to the forms and numbers of powers of attorney and concurrences may be omitted, provided this information is furnished to the Commission in an acceptable form.

(2) A tariff containing only regulations and charges for the transportation of baggage or dangerous articles may omit the list of intermediate and terminating carriers, provided there is included therein under the caption "Participating Carriers" a statement reading as follows:

Carriers parties to this tariff other than those specifically named herein, are the carriers named as participating carriers in fare tariffs which specifically refer to this tariff for regulations and charges.

(3) Where a tariff of round-trip excursion fares makes reference by I. C. C. number to a tariff of one-way fares for fares on which such round-trip fares are based, as provided in paragraph (f) (7) of this section, the tariff of round-trip excursion fares may state under the caption "Participating Carriers" that the carriers parties to the tariff of round-trip excursion fares are those which are parties to the tariff of one-way fares referred to, identifying the latter tariff by issuing carrier or agent and I. C. C. number.

(4) Where all-rail fares also are applicable as joint rail-motor fares under arrangements referred to in paragraph (g) (3) of this section, it will not be necessary in the tariff providing the fares to list the names of the motor carriers which participate in the fares only by arrangements published in the joint rail-motor routing and honoring tariff, but the tariff making reference to the joint rail-motor routing and honoring tariff, under the caption "Participating Carriers," shall contain the following statement:

Motor carriers participating in this tariff are those shown as parties to (name of joint rail-motor routing and honoring tariff) No. _____, Agent _____ I. C. C. No. _____ over whose routes, as shown therein, fares

in this tariff are applicable under the provisions of Rule _____. (Here refer to rule in which provision authorized in paragraph (g) (3) of this section is published.)

(c) *Index of stations.* (1) Except as indicated in subparagraph (2) of this paragraph, an alphabetical index of points from which fares, rates, or charges apply, and a separate alphabetical index of points to which fares, rates, or charges apply, with reference to the location in the tariff of the fares, rates, or charges from or to such points. When fares, rates, or charges apply in both directions, the points of origin and destination may be shown in one index.

(2) If throughout the tariff, points of origin or destination are shown alphabetically by states or by carriers and such states or carriers are alphabetically arranged, or if throughout the tariff, points of origin or destination are shown in continuous alphabetical order, no index of such alphabetically arranged points of origin or destination will be required, but the table of contents must refer to the pages on which points are shown. If there be not more than twelve points of origin and twelve points of destination, they may be shown on the title page of the tariff, and the index omitted.

(d) *Explanation of reference marks and abbreviations.* (1) Explanation of reference marks and abbreviations used in the tariff or supplement, except that commonly used abbreviations of State names may be omitted, and except further that abbreviations of the names of participating carriers may be explained in the list of such carriers, provided a statement to that effect is included under the "Explanation of Abbreviations." If the explanation of a reference mark does not appear on the page on which the reference mark is used, that page shall show where the explanation is given. A supplement shall contain an explanation of all reference marks appearing in the supplement, but need contain the explanation only of those abbreviations appearing in the supplement which are not explained in the original tariff (if explained in a prior supplement, the explanation must be repeated).

(2) The following reference marks shall be used, and shall be used only, for the purposes indicated:

- ♭ or r to denote reductions.
- ♢ or a to denote increases.
- ⊙ or n to denote no change in fare or rate.
- ⊕ or X to denote intrastate application only.
- or ◇ to denote reissued matter (See § 145.8 (d).)
- b to indicate basing fare only.

(e) *Rules and regulations.* (1) Rules and other governing provisions, with the title or subject of each to be shown in distinctive type. Under this heading, all of the rules, regulations, explanatory statements, or other conditions which in any way affect the application of the fares, rates, or charges shall be clearly and explicitly stated, except that a special rule affecting a particular fare, rate, or charge shall be shown in connection with and on the same page with such fare, rate or charge.

(2) Except as provided in paragraph (f) (3) of this section, no rule or regu-

lation shall be included which authorizes substituting for any fare, rate, charge, or route named in the tariff, a fare, rate, charge, or route provided in any other tariff.

(3) Where it is not desirable to include general governing rules and regulations in a passenger fare tariff, such rules and regulations may be separately published in a tariff filed by an individual carrier or by an agent. When rules or regulations are thus separately published, a fare tariff may be made subject thereto only by specific reference thereto by I. C. C. number.

(4) When tariffs of joint fares make reference to separate publications for governing rules and regulations, such separate publications must be concurred in by all of the carriers parties to such joint fares.

(5) A "Miscellaneous Regulations" rule may be included in a joint tariff for the purpose of applying in connection therewith specific rules of one or more participating carriers when such rules are not generally applicable to all of the carriers. The rule should read substantially as follows:

Except as otherwise specifically provided herein, the fares authorized in this tariff are subject to the rules and regulations shown in other tariffs of the issuing and participating carriers to this tariff, lawfully on file with the Interstate Commerce Commission, which in any way affect the measure of the service or charges shown in this tariff.

(6) For the purpose of providing through fares from and to all stations on the lines of the carriers within the territory covered by the application of the tariff, a tariff may contain a rule reading substantially as follows:

A fare to a destination or from a point of origin not shown in this tariff will be made by adding the fare shown in this tariff to or from an intermediate point on the route of travel to a fare of like class from or to the intermediate point shown in another tariff lawfully on file with the Interstate Commerce Commission, but if the fare so made exceeds the fare of like class to or from a point beyond on the same through line, as shown in this tariff, the latter fare will apply.

(f) *Fares, rates, or charges.* (1) An explicit statement of the fares, rates, or charges for transportation, in cents or in dollars and cents per passenger or other unit, all arranged in simple and systematic manner, as outlined in subparagraphs (2) to (9), inclusive, of this paragraph. Complicated plans or ambiguous terms must not be used.

(2) A tariff, in providing one-way adult fares, must show the exact fares, in one sum, for at least one class of service from and to the points from and to which it applies, or the exact fares, in one sum, for at least one class of service between the principal points, together with explicit rules and bases from which to determine the fares from and to other points.

(3) A station located on the border of two territories covered by two joint tariffs may be included in one or the other of such tariffs and the basis for fares from or to such point stated as:

(i) A specific amount added to the fare to or from an intermediate station

shown in the same tariff, but not to exceed the corresponding fare to or from a station beyond on the same through route as published in the other tariff (see note); or

(ii) A specific amount added to the fare to or from an intermediate point, as shown in the other tariff (see note), but not to exceed the corresponding fare to or from a point beyond on the same through route as shown in the same tariff.

NOTE: When reference is made in the published basis to a fare published in another tariff, such reference must show the I. C. C. number of the tariff in which the fare is published, together with the name of the issuing agent or carrier.

(4) Children's fares may be stated in terms specifically related to adult fares.

(5) Except an otherwise provided in this paragraph, a tariff containing other types of fares (including round-trip fares), or excess-baggage rates and charges may show the exact fare, rate, or charge, or publish them by means of appropriate tables based on the one-way fares. Tariffs of fares, rates, or charges, other than excess baggage rates, based upon the one-way fares must give reference to the I. C. C. number or numbers of tariffs containing the one-way fares.

(6) A tariff of commutation fares may provide fares by means of a table based upon the distance in miles between stations, and include in the tariff a table showing the distances between stations or make reference by I. C. C. number to the tariff containing such distances.

(7) Tariffs naming temporary round-trip fares, which tariff is to be effective for a period not exceeding one year, may state such fares in terms specifically related to the one-way fares. Such tariffs must refer specifically by I. C. C. number to the tariffs of one-way fares on which the round-trip fares are based.

(8) Tariffs for sleeping car accommodations must contain specific rates for at least one class of accommodation. Rates for other sleeping car accommodations may be stated in terms specifically related to such specific rates. Rates for parlor car accommodations must be published in such manner that they can be readily ascertained.

(9) All other fares, rates, or charges for the transportation of passengers or property not specified in subparagraphs (2) to (8), inclusive, of this paragraph must be published in such manner that they can be readily ascertained, and the service for which they apply must be definitely stated.

(10) Except as provided in § 145.5 (b) (1), the publication of fares, rates, or charges which duplicate or conflict with those published in the same or some other tariff for application over the same route is not permissible.

(g) *Routes.* (1) The routes over which fares or rates apply, showing the names of the carriers and junction points; except that the routes may be shown directly in connection with the fares or rates, or in lieu of publication in the tariff naming fares or rates, such routes may be published in a separate tariff or tariffs which must be specifically

referred to by I. C. C. number in the tariff naming the fares or rates.

(2) A tariff providing temporary round-trip fares, which tariff is to be effective for a period not exceeding one year, wherein such fares are provided by means of an appropriate table based on one-way fares or are stated in terms specifically related to one-way fares, may authorize the application of the temporary round-trip fares over routes, including reverse of routes, applicable in connection with the one-way fares on which based, and also over additional routes specifically provided in the tariff of temporary round-trip fares.

(3) A tariff containing all-rail fares which also are applicable as joint rail-motor fares from and to, or between, the same points, may refer to a joint agency tariff for routing and regulations governing the honoring of tickets over joint rail-motor routes by a statement in the rules governing the application of fares (see paragraph (e) of this section), reading substantially as follows:

Fares published in this tariff apply over routes shown in connection therewith and also are applicable as joint fares for transportation over routes composed of rail and motor carriers shown as parties to this tariff between points of origin and destination shown herein via the several junction points of such rail and motor carriers, to the extent and under conditions provided in -----

(Name of joint rail-motor routing and honoring tariff)
No. --, Agent ----- I. C. C. No. ---

§ 145.5 *Fares maintained for emergency or basing purposes*—(a) *Fares where no regular service.* When fares are published from and to points where passenger service is not regularly operated, such fares shall be symbolized to indicate that no regular service is operated but fares are maintained for emergency purposes.

(b) *Basing fares.* (1) Where desired, fares published in one tariff may be reproduced as basing fares only, for the construction of through fares.

(2) A tariff containing basing fares must specify clearly the extent and manner of their use. In making up a combination fare, all limitations which a tariff places upon the use of the basing, proportional or arbitrary fare must be fully observed.

§ 145.6 *Loose-leaf tariffs*—(a) *Title page.* The title page of a loose-leaf tariff shall be designated in the upper left-hand corner thereof as "Original Title Page," and shall be printed on one side of the leaf only. The pages following the title page shall be consecutively numbered as "Original Page 1," "Original Page 2," etc. Such pages may be printed on both sides but if so printed, the entire leaf must be reissued in accordance with paragraph (c) of this section whenever a change is made on either side.

(b) *Pages following title page.* Each page of a loose-leaf tariff following the title page must show at the top of the page the name of the issuing carrier, or of the issuing agent (identified as "Agent"). If the issuing agent is a corporation or association, there also shall

be shown the full name of the bureau, committees or regional association, if any, under whose auspices the schedule is compiled and filed. At the top of the page also shall be shown the page number and I. C. C. number of the tariff. Each page also shall show the date of issue, the effective date, the name, title, and mail address of the individual actually responsible for compiling and filing the schedule. If the tariff is issued by an individual agent, his name must be shown with the title of "Agent". If issued by a corporation or association as agent, the name and title of the person responsible for the actual compilation and filing must be shown.

(c) *Amendments, by revised pages.* Changes in and additions to loose-leaf tariffs shall be made by reprinting the page upon which change or addition is made, and such changed page shall be designated as a revised page and shall direct the cancellation of the page which it replaces; for example, "1st Revised Page 1 cancels Original Page 1" or "4th Revised Page 3 cancels 3rd Revised Page 3." If the leaf is printed on both sides, both pages must be reissued and each designated as a revised page whenever a change is made on either side. Changes shall be indicated as required by § 145.2, and if a page is reissued without change, the notation "No change on this page" shall appear at the top of the page. When a revised title page is issued, the following notation shall be shown in connection with the effective date, "Original tariff effective -----" (Date)

(d) *Matter brought forward without change.* (1) Matter in a loose-leaf tariff that has been in effect for thirty days or more need not be indicated as reissued matter, but may be republished as effective on thirty days' notice. Matter that has not been in effect for thirty days when brought forward must be shown as "Reissue: Effective -----" (Date)

on Revised Page -----"

(2) When a revised page is issued which omits matter heretofore published on the page which it cancels, and such matter is published on another page, the revised page must make specific reference to the page on which the matter will be found, and the page to which reference is made must contain the following notation in connection with such matter:

For -----
(Here insert fares, rates, rules, regulations, etc., as the case may be)
in effect prior to the effective date hereof see page -----

Subsequently revised pages of the same number must omit this notation insofar as this particular matter is concerned.

(e) *Pages to accommodate expanded matter.* If, in a loose-leaf tariff, it becomes necessary to add an intervening page in order to accommodate expanded matter, such page shall be given the same number with a letter suffix; for example, "Original Page 4-A," "Original Page 4-B," etc. Change in matter on such revised pages may be made by issuing revised pages bearing the same

number and letter suffix; for example, "1st Revised Page 4-A cancels Original Page 4-A."

(f) *Additional pages at end of tariff.* If, after a loose-leaf tariff has been filed with the Commission, it is desired to file additional pages thereto, such pages may be filed, and numbered beginning with the next successive page number. For example, if a tariff contains 150 pages, page 151 must not be designated as an additional page but as Original Page 151.

(g) *No supplement, except as indicated.* No supplement shall be issued to a loose-leaf tariff except for the purposes authorized in §§ 145.7 (a) (2), 145.8 (g), 145.8 (h), and 145.8 (i).

(h) *Check sheets.* (1) A check sheet shall be included in each loose-leaf tariff and shall be designated as "Original Check Sheet." This check sheet shall contain a numerical list of all effective pages, and must be kept current; that is, a revised check sheet listing the added or revised pages must accompany such pages when they are filed with the Commission; however, if each revised page of the tariff bears a consecutive "correction number" beginning with the number 1, the check sheet may omit the numerical list of effective pages and, instead, list correction numbers numerically so that each revised page, as received, may be checked by its "correction number."

(2) Fares, rules, or other tariff matter may not appear on the reverse side of a check sheet.

(3) When all changes made by a supplement to a loose-leaf tariff have been incorporated in the tariff proper by revision of the appropriate pages, the supplement shall be canceled. Such cancellation must be made by reissue of the check sheet and by adding in the upper right-hand corner immediately following the words "cancels ---- Revised Check Sheet" the words "also cancels Supplement No. ----."

§ 145.7 *Cancellation of transfer of fares or other provisions—(a) Cancellation of entire tariff.* (1) When a tariff is canceled by a new tariff, the cancellation notice must not be given by supplement but by notice in the new tariff as provided in § 145.3 (a).

(2) For the purpose of canceling entirely the fares and arrangements named in a tariff (including a loose-leaf tariff) not reissued, or when a later issue failed to cancel the previous issue and such issue is canceled for the purpose of perfecting the records, the tariff must be canceled by a supplement thereto, without regard to the provisions of § 145.8 (e). Such supplement must show specific reference to the I. C. C. number of the tariff where fares or other provisions will be found thereafter or shall state that no such fares or other provisions will be in effect.

(b) *Transfer of portion of contents from one tariff to another.* If a tariff or supplement or loose-leaf page is issued which is to displace a part of another tariff which is in effect at the time, and which tariff is not thereby canceled in full, it shall specifically state the portion of such other tariff which is thereby

canceled, and such other tariff shall at the same time be correspondingly amended, effective on the same date, in the regular way, and shall indicate where fares or other provisions canceled therein thereafter will be found.

(c) *Notice to specify where fares can be found.* When a tariff is canceled in whole or in part by a supplement thereto, the supplement must show where the fares or other matter thereafter will be found or what fares thereafter will apply. When a tariff is to be canceled by another tariff or by a supplement to another tariff which does not contain all of the fares shown in the tariff to be canceled, i. e., omits points of origin or destination, or fares, rates, charges, rules, regulations, or routes, contained in such previous issue, the canceling (new) tariff or supplement shall explain the omission and must state where the fares not shown therein thereafter will be found, or what fares thereafter will apply.

(d) *Reestablish canceled matter by republication.* When a tariff, a supplement, or a loose-leaf page, or any part thereof, is canceled or expires and such cancellation or expiration has become effective, such tariff matter may not be reinstated except by republication with a new effective date.

(e) *Procedure in canceling portion of tariff.* When withdrawing an item, rule or other tariff matter, the canceled matter need not be reproduced except to the extent necessary to identify the matter that is thereby canceled. Such cancellation must be brought forward in successive supplements as reissued matter.

(f) *Transfer of fares from carrier's to agent's tariff and from agent's to carrier's tariff.* (1) If a tariff issued by an agent is intended to displace a tariff issued by one of his (or its) principals, the tariff to be displaced may be canceled by supplement thereto, with reference to the agent's tariff for fares in the future, or the agent's tariff may cancel the principal's tariff in accordance with paragraph (a) of this section. If, however, matter in an agent's tariff is intended to displace similar matter in a principal's tariff, but not to displace such tariff completely, cancellation shall be made in the manner shown in paragraph (b) of this section, and the carrier must issue a supplement to its tariff to cancel such matter. Such supplement must refer to the agent's tariff for future fares or other provisions.

(2) A carrier must not publish in its individual tariff fares or other matter intended to displace the fares or other matter published in a tariff of a duly authorized agent, unless the tariff is accompanied by a supplement issued by the agent canceling the fares or other matter in his (or its) tariff effective on the same date, as required by paragraph (b) of this section.

(g) *Concurrence does not confer authority to cancel.* A concurrence does not confer authority upon a carrier to cancel tariffs of the concurring carrier, and tariffs issued under concurrences must not assume to do so. Such cancellations must be made by the carrier

which issued the tariff that is to be canceled.

§ 145.8 *Amendment procedure—(a) Definition and form.* (1) A change in, or addition to, a tariff shall be known as an amendment, and, excepting amendments to tariffs of less than two pages and amendments to tariffs in loose-leaf form, shall be published in a supplement to the tariff.

(2) Supplements to a tariff shall be numbered consecutively as issued, beginning with number 1. Each supplement shall specify on its title page the supplement or supplements, tariff or tariffs that it cancels, and shall state which supplements contain all changes. Supplements filed under authority of paragraphs (g), (h) or (i), of this section and blanket or special supplements that do not change fares, rates, charges, rules, or regulations must be shown separately and the nature of each such supplement must be clearly indicated.

(3) The matter contained in each supplement shall be arranged in the same general manner and order as in the tariff which it amends, and when stations are given index numbers the same index number must be assigned to the same station in all supplements to the tariff.

(4) When an amendment is made in a numbered item or other unit, such item or other unit must be published in a supplement in its entirety as amended. Supplements effecting change in, or cancellation of, matter published in numbered units must specifically provide for cancellation of previously effective matter by reference to the number of the unit it cancels, and if the unit to be canceled is in a supplement, the new supplement must also give reference by number to the previous supplement. Where matter is not published in numbered units, the changed provision must be published in the supplement in its entirety, and reference must be made to the page or pages of the tariff or supplement on which the matter to be canceled is shown.

(b) *Amendment canceling fares on abandoned lines.* When amending tariffs for the purpose of canceling fares to or from points on, or fares via, abandoned lines under authority of certificates and orders issued in the Commission's finance dockets or when canceling fares to and from points on lines over which passenger service has been discontinued, such cancellation may be accomplished by a general-term statement specifically naming the points from and to which such fares are canceled without showing in detail and in its entirety as amended, each item or other provision that is affected thereby. Such amendment may be published in a special supplement without observing the provisions of paragraph (e) of this section: *Provided*, That the matter in the special supplement is brought forward into a regular supplement when it again becomes necessary to supplement the tariff for purposes other than as provided for in this paragraph.

(c) *Cancellation of fares when participating carrier eliminated.* (1) When a participating carrier is eliminated by

supplement or by revised page of a loose-leaf tariff, the tariff must be amended on the same effective date to provide for the cancellation of fares and other provisions in connection with that carrier. This may be done either by appropriate amendment of the individual items or other provisions, or by a notation immediately following the statement that the carrier has been eliminated, reading:

This has the effect of canceling all fares and other provisions published in connection with this carrier in this tariff.

(2) When this notation is used in a supplement, the notation must be brought forward as reissued matter, together with reference to the supplement in which the change first appeared.

(3) When the notation method is used in a loose-leaf tariff, subsequent revised pages containing the list of participating carriers must bear reference to such elimination so long as the name of the eliminated carrier appears elsewhere in the tariff, the reference to be shown in the following manner:

 (Show name of carrier here)
 eliminated as a participating carrier in this tariff and all fares and other provisions published in connection with that carrier canceled effective ----- See ---- Revised Page -----

(d) *Reissued matter, how designated.* Except as provided in § 145.6, when matter that has not been in effect for thirty days is brought forward without change from a previous tariff, also when matter is brought forward without change from one supplement to another, such matter must be designated "Reissued" in distinctive type and must show the original effective date of the supplement or tariff from which reissued; or must be uniformly indicated by a rectangle, in which is shown the letter T if reissued from a previous tariff or from a supplement to a previous tariff, or a numeral representing the number of the supplement in which the matter was originally established when reissued from a prior supplement to the same tariff.

Examples. [T] Reissue, effective -----
 (Date)

in I. C. C. No. --; or [3] Reissue, effective -----
 in Supplement 3. Reissues of
 (Date)

items or other matter which became effective in a prior tariff or supplements on dates other than the general effective date shown on the title page thereof may be indicated by showing a letter suffix or other symbol in connection with, and as a part of, the letter T or numeral in rectangles herein authorized. When the reissued matter became effective in a supplement to another tariff, the I. C. C. number of that tariff also must be given.

(e) *Amount of supplemental matter permitted.* Except as authorized in § 145.7 (a), paragraphs (b), (f), (g), (h), and (i) of this section, §§ 145.10 and 145.22, the following shall govern the number of supplements and the volume of supplemental matter permitted to be effective at any one time:

Number of pages in tariff (including title page)	Number of effective supplements	Number of pages in supplements (including title page)
1 page-----	None-----	None.
2 pages and not more than 4 pages.	1-----	2.
5 pages and not more than 12 pages.	1-----	Not more than 4 pages.
13 pages or more--	2, one of which may not exceed 4 pages.	33 1/4 percent of the number of pages in the tariff (see note).

NOTE.—If the number of pages in the supplement which brings the volume of matter up to 33 1/4 percent of the number of pages in the tariff is not evenly divisible by 4, it may exceed the volume authorized to the extent necessary to bring the number of pages of such supplement to the next multiple of 4.

(f) *Supplement to tariff not yet effective.* (1) If a tariff is filed on statutory notice canceling another tariff and, after such filing, a supplement to the tariff to be so canceled should be issued prior to the general effective date of the new tariff, fares in that supplement would not remain in effect for thirty days as required by law, because the cancellation of the tariff also cancels the supplements to it. In such case, and confined to changes or additions necessary to be made in both the old and the new tariff, a supplement making the same changes in or additions to both tariffs may be issued as a supplement to both tariffs, bearing both I. C. C. numbers. The required number of copies of this supplement must be posted and filed for each tariff as though the supplement to each tariff was a separate publication. In issuing a supplement in accordance with this paragraph the requirements of paragraph (e) of this section, as to number of supplements and volume of supplemental matter, need not be observed with respect to the tariff to be canceled.

(2) Fares or provisions which have been established in a previous tariff and reproduced or reissued without change in a new tariff may be changed upon lawful notice, after they have been in effect for thirty days, by a supplement to the new tariff, effective not earlier than the general effective date of the new tariff, by indicating in the supplement effecting the change that the matter which is to be amended was brought forward without change from I. C. C. No. ---- (previous tariff), and showing the date such matter became effective therein.

(g) *Complete adoption notice.* (1) When the name of a carrier is changed, or when its operating control is transferred to another carrier, the carrier which will thereafter operate the properties shall file (see § 145.11) and post (see § 145.34) an adoption notice, numbered in its I. C. C. series, reading substantially as follows:

The -----
 (Correct name of adopting carrier)
 hereby adopts, ratifies and makes its own, in every respect as if the same had been originally filed and posted by it, all passenger tariffs, rules, notices, concurrences, traffic agreements, divisions, authorities, powers of attorney, or other instruments whatsoever, including supplements or amendments thereto, filed with the Interstate Commerce

Commission by or heretofore adopted by the ----- prior to

 (Correct name of old carrier)

 (Date)

(2) In addition to the above adoption notice, the adopting carrier shall file immediately a consecutively numbered supplement (individual or blanket) to each of the tariffs in the I. C. C. series of its predecessor, including any tariffs to which the predecessor has issued, or before the effective date of the adoption notice may issue, a supplement in accordance with this paragraph, reading as follows:

Effective -----
 (Here insert date shown in the adoption notice)
 this tariff, or as amended, became the tariff of the -----
 (Correct name of new carrier)
 as per its adoption notice I. C. C. No. -----

Such supplements must contain no other matter, must bear reference to this section, and may be issued without observing the provisions of paragraph (e) of this section.

(3) Succeeding supplements to adopted tariffs filed by the adopting carrier must be numbered consecutively following the number of the supplement announcing adoption, and also shall show in connection with the I. C. C. number that the number is in the series of the carrier that issued the original tariff. New tariffs reissuing or succeeding such tariffs shall be numbered in the I. C. C. series of the adopting carrier, and in directing the cancellation of an adopted tariff, shall identify it by using the name or initials of the carrier in whose I. C. C. series it was issued.

(4) Tariffs issued by other carriers or agents in which the carrier absorbed, taken over, operated by another carrier, or whose name is changed, is named as a participating carrier, shall be amended on statutory notice to eliminate the name of the old carrier and to show the name of the new carrier by the first subsequent supplement. Such supplement also shall contain the following provision:

The -----
 (Correct name of adopting carrier)
 by its adoption notice I. C. C. No. ---- having taken over tariffs, etc., of the -----

 (Correct name of adopted carrier)
 the -----
 (Correct name of adopting carrier)
 is hereby substituted for the -----

 (Correct name of adopted carrier)
 wherever it appears in this tariff.

(5) Similar adoption notice numbered consecutively in the I. C. C. series of the adopted carrier must be filed immediately by a receiver or trustee when he assumes possession and control of a carrier's lines, and such person's name shall be shown on the title page as a part of the carrier's correct name. When such possession and operating control is terminated the carrier taking over the properties shall file an adoption notice and also shall file supplements announcing adoption as prescribed in the foregoing subparagraphs of this paragraph.

RULES AND REGULATIONS

(6) Notices of adoption should be filed with the Commission immediately, and, if possible, on or before the date shown therein. Copies must be sent immediately to each agent or carrier to which power of attorney or concurrence has been given by the old carrier and to each carrier from which a concurrence has been received by the old carrier. The notice must refer to this section, and its effective date must be the date (as shown in the body of the notice) on which the change in name or operation occurs. If prior approval of such change is necessary, reference also must be made to the order of the Commission.

(7) Concurrences and powers of attorney adopted by a carrier, a receiver, or a trustee must be replaced and superseded within 120 days by new concurrences and powers of attorney issued by and numbered in the series of the new carrier, except that if desired the receiver or trustee may number concurrences and powers of attorney in the old series. The cancellation reference to the former concurrence or power of attorney must include name or initials of the former issuing carrier. Concurrences and powers of attorney which will not be replaced by new issues must be regularly revoked on the notice and in the manner prescribed in § 145.21 (b).

(8) If a carrier ceases operation without having a successor, its tariffs, concurrences, and powers of attorney must be regularly canceled on statutory notice, unless otherwise specifically provided by order of the Commission; and when canceled on less than statutory notice, the cancellation notice must show that cancellation is made on account of discontinuance of operation, and must refer to the authority of the Commission permitting such discontinuance.

(h) *Partial adoption notice.* (1) When the operating control of only a part of a carrier's properties is transferred to another carrier, the carrier which will thereafter operate the properties shall file (see § 145.11) and post (see § 145.34) an adoption notice, numbered in its I. C. C. series, reading substantially as follows:

The -----
(Correct name of adopting carrier)
hereby adopts, ratifies, and makes its own, in every respect as if the same had been originally filed and posted by it, all passenger tariffs, rules, notices, concurrences, traffic agreements, divisions, authorities, powers of attorney, or other instruments whatsoever, including supplements or amendments thereto, filed with the Interstate Commerce Commission by or heretofore adopted by the -----
(Correct name of old carrier)
prior to -----
(Date)
insofar as said instruments apply from, to, at, or via the following stations -----
(Naming them)

(2) If on the transferred portion, there is a junction point which will remain a station of the old carrier as well as being established as a station of the new carrier, a notation may be provided in connection with the name of such point in the adoption notice and the supplements required by subparagraph (3)

of this paragraph, reading substantially as follows:

This does not have the effect of eliminating ----- as a station on -----
(Correct name of old carrier)
but has the effect of establishing said station also as a station on -----
(Correct name of adopting carrier)

(See also subparagraphs (3) and (5) of this paragraph.)

(3) In addition to the above adoption notice, the old carrier shall immediately file, under proper concurrence from the adopting carrier, a supplement (individual or blanket) to each of its tariffs covered by the adoption notice containing a provision reading as follows:

Effective -----
(Here insert effective date of adoption as shown in the adoption notice)
this tariff or as amended insofar as it contains fares, rules, and/or regulations applying from, to, at, or via the following stations -----
(Naming them)
became the tariff of the -----
(Correct name of adopting carrier)
as stated in its adoption notice I. C. C. No. -----

Such supplement must contain no other matter, must bear reference to this section, and may be issued without observing the provisions of paragraph (e) of this section. When the circumstances covered by subparagraph (2) of this paragraph are present, the notation directed in that subparagraph shall be added to the above notice.

(4) Fares and other provisions published by the old carrier applying between points on the transferred portion shall as quickly as possible be published in tariffs of the adopting carrier; and, effective on the same date, the old carrier shall cancel the corresponding fares and other provisions from its tariffs, with reference to the I. C. C. number of the adopting carrier for fares and other provisions applying thereafter.

(5) Tariffs issued by other carriers or agents, in which the carrier absorbed, taken over, or operated in part by another carrier is named as a participating carrier, shall be amended on statutory notice to add the new carrier as a participating carrier by the first subsequent supplement. Such supplement also shall contain the following provision:

The -----
(Correct name of adopting carrier)
by its adoption notice I. C. C. No. -----, having taken over tariffs, etc., of the -----
(Correct name of old carrier)
insofar as they contain fares, charges, rules, or regulations applying from, to, at, or via the following stations -----
(Naming them)
the -----
(Correct name of adopting carrier)
is hereby substituted for the -----
(Correct name of old carrier)
wherever the latter appears in this tariff in connection with said stations and provisions. When the circumstances covered by subparagraph (2) of this paragraph are present, the notation directed in that

subparagraph shall be added to the above notice.

(6) Similar adoption notice numbered in the I. C. C. series of the carrier must be filed immediately by a receiver or trustee when he assumes possession and control of part of a carrier's lines. When the receivership or trusteeship is terminated, the carrier taking over the properties shall file an adoption notice, and, if a change is also made in the name of the carrier, supplements announcing adoption as prescribed in the foregoing subparagraphs of this paragraph.

(7) Notices of adoption should be filed with the Commission immediately, and if possible, on or before the date shown therein. Copies must be sent immediately to each agent or carrier to which power of attorney or concurrence has been given by the adopted carrier. The notice must refer to this section, and its effective date must be the date (as shown in the body of the notice) on which the change in name or operation occurs. If prior approval of such change is necessary, reference also must be made to the order of the Commission.

(1) *Suspension of tariff schedules.*

(1) Upon receipt of an order suspending any tariff or portion thereof, the carrier or agent who filed such tariff shall immediately file with the Commission a supplement, not bearing any effective date, which shall contain a reproduction of the pertinent portions of the Commission's order of suspension (including the paragraph prohibiting changes in the suspended matter), followed by a statement that by reason of the Commission's order (i) the use and application of the suspended publication or portion thereof (which must be identified with certainty) is either indefinitely deferred or deferred for the period prescribed in the Commission's suspension order and (ii) the schedules which were to be changed by the suspended publication (which schedules also must be identified with certainty) will remain in effect and will not be changed so long as effectiveness of the suspended matter is deferred (if deferred only for the term of the Commission's order the date must be specified), except by order or special permission of the Commission.

(2) If the responsible carrier or publishing agent has elected to file a supplement deferring the suspended matter, only for the period prescribed by the Commission's order, and if prior to the expiration of that order the Commission notifies the carrier or publishing agent that the report in the proceeding cannot be issued within the suspension period, the carrier or publishing agent may, under the authority of this section, issue a supplement effecting such further deferment. Where suspended matter has previously been deferred under the authority of this section, the carrier or publishing agent when notified by the Commission that the report in the proceeding cannot be issued prior to the date to which the schedules have been deferred, may, prior to the date to which the matter is postponed, issue a supplement under the authority of this section further postponing the effective date of the matter originally suspended. Sup-

plements issued should be filed on statutory notice if practicable and otherwise on shorter notice, but the notice shall be as long as time will reasonably permit and in no event less than one day. Where the effectiveness of matter originally suspended by the Commission has been voluntarily postponed beyond the term of the Commission's order, no change may be made during the period of such voluntary postponement in the tariff matter which was originally held in force by the Commission's suspension order, except by order or special permission of the Commission.

(3) Where, following the entry of a report and order in an investigation and suspension proceeding, a further order is entered in such proceeding postponing the effective date or requirement of the original order, the carrier or publishing agent, under authority of this section, may issue a supplement effecting such further deferment of the suspended schedule, and may also issue supplements to announce postponement of effective date of canceling supplements or cancellation notices filed following the entry of a report and order in an investigation and suspension proceeding to and including a date immediately preceding the effective date fixed in the postponing order. Further, where, pursuant to the provisions of section 17 (8) of the Interstate Commerce Act, the filing of an application for rehearing, reargument, or reconsideration, stays the order fixing the effective date of a requirement or other action in an investigation and suspension proceeding, as evidenced by notice of the Commission to the parties, the carrier or publishing agent, under authority of this section, may issue a supplement effecting further deferment of the schedule under suspension or under voluntary postponement, and also may issue a supplement to announce postponement of the effective date of a cancellation supplement or notice that was filed following the entry of the report and order in such investigation and suspension proceeding. (Postponement should be to, and including, the last day of the suspension period prescribed in the suspension order, except where the responsible carrier or publishing agent elects to defer the use of the suspended schedules beyond the statutory period of suspension, in which event postponement should be until the date upon which the supplement announcing such postponement is canceled.) Supplements issued should be filed on statutory notice if practicable, and otherwise on shorter notice, but the notice shall be as long as time will reasonably permit and in no event less than one day.

(4) When the Commission has suspended a supplement in whole or in part, it sometimes occurs that prior to the filing of the supplement announcing suspension, a later supplement is filed which purports to reissue the suspended matter. In such instances the suspension supplement required by subparagraph (1) of this paragraph shall also (i) specifically cancel from the later supplement such reissued matter, and (ii) amend the cancellation notice on the title page of said supplement so as to except the sus-

pending matter from the cancellation. Tardiness in filing supplements announcing suspension may result in the rejection by the Commission of the supplement which cancels the suspended matter.

(5) When the Commission suspends an entire tariff, the previous tariff and effective supplements are continued in effect and will remain in force during the period of suspension or until lawfully canceled or reissued. Except as to loose-leaf tariffs and tariffs of less than two pages, supplements containing additions to and/or changes in fares or other provisions which were not sought to be changed by the suspended tariff may be filed to the previous tariff without regard to the volume of supplemental matter which the effective supplements in the aggregate may contain. If the volume of supplemental matter permitted by paragraph (e) of this section has been exceeded under authority of this paragraph and the Commission orders the cancellation of the suspended tariff, the volume of supplemental matter must be brought within the requirements of paragraph (e) of this section by schedule filed within ninety days, or such tariff must be reissued in accordance with the following: If consisting of less than 100 pages, by schedule filed within ninety days, and if consisting of 100 or more pages, by schedule filed within one hundred and twenty days, from date upon which the suspended tariff is canceled.

(6) When the Commission suspends an entire supplement, the supplement will not be counted in the number of supplements nor in the volume of supplemental matter permitted by paragraph (e) of this section; nor in the event of suspension of a portion of a supplement will that supplement be so counted after all matter therein except the suspended portions has been reissued in or canceled by a subsequent supplement. Such subsequent supplement shall cancel the supplement containing the suspended matter "except portions under suspension in I. & S. Docket No. ----, viz (identifying the suspended portion by item and page number)."

(7) When a tariff (not a supplement), any portion of which is under suspension, is canceled, the new tariff may either: (i) Cancel the previous tariff "except portions under suspension in I. & S. Docket No. ----, viz (identifying the suspended matter and the matter held in force by the suspension order by item and page number)," or (ii) cancel the previous tariff entirely and bring forward without change the matter held in force by the order of suspension, followed immediately by the matter under suspension. The matter held in force by the order of suspension must be identified as such and shown as expiring with the date to which the suspended matter has been postponed. The suspended matter immediately following must likewise be identified as such and shown as effective on the day following the expiration of the matter held in force by the order of suspension.

(8) When an order of suspension relates to a portion of a new tariff or a supplement thereto, intended to super-

sede completely a readily identifiable prior tariff item (or other unit), such matter as is continued in effect by the order of suspension may be published (see note following subparagraph (9) of this paragraph) in the supplement announcing suspension. When so published the following notation must be provided in connection therewith, either as a note or as the explanation of a reference mark:

The matter subject to this [note or reference mark as the case may be] is reissued from tariff I. C. C. No. ---- and is continued in effect by the terms of the order of suspension in I. & S. Docket No. ----, and, unless it is sooner canceled, changed or extended, will expire with ----. (The date to be shown will be the date to which the suspended matter has been postponed.)

(9) When an order suspends a particular fare or fares or a portion of matter in an item (or other unit) in a new tariff and the matter remaining in effect in a prior tariff thereby becomes an integral part of such item (or other unit) of the new tariff, the entire item (or other unit) of the new tariff may be republished in the supplement announcing the suspension, provided there is shown in such item (or other unit) (i) the matter continued in effect by reason of the order of suspension, (ii) the suspended matter, and (iii) all other provisions of the item (or other unit) without change and appropriately indicated as reissued from the new tariff (see note following this subparagraph). The matter held in force by the order of suspension must be identified as such and shown as expiring with the date to which the suspended matter has been postponed. The suspended matter immediately following likewise must be identified as such and shown as effective on the day following the expiration of the matter held in force by the order of suspension. When the effective date of suspended matter has been indefinitely postponed, that fact must be stated by appropriate language.

NOTE: The form of publication permitted by the immediately preceding subparagraphs (8) and (9) may be used only when it permits complete cancellation of the tariff containing the matter continued in effect by the order of suspension. It may not be used in loose-leaf tariffs nor where the application of matter continued in effect depends in whole or in part upon other provisions, such as station grouping, rules or regulations, which differ from those in the new tariff and which cannot be brought forward in the supplement announcing suspension.

(10) When a revised (not an original) loose-leaf page, a portion of which is under suspension, is reissued, the new revised page shall (i) include the matter continued in effect by reason of the order of suspension, (ii) cancel the page previously containing such matter, and (iii) cancel the loose-leaf page containing the suspended matter "except portions under suspension in I. & S. Docket No. ----, viz. (identifying the suspended portion by item and page number)."

(11) Neither a suspended tariff provision nor a provision held in force by reason of an order of suspension may be changed or canceled except by order or permission of the Commission.

(12) When the Commission vacates an order of suspension, or when suspended matter has been voluntarily postponed beyond the term of the Commission's order, and the Commission finds the suspended matter justified, a supplement may be filed making the suspended or postponed matter effective on one day's notice unless the Commission directs otherwise.

(13) When an order which suspended a tariff in its entirety is vacated or the Commission formally finds that the suspended tariff is justified, the vacating supplement filed under authority of this section also may include as reissues, any changes or additions which in the interim have been made in the tariff which was held in force by the order of suspension. If by special permission a new tariff has been filed during the period of suspension, canceling the tariff proposed to be canceled by the suspended tariff, any changes or additions published in the new tariff which are not included in the suspended tariff likewise may be included in the vacating supplement as reissued items, but in such cases the vacating supplement also must cancel the new tariff. No other matter may be included in vacating supplements. When reissued matter is published in a vacating supplement, the vacation notice must be printed in not less than 8-point type, either on the title page or immediately preceding the particular tariff matter to which the notice applies.

(14) When a tariff has been canceled, except portions under suspension, by a new tariff, and the Commission vacates its suspension order and/or formally finds the suspended matter justified, after the new tariff has become effective, a supplement may be filed to the new tariff on not less than one day's notice (unless the Commission directs otherwise), republishing and establishing the suspended matter and canceling the matter which was effective during the period of suspension, together with the matter under suspension in the former issue. When the Commission vacates its suspension order and/or formally finds the suspended matter justified before the new tariff becomes effective, a vacating supplement as provided in this section should be filed to the old tariff, and a supplement also should be filed to the new tariff on not less than one day's notice (unless the Commission directs otherwise), establishing therein the matter which was under suspension in the old tariff. A supplement common to both tariffs as authorized by paragraph (f) of this section may be issued for this purpose.

(15) When the Commission suspends matter in a tariff or supplement thereto and thereafter orders its cancellation, the cancellation shall become effective upon not less than one day's notice (unless the Commission directs otherwise), by supplement to or reissue of the tariff. When the Commission orders suspended matter canceled and the final date for compliance is subsequent to the date to which the matter has been postponed, carriers should endeavor to make the cancellation in time to prevent the fares or other provisions which have been

found not justified from becoming effective. If this is not done and the suspended matter becomes temporarily effective, it is necessary, when cancellation is effected, to republish and reestablish the matter which was continued in force by reason of the order of suspension.

(16) Every suspension, vacating, and cancellation supplement issued under authority of this section must bear on its title page the following notation:

Issued under authority of § 145.8 (1) of Tariff Circular 24 and in compliance with decision of the Interstate Commerce Commission in I. & S. Docket No. ---- of (date).

Postponement supplements issued under authority of this section must show on the title page:

Issued upon ---- days' notice under authority of § 145.8 (1) of Tariff Circular 24.

(17) Supplements issued under authority of this paragraph will not be counted against number of effective supplements or the volume of supplemental matter permitted under paragraph (e) of this section, but must be listed among the effective supplements as required by paragraph (a) (2) of this section.

(18) The provisions of the foregoing subparagraphs of this paragraph relating to suspension, postponement, vacating, and cancellation supplements also will govern in connection with tariffs issued in loose-leaf form, except that such supplements must not contain any other matter. All changes made in loose-leaf tariffs must be published on revised pages (see § 145.6).

§ 145.9 [Reserved.]

§ 145.10 *Index of tariffs*—(a) *Tariffs to be included.* (1) Each carrier, except as otherwise provided, shall publish under proper I. C. C. number, post and file, a complete index of all tariffs issued by it or to which it is a party as an initial carrier which are in effect on the date of issue of the index or which have been filed with the Commission to become effective at a later date; except that a carrier which issues not more than five tariffs in its own I. C. C. series need not file an index if such tariffs contain only local fares, rates, and charges, and the rules and regulations applicable in connection therewith.

(2) Tariffs which remain in effect for a period less than thirty days may be omitted from the index.

(3) If the carrier so desires, lists of its intrastate tariffs, division sheets, official circulars, and the numbers of its tariffs or division sheets may be shown in the index.

(b) *Contents.* (1) The index shall show: I. C. C. number; full or abbreviated name of issuing carrier, tariff-publishing bureau or agent; a brief description of the character of the tariff; a concise statement of the territory from and to which the tariff applies.

(2) The index also shall contain a complete list of the effective tariffs of the carrier's own I. C. C. series arranged in numerical order, except that if the total number of effective tariffs is less than 20, such list may be omitted.

(c) *Joint index.* A carrier may issue for itself and its family lines under proper form of concurrence a joint index. In similar manner, an agent, acting under power of attorney for each of a group of carriers, may issue a joint or consolidated index of tariffs of such carriers. The joint or consolidated index must contain all information for each participating carrier that is required to be shown in a separate index of the carrier's issue.

(d) *Revisions and supplements.* The index shall be revised to reflect changes, either by reissue each three months, or by supplement which need not be issued oftener than every three months and reissue of the index at least every twenty-four months. Supplements must show additions, changes, and cancellations made in the index itself or in prior supplements by reference to the pages, or index number, if used, where the entry is to be added or where the changed or canceled entry appears. Supplements may be issued without regard to volume of supplemental matter permitted by § 145.8 (e), and not more than three supplements may be in effect at any time.

(e) *Notation on title page; no effective date.* The title page of an index (or a supplement thereto) must bear the notation: "This index (or as amended by this supplement) contains list of tariff publications in effect -----"

(Date, the same as date of issue)

----- or which have been filed to become effective at a later date as shown within." The title page shall bear date of issue but no effective date. Section 145.11 (b) requiring thirty days filing notice does not apply to indexes or supplements thereto.

(f) *Consolidated passenger and freight index.* One index containing both passenger and freight tariffs may be filed; in which event, the information required by the regulations governing each type of index must be shown in separate sections, the index must be given an I. C. C. number in both the freight and passenger series, and four copies must be filed with the Commission. The regulations governing the issuing of supplements and reissue of the index applying to the freight tariff index will govern the supplementing and reissue of a passenger and freight tariff index.

§ 145.11 *Filing Tariffs; rejections*—

(a) *Who may file.* Tariffs shall be published and filed by carriers either directly or through duly authorized tariff-publishing agents. When filed directly by a carrier, the concurrence (or power of attorney as authorized in § 145.13 (f)), and when filed by an agent, the power of attorney, of every carrier participating therein must be filed or on file with the Commission. (See §§ 145.12 to 145.15, inclusive.)

(b) *Agent shall file under own I. C. C. number.* A tariff publishing agent must file tariffs under his (or its) own single series of I. C. C. numbers and not in the series of any of his (or its) principals. If the agent is a corporation or an unincorporated association (see § 145.12 (a)), having jurisdiction over two or more tariff-publishing organizations, bu-

reus, or committees, the tariffs issued through each such tariff-publishing organization may bear a separate series of I. C. C. numbers.

(c) *Tariffs to bear consecutive I. C. C. numbers.* I. C. C. numbers shall be assigned to tariffs in consecutive numerical order and, insofar as possible, tariffs should be filed with the Commission in that order. If for any reason a tariff is filed with the Commission, the I. C. C. number of which is not consecutive with the last tariff filed, such tariff should be accompanied by a memorandum explaining as to the missing number or numbers.

(d) *One filing for all participating carriers.* Tariffs must be filed with the Commission by the issuing carrier or agent, and such filing will constitute filing for all of the carriers parties thereto. The agent or carrier that issues a joint tariff shall at once send copies thereof to each carrier that is named as a party thereto. (See § 145.34 relating to posting requirements.)

(e) *Conflict between tariffs, avoidance.* A carrier that grants authority to an agent or to another carrier to publish and file certain of its fares or other provisions must not in tariffs of its own issue publish fares or other provisions which conflict with or duplicate those published by such agent or carrier. (See § 145.4 (f) (10).)

(f) *Period of notice.* (1) The act requires that all changes in fares, rates, or charges, or in rules that affect fares, rates, or charges, shall be filed with the Commission at least thirty days before the date they are to become effective unless otherwise authorized by the Commission. Manifestly it is impossible for the Commission to check the contents of tariffs to determine whether statutory notice has been given. Therefore, except as otherwise authorized by the Commission, thirty days' notice to the public and to the Commission must be given as to every tariff publication filed with the Commission, regardless of whether or not changes are effected thereby.

(2) A supplement in which all changes are made on less than statutory notice under authority of this part, special permission or other order of the Commission, and which supplement also contains provisions reissued without change may show on its title page the short-notice effective date so authorized for the changed matter, provided all reissued matter shows the original effective date. The notation required by § 145.3 (e) (1) must be shown in connection with the effective date on the title page of the supplement.

(g) *Changes, 30 days' effectiveness required; expiration dates.* (1) After notice of a change in fares, rates or other tariff provisions has been published and filed, the new fares, rates or other provisions, unless they can be changed or canceled on or before their published effective date on thirty days' notice, must be allowed to go into effect, and fares, rates, or other provisions which have become effective cannot be changed or canceled for at least thirty days after their effective date, except as otherwise authorized by rule, decision or order of the Commission.

(2) A tariff or a part thereof may provide that it will expire with a date specified therein and which is at least thirty days subsequent to the date upon which it becomes effective, and this will be legal notice of the cancelation of such tariff or part of a tariff, except that the expiration date of a tariff or a part thereof issued under authority of §§ 142.22 and 145.25 may be less than thirty days subsequent to the date upon which it becomes effective.

(3) A tariff or a part thereof which provides that it will expire upon a specified date may be amended in the regular way and upon lawful notice, even though such amendment will not remain in effect for thirty days prior to the date of expiration.

(h) *Liability of carrier not relieved by filing of tariffs.* The law affirmatively imposes upon each carrier the duty of filing with the Commission and posting for public inspection all of its tariffs and amendments thereto in the manner prescribed in the act or in any rule which may be promulgated by the Commission. A penalty is provided for failure to do so or for using any fare or charge which is not contained in its lawfully filed tariffs. The receipt and filing of a tariff or supplement does not relieve the carrier from liability for violation of the act or of regulations issued thereunder.

(i) *Promulgation of fares prescribed by Commission.* (1) Fares, rates, charges, rules or regulations prescribed by the Commission in its decisions and orders in formal cases shall be promulgated by the carriers against which such orders are entered, in duly published and posted tariffs, loose-leaf pages, or supplements, and notice shall be sent to the Commission that its decision (or order) in Docket No. ----, has been complied with in item ----, page ----, of ---- tariff, I. C. C. No. ---- or supplement No. ---- to ---- tariff, I. C. C. No. ----.

(2) Unless otherwise specified in the decision or order in the case, such tariff, loose-leaf page, or supplement must be made effective upon statutory notice to the Commission and to the public. Whether made effective on less than statutory notice under special permission authority granted in the decision or order in the case, or upon statutory notice, when an entire tariff or supplement is issued in compliance with a decision or order, such tariff or supplement shall bear on its title page the notation "In compliance with decision (or order) of Interstate Commerce Commission in Docket No. ----." Whenever possible, the notation should include reference to the volume and page number of the report of the Interstate Commerce Commission. If the decision or order of the Commission affects only portions of the tariff or supplements, the notation shall be shown in connection with each portion so affected.

(j) *Number of copies; address.* (1) Two copies of each tariff shall be filed with the Commission, both copies to be filed together under one letter of transmittal. They must be addressed to the Interstate Commerce Commission, Washington 25, D. C., with the envelope marked as containing "Tariffs."

(2) No tariff will be received by the Commission unless it is delivered to it free of all charges, including claims for postage.

(k) *Letter of transmittal.* (1) All tariff publications filed with the Commission shall be accompanied by a letter of transmittal 8 x 10½ inches in size, in form substantially as follows:

[Correct name of carrier]
[Post Office Address]

(Date)

Transmittal No. -----
To the Interstate Commerce Commission,
Washington 25, D. C.

Accompanying schedule is sent you for filing in compliance with the requirements of the Interstate Commerce Act, issued by -----, and bearing tariff ----, I. C. C. ----; Supp. ---- to I. C. C. ----; Revised Page ---- to I. C. C. ----; effective -----, 19--; and is concurred in by all carriers named therein as participants under continuing concurrences or authorizations now on file with the Interstate Commerce Commission, except the following-named carriers, whose concurrences are attached hereto:

(Signed) -----
(Title) -----

(2) A separate letter may accompany each schedule, or the form may be modified to provide for filing under one letter as many schedules as can be conveniently entered. In filing blanket supplements a copy of the blanket supplement may be attached to the letter of transmittal as a part thereof in lieu of listing in the body of the letter of transmittal each supplement and tariff supplemented. When this is done, the statement "(See exhibit attached)" should be inserted in the body of the letter of transmittal where supplement numbers usually are listed. Separate letters must be used for freight and passenger schedules. If receipt for accompanying schedule is desired, the letter of transmittal must be sent in duplicate, and one copy showing the date of receipt by the Commission will be returned to the sender.

(1) [Reserved.]

(m) *Rejection of tariffs or notices of revocation.* (1) Any tariff or schedule tendered for filing, which fails to give lawful notice of changes in fares, rates, charges, or other provisions which it proposes to establish, or which fails to meet the requirements of the regulations, contained in this part, or violates any order of the Commission or of a court, is subject to rejection by the Commission. When a tariff or schedule is rejected, the Commission, acting through a designated administrative officer, will inform the carrier or the agent who tendered it for filing, in writing, of the reasons for rejection, and will return the rejected tariff or schedule to such carrier or agent.

(2) The number assigned to the tariff or schedule that has been rejected may not again be used. The rejected tariff or schedule may not be referred to in any subsequent tariff or schedule as having been canceled, amended or withdrawn, but the tariff or schedule that is published in its stead must bear the following notation: "Issued in lieu of (here,

identify the rejected schedule or tariff), rejected by the Commission."

(3) A notice of the revocation, complete or partial, of a concurrence or power of attorney which, if it were to become effective, would require the establishment of fares, rates, or charges in violation of an order of the Commission or of a court, or of the regulations contained in this part, may be rejected in the same manner as a tariff or schedule, and any such notice of revocation which would require the establishment of fares, rates or charges of doubtful lawfulness may be suspended.

(n) *Tariffs filed not returned, unless rejected.* Tariff publications received for filing will not be returned unless rejected in accordance with paragraph (m) of this section.

§ 145.12 *Tariffs issued through an agent—(a) Agents: natural persons, corporations, or associations.* If a carrier desires to issue a tariff or tariffs through an agent, it may do so by filing with the Commission an appropriate power of attorney to the designated agent. Agents may be either natural persons, corporations, or unincorporated associations whose articles of association (or other form of agreement) have been approved by the Commission in a proceeding pursuant to the provisions of section 5a, Part I, of the Interstate Commerce Act. An officer or employee of an incorporated tariff-publishing agent may not act as an agent in his individual capacity for the publication of tariffs.

(b) *Designation of issuing officer.* When an association or corporation has been appointed an issuing agent, the executive head thereof shall at once notify the Commission of the name of the individual who is to be responsible for the actual compilation and filing of each I. C. C. series of tariffs issued by the agent. There may be only one issuing officer for each such series of tariffs, and the same individual may not act as issuing officer for more than one series without the special permission of the Commission. When an issuing officer is replaced, the Commission shall be immediately notified in like manner of his successor.

(c) *Alternate agent.* When a natural person is authorized by power of attorney to act as a tariff-publishing agent, such instrument shall designate another natural person to act as alternate agent in the event of the death or disability of the principal agent. On or before the date of filing of the first tariff or supplement by the alternate agent under the authority granted in the instrument, such alternate agent shall notify the Commission in writing that death or disability of the principal agent has occurred and that he, the alternate agent, will thereafter act until the appointment of a new principal agent. The term "disability" as used in the instrument means resignation, permanent transfer to other duties, or other permanent absence of the principal agent. After an alternate agent has once exercised the authority granted by the instrument,

the principal agent may not thereafter act under that instrument.

§ 145.13 *Powers of attorney — (a) Publishing agent.* (1) A power of attorney shall be used by a carrier to give to a publishing agent, but not to another carrier, authority to publish and file passenger tariffs and supplements for it, except that a carrier may give a power of attorney to another carrier in the circumstances and subject to the conditions stated in paragraph (f) of this section. Powers of attorney given to publishing agents may be either unlimited or limited, and in the case of corporations or unincorporated associations comprised of more than one bureau, committee or regional organization, the power of attorney may consist of multiple instruments, such instruments to define separately the authority to be exercised by each component bureau, committee or regional organization.

(2) A carrier may not have in effect at the same time an unlimited power of attorney and a limited power of attorney in favor of the same agent for use by the same bureau, committee, or regional organization.

(b) *Unlimited power of attorney form.* (1) An unlimited power of attorney, when given to a publishing agent, authorizes the agent to file any passenger tariff in which the carrier giving the power is a participating carrier. Form PA1 confers unlimited authority to publish local fares and charges for the carrier issuing the power and to publish joint fares and charges for such carrier and such other carriers as have issued the necessary authority.

(2) The following form of power of attorney, PA1, shall be used to give such unlimited powers:

POWER OF ATTORNEY

PA1 No. --
Cancels ---- No. --

(Name of Carrier)

(Mail Address)

(Date)

Know All Men by These Presents:

That the [full and correct name of carrier] has made, constituted, and appointed, and by these presents does make, constitute, and appoint [name of principal agent] its true and lawful attorney and agent, to file in its name, place, and stead, (1) for it alone, and (2) for it jointly with other carriers [through its (name of bureau, committee, or regional organization, if any)], passenger tariffs and supplements thereto, as required of common carriers by existing laws and regulations established thereunder. And does hereby give and grant unto its said attorney and agent full and unlimited power and authority to do and perform all and every act and thing above specified as fully, to all intents and purposes, as if the same were done and performed by the undersigned carrier itself, and does hereby assume full responsibility for the acts and failures to act of said attorney and agent.

And, further, that the undersigned carrier does hereby make and appoint [name of alternate agent] alternate attorney and agent to do and perform the same acts and exercise the same authority herein granted to the principal agent in the event and only in the

event of the death or disability of the above-named principal agent.

(Name of Carrier)
By -----
Its -----
(Title)

Duplicate mailed to:
(Name of Agent)
(Address)

(c) *Limited power of attorney form.* (1) A power of attorney may be limited in any appropriate manner provided the limitations are specifically and unambiguously expressed in the instrument. For example, the agent may be authorized to publish only local fares, only joint fares, only specified rates and charges, or fares and charges in a specified territory, or only specified tariffs or types of tariffs. (2) The following power of attorney, Form PA2, shall be used to give such limited authority:

POWER OF ATTORNEY

PA2 No. --
Cancels ---- No. --

(Name of Carrier)

(Mail Address)

(Date)

Know All Men by These Presents:

That the [full and correct name of carrier] has made, constituted, and appointed and by these presents does make, constitute and appoint [name of principal agent] its true and lawful attorney and agent, to file in its name, place, and stead, (1) for it alone, and (2) for it jointly with other carriers [through its (name of bureau, committee, or regional organization, if any)], passenger tariffs and supplements thereto and successive reissues thereof, as required of common carriers by existing laws and regulations established thereunder, but only as hereinafter specified:

(Here specify affirmatively the precise authority given to the agent)

And does hereby give and grant unto its said attorney and agent full power and authority to do and perform all and every act and thing above specified as fully, to all intents and purposes, as if the same were done and performed by the undersigned carrier itself, and does hereby assume full responsibility for the acts and failures to act of said attorney and agent.

And, further, that the undersigned carrier does hereby make and appoint [name of alternate agent] alternate attorney and agent to do and perform the same acts and exercise the same authority herein granted to the principal agent in the event and only in the event of the death or disability of the above-named principal agent.

(Name of Carrier)
By -----
Its -----
(Title)

Duplicate mailed to:
(Name of Agent)
(Address)

(d) *Manner of execution.* (1) In the blank space for the name of the carrier in Forms PA1, PA2, and PA3, there must be shown, if the carrier is an individual, the individual name followed by the trade name, if any. If the carrier is a partnership, the correct names of all partners must be given, followed by the

trade name, if any. If the carrier is a corporation, the correct corporate name must be used.

(2) If the carrier is an individual, the power of attorney must be signed by the individual. If a partnership, the power of attorney must be signed individually by each partner. If the carrier is a corporation, the power of attorney must be signed by the president, a vice president, or any other authorized official of the carrier. However, before the signature of an employee other than the president or a vice president on a power of attorney will be recognized by the Commission, the carrier must file with the Commission, over the signature of the president or a vice president, a statement reciting that the individual is authorized to sign powers of attorney. The statement must include a specimen signature of the individual or individuals so designated. The authority to sign powers of attorney may be conferred, in the manner described, on more than one official of the carriers. If the carrier is being operated by trustees or receivers, the power of attorney must be signed by each trustee or receiver individually or by his or their designee. Trustees or receivers may invest others with the authority to sign in the same manner as the president or vice president of a corporation may confer the authority on subordinate officials.

(3) If the agent appointed by either PA1 or PA2 is a corporation or an unincorporated association, the last full paragraph of the form shall be omitted.

(e) Joint agents. If an agent does not hold the requisite authority to publish a particular tariff, the authority to do so may be obtained by pooling the authority held by him with that held by one or more other agents, and the tariff may be published jointly by both or all such agents in the I. C. C. series of each. For example, if one agent has authority to publish fares only from territory A to territory B, and another agent has authority to publish fares only from territory B to territory A, the fares may be published in a single tariff on a "between" basis and filed with the Commission as a joint tariff of both agents under the I. C. C. series of each.

(f) Carrier acting for another carrier.

(1) A power of attorney may be given by small carriers to large carriers with which they connect, or by subsidiary to parent carriers, authorizing the large or parent carriers to publish tariffs, to give and receive concurrences, and to give powers of attorney to agents, all in behalf of the small or subsidiary carrier. The authority granted may be unlimited, as in the form which follows (Form PA-3), or it may be limited in any appropriate manner, provided the limitations are specifically and unambiguously expressed in the instrument. When a PA3 form of power of attorney has been given, the granting carrier may not thereafter do in its own behalf anything which it has authorized the grantee carrier to do in its stead. Concurrences and powers of attorney given by the grantee carrier, however, will be deemed to be given on its own behalf only, unless the instrument expressly recites that it is given or is also given, in behalf

of the carrier for which it holds power of attorney. When a PA3 form of power of attorney authorizes the grantee carrier to publish and file tariffs in which the granting carrier is a participant, the grantee carrier need not give a concurrence to itself in behalf of the granting carrier.

(2) The following form of power of attorney, Form PA3, shall be used by a carrier to give authority to another carrier. When the authority is to be limited in any way, the form should be altered to the extent necessary.

POWER OF ATTORNEY
PA3 No. --
Cancels ---- No. --
(Name of Carrier)
(Mail Address)
(Date)

Know All Men by These Presents:

That the [name of granting carrier] has made, constituted, and appointed, and by these presents does make, constitute, and appoint [name of grantee carrier] its true and lawful attorney and agent (1) to issue in its name, place and stead powers of attorney to tariff-publishing agents, (2) to give and receive in its name, place and stead concurrences in tariffs of other carriers, and (3) to publish and file, or cause to be published and filed, passenger tariffs and supplements thereto and successive reissues thereof, in which the undersigned carrier is a participant, all as required of common carriers by existing laws and regulations established thereunder. And the undersigned carrier does hereby give and grant unto its said attorney and agent, full, sole and exclusive power and authority to do and perform all and every act and thing above specified for and on behalf of the undersigned carrier as fully, to all intents and purposes, as if the same were done and performed by the undersigned carrier itself, and does hereby assume full responsibility for the acts and failures to act of its attorney and agent.

(Name of Carrier)
By -----
Its -----
(Title)

Duplicate mailed to:
(Name and Title of Officer)
(Name of Carrier)
(Address)

§ 145.14 Concurrences. (a) A carrier desiring to become a participant in a tariff or tariffs issued by another carrier (not by an agent) may do so by filing with the Commission a limited or unlimited concurrence (except as provided in § 145.13 (f)) in one of the four following forms. In forms PC2 and PC4 the limitations must be specifically and unambiguously expressed.

(1) Form PC1, which follows, is unlimited and covers all passenger tariffs applying on traffic moving from, to, via or at points on the line of the carrier giving the concurrence:

CONCURRENCE
PC1 No. --
Cancels ---- No. --
(Name of Carrier)
(Mail Address)
(Date)

To the Interstate Commerce Commission,
Washington 25, D. C.

This is to certify that [name of carrier issuing concurrence] assents to and concurs in all passenger tariffs and supplements thereto, filed by [name of carrier to which concurrence is given] in which the undersigned carrier is shown as a participant, and the undersigned carrier hereby makes itself a party thereto and bound thereby insofar as such tariffs apply from, to, via or at points on its lines, until this authority is revoked by formal notice of revocation filed with the Interstate Commerce Commission and sent to the carrier to which this concurrence is given.

(Name of Carrier)
By -----
Its -----
(Title)

Duplicate mailed to:
(Name and Title of Officer)
(Name of Carrier)
(Address)

(2) Form PC2 covers passenger tariffs applying on limited but affirmatively specified traffic moving from, to, via, or at points on the line of the carrier giving the concurrence. The form follows:

CONCURRENCE
PC2 No. --
Cancels ---- No. --
(Name of Carrier)
(Mail Address)
(Date)

To the Interstate Commerce Commission,
Washington 25, D. C.

This is to certify that [name of carrier issuing concurrence] assents to and concurs in all passenger tariffs and supplements thereto, filed by [name of carrier to which concurrence is given] in which the undersigned carrier is shown as a participant, but only to the extent that such tariffs apply:

(Here affirmatively state the limitations, such as designating the points to and/or from and/or at which, the limited territory within which, or the specific publication(s) or series of tariffs to which, the concurrence shall be applicable)

And the undersigned carrier hereby makes itself a party thereto and bound thereby insofar as such tariffs apply from, to, via or at points on its lines, until this authority is revoked by formal notice of revocation filed with the Interstate Commerce Commission and sent to the carrier to which this concurrence is given.

(Name of Carrier)
By -----
Its -----
(Title)

Duplicate mailed to:
(Name and Title of Officer)
(Name of Carrier)
(Address)

(3) Form PC3 is restricted to passenger tariffs applying on traffic moving to points on or via the line of the carrier giving the concurrence but is not otherwise limited. The form follows:

CONCURRENCE
PC3 No. --
Cancels ---- No. --
(Name of Carrier)
(Mail Address)
(Date)

To the Interstate Commerce Commission,
Washington 25, D. C.

This is to certify that [name of carrier issuing concurrence] assents to and concurs in all passenger tariffs or supplements thereto filed by the [name of carrier to which concurrence is given] in which the undersigned carrier is shown as a participant, and hereby makes itself a party thereto and bound thereby, insofar as such tariffs or supplements contain rates or other provisions applying via its lines and to, but not from or at, points thereon, until this authority is revoked by formal notice of revocation filed with the Interstate Commerce Commission and sent to the carrier to which this concurrence is given.

(Name of Carrier)
By -----
Its -----
(Title)

Duplicate mailed to:
(Name and Title of Officer)
(Name of Carrier)
(Address)

(4) Form PC4, which follows, covers passenger tariffs applying on limited but affirmatively specified traffic moving to points on or via the line of the carrier giving the concurrence.

CONCURRENCE
PC4 No. ---
Cancels --- No. ---

(Name of Carrier)

(Mail Address)

(Date)

To the Interstate Commerce Commission,
Washington 25, D. C.

This is to certify that [name of carrier issuing concurrence] assents to and concurs in all passenger tariffs or supplements thereto filed by [name of carrier to which concurrence is given] in which the undersigned carrier is shown as a participant, but only to the extent that such tariffs apply:

(Here affirmatively state the limitations, such as designating the points to or the lines over which, the limited territory within which, or the specific publication(s) or series of tariffs to which, the concurrence shall be applicable)

And the undersigned carrier hereby makes itself a party to such tariffs and bound thereby insofar as such tariffs or supplements contain fares or other provisions, applying via its lines and to, but not from or at, points thereon, until this authority is revoked by formal notice of revocation filed with the Interstate Commerce Commission and sent to the carrier to which this concurrence is given.

(Name of Carrier)
By -----
Its -----
(Title)

Duplicate mailed to:
(Name and Title of Officer)
(Name of Carrier)
(Address)

(b) Concurrences shall be personally signed by any official of the issuing carrier.

(c) If a carrier has been authorized by power of attorney to issue concurrences in behalf of one or more small or subsidiary carriers (see § 145.13 (f)), the carrier holding such authority may by a single instrument issue a concurrence in its own behalf and in behalf of any or all of such small or subsidiary carriers.

§ 145.15 *Filing of powers of attorney and concurrences.* (a) If a power of attorney or concurrence is issued subsequent to the date of the filing of the tariff with the Commission, the original instrument shall be forwarded directly to the Commission with a copy to the issuing agent or carrier, but if it is issued prior to or concurrently with the issuance of the tariff, the original instrument may either be forwarded directly to the Commission, or it may be sent to the carrier or agent issuing the tariff and be transmitted by it or him to the Commission with the tariff. (For exceptions see §§ 145.17 and 145.18 (a).)

(b) Powers of attorney, concurrences, amendments thereto and revocation notices shall be printed or typed on paper of good quality, 8 x 10½ inches, and must show the date on which they are issued. Each power of attorney and concurrence shall bear a form and serial number, the serial numbers to run consecutively for each form of instrument. Concurrences issued by a carrier jointly in its own behalf and in behalf of one or more other carriers (see § 145.13 (f)) may, if desired, be issued under a separate series of numbers. The form and serial numbers shall be shown on the upper right-hand corner, and immediately thereunder shall be shown the form and number of the power of attorney or concurrence, if any, which is canceled thereby. If the instrument to be canceled contains more authority or is broader in scope than the new instrument, such new instrument must in addition to the date of issue, bear an effective date at least 60 days after the date on which it is received by the Commission. When the new instrument is the same or broader in scope than the instrument which it cancels, it becomes effective when filed with the Commission. The instrument also shall show, in the lower left-hand corner, the name, title and address of the person to whom the duplicate is sent.

§ 145.16 *Certificate stating correct name of carrier to be filed.* When a corporate or partnership carrier files its first tariff, power of attorney or concurrence, it also shall file a certificate stating the precisely correct name of the carrier as it appears in the charter or articles of incorporation, or in the articles of co-partnership, as the case may be. If, for example, the article "The" is a part of the carrier's name, if the conjunction "and" appears therein as "&", or if the word "Company" is abbreviated to "Co.", the certificate must so indicate.

§ 145.17 *Transfer of authority from one agent to another agent.* (a) When it is desired to transfer authority from one agent to another agent superseding the former agent as to all such agent's effective tariffs, the transfer shall be accomplished by filing a new power of attorney naming the agent (and alternate when the new agent is a natural person) thereafter to serve, which shall specifically cancel the previous instrument or instruments, by including the following in the power of attorney to the new agent:

This power of attorney cancels the following power(s) of attorney:

Power of attorney form and number	In favor of
(Insert power of attorney forms and numbers)	(Insert name of agent and alternate)

(b) Under all other conditions the power of attorney must be revoked in accordance with § 145.21 (b).

(c) The originals of such powers of attorney shall not be sent immediately to the Commission, but shall be forwarded to the new agent, who, after all the necessary instruments shall have been secured, shall file all of the originals with the Commission at one time. The new agent may file no tariffs with the Commission until the powers of attorney from all of the carriers shown therein as participants have been so filed.

§ 145.18 *Procedure when one publishing agent succeeds another.* (a) When powers of attorney have been issued to a natural person and his alternate, and death or disability of either the principal agent or the alternate occurs, new powers of attorney shall be filed with the Commission within 180 days, canceling the previous instruments and designating the new agent (and also his alternate if the new agent is a natural person) thereafter to serve. If the filing of the new instruments is occasioned by the death or disability of the former alternate, the new instruments may, if desired, continue the former principal agent and designate a new alternate only. Likewise if death or disability of the principal agent has occurred it is permissible to continue the former alternate agent in the new instruments and designate a new principal agent only. As soon as the instruments appointing the new agent are filed the alternate agent who in the interim has acted may no longer do so. The new powers of attorney shall not be forwarded directly to the Commission, but shall be collected by the new agent and forwarded to the Commission together, as provided in § 145.17. The new agent may not file a tariff for any carrier until that carrier's power of attorney to him is on file with the Commission.

(b) In the first amendment to each tariff issued by the alternate agent after the death or disability of the principal agent, there shall be shown a statement reading substantially as follows: "On and after (show here the date on which the principal agent ceased to act) this publication shall be considered as the issue of -----, Alternate Agent".

(c) A new agent, on or after the filing of his or its authorities, shall include in the next supplement to each of the effective tariffs previously taken over by the alternate agent a statement reading substantially as follows: "On and after (show here the date on which the new authorities are filed with this Commission), this publication shall be considered as the issue of -----, Agent".

§ 145.19 *I. C. C. numbers of tariffs issued by a new agent or alternate agent.* Tariffs issued by a new agent may be, and those issued by an alternate agent must be, numbered in the I. C. C. series of the former agent. If it is desired to number the tariffs of a new agent in a different I. C. C. series, this may be done as to new or reissued tariffs, but amendments (supplements or revised pages) to tariffs issued by the former agent must be continued in the original series.

§ 145.20 *Powers of attorney and concurrences in special situations—(a) Joint concurrences.* If joint concurrences are issued in behalf of two or more carriers by the same tariff officer, all concurrences in each series must be issued on behalf of all such carriers, except as to concurrences interchanged between those carriers. If concurrences in a single series are issued separately for different carriers, separate files in that series must be maintained for each carrier, and concurrences of each carrier must be issued in consecutive numerical order as required by § 145.15 (b).

(b) *When operation discontinued or taken over by another carrier.* Powers of attorney and concurrences issued in favor of a carrier which has discontinued operations should be revoked within 120 days after such discontinuance. If its operations have been taken over by another carrier, all effective powers of attorney and concurrences should be canceled within 120 days either by new issues or revocation notices.

NOTE: This rule applies, among other situations, when an incorporated carrier is placed in the hands of trustees or receivers and is thereafter reorganized. When trustees or receivers are appointed they normally assume, and the corporation discontinues, operations; and thereafter, following reorganization, operations again pass from the receivers or trustees to the reorganized corporation.

(c) *Forms for tariffs joint with motors.* Powers of attorney and concurrences authorizing the publication of joint rail-motor or water-motor tariffs and supplements shall be issued on the standard PA and PC forms described in §§ 145.13 and 145.14.

§ 145.21 *Amendment and revocation of powers of attorney and concurrences—(a) Amendments.* (1) A power of attorney on Forms PA2 or PA3 or a concurrence on Forms PC2 or PC4 may be amended by issuing an "Amendment to Power of Attorney," or "Amendment to Concurrence," respectively. However, only four amendments to any one power of attorney or concurrence will be permitted. The amendment must specify with particularity the exact change in the scope of the powers or the authority conferred, by appropriate reference by number to the power of attorney or concurrence affected, by identification by I. C. C. and agent's or carrier's number of the tariff or tariffs affected, and by a detailed description of the traffic or territory affected.

(2) If an amendment to a power of attorney or to a concurrence reduces the scope of the original instrument, such amendment must bear in addition to the date of issue, an "effective" date at least

60 days after the date on which it is received by the Commission. If the amendment adds to or increases the scope of the original power of attorney or concurrence, no notice is required and it becomes effective when filed with the Commission. (See paragraph (e) of this section.)

(i) The form of an "Amendment to Power of Attorney" is as follows:

AMENDMENT TO POWER OF ATTORNEY
 Amendment No. --
 To PA ---- No: --

 (Name of Carrier)

 (Mail Address)

 (Date)
 Know All Men by These Presents:
 Effective -----, the undersigned
 (Date)
 hereby amends the above-numbered power
 of attorney, in the following respects:

 (Name of Carrier)

 By -----
 Its -----
 (Title)

Duplicate mailed to:
 (Name of Agent or Carrier)
 (Address)

(ii) The form of an "Amendment to Concurrence" is as follows:

Amendment No. --
 To PC ---- No. --

 (Name of Carrier)

 (Mail Address)

 (Date)
 To the Interstate Commerce Commission,
 Washington 25, D. C.
 The undersigned hereby amends PC -- No.
 -- in the following respects:

 (Name of Carrier)

 By -----
 Its -----
 (Title)

Duplicate mailed to:
 (Name of Carrier)
 (Address)

(b) *Revocations.* A power of attorney or a concurrence may be revoked upon not less than 60 days' notice by filing a Notice of Revocation with the Commission and serving at the same time a copy thereof on the agent, in the case of powers of attorney on Forms PA1 and PA2, or on the carrier in whose favor the instrument was executed, in the case of concurrences or powers of attorney on PA3. Such notice shall not bear a separate serial number, but shall specify the form and number of the power of attorney, or the form and number of the concurrence, to be revoked, shall name the agent, and alternate agent, if any, or the carrier, in whose favor the instrument was executed, and shall specify a date upon which revocation is to become effective. (See paragraph (e) of this section.)

(c) *Corresponding revision of tariff.* When a power of attorney or concurrence is revoked, corresponding revision of the tariff or tariffs must be made not later than the effective date stated in the

notice of revocation. If the tariff or tariffs are not so amended, the fares, rates, and other provisions therein remain effective and must be protected by the carrier or carriers responsible for their continued maintenance.

(d) *Forms for revocations.* Revocation notices shall be in one of the following forms, as appropriate:

REVOCATION NOTICE
 (Power of Attorney)

 (Name of Carrier)

 (Mail Address)

 (Date)

Know All Men by These Presents:
 Effective -----, power of attorney
 (Date)
 PA -- No. --, issued by -----
 (Name of carrier is-
 suing power of attorney)

 (Name of carrier, or agent (and alternate)
 if any)
 is hereby canceled and revoked.

 (Name of Carrier)
 By -----
 Its -----
 (Title)

Duplicate mailed to:
 (Name of Agent or Carrier)
 (Address)

REVOCATION NOTICE
 (Concurrence)

 (Name of Carrier)

 (Mail Address)

 (Date)

To the Interstate Commerce Commission,
 Washington 25, D. C.
 Effective -----, concurrence PC --
 (Date)
 No. --, issued by -----
 (Name of carrier issuing
 concurrence) in favor of -----
 (Name of carrier)
 is hereby canceled and revoked.

 (Name of Carrier)
 By -----
 Its -----
 (Title)

Duplicate mailed to:
 (Name of Carrier)
 (Address)

(e) *Amendment or revocation, manner of execution.* (1) An amendment to, or a revocation of, a power of attorney shall be executed in the same manner as powers of attorney, and a statement of the kind specified in § 145.13 (d) shall be filed with the Commission to designate persons authorized to sign such amendments or revocations. The statement filed in accordance with § 145.13 (d) may include in the one instrument designations and specimen signatures of persons authorized to sign powers of attorney, amendments to powers of attorney, and revocations of powers of attorney.

(2) An amendment to, or a revocation of, a concurrence shall be executed in the same manner as concurrences. (See § 145.14 (b).)

§ 145.22 *Round-trip excursion fares—(a) 10-day limit or less.* Round-trip ex-

excursion fares limited to a designated period of not more than 10 days may be established upon posting a tariff one day in advance of the effective date at the stations where tickets for such excursion will be sold and mailing two copies thereof to the Commission.

(b) *Over 10- but not over 30-day limit.* Round-trip fares for an excursion limited to a designated period of more than 10 days and not more than thirty days may be established upon posting a tariff three days in advance of the effective date at the stations where tickets for such excursion will be sold and mailing two copies to the Commission.

(c) *"Designated period" defined.* The term "designated period" used in this section means the period beginning with the first day on which the transportation can be used and ending with, and including, the day upon which the return trip must be completed.

(d) *Series of excursion fares in one tariff.* A series of temporary round-trip excursion fares limited for designated periods as set forth in paragraphs (a) and (b) of this section, the effectiveness of which extends over a period exceeding thirty days but not more than one year, may be published in the same tariff and established as provided in paragraph (b) of this section as to certain of the fares and accompanying provisions, and on statutory notice as to the remainder. For example, tariff is filed with the Commission, March 2, to be effective March 7, 14, 21, 28, April 4, 11, 18, and 25, with final return limit of eight days in addition to date of sale. From March 7 to final return limit of ticket sold April 25 is 58 days. In connection with the sale dates of March 7, 14, 21, and 28, the tariff must indicate by appropriate symbol that insofar as it is effective on those dates it is issued under authority of this section. The tariff insofar as it is effective on the dates of April 4, 11, 18 and 25, is filed on statutory notice, and no notation to that effect is necessary.

(e) *Supplement permitted; changes in tariff.* (1) No supplement may be issued to a tariff filed under authority of paragraph (a) of this section except for the purpose of canceling the tariff, and the title page must so state.

(2) A tariff issued under authority of paragraphs (b) and (d) of this section may have only one supplement in effect at one time.

(3) Changes in tariffs of two or more pages issued under authority of paragraphs (b) and (d) of this section may be made in the manner provided in subparagraphs (4) and (5) of this paragraph for the following purposes:

(i) Change or add dates of sale; but the effectiveness of a tariff, as amended, issued under authority of paragraph (d) of this section shall not extend over a period exceeding one year.

(ii) Extend return limit.

(iii) Add selling stations or destinations, routes, or privileges.

(iv) Reduce fares.

(4) Changes specified in subparagraph (3) of this paragraph in a tariff issued under authority of paragraph (b) of this section may be established by sup-

plement to the tariff in the same manner as authorized in said paragraph (b) for the tariff.

(5) Changes specified in subparagraph (3) of this paragraph in tariffs issued under authority of paragraph (d) of this section may be made by supplement, or reissue of the tariff, by filing and posting such changes not later than three days before they are to become effective.

(f) *Title page notation.* Each tariff or supplement issued under authority of this section must bear the notation on its title page, "Issued under authority of § 145.22 of Tariff Circular 24."

§ 145.23 *Fares in special car or train service—(a) Between competitive points.* In order to avoid maintenance of fares between rail-competitive points for application over routes infrequently used because of limited, or absence of, passenger train service, tariffs of one-way fares, subject to a three-day period of sales in each case and applicable only to movements of passengers by special car or special train service, may be filed and posted on one day's notice: *Provided*, That each such fare is the same as a fare on file with the Commission and in effect over another rail route: *And provided further*, That the fares filed under authority of this paragraph may not apply over any route which exceeds 135 percent of the short-line passenger mileage from origin to destination.

(b) *From and to local points.* From and to points on one railroad, when origin or destination is a local point, or when both origin and destination are local points, on that railroad, from and to which no regular passenger train service is operated and no fares are published, tariffs of one-way fares, subject to a three-day period of sales and restricted only to movements of passengers by special car or special train service, may be filed and posted on one day's notice, provided that each such fare is on the same basis as the carrier's one-way fares of the same class regularly maintained from and to other points on its line in the same territory.

(c) *Title page notation.* Publications issued under authority of this section shall bear on the title page the following notation, "Issued on one day's notice under authority of § 145.23 of Tariff Circular 24."

§ 145.24 *Newly inaugurated regular sleeping-car or parlor-car service.* Rates and charges, including those for additional occupancy at termini or at stations en route for newly inaugurated regular service in sleeping cars or parlor cars, to and from points to and from which no rates and charges are in effect, may be filed and posted on one day's notice, provided such rates and charges are on the same basis as those of the carrier for the same type accommodations regularly maintained from and to other points in the same territory. Provisions published under authority of this section must contain a notation in connection therewith reading as follows: "Issued on one day's notice under authority of § 145.24 of Tariff Circular 24."

§ 145.25 *Temporary rates for sleeping cars or parlor cars.* (a) A tariff con-

taining temporary rates and charges for sleeping car and/or parlor car accommodations effective for a period not exceeding four months may be made effective upon posting one day in advance of the effective date at the stations where tickets for such accommodations will be sold and mailing two copies thereof to the Commission, subject to the following conditions:

(1) Rates and charges in such tariff shall apply only to transportation in (i) a through car in special service (see note, subparagraph (2) of this paragraph) from and to points between which, or over routes over which, no through service is maintained and no through rates are in effect, or (ii) a through car in special service (see note) in which the privilege of stopover, side trip, or additional occupancy at termini or at stations en route is permitted and the charges therefor are explicitly shown.

(2) Rates in such tariff shall be (i) the same as on file with the Commission and in effect from and to the same points over another rail route, (ii) either the lowest sum of intermediate rates from origin to destination over the route of movement or over another rail route, or (iii) on the same basis as rates of the carrier from and to other points in the same territory.

NOTE: As used in this section, "through car" means a car which moves through from origin to destination from and to which the fares and/or charges apply; and "special service" means sleeping-car or parlor-car service other than that ordinarily offered in regularly scheduled trains.

(b) Tariffs issued under authority of this section may be in a separate series of I. C. C. numbers, and each tariff must bear on its title page the notation, "Issued under authority of § 145.25 of Tariff Circular 24."

§ 145.26 *Newly constructed lines of railroad and newly established service by water carriers—(a) Notice.* Charges applicable at, and fares, rates, charges, rules and regulations applicable from and to points on newly constructed lines of railroad, including branches and extensions of existing railroads, or ports reached by water carrier when new water-carrier service has been inaugurated, may be established in the first instance on not less than one day's notice. Such fares, rates, charges, rules or regulations, when established, may be changed only in accordance with the act.

(b) *Limitation.* No fare or other provisions may be filed under authority of this section, the effective date of which is more than sixty days after the effective date of the first fare or other provision established from, to, or at any point on the same line of newly constructed railroad or embraced in the same grant of authority for new service by water carrier, as the case may be.

(c) *Tariff notation.* Provisions published under authority of this section must contain a notation in connection therewith reading as follows:

Issued on one day's notice under authority of § 145.26 of Tariff Circular 24. Fares (or other provisions) established in the first instance (from, to, between, or at, as the case may be), stations on railroad (or reached by water carrier, as the case may be).

Where all of the provisions in a tariff or supplement are issued under authority of this section, the above notation may be shown on the title page.

§ 145.27 *Transportation of circus and show outfits.* Rates for specified movements of circuses and other show outfits may be established on not less than one day's notice to the Commission. Such tariffs must bear reference to this section and must publish the charges specifically, showing the number and kind of cars moved, or may consist of a proper title page reading "as per copy of contract attached," and to it may be attached a copy of the contract under which the circus is moved. Tariffs containing such rates need not be posted at stations. As far as practicable, general rules or regulations governing the fixing of such rates should be regularly published, posted, and filed upon statutory notice.

§ 145.28 *Party-fare tickets.* (a) Party fares must not be restricted in their application to use by any class or classes of persons, but their use must be open to all; and no statement such as "account High School" (or any organization) shall appear on the title page of, or elsewhere in, a tariff providing for such fares.

(b) A party-fare tariff that provides per capita fares which decrease as the minimum number in the party increases, must contain a provision that the maximum charge for any party shall not exceed the total minimum charge for a larger party.

(c) Party fares are primarily for a group traveling together; however, in connection with round-trip party fares, in lieu of one-round-trip ticket, there may be issued one ticket for the going trip and individual tickets for the return trip, if desired.

§ 145.29 *Round-trip tickets on certificate plan.* Round-trip tickets on the certificate plan may be issued at reduced fares and their use confined to the delegates to a particular convention or to the members of a particular association or society, upon the condition that a certain number of such tickets shall be presented for validation for return trip before the reduced fare for return trip will be granted to any ticket holder. The Commission suggests that the requirement be that not less than one hundred tickets shall be presented for validation for return trip before reduced fare will be granted to any ticket holder. Validation need not be required when it is obvious that the convention or meeting will be attended by a large number and there will be no question that the number using railroad service will exceed the minimum number which might be required. Tariffs of fares and regulations governing issuance and use of round-trip tickets on certificate plan must be filed and posted.

§ 145.30 *Validation of round-trip passenger tickets—(a) Validation for original purchaser.* A requirement that a round-trip passenger-fare ticket shall be validated for the original purchaser by carrier's agent at a given point is a condition affecting the value of the service, and must be published in the tariff

under which the ticket is sold, and when published, must be observed. The tariff may provide for validation at numerous points, and it may provide for validation at any point intermediate to the original destination named in the ticket.

(b) *Avoid conflicting conditions in ticket and tariff.* The conditions stated upon the ticket should not conflict with the tariff provisions, but, if in any case there should be conflict between the tariff provisions and the conditions stated on the ticket, the tariff provisions must govern.

(c) *When illness or death occurs.* A carrier may provide in its tariff a rule that in case of illness or death of passenger, a specified officer of the carrier may validate round-trip ticket or tickets held by such passenger or members of his family travelling with him at a point short of that at which the tickets otherwise would be validated.

(d) *Failure to validate ticket.* A carrier may incorporate in its tariff a rule that when a passenger is compelled to pay the regular return fare because of his failure to have his round-trip ticket validated at the designated point, the carrier will refund the extra fare upon the filing with it of an affidavit by the holder of the round-trip ticket, certifying that the ticket has been used in accordance with all of the conditions of the tariff, except as to the matter of validation.

§ 145.31 *Emergency extension of time limit of tickets and granting stopovers—*

(a) *Because of illness or quarantine.* (1) Carriers may provide in their tariffs that the time limit for the use of a passenger ticket may be extended in case of illness of the passenger holding such ticket. The tariff must give the title of the person who shall have authority to give such extension, and such person shall be required by the carrier to keep a memorandum of each instance in which such extension is given, and the data upon which it is allowed. Such information shall be made available to the Commission when requested. Only such illness as makes travel dangerous to the health of the traveler will justify the extension herein provided for.

(2) The extension also may be granted to one or more members of the family of the ill passenger when they are traveling with him, and to persons who are subject to an established quarantine.

(3) Stopover privileges for a limited time may be granted for the same causes and under the same conditions and restrictions as justify extension of time limit of tickets.

(b) *Because of washout, wreck, etc.* A carrier also may provide in its tariffs that whenever, because of washout, wreck, or other obstruction to its tracks, public calamity, the act of God or of the public enemy, a passenger is delayed on its lines so that the limit of such passenger's ticket has expired or has elapsed to such an extent as to curtail his stopover privileges, the conductor or other specified agent will give, by endorsement on ticket or otherwise, certificate of such detention, and that such certificate will operate to extend the limit of such ticket to the extent of detention

so certified, and that such extension will be honored by succeeding conductors on its lines. It also may provide that like certificates of detention and extension given by other carriers will be honored on its lines; but no carrier may so extend any part of a ticket reading over lines other than its own, except when provision therefor is contained in a joint tariff to which it and each other carrier affected is a party.

§ 145.32 *Free transportation of caretakers in connection with shipments of property.* (a) Section 1 (7) of the act provides that free transportation may be furnished "to necessary caretakers of livestock, poultry, milk, and fruit." This provision in the statute is construed to mean necessary caretakers of livestock, poultry, milk, or fruit that is loaded and ready for movement, or the movement of which is actually contracted for or that is actually in transit, and may include free or reduced-fare transportation for the return of such necessary caretakers. This transportation may be in the form of free pass or reduced-fare transportation, but in any event it must be the same for all under like circumstances. Authority for such free or reduced transportation must be published in the tariff governing the transportation of the commodity, which also must contain such policing regulations as will prevent the misuse of this provision. Tariffs may provide that caretaker sent out to return with shipment that is arranged for or that is in transit will be required to pay fare going and that such fare will be refunded if person so sent does return as actual caretaker of shipment for which he is sent. But a tariff rule which provides that if a person goes out over the line with the intention of purchasing livestock and returns within a certain time with a certain number of cars of livestock, the carrier will refund to him the fare paid on outgoing trip is improper and unlawful.

(b) The Commission has expressed the opinion that the term "fruit" as used in section 1 (7) of the act includes perishable vegetables, and that bees in hives and live fish may be included in the term "livestock" when shipped under conditions that make caretakers "necessary."

(c) When an express company provides in its tariff for free transportation for caretakers in charge of livestock, poultry, milk, or fruit, and the railroad company over whose lines such express company operates provides in its tariff that such caretakers may be permitted to ride in passenger car, the tariff of the express company and that of the railroad company must give reference to each other.

§ 145.33 *Ocean carriers' fares to or from foreign countries.* Carriers subject to the regulations contained in this part may not join with ocean carriers in publishing joint fares, rates, or charges to or from nonadjacent foreign countries. As a matter of convenience to the public, however, carriers subject to the regulations contained in this part may publish as information in their tariffs in connection with the fare, rate, or charge to or from the port, the steamship charge to

or from points in a foreign country. When this is done, such steamship charges may be changed without notice, but the fares, rates, or charges of the carriers subject to the regulations contained in this part or from the port are subject to all of the provisions of the Interstate Commerce Act and the Commission's tariff-publishing rules. Tariffs containing such steamship charges must not be concurred in by the ocean carriers.

§ 145.34 *Posting of tariffs*—(a) *Posting defined.* The term "post" as used in this section means the maintenance of a file of tariffs in the custody of an agent of the carrier in a complete, accessible, and usable form, and keeping such file of tariffs available to the public upon request during ordinary business hours. The term "tariff" as used in this section includes tariff supplements or amendments.

(b) *Carriers required to post tariffs at stations.* (1) Each railroad, sleeping car company, and each common carrier by water shall post at each station at which passengers are received for transportation and at which an agent is employed all tariffs (including those filed for it by tariff-publishing agents or by other carriers with its concurrence) which contain fares applying from that station or which contain terminal or other charges applicable at that station, together with all other tariffs needed to determine the application of such fares or charges. There shall also be posted at each such station an index of the carrier's passenger tariffs in form as provided in § 145.10.

(2) Each common carrier by motor vehicle shall post at each station or office at which passengers are received for transportation and at which an agent is employed all tariffs containing joint motor-rail, motor-water, and/or motor-rail-water fares applying from or at such station or office.

(c) *Relief from requirements.* If any tariff so posted (other than a tariff index) has not been used for a substantial length of time, the posting of that tariff, including reissues thereof, may be discontinued until such time as a request is made to the carrier's agent to have it reposted. It shall then be reposted within 20 days and thereafter kept posted.

(d) *Location of complete public files of tariffs.* (1) Each railroad, sleeping car company, and each common carrier by water shall post at its principal office a complete set of all tariffs which it issues or to which it is a party, together with an index thereto, and each rail carrier with 5,000 miles or more of first main track (including branch lines but excluding yard, terminal and industrial tracks) shall also post at not less than one additional point, a complete set of tariffs which it issues or to which it is a party. In determining the number of miles of first main track operated, family lines may be considered as a unit and subsidiary carriers as a part of the controlling carrier. A small carrier which has authorized its principal connecting carrier to file tariffs on its behalf may have its tariffs included in the complete public tariff file of such connecting carrier

without such small carrier maintaining a separate complete public file.

(2) Each common carrier by motor vehicle shall post at its principal office a complete set of tariffs containing joint motor-rail, motor-water, and/or motor-rail-water fares which it issues or to which it is a party.

(e) *Selection of posting places.* When posting places in addition to the principal office are required, railroads will select posting places which, in their judgment, will best serve and promote the convenience of the public in using the tariffs. The places selected shall be cities directly served by the railroad. Each railroad will advise the Commission by letter of the posting places selected and of any changes thereafter made. The Commission may, after reasonable investigation and without formal hearing, designate posting places in addition to or in substitution of those selected by the carrier.

(f) *Time of posting.* Each tariff must be posted at least 30 days before its effective date, excepting those as to which the Commission has authorized a shorter period of notice to the public. Each carrier shall require the agent at every station or office at which tariffs are posted to write or stamp on each tariff the date on which it was posted.

(g) *Tariff files to be accessible to the public.* Each file of tariffs shall be in charge of an agent of the carrier. Each carrier shall require and instruct such agent to afford inquirers an opportunity to examine any of such tariffs without asking the inquirer to assign any reason therefor, and, upon request, to lend assistance to seekers of information therefrom with all promptness possible and consistent with proper performance of other duties.

(h) *Notice required to be posted.* Each carrier shall also cause to be displayed continuously in a conspicuous public place at each station or office at which tariffs are required to be posted, a notice printed in large type reading as follows:

With only such exceptions as have been authorized by the Interstate Commerce Commission, all tariffs which contain fares and charges applying from or at this station are on file at this office, together with an index of all of this company's passenger tariffs. The tariffs and index may be inspected by any person upon application and without the assignment of any reason for such inspection. The agent on duty in this office will lend any assistance desired in securing information therefrom.

If request is made for a tariff naming fares from this station, the posting of which has been discontinued because of nonuse, the agent will arrange to have it reposted within 20 days and thereafter keep it posted.

In addition a complete file of all of this company's tariffs, with indexes thereof, is maintained and kept available for public inspection at:

(Here indicate the place or places where complete tariff files are maintained, including the street address and, where appropriate, the room number)

(i) *Check-up on files of tariffs.* Each carrier shall place in effect a system of supervision that will insure the continued maintenance in proper and readily accessible form of tariff files required at each station and also at each

office where complete files are maintained. Such stations and offices must be furnished at least once a year with a list of all of the tariffs which should be in their files. Upon receipt of the list the agent or employee in charge will immediately check the tariffs on hand against the list and report any deficiencies. Evidence of improper maintenance of files at any station or office may incur the prescription of detailed instructions to the carrier by the Commission necessary to insure compliance with these regulations.

§ 145.35 *Applications for authority to make changes in tariffs*—(a) *Fares changed on less than statutory notice.*

(1) Sections 6, 217, and 306 of the act authorize the Commission in its discretion and for good cause shown, to permit changes in fares on less than statutory notice. The Commission will exercise this authority only in cases where actual emergency and real merit are shown. Desire to meet the fares or charges of a competing carrier which has given the full statutory notice of change in fares or charges will not of itself be regarded as good cause for allowing changes in fares or charges on a notice of less than thirty days. Clerical or typographical errors in tariffs constitute good cause for the exercise of this authority, but every application based thereon must plainly specify the omissions or mistakes, together with a full statement of the circumstances attending such omission or error, and must be presented with reasonable promptness after issuance of the defective tariff.

(2) Frequently carriers file applications requesting authority to make changes on short notice when an outstanding order of the Commission in a proceeding requires publication on thirty days' notice. Such requests in effect are requests for modification of the order and should be filed as petitions in the proceeding to which the order relates, and not as applications under sections 6, 217 or 306 of the Interstate Commerce Act.

(b) *Authority necessary to make applications.* Applications for permission to make tariff changes on less than statutory notice or waiver of any provision of this part (Tariff Circular 24) must be made by the agent or carrier that holds authority to file the proposed changes. If the application requests permission to make changes in joint tariffs, it must state that it is filed for and on behalf of all carriers parties to the schedules in which the change is proposed.

(c) *Partial use of permission prohibited.* It sometimes occurs that carriers or their agents do not use the full authority extended by special permissions. When passing upon special permission applications, the Commission gives consideration to all of the facts and circumstances set forth in the application and, if approved, the special permission is issued with the understanding that all of its terms will be complied with and all of the authority dealing with the same subject matter will be used. Therefore, if all related matter authorized by a special permission will not be published, and more limited authority is desired, a

new application complying with the provisions of this section and making reference to the previous authority, must be filed.

(d) *Preparation of application.* Applications (including amendments thereto and exhibits made a part thereof) for permission to make tariff changes on less than statutory notice or under waiver of any provision of this part (Tariff Circular 24), shall be made in duplicate on paper 8 by 10½ inches, and addressed to the Secretary of the Interstate Commerce Commission, Washington 25, D. C. (Motor carriers also are required to send one copy to the District Director.) Such applications shall be in substantially the following form, shall be numbered consecutively, and must bear the signature of the president, vice president, traffic manager, assistant traffic manager, general passenger agent (or their equivalents, if the carrier does not designate its officials by those titles), or a duly authorized attorney and agent, specifying title.

FORM OF APPLICATION

(Place and date)

To the Interstate Commerce Commission,
Washington 25, D. C.

----- Agent, for and on behalf of all carriers parties to his (or its) tariff hearing I. C. C. No. -- (or the -----,
(Name of carrier)

by -----, its -----)
(Name of officer) (Title of officer)

does hereby make application to the Interstate Commerce Commission for permission under section 6 (other sections to be cited if involved) of the Interstate Commerce Act, to put in force the following fares (or rates, charges, rules or regulations), to become effective ----- days after filing thereof with the Commission;

(State fully, either specifically or by reference to an accompanying exhibit, the fares and/or other tariff provisions which it is desired to put into effect, (if rates or charges, the articles or service to which they apply) and the points of origin and destination. If permission is sought to establish a rule or regulation, the exact wording must be shown.)

And to depart from the provisions of the following sections of Tariff Circular 24 when making such publication, viz: -----

Applicant further represents that the said fares (or rates, charges, rules or regulations) will be published in (a designated tariff) and will supersede the fares (or rates, charges, rules or regulations) on like traffic from and to the points above named which are set forth in (a designated tariff provision).

(Here state specifically or by reference to an accompanying exhibit, the present fares or other provisions which it is desired to change, together with the I. C. C. numbers in which published and the effect of the proposed change.)

(State the basis on which the proposed fares, rates and/or charges are constructed, if the application seeks less than statutory notice. If it is proposed to change a rule or regulation, state fully the nature and purpose of the change.)

(State the relation existing between points of origin and destination covered by the application and any point of origin or destination not covered by the application, if the application seeks less than statutory notice.)

And your petitioner further bases such request upon the following facts, which present certain special circumstances and conditions justifying the request herein made:

(State fully all other circumstances and conditions which are relied upon as justifying the application and which may aid the Commission in determining the question presented. If authority is sought to make publication under waiver of the provisions of Tariff Circular 24 (this part), state why it is believed that those provisions cannot or should not be fully complied with. If short notice is requested, state why the change was not published upon statutory notice.)

(Correct name of carrier, if filed by a carrier)

(Signature of agent, or of officer if filed by a carrier)

(Title)

Subscribed and sworn to before me this ----- day of -----, 19---

[SEAL]

Notary Public

(Only the original need be notarized)

[F. R. Doc. 58-676; Filed, Jan. 28, 1958; 8:48 a. m.]

producer-dealer selling not more than 100 quarts of milk per day directly to consumers to deliver milk to another handler without having such milk considered to be nonpool milk at the other handler's plant.

Proposed by Murray Hammerman:

Proposal No. 14. Amend the proviso in § 927.33 so that it will apply to fluid cream products, half and half, and cultured or flavored milk drinks in the same manner as it now applies to milk and cream.

Copies of this supplemental notice of hearing and the order may be procured from the Market Administrator, 205 East 42d Street, New York 17, New York, or from the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington, D. C., or may be there inspected.

Issued at Washington, D. C., this 24th day of January 1958.

[SEAL]

F. R. BURKE,
Acting Deputy Administrator.

[F. R. Doc. 58-692; Filed, Jan. 28, 1958; 8:51 a. m.]

[7 CFR Part 982]

[Docket No. AO-298; AO-238-A8]

HANDLING OF MILK IN CENTRAL WEST TEXAS MARKETING AREA

DECISION WITH RESPECT TO PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND TO ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Wichita Falls, Texas, on August 6-9, 1957, pursuant to notice thereof issued on July 10, 1957 (22 F. R. 5705).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on November 21, 1957 (22 F. R. 9433) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

No exceptions to the recommended decision were filed.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision (22 F. R. 9433; Doc. 57-9786) are hereby approved and adopted as if set forth in full herein subject to the following modifications:

1. Delete the first sentence of the paragraph beginning at the bottom of column 1, 22 F. R. 9434, and substitute therefor the following: "A very substantial proportion of the milk disposed of in Mineral Wells is supplied by the handler whose plant is located there."

2. Immediately preceding the paragraph numbered "3" in column 3, 22 F. R. 9434, insert the following paragraph:

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 927]

[Docket No. AO-71-A34]

HANDLING OF MILK IN NEW YORK-NEW JERSEY MILK MARKETING AREA

SUPPLEMENTAL NOTICE OF HEARING ON PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND TO ORDER

Notice is hereby given 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), that at the hearing scheduled to begin at Utica, New York, on February 3, 1958, pursuant to notice issued on January 21, 1958, on proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the New York-New Jersey marketing area, evidence also will be received at that hearing on the additional proposed amendments hereinafter set forth, and any appropriate modifications thereof, to the said tentative marketing agreement and order. These additional proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by New York State Guernsey Breeders' Co-operative, Inc.:

Proposal No. 13. Amend §§ 927.35 and 927.65 as may be necessary to permit a

"The administrative assessment on milk received by a handler from a cooperative association in its capacity as a handler under the conditions described above, should be assessed directly on the handler who receives such milk from the cooperative association."

3. Delete the first sentence in column 1, 22 F. R. 9436, and substitute therefor the following: "Under such a proposal a plant which had been regulated but which had become primarily associated with another market could continue to share in the market-wide pool and divert to farmers whose primary association is with another market, money which should go to those producers who undertake to furnish an adequate supply of milk to Central West Texas."

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

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

Determination of representative period. The month of November 1957 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order regulating the handling of milk in the Central West Texas marketing area, is approved or favored by producers, as defined under the terms of the order as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Issued at Washington, D. C., this 23d day of January 1958.

[SEAL] DON PAARLBERG,
Assistant Secretary.

Order¹ Amending the Order Regulating the Handling of Milk in the Central West Texas Marketing Area

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AUTHORITY: §§ 982.0 to 982.111 issued under sec. 5, 49 Stat 753, as amended; 7 U. S. C. 608c.

§ 982.0 Findings and determinations.

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

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (Part 900 of this chapter), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Central West Texas marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such amount not to exceed 4 cents per hundredweight as the Secretary may prescribe, with respect to all receipts of other source milk which is classified as Class I milk, and all milk received from producers including a handler's own production.

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

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

DEFINITIONS

§ 982.1 *Act*. "Act" means Public Act No. 10, 73d Congress, as amended, and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

§ 982.2 *Secretary*. "Secretary" means the Secretary of Agriculture or such other officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

§ 982.3 *Department*. "Department" means the United States Department of Agriculture or such other Federal Agency authorized to perform the price reporting functions specified in this part.

§ 982.4 *Person*. "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 982.5 *Cooperative association*. "Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members.

§ 982.6 *Central West Texas marketing area*. "Central West Texas marketing area," hereafter called the "marketing area," means all territory within the boundaries of the Abilene Air Force Base and within the corporate limits of the following cities and towns, all in the State of Texas:

Abilene.	Lamesa.
Albany.	Merkel.
Anson.	Midland.
Aspermont.	Mineral Wells.
Ballinger.	Munday.
Big Spring.	Odessa.
Breckenridge.	Ranger.
Brownwood.	Rochester.
Cisco.	Rotan.
Coleman.	Rule.
Colorado City.	San Angelo.
Comanche.	Snyder.
Eastland.	Stamford.
Hamlin.	Sweetwater.
Haskell.	Tye.
Knox City.	Winters.

§ 982.7 *Approved plant*. "Approved plant" means:

(a) A milk plant approved by and under the routine inspection of the health authority of any municipality in the marketing area:

(1) From which Class I milk labeled Grade A in consumer packages is disposed of in the marketing area on routes, or

(2) Which receives milk from producers as defined in § 982.10 (a) which serves as a receiving station by receiving, weighing and commingling producer milk, and from which milk or skim milk (i) is moved to a plant specified in subparagraph (1) of this paragraph during the month, or (ii) was moved to plant(s) specified in subparagraph (1) of this paragraph in an amount equal to 60 percent or more of total receipts of producer milk during the months of October

through January immediately preceding any month of April, May or June during which no milk was moved to such a plant; or

(b) A milk plant approved by and under the routine inspection of a health authority other than that of a municipality in the marketing area from which Class I milk labeled Grade A in consumer packages is disposed of in the marketing area on a route operated wholly or partially in the marketing area in an amount equal to 15 percent or more of the total disposition of Class I milk from such plant during the month.

§ 982.8 *Unapproved plant*. "Unapproved plant" means any milk processing or distributing plant which is not an approved plant.

§ 982.9 *Handler*. "Handler" means: (a) Any person in his capacity as the operator of an approved plant;

(b) Any person in his capacity as the operator of an unapproved plant from which Class I milk is disposed of during the month on a route in the marketing area;

(c) Any cooperative association with respect to the milk of producers which it causes to be delivered directly from the farm for its own account, in tank truck(s) owned or operated by such association, to the approved plant of another handler described in § 982.7 (a) (1) or (b); *Provided*, That such milk shall be deemed to have been received by the cooperative association at the location of the plant to which it is delivered; or

(d) Any cooperative association with respect to the milk of any producer which it causes to be diverted to an unapproved plant for the account of such cooperative association.

§ 982.10 *Producer*. "Producer" means any person other than a producer-handler:

(a) Who produces milk under a dairy farm permit or rating for the production of milk to be disposed of for consumption as Grade A milk issued by the health authority of any municipality in the marketing area, which milk is received at an approved plant described in § 982.7 (a); or

(b) Who produces milk under a dairy farm permit or rating for the production of milk to be disclosed of for consumption as Grade A milk issued by a health authority whose certification is accepted by the appropriate health authority of a municipality in the marketing area, which milk is received at an approved plant described in § 982.7 (b).

(c) "Producer" shall include any such person whose milk is received by a cooperative association pursuant to § 982.9 (c) or is regularly received at an approved plant, but whose milk is caused to be diverted by a handler to an unapproved plant, and milk so diverted shall be deemed to have been received by the handler at the location of the approved plant at which it was received immediately prior to its being so diverted. "Producer" shall not include any person with respect to milk produced by him which is received at a plant operated by a handler who is subject to

another Federal marketing order and who is partially exempt from the provisions of this part pursuant to § 982.61.

§ 982.11 *Producer milk*. "Producer milk" means all skim milk and butterfat in milk produced by producers which is received by a handler, either directly from producers or from other handlers.

§ 982.12 *Other source milk*. "Other source milk" means all skim milk and butterfat other than that contained in producer milk.

§ 982.13 *Producer-handler*. "Producer-handler" means any person who produces milk and operates an approved plant, but who receives no milk other than from his own production and from approved plants.

§ 982.14 *Route*. "Route" means any delivery (including any delivery by a vendor or at a plant store) of milk, skim milk, buttermilk or flavored milk drink other than in bulk to a milk processing plant.

§ 982.15 *Base milk*. "Base milk" means milk received from a producer by a handler during any of the months of March through June which is not in excess of such producer's daily average base computed pursuant to § 982.80 multiplied by the number of days in such month for which such producer delivered milk to such handler.

§ 982.16 *Excess milk*. "Excess milk" means producer milk received by a handler during any of the months of March through June which is in excess of base milk received from such producer during such month, and it shall include all milk received from producers for whom no daily average base can be computed pursuant to § 982.80.

MARKET ADMINISTRATOR

§ 982.20 *Designation*. The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 982.21 *Powers*. The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

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

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 982.22 *Duties*. The market administrator shall perform all duties necessary to administer the terms and provisions of this part including but not limited to the following:

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount

and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of funds provided by § 982.98 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 982.97) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(g) Audit all reports and payments by each handler by inspection of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends;

(h) Publicly announce, at his discretion, by posting in a conspicuous place in his office and such other means as he deems appropriate, the name of any person who, within 5 days after the day upon which he is required to perform such acts, has not:

(1) Made reports pursuant to § 982.30 to § 982.32, inclusive; or

(2) Made payments pursuant to § 982.90 to § 982.99, inclusive.

(i) On or before the 12th day after the end of each month, report to each cooperative association, which so requests, the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report, the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class;

(j) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate the prices determined for each month as follows:

(1) On or before the 5th day of each month the minimum price for Class I milk pursuant to § 982.50 and the Class I butterfat differential pursuant to § 982.52 (a), both for the current month, and the minimum prices for Class II and Class II-A milk pursuant to § 982.51 and the butterfat differential for Class II and Class II-A milk pursuant to § 982.52 (b), both for the preceding month.

(2) On or before the 12th day of each month, the uniform prices computed pursuant to § 982.72 or § 982.73 as applicable and the butterfat differential computed pursuant to § 982.92, both applicable to milk delivered during the preceding month;

(k) Prepare and disseminate to the public such statistics and information as he deems advisable and as do not reveal confidential information; and

(l) Furnish to a cooperative association upon request the data furnished to the market administrator pursuant to § 982.31 (a) with respect to milk of its members.

REPORTS, RECORDS AND FACILITIES

§ 982.30 *Reports of receipts and utilization.* On or before the 7th day after the end of each month, each handler, except a producer-handler, shall report to the market administrator in detail and on forms prescribed by the market administrator as follows for each approved plant operated by him, or, in the case of a cooperative association, for producer milk diverted by it:

(a) The quantities of skim milk and butterfat contained in milk received from producers, and for the months of March through June, the aggregate quantities of base milk and excess milk;

(b) The quantities of skim milk and butterfat contained in (or used in the production of) receipts from other handlers;

(c) The quantities of skim milk and butterfat contained in receipts of other source milk (except Class II and II-A products disposed of in the form in which received without further processing or packaging by the handler);

(d) The quantities of skim milk and butterfat contained in or represented by all milk, skim milk, cream and products specified as Class I milk pursuant to § 982.41 (a) on hand at the beginning and the end of the month;

(e) The utilization of all skim milk and butterfat required to be reported pursuant to this section;

(f) The pounds of milk received from producers at each approved plant and the pounds of Class I milk disposed of from each such plant, if the handler operates more than one approved plant;

(g) The disposition of Class I products on routes wholly outside the marketing area; and

(h) Such other information with respect to receipts and utilization as the market administrator may prescribe.

§ 982.31 *Reports of payments to producers.* On or before the 20th day of each month, each handler shall submit to the market administrator his producer payroll for deliveries of the preceding month which shall show:

(a) The total pounds and the average butterfat test of milk received from each producer and cooperative association, the number of days, if less than the entire month, for which milk was received from each such producer, and, for the months of March through June, such producer's deliveries of base milk and excess milk;

(b) The amount of payment to each producer and cooperative association; and

(c) The nature and amount of any deductions or charges involved in such payments.

§ 982.32 *Other reports.* (a) Each producer-handler shall make reports to the market administrator at such time

and in such manner as the market administrator may prescribe.

(b) Each handler who causes milk to be diverted to an unapproved plant shall, prior to such diversion, report to the market administrator and to the cooperative association of which such producer is a member, his intention to divert such milk, the proposed date or dates of such diversion, and the plate to which such milk is to be diverted.

§ 982.33 *Records and facilities.* Each handler shall maintain and make available to the market administrator or to his representatives during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipts and utilization of all receipts of producer milk and other source milk;

(b) The weights and tests for butterfat and other content of all milk, skim milk, cream and milk products handled;

(c) Payments to producers and cooperative associations; and

(d) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream and milk products on hand at the beginning and end of each month.

§ 982.34 *Retention of records.* All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided*, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly, upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 982.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat received within the month by a handler which is required to be reported pursuant to § 982.30 shall be classified by the market administrator pursuant to the provisions of §§ 982.41 to 982.46, inclusive.

§ 982.41 *Classes of utilization.* Subject to the conditions set forth in §§ 982.43 and 982.44, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat disposed of in the form of milk, skim milk, buttermilk, flavored milk drinks, cream, cultured sour cream, any mixture (except eggnog, aerated cream products and mixes for ice cream or other frozen dairy products) of cream

and milk or skim milk, and all skim milk and butterfat not specifically accounted for under paragraph (b) of this section; and

(b) Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than those specified in paragraph (a) of this section, except Cheddar cheese during the months of February through July;

(2) Disposed of for livestock feed;

(3) In shrinkage up to 2 percent (5 percent, with respect to receipts of skim milk during the months of April, May, and June) of receipts from producers;

(4) In shrinkage of other source milk; and

(5) In inventory at the end of the month as skim milk, cream or any product specified in paragraph (a) of this section.

(c) Class II-A milk shall be all skim milk and butterfat used to produce Cheddar cheese during the months of February through July.

§ 982.42 *Shrinkage.* The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat for each handler; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat in producer milk and in other source milk.

§ 982.43 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise.

(b) Any skim milk or butterfat classified as Class II milk shall be reclassified if later disposed of (whether in original or other form) as Class I milk.

§ 982.44 *Transfers.* Skim milk or butterfat disposed of by a handler by either transfer or diversion from an approved plant shall be classified:

(a) At the class mutually indicated in writing to the market administrator by both handlers on or before the 7th day after the end of the month within which such transaction occurred, otherwise as Class I milk, if transferred or diverted in the form of milk, skim milk or cream, to the approved plant of another handler (except a producer-handler), subject in either event to the following conditions:

(1) The receiving handler has utilization in such class of an equivalent amount of skim milk and butterfat respectively; and

(2) Such skim milk or butterfat shall be classified so as to allocate to producer milk the greatest possible Class I utilization in the two plants.

(b) As Class I milk, if transferred to a producer-handler in the form of milk, skim milk or cream;

(c) As Class I milk, if transferred or diverted in the form of milk or skim milk to an unapproved plant more than 300 miles distant by the shortest high-

way distance, as determined by the market administrator;

(d) As Class I milk if transferred in the form of cream under Grade A certification to an unapproved plant located more than 300 miles distant and as Class II milk if so transferred without Grade A certification;

(e) As Class I milk if transferred or diverted in the form of bulk milk, skim milk or cream to an unapproved plant located not more than 300 miles distant by the shortest highway distance and from which fluid milk is disposed of on wholesale or retail routes, unless the conditions in subparagraphs (1) and (2) of this paragraph are met:

(1) The market administrator is permitted to audit the records of such unapproved plant; and

(2) Such unapproved plant receives milk from dairy farmers who the market administrator determines constitutes its regular source of supply for Class I milk.

(3) If these conditions are met, the market administrator shall classify such milk as reported by the handler, subject to verification as follows:

(i) Determine the use of all skim milk and butterfat at such unapproved plant; and

(ii) Allocate the skim milk and butterfat so transferred or diverted to the highest use classification remaining after subtracting in series beginning with the highest use classification, the skim milk and butterfat in milk received at the unapproved plant direct from dairy farmers.

(f) As Class II milk if transferred or diverted in the form of milk, skim milk or cream to an unapproved plant located not more than 300 miles distant by the shortest highway distance from which fluid milk is not disposed of on wholesale or retail routes, except that if diverted or transferred in the form of milk, during the months of February through July, to such unapproved plant which manufactures American Cheddar cheese such milk shall be classified as Class II-A milk: *Provided,* That if receipts of milk at such transferee plant are greater than the amount of milk used in the production of American Cheddar cheese during the month, the market administrator shall assign the Class II-A usage in the transferee plants, first to the milk received at such plant from dairy farmers and unapproved plants, and then pro rata to all milk transferred or diverted to such cheese plant from approved plants.

§ 982.45 *Computation of the skim milk and butterfat in each class.* For each month the market administrator shall correct for mathematical and for other obvious errors the monthly report submitted by each handler and shall compute the pounds of skim milk and butterfat in Class I and Class II milk for such handler.

§ 982.46 *Allocation of skim milk and butterfat classified.* After making the computations pursuant to § 982.45, the market administrator shall determine the classification of milk received by each handler from producers as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk determined pursuant to § 982.41 (b) (3);

(2) Subtract from the remaining pounds of skim milk in each class, in series beginning with the lowest class (Class II-A milk during the months of February through July and Class II milk during other months) the pounds of skim milk in other source milk received during the month in a form other than milk, skim milk, or cream;

(3) Subtract from the remaining pounds of skim milk in each class, in series beginning with the lowest class (Class II-A milk during the months of February through July and Class II milk during other months) the pounds of skim milk in other source milk received during the month in the form of Class I items;

(4) Subtract from the remaining pounds of skim milk, in series beginning with Class II, the pounds of skim milk contained in the Class I items in inventory at the beginning of the month;

(5) Subtract from the remaining pounds of skim milk in each class the skim milk received from other handlers in the form of milk, skim milk, or cream according to its classification as determined pursuant to § 982.44 (a);

(6) Add to the remaining pounds of skim milk in Class II the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph; and

(7) If the remaining pounds of skim milk in all classes exceed the pounds of skim milk received from producers, subtract such excess from the remaining pounds of skim milk in series beginning with the lowest class. Any amount so subtracted shall be called "overage".

(b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a) of this section.

(c) Determine the weighted average butterfat content of Class I milk, Class II milk and Class II-A milk computed pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

§ 982.50 *Class I milk.* Subject to the provisions of §§ 982.52 and 982.53 the minimum price per hundredweight to be paid by each handler for milk received at his plant from producers and classified as Class I milk shall be the price for Class I milk established under Part 943 of this chapter regulating the handling of milk in the North Texas marketing area, plus 25 cents.

§ 982.51 *Class II and Class II-A milk—(a) Class II milk.* Subject to the provisions of § 982.52 the minimum price per hundredweight to be paid by each handler for milk received at his plant from producers and classified as Class II milk shall be the price computed pursuant to subparagraph (1) of this paragraph for the months of April, May and June, and for each of the other months the price computed pursuant to subparagraph (1) of this paragraph or the price computed pursuant to subpara-

graph (2) of this paragraph, whichever is higher:

(1) The average of the basic or field prices reported to have been paid or to be paid for ungraded milk of 4.0 percent butterfat content received from dairy farmers at the following plants or places for which prices have been reported to the market administrator or to the Department:

Carnation Company, Sulphur Springs, Tex.
The Borden Company, Mount Pleasant, Tex.

Lamar Creamery, Paris, Tex.

(2) The sum of the plus values computed as follows:

(i) From the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of Grade A (92-score) butter at Chicago as reported by the Department during the month, subtract 3 cents, add 20 percent thereof and multiply by 4.0;

(ii) From the simple average as computed by the market administrator of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray and roller process respectively for human consumption, f. o. b. manufacturing plants in the Chicago area as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department deduct 5.5 cents, multiply by 8.5 and multiply by 0.96.

(b) *Class II-A milk.* For the months of February through July, subject to the provisions of § 982.52, the minimum price per hundredweight to be paid by each handler for milk received at his plant from producers and classified as Class II-A milk shall be computed by multiplying by 8.4 the average of the daily prices paid per pound of cheese at Wisconsin primary markets ("Cheddars" f. o. b. Wisconsin assembling points, cars or truckloads) as reported by the Department for the month involved.

§ 982.52 *Butterfat differential to handlers.* If the average butterfat content of the milk of any handler allocated to any class pursuant to § 982.46 is more or less than 4.0 percent, there shall be added to the respective class price, computed pursuant to §§ 982.50 and 982.51, for each one-tenth of one percent that the average butterfat content of such milk is above 4.0 percent, or subtracted for each one-tenth of one percent that such average butterfat content is below 4.0 percent, an amount equal to the butterfat differential computed by multiplying the simple average, as computed by the market administrator, of the daily wholesale selling price per pound (using the mid-point of any price range as one price) of Grade A (92-score) bulk creamery butter at Chicago, as reported by the Department during the appropriate month, by the applicable factor listed below and dividing the result by 10:

(a) *Class I milk.* Multiply such price for the preceding month by 1.25; and

(b) *Class II and Class II-A milk.* Multiply such price for the current month by 1.10 for the months of March,

April, May, and June, and by 1.15 for each of the other months of the year.

§ 982.53 *Location adjustment to handlers.* For milk classified as Class I milk the price set forth in § 982.50 shall be subject to the following adjustments:

(a) For milk received from producers at an approved plant located within 70 highway miles of the United States Post Office in Midland, Texas, such price shall be increased 15 cents;

(b) For milk received from producers at an approved plant located (1) east of the 103d principal meridian, (2) more than 180 highway miles from the United States Post Office in Midland, Texas, and also (3) at the following highway distances from the United States Post Office in Abilene, Texas, such price shall be reduced as follows:

	Cents
More than 70 miles but less than 105 miles.....	20
105 miles or more.....	25

(c) If a handler operates two or more approved plants at which different Class I prices apply, the total milk received by such handler from producers and classified as Class I milk shall be assigned to the milk received from producers at each such plant in the following sequence:

(1) The Class I milk disposed of from each such plant shall be assigned to receipts from producers at such plant to the extent of such receipts;

(2) Class I milk disposed of from any such plant in excess of receipts from producers at such plant shall be assigned to milk received from producers at other approved plants of such handler pro rata to the volumes of producer milk moved to such plant from each such other plant to the extent that milk was so moved; and

(3) Any remaining milk received from producers and classified as Class I milk shall be assigned pro rata to receipts from producers to which Class I milk is not otherwise assigned.

APPLICATION OF PROVISIONS

§ 982.60 *Producer-handlers.* Sections 982.40 through 982.46, 982.50 through 982.53, 982.70 through 982.75, 982.80, 982.81 and 982.90 through 982.99 shall not apply to a producer-handler.

§ 982.61 *Handlers subject to other orders.* In the case of any handler who operates a plant which the Secretary determines disposes of a greater quantity of milk as Class I milk in another marketing area regulated by another milk marketing agreement or order issued pursuant to the Act than in this marketing area, the provisions of this part shall not apply with respect to the operations of such plant, except as follows:

(a) The handler shall, with respect to his total receipts of skim milk and butterfat, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

§ 982.62 *Handlers operating unapproved plants from which Class I milk is disposed of in the marketing area.* In the case of any handler described in § 982.9 (b) who is not subject to the pro-

visions of § 982.61, the reporting, pricing and payment provisions of this part shall apply only as follows:

(a) The handler shall report as required pursuant to §§ 982.30 and 982.31, reporting receipts from and payments to dairy farmers in lieu of such information with respect to producers, and shall allow verification of such reports pursuant to § 982.33;

(b) With respect to either all skim milk and butterfat disposed of as Class I milk during the month on routes operated wholly or partially within the marketing area or only the skim milk and butterfat disposed of as Class I milk on routes within the marketing area if the handler maintains and makes available to the market administrator the facilities and records (including the accounts of individual sales outlets) necessary to verify and establish such disposition, the handler shall pay to the market administrator on or before the 25th day after the end of the month, any plus difference between:

(1) The value of such skim milk or butterfat at the Class I price which would be applicable at an approved plant thus located; and

(2) The value of such skim milk and butterfat at the price paid dairy farmers by such handler for milk received at the unapproved plant from them during the month, adjusted by the method used in computing payments to such dairy farmers to the average butterfat test of Class I milk disposed of in the marketing area: *Provided*, That if such handler has paid more than one such price, the lowest price(s) paid for an equivalent volume of milk shall be used in this computation; and

(c) As his pro rata share of the expense of administration of this part, the handler shall pay to the market administrator, with respect to all Class I milk disposed of on routes in the marketing area, an amount per hundredweight and in the manner specified in § 982.98.

DETERMINATION OF UNIFORM PRICE

§ 982.70 *Computation of value of milk.* For each month, the market administrator shall compute the value of producer milk for each handler as follows:

(a) Multiply the quantity of producer milk in each class computed pursuant to § 982.46 by the applicable class price and add together the resulting amounts;

(b) Add an amount computed by multiplying the pounds of any overage deducted from either class pursuant to § 982.46 (a) (7) and (b) by the applicable class price;

(c) Add the amount computed by multiplying the difference between the applicable Class II price for the preceding month and the applicable Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 982.46 (a) (4) and the corresponding step of paragraph (b); and

(d) If any other source milk has been subtracted from Class I pursuant to § 982.46 (a) (2) and the corresponding step of paragraph (b), add an amount equal to its value computed at the differ-

ence between the applicable Class I and Class II price for the current month.

§ 982.71 *Computation of aggregate value used to determine price(s)*. For each month the market administrator shall compute an aggregate value from which to determine the uniform price(s) per hundredweight for milk of 4.0 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 982.70 for all handlers who made the reports prescribed in § 982.30 and who made payments pursuant to §§ 982.90 and 982.94 for the preceding month;

(b) Subtract the aggregate of the values of all plus location adjustments to producers pursuant to § 982.91, and add the aggregate of the values of all such minus adjustments;

(c) Add not less than one-half of the unobligated cash balance on hand in the producer-settlement fund; and

(d) Subtract if the average butterfat content of the milk included in these computations is greater than 4.0 percent, or add if such average butterfat content is less than 4.0 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 982.92 and multiplying the resulting figures by the total hundredweight of such milk.

§ 982.72 *Computation of uniform price*. For each of the months of July through February the market administrator shall compute the uniform price per hundredweight for all milk of 4.0 percent butterfat content received at an approved plant as follows:

(a) Divide the aggregate value computed pursuant to § 982.71 by the total hundredweight of milk included in such computation; and

(b) Subtract not less than 4 cents nor more than 5 cents.

§ 982.73 *Computation of uniform prices for base and excess milk*. For each of the months of March through June the market administrator shall compute the uniform prices per hundredweight for base and excess milk each of 4.0 percent butterfat content received from producers at an approved plant as follows:

(a) Compute the total value of excess milk included in these computations by (1) multiplying the total volume of Class II-A milk by the price for Class II-A milk, (2) subtracting the total quantity of Class II-A milk from the total volume of excess milk and multiplying the remainder by the Class II price, (3) adding together the values obtained in subparagraphs (1) and (2) of this paragraph, and (4) adding the amount, if any, by which the value computed pursuant to paragraph (c) (1) of this section exceeds the value computed pursuant to paragraph (c) (2) of this section;

(b) Divide the total value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk, and adjust to the nearest cent. The resulting figure shall be the

uniform price for excess milk of 4.0 percent butterfat received from producers;

(c) The total value of base milk included in these computations shall be the lesser of:

(1) The aggregate value computed pursuant to § 982.71 less the value computed pursuant to paragraph (a) (1) of this section, or

(2) The hundredweight of such base milk multiplied by the price for Class I milk of 4.0 percent butterfat content plus 4 cents;

(d) Divide the amount obtained in paragraph (c) of this section by the total hundredweight of base milk included in these computations;

(e) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (d) of this section. The resulting figure shall be the uniform price for base milk of 4.0 percent butterfat content received from producers.

DETERMINATION OF BASE

§ 982.80 *Computation of daily average base for each producer*. For the months of March through June of each year the market administrator shall compute a daily average base for each producer as follows, subject to the rules set forth in § 982.81, by dividing the total pounds of milk received by a handler(s) from such producer during the immediately preceding base-forming period of September through December, by the number of days from the first day for which such producer made deliveries during such period to the last day of such period, less the number of days for which no deliveries are made, or by 112, whichever is more.

§ 982.81 *Base rules*. (a) Subject to the provisions of paragraph (b) of this section, the market administrator shall assign a base as calculated pursuant to § 982.80 to each person for whose account producer milk was delivered to a handler(s) during the base-forming period;

(b) An entire base shall be transferred from a person holding such base to any other person effective as of the beginning of the month next following the receipt by the market administrator of an application for such transfer, such application to be on forms approved by the market administrator and signed by the baseholder, or his heirs, or assigns and by the person to whom such base is to be transferred: *Provided*, That if a base is held jointly, the entire base shall be transferrable only upon the receipt of such application signed by all joint holders or their heirs, or assigns.

PAYMENTS

§ 982.90 *Time and method of payment*. Each handler shall make payment as follows:

(a) On or before the 15th day after the end of the month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the applicable uniform price(s) for such month computed pursuant to § 982.72 or § 982.73, adjusted by the butterfat differential computed pursuant to

§ 982.92, subject to location adjustments to producers pursuant to § 982.91, and less the amount of the payment made pursuant to paragraph (b) of this section: *Provided*, That if by such date such handler has not received full payment pursuant to § 982.95, he may reduce his total payments to all producers uniformly by not less than the amount of reduction in payments from the market administrator; he shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator.

(b) On or before the 25th day of each month, to each producer for whom payment is not made pursuant to paragraph (c) of this section for milk received during the first 15 days of such month at not less than the Class II price of the preceding month.

(c) On or before the 13th and 23d days of each month, in lieu of payments pursuant to paragraphs (a) and (b), respectively, of this section, to a cooperative association which so requests, with respect to producers for whose milk such cooperative association is authorized to collect payment, an amount equal to the sum of the individual payments otherwise payable to such producer. Such payment shall be accompanied by a statement showing for each producer the items required to be reported pursuant to § 982.31.

§ 982.91 *Location adjustments to producers*. (a) In making payments to producers pursuant to § 982.90 the following adjustments shall apply to the uniform price for all milk computed pursuant to § 982.72 or to the uniform price for base milk computed pursuant to § 982.73 (e):

(1) For milk received from producers at an approved plant located within 70 highway miles of the United States Post Office in Midland, Texas, each handler shall add 15 cents;

(2) For milk received from producers at an approved plant located (i) east of the 103d principal meridian (ii) more than 180 highway miles from the United States Post Office in Midland, Texas, and, also (iii) at the following distances from the United States Post Office in Abilene, Texas, each handler may deduct the applicable amounts set forth below:

	<i>Cents</i>
More than 70 miles but less than 105.....	20
105 miles or more	25

(b) The location adjustment applicable with respect to excess milk shall be computed as follows:

(1) Subtract from the total amount of Class I milk allocated to producer milk pursuant to § 982.46 the total volume of base milk received by all handlers;

(2) Divide the result by the total volume of excess milk received by all handlers; and

(3) Multiply by the rate of location adjustment applicable for base milk received at the same location and round to the nearest cent.

§ 982.92 *Producer butterfat differential*. In making payments pursuant to § 982.90 (a), there shall be added to or subtracted from the uniform price for each one-tenth of one percent that the

average butterfat content of the milk received from the producer is above or below 4.0 percent, an amount computed by multiplying by 1.2 the simple average, as computed by the market administrator of the daily wholesale selling prices per pound (using the mid-point of any price range as one price) of Grade A (92-score) bulk creamery butter at Chicago as reported by the Department during the month when such milk was received, dividing the resulting sum by 10, and rounding to the nearest one-tenth of a cent.

§ 982.93 Producer-settlement fund. The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to §§ 982.62 (b), 982.94 and 982.96, and out of which he shall make all payments to handlers pursuant to §§ 982.95 and 982.96.

§ 982.94 Payments to the producer-settlement fund. On or before the 13th day after the end of the month during which the milk was received, each handler, including a cooperative association which is a handler, shall pay to the market administrator the amount, if any, by which the value of the milk received by such handler from producers as determined pursuant to § 982.70 is greater than the amount required to be paid producers by such handler pursuant to § 982.90.

§ 982.95 Payments out of the producer-settlement fund. On or before the 14th day after the end of the month during which the milk was received, the market administrator shall pay to each handler, including a cooperative association which is a handler, the amount, if any, by which the value of the milk received by such handler from producers during the month as determined pursuant to § 982.70 is less than the amount required to be paid producers by such handler pursuant to § 982.90: *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 982.96 Adjustment of accounts. Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due;

(a) The market administrator from such handler;

(b) Such handler from the market administrator; or

(c) Any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 982.97 Marketing services. (a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself)

pursuant to § 982.90 (a), shall deduct 5 cents per hundredweight or such amount not exceeding 5 cents per hundredweight as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such moneys shall be used by the market administrator to sample, test, and check the weights of milk received and to provide producers with market information.

(b) In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers and on or before the 15th day after the end of each month pay such deduction to the cooperative association rendering such services, accompanied by a statement showing the quantity of milk for which such deduction was computed for each such producer.

§ 982.98 Expenses of administration. As his pro rata share of the expense of administration of this part, each handler shall pay to the market administrator on or before the 15th day after the end of each month, 4 cents per hundredweight or such amount not exceeding 4 cents per hundredweight as the Secretary may prescribe with respect to all receipts within the month of (a) other source milk which is classified as Class I milk, (b) milk from producers, including such handler's own production, and (c) milk received from a cooperative association in its capacity as a handler pursuant to § 982.9 (c).

§ 982.99 Termination of obligation. The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month (s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to 8 (c) (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 982.100 Effective time. The provisions of this part or any amendment to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated, pursuant to § 982.101.

§ 982.101 Suspension or termination. The Secretary may suspend or terminate this part or any provision of this part whenever he finds this part or any provision of this part obstructs or does not tend to effectuate the declared policy of the act. This part shall terminate in any event whenever the provisions of the act authorizing it cease to be in effect.

§ 982.102 Continuing power and duty of the market administrator. If upon the suspension or termination of any or all provisions of this part, there are any obligations thereunder, the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 982.103 Liquidation. Upon the suspension or termination of the provisions of this part, except this section, the market administrator, or such other

liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 982.110 *Agents*. The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 982.111 *Separability of provisions*. If any provision of this part or its application to any person or circumstances, is held invalid, the application of such provision and the remaining provisions of this part to other persons or circumstances, shall not be affected thereby.

[F. R. Doc. 58-690; Filed, Jan. 28, 1958; 8:51 a. m.]

[7 CFR Part 984]

HANDLING OF WALNUTS GROWN IN CALIFORNIA, OREGON, AND WASHINGTON

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the Secretary is considering revision of § 984.401, and §§ 984.404 through 984.434 of Subpart—Administrative Rules and Regulations, which set forth certain operating procedures applicable to the Walnut Control Board and to walnut handlers pursuant to Marketing Agreement No. 105, as amended and Order No. 84, as amended (7 CFR Part 984; 22 F. R. 7835, 8755) regulating the handling of walnuts grown in California, Oregon, and Washington. Said amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

The proposed action would establish procedures for implementing the shelled walnut quality control provisions of the recently amended order, simplify procedures relating to exemptions from control and assessment provisions, and renumber section designations.

A new section (§ 984.446) that is proposed to be added would establish inspection requirements and procedures for shelled walnuts comparable to those now in effect for unshelled walnuts. In addition to the information prescribed in § 984.46, the proposed section would require that each shelled walnut inspec-

tion certificate show the year of production of the walnuts that were shelled.

Proposed § 984.446 would also specify that each inspection certificate covering shelled walnuts for processing pursuant to § 984.46 (e) include the identity of the handler, the weight of the lot, and date of inspection as is required for shelled walnuts meeting the minimum standard, and that such certificate be identified by the words "Certified for Processing Only" to insure that it would not be inadvertently interpreted that the shelled walnuts covered thereby were certified as merchantable. It would also be required that any such shelled walnuts certified for processing be processed by said handler. This is desirable since the prohibition against handling of substandard walnuts would apply to lots so certified for processing.

In addition, § 984.446 would require that shelled walnuts be inspected on the premises of the person doing the shelling. This is considered necessary to facilitate control of substandard walnuts.

A new section (§ 984.463) is proposed to set forth requirements which would insure authorized disposition of substandard walnuts. A handler wishing to dispose of substandard walnuts by delivery to another person would be required to furnish a certification signed by the receiver that he (the receiver) will make authorized disposition in a specified manner and giving the Control Board authority to examine his operations, books, and records to verify such disposition. These requirements are necessary to enable the Board to control and fix responsibility for disposition of substandard walnuts, and would provide safeguards against such substandard walnuts thereafter entering channels of trade in normal markets.

It is proposed that present § 984.423 be redesignated as § 984.471 and expanded to require that merchantable shelled walnuts purchased by manufacturers directly from growers be reported to the Board within 5 days following the month of receipt. This report would show the year of production and the weight of each lot received. These requirements are necessary to provide a method of reporting shelled walnuts where handling is the purchase rather than disposition of the walnuts.

A new section (§ 984.475) is proposed to require that handlers report their dispositions and holdings of substandard walnuts twice yearly, during the first two weeks of January and August. This is necessary to set forth the reporting time inasmuch as it is not specified in § 984.75.

It is proposed that present § 984.432 be redesignated as § 984.488 and simplified by eliminating the requirement that persons wishing to sell walnuts under the exemption provisions of § 984.88 (b) make application to the Control Board and obtain specific approval each year for such sales. This requirement has proven unnecessary and is burdensome to both the Board and persons wishing to make exempt sales. Elimination of

the requirement will make it possible for anyone to make exempt sales in the manners authorized without specific approval of the Board.

It is also proposed that present § 984.401 be deleted as unnecessary and present §§ 984.404 through 984.434 be redesignated to relate insofar as is practicable each such section to the section in the marketing agreement and order from which the authority is derived.

Consideration will be given to data, views, or arguments pertaining to the proposed revision which are filed with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, U. S. Department of Agriculture, Washington 25, D. C., not later than the tenth day after publication of this notice in the FEDERAL REGISTER.

Sections 984.401, 984.404-984.412, 984.415-984.417, 984.420-984.428, and 984.430-984.434 of the administrative rules and regulations, (7 CFR Part 984; Subpart—Administrative Rules and Regulations) as proposed to be revised are as follows:

GRADE AND SIZE REGULATION OF UNSHELLED WALNUTS

§ 984.444 *Information on certificates for merchantable unshelled walnuts*. In addition to the information required pursuant to § 984.44, each certificate issued shall show the year of production of the walnuts covered thereby, as stated by the handler.

GRADE AND SIZE REGULATION OF SHELLED WALNUTS

§ 984.446 (a) *Information on certificates for merchantable shelled walnuts*. In addition to the information required pursuant to § 984.46 (a), each certificate issued shall show the type, net weight, and number of containers, and the year of production of the walnuts, as stated by the handler.

(b) *Certification of shelled walnuts for processing*. Each certificate issued for shelled walnuts for processing pursuant to § 984.46 (e) shall show the identity of the handler, the quantity of shelled walnuts covered thereby, and the date of inspection. Each such certificate shall bear the notation "Certified for Processing Only." Shelled walnuts so certified for processing may not be processed by anyone other than the handler obtaining such certificate.

(c) *Inspection*. Inspection of all shelled walnuts shall be made on the premises of the sheller prior to moving them to any other location.

ALLOCATION OF MERCHANTABLE UNSHELLED WALNUTS

§ 984.449 *Crediting merchantable restricted walnuts withheld*. Credit shall be given to each handler for withholding merchantable restricted walnuts upon submission to the Control Board of a report on WCB Form No. 1 showing the quantity, size and quality, handler's lot number, location, and the applicable certificate number of the lot of walnuts withheld.

CONTROL OF SURPLUS WALNUTS

§ 984.454 (a) *Containers for surplus walnuts.* All surplus walnuts withheld by any handler for pooling shall be held and delivered to the Control Board in clean, serviceable bags or cartons. Shelled surplus walnuts exported shall be packed in new, standard cartons of the type normally used for the packing and shipping of shelled walnuts in regular commercial channels.

(b) *Identification of surplus.* Each lot of surplus withheld by any handler shall be stored separately from other walnuts in the handler's premises and shall be identified by tags bearing the handler's lot number, the number of containers in the lot and the "declared weight" (the weight stated by the handler) of the lot. Each container of surplus walnuts withheld by any handler shall be identified by an appropriate seal, in the case of bags, or an appropriate stamp, in the case of cartons. The tags, seals, and stamps shall be furnished by the Control Board and affixed by the handler under the direction and supervision of the Control Board or its designated inspectors.

§ 984.455 *Inspection procedure—(a) Sound kernel weight.* The sound kernel weight of any lot of walnuts unshelled or shelled shall be determined on a sample basis by the Control Board's designated inspectors. In inspecting a sample for sound kernel weight, portions of kernels that will pass through a round opening $\frac{3}{4}$ inch in diameter shall be excluded and portions of kernels that do not meet the requirements of "sound kernels" shall be trimmed off in order that the parts affected shall be excluded in determining the weight of sound kernel in the sample and in the entire lot.

(b) *Accessibility for sampling and sealing or stamping.* Each handler shall make each container of each lot of walnuts accessible for sampling and sealing or stamping in connection with the inspection and certification of any lot of shelled or unshelled walnuts.

(c) *Reinspection of modified lots of surplus.* If any lot of surplus walnuts previously inspected is modified because of an exchange of surplus walnuts or because of an adjustment due to a reduction in the surplus percentage or for any other reason, the certificate covering such lot shall be cancelled and the entire lot as modified shall be reinspected at the handler's expense.

(d) *Weight.* The weight shown on the inspection certificate for any lot of walnuts offered in satisfaction of surplus shall be the "declared weight" (as described in § 984.454 (b)) for such lot. This weight shall be used by the Control Board for accounting purposes until such time as a public weighmaster's certificate has been issued for such lot as provided in § 984.462 (d). Final Control Board accounting shall be based on the weight shown on the weighmaster's certificate.

§ 984.456 *Minimum sound kernel content requirements for surplus—(a) For unshelled walnuts.* Any lot of unshelled walnuts, the kernel weight of which is offered to meet any part or all of the

handler's surplus obligation, must contain a minimum weight of sound kernels equal to 12 percent of the unshelled weight of the lot: *Provided*, That any lot that is to be disposed of as surplus in export channels must meet the minimum requirements for merchantable unshelled walnuts effective pursuant to § 984.43.

(b) *For shelled walnuts.* Any lot of shelled walnuts offered to meet any part or all of a handler's surplus obligation must contain a minimum weight of sound kernels equal to 8 percent of the total weight of the lot: *Provided*, That any lot that is to be disposed of as surplus in export channels must meet the minimum requirements for merchantable shelled walnuts effective pursuant to § 984.45

§ 984.457 *Inspection, certification, and reporting of surplus walnuts withheld.* Each lot of surplus walnuts withheld shall be inspected by the Control Board's designated inspectors, and if found to meet the minimum requirements for surplus as set forth in § 984.456, shall be certified as "Surplus." Such surplus certificates shall show in addition to the information required in § 984.57, the handler's lot number, the location at time of withholding, the place in which it will be stored, and the year of production of the walnuts, as stated by the handler. Credit shall be given to each handler for the withholding of such walnuts upon submission to the Control Board of a report on WCB Form No. 2, showing the quantity withheld, whether shelled or unshelled, the handler's lot number, location, and the applicable certificate number covering the lot of surplus walnuts withheld.

DISPOSITION OF CONTROLLED WALNUTS

§ 984.461 *Applications for disposition of controlled walnuts—(a) Authorized shelling of merchantable restricted walnuts.* Applications for permission to become an authorized sheller pursuant to § 984.61 shall be submitted to the Control Board on WCB Form No. 3.

(b) *Authorized agents for export of controlled walnuts.* Applications for permission to export merchantable restricted or surplus walnuts as an agent of the Control Board shall be approved after the applicant and the Control Board have executed an "Export Agreement for Controlled Walnuts" in which the applicant agrees to observe the conditions pertaining to such export transactions as are set forth in the agreement.

§ 984.462 *Disposition of surplus walnuts—(a) Exclusion from surplus credit of walnuts exported.* Any handler who does not wish to have merchantable restricted or surplus walnuts exported by him credited against his surplus obligation shall notify the Control Board on WCB Form No. 16 prior to July 31 of each marketing year. Such notification shall show, with respect to the walnuts covered thereby (1) the name of the export agent, (2) the number or numbers of Export Report Form C on which the export sales were reported to the Control Board, (3) the lot number or numbers, and (4) the quantity of walnuts in each lot.

(b) *Transfer of surplus export credits.* Any handler who desires to transfer surplus export credits to another handler shall submit a request to the Control Board for such transfer on WCB Form No. 17. The request shall show (1) the name of the handler requesting the transfer, (2) the name of the handler to whom the transfer is to be made, and (3) the net kernel weight of the surplus credit to be transferred. Prior to submission of such form to the Control Board, it shall be endorsed by the handler to whom the export credit is to be transferred.

(c) *Determination of condition and weight of surplus walnuts for pooling—(1) Condition.* Prior to the acceptance of any lot of surplus walnuts delivered to the Control Board for pooling and disposition, the Control Board may require reinspection at the handlers expense to determine whether such walnuts are in substantially the same condition as when they were certified for surplus. If, as a result of reinspection, it is determined that they have deteriorated, only that portion of the lot meeting the requirements for surplus shall be accepted by the Control Board.

(2) *Weight.* Each lot of surplus walnuts delivered to the Control Board for pooling and disposition shall be separately weighed by a public weighmaster, either upon removal from the handler's premises or in transit to Control Board storage facilities or diversion point by a common carrier. A tare of one pound per bag shall be used in determining net weight. A copy of each such weighmaster certificate shall be forwarded to the Control Board and to the handler.

(3) *Weight variations.* Any deficiency in obligation resulting from a variation between the "declared weight" (as described in § 984.454 (b)) and the weight determined by public weighmaster for any lot of walnuts shall be met by the handler within ten days after receipt of notice from the Control Board of such deficiency.

§ 984.463 *Disposition of substandard walnuts.* Each handler who delivers substandard walnuts to another person for disposition pursuant to § 984.63 shall furnish to the Control Board a statement signed by the receiver certifying that he will dispose of the walnuts in the manner specified, and authorizing the Control Board to examine his operations and books and records to verify such disposition. This certified statement shall be made on WCB Form No. 20 furnished by the Control Board.

REPORTS

§ 984.468 *Reports of handler carryovers.* Reports of merchantable walnut carryovers (unshelled and shelled) as of August 1 and January 1 of each marketing year, covering information specified in § 984.68, and showing the quantities sold and unsold, shall be submitted to the Control Board on or before August 15 and January 15, respectively, of such marketing year. Such information pertaining to unshelled walnuts shall be submitted on WCB Form No. 4, and that pertaining to shelled walnuts on WCB Form No. 5.

§ 984.469 *Reports of merchantable unshelled walnuts shipped from stock.* Reports of merchantable unshelled walnuts shipped from stock, covering information specified in § 984.69, shall be submitted to the Control Board on WCB Form No. 6, not later than the fifth day of each month with respect to all such walnuts shipped from stock during the preceding month.

§ 984.470 *Reports of merchantable restricted and surplus walnuts held.* Reports of merchantable restricted and surplus walnuts held, covering information specified in § 984.70, shall be submitted to the Control Board on WCB Forms Nos. 7 and 8, respectively.

§ 984.471 *Reports of merchantable shelled walnuts handled—(a) Reports of merchantable shelled walnuts shipped.* Reports of merchantable shelled walnuts shipped shall be submitted to the Control Board on WCB Form No. 9 not later than the fifth day of each month with respect to merchantable shelled walnuts shipped during the preceding month. Such reports shall include all shipments to points outside the area of production and shipments to buyers within the area of production, and shall show, with respect to the merchantable shelled walnuts covered thereby, (1) the year of production, (2) the total net weight, and (3) whether they were shipped into domestic or export channels. If a handler makes no shipments during a reporting period, he shall submit a report marked "No shipments." If a handler has completed his shipments for the marketing year, he shall so indicate by marking "Completed" on his final report and no further report shall be required of such handler during such marketing year unless he acquires additional merchantable shelled walnuts for handling.

(b) *Reports of merchantable shelled walnuts purchased from growers for manufacturing.* Reports of shelled walnuts purchased by manufacturers within the area of production directly from growers shall be submitted to the Walnut Control Board on WCB Form No. 9a not later than the fifth day of each month with respect to the shelled walnuts purchased during the preceding month. Such reports shall include only shelled walnuts which have been determined to be merchantable by the required inspection and shall show, with respect to the merchantable shelled walnuts covered thereby (1) the year of production, and (2) the total net weight.

§ 984.472 *Reports of disposition of merchantable restricted walnuts withheld—(a) Reports of intention to dispose.* Reports of intention to dispose of merchantable restricted walnuts pursuant to the provisions of § 984.72 (a) shall be submitted to the Control Board on WCB Form No. 12.

(b) *Report of disposition accomplished.* Reports of disposition accomplished pursuant to the provisions of § 984.72 (b) shall be submitted to the Control Board on WCB Form No. 13.

§ 984.473 *Reports of interstate shipment of unshelled walnuts within the area of production—(a) Report of ship-*

per. Reports of interstate shipments within the area of production required pursuant to the provisions of § 984.73 shall be made to the Control Board on WCB Form No. 14.

(b) *Report of consignee.* Reports of receipt of shipments of walnuts required pursuant to the provisions of § 984.73 shall be made to the Control Board on WCB Form No. 15. Each such report shall contain a certification by the consignee to the United States Department of Agriculture and the Walnut Control Board that he will handle such walnuts in accordance with the provisions of this part.

§ 984.474 *Reports of receipt of merchantable restricted walnuts for shelling.* Pursuant to the provisions of § 984.74 reports of merchantable restricted walnuts received by an authorized sheller for shelling shall be reported to the Control Board on WCB Form No. 19, and reports of the actual disposition of such walnuts shall be made to the Control Board on WCB Form No. 13.

§ 984.475 *Report of substandard walnuts.* Reports required pursuant to § 984.75 relating to substandard walnuts shall be submitted to the Control Board on WCB Form No. 21 on or before January 15 covering the preceding period August 1 through December 31, and on or before August 15 covering the preceding period January 1 through July 31.

§ 984.476 *Report of intention to handle merchantable shelled walnuts.* Any handler who, pursuant to the provisions of § 984.54 (b), desires to declare his intention to handle merchantable shelled walnuts which he has on hand and owns, shall make such declaration to the Control Board on WCB Form No. 10 showing with respect to the walnuts covered thereby (a) the net weight of the merchantable shelled walnuts intended to be handled, and (b) the location or locations at which such merchantable shelled walnuts are stored.

MISCELLANEOUS PROVISIONS

§ 984.480 *Cancellation of certificates.* Requests for cancellation of certificates pursuant to the provisions of § 984.80 shall be submitted to the Control Board on WCB Form No. 23.

§ 984.481 *Postponement of control obligation upon filing of a bond—(a) Bonds acceptable to the Control Board.* Cash, cashier's or certified checks, or surety bonds submitted on an appropriate WCB form shall be acceptable to the Control Board under the provisions of § 984.81 (b). The surety on any such bond shall guarantee the bond on the basis of assets that are entirely separate and apart from the principal named in the bond. If a bond is secured by a personal surety, the Board shall have the right to require an acceptable financial statement of the surety's assets.

(b) *Bonding rates.* The bonding rate for surplus pursuant to § 984.81 (c) (2) shall be calculated to the nearest one-hundredth of a cent per pound.

§ 984.488 *Exemption from regulations—(a) Sales by growers direct to consumers.* Any walnut grower may sell

shelled or unshelled walnuts of his own production free of the provisions of this part under the following types of exemptions:

(1) If sold directly to consumers in the area of production at roadside stands and farmers markets;

(2) If sold directly to consumers in the area of production (at locations other than those specified in subparagraph (1) of this paragraph) in quantities not exceeding an aggregate of 500 pounds of unshelled walnuts or 200 pounds of shelled walnuts during any marketing year; and

(3) If shipped by parcel post or express directly to consumers in quantities not exceeding 10 pounds of unshelled walnuts or 4 pounds of shelled walnuts to any one consumer in any one calendar day.

(b) *Green walnuts.* Walnuts which are green and which are so immature that they cannot be used for drying and sale as dried walnuts may be shipped without regard to the provisions of this part.

Dated: January 23, 1958.

[SEAL] S. R. SMITH,
Director,
Fruit and Vegetable Division.

[F. R. Doc. 58-668; Filed, Jan. 28, 1958; 8:47 a. m.]

[7 CFR Part 1015]

CUCUMBERS GROWN IN FLORIDA

PACK SPECIFICATIONS

Notice is hereby given that the Secretary of Agriculture is considering the approval of the revision, as hereinafter set forth, to the existing pack specifications (22 F. R. 8975, 9916), adopted by the Florida Cucumber Committee, established pursuant to Marketing Agreement No. 118, and Order No. 115 (7 CFR 1015; 22 F. R. 6083) regulating the handling of cucumbers grown in Florida, issued under the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047).

Consideration will be given to any data, views, or arguments pertaining thereto which are filed with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D. C., not later than 10 days following publication of this notice in the FEDERAL REGISTER.

The proposed revision is as follows:

The provisions of § 1015.101 *Pack specifications* (22 F. R. 8975, 9916), are hereby revised to read as follows:

§ 1015.101 *Pack specifications.* (a) On and after March 1, 1958, and until modified, suspended, or terminated, each of the grades defined and set forth in the proposed revision to the United States Standards for Cucumbers (§§ 51.2220 to 51.2239 of this title; 23 F. R. 326) shall be a pack of cucumbers pursuant to § 1015.11, and the pack specifications for each such grade shall be the same as set forth in such standards, which are:

(1) *U. S. Fancy*. U. S. Fancy consists of cucumbers which are well colored, well formed, not overgrown, and which are fresh, firm, and free from decay, sunscald, and from injury caused by scars and from damage caused by yellowing, sunburn, dirt or other foreign material, freezing, mosaic or other disease, insects, cuts, bruises, mechanical or other means. The maximum diameter of each cucumber shall be not more than 2¾ inches and the length of each cucumber shall be not less than 6 inches.

(2) *U. S. Extra No. 1*. U. S. Extra No. 1 consists of a combination of U. S. Fancy and U. S. No. 1 cucumbers: *Provided*, That at least 50 percent of the cucumbers in the lot shall meet the requirements of the U. S. Fancy grade and the remainder shall meet the requirements of the U. S. No. 1 grade. The maximum diameter of each cucumber shall be not more than 2¾ inches and the length of each cucumber shall be not less than 6 inches.

(3) *U. S. No. 1*. U. S. No. 1 consists of cucumbers which are fairly well colored, fairly well formed, not overgrown, and which are fresh, firm, and free from decay, sunscald and from damage caused by scars, yellowing, sunburn, dirt or other foreign material, freezing, mosaic or other disease, insects, cuts, bruises, mechanical or other means. Unless otherwise specified, the maximum diameter of each cucumber shall be not more than 2¾ inches and the length of each cucumber shall be not less than 6 inches.

(4) *U. S. No. 1 Small*. U. S. No. 1 Small consists of cucumbers which meet all requirements for the U. S. No. 1 grade except for size. The diameter of each cucumber shall be not less than 1½ inches or more than 2 inches. There are no requirements for length.

(5) *U. S. No. 1 Large*. U. S. No. 1 Large consists of cucumbers which meet all requirements for the U. S. No. 1 grade except for size. The minimum diameter of each cucumber shall be not less than 2¼ inches and, unless otherwise specified, the length of each cucumber shall be not less than 6 inches. There are no maximum diameter and length requirements.

(6) *U. S. No. 2*. U. S. No. 2 consists of cucumbers which are moderately colored, not badly deformed, not overgrown, and which are fresh, firm, free from decay and free from damage caused by freezing, sunscald, cuts and from serious damage caused by scars, yellowing, sunburn, dirt or other foreign material, mosaic or other disease, insects, bruises, mechanical or other means. Unless otherwise specified, the maximum diameter of each cucumber shall be not more than 2¾ inches and the length of each cucumber shall be not less than 5 inches.

(b) The terms, grades and sizes as used in this section shall have the same meanings as set forth in the proposed revision to the United States Standards for Cucumbers (§§ 51.2220 to 51.2239 of this title; 23 F. R. 326), including the tolerances set forth therein. The term "Fancy" is synonymous with, and shall have the same meaning as, the term

"U. S. Fancy"; and the terms "Extra" and "Extra No. 1" are synonymous with, and shall have the same meaning as, the term "U. S. Extra No. 1." All other terms used in this section shall have the same meaning as when used in this part.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and 608c)

Dated: January 23, 1958.

[SEAL] S. R. SMITH,
Director,
Fruit and Vegetable Division.

[F. R. Doc. 58-667; Filed, Jan. 28, 1958;
8:47 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 11757; FCC 58M-72]

TELEVISION BROADCAST STATIONS, EVANSVILLE, IND., AND LOUISVILLE, KY.

ORDER CONTINUING HEARING

In the matters of amendment of § 3.606 *Table of assignments*, Television Broadcast Stations (Evansville, Indiana, and Louisville, Kentucky) and order directing Evansville Television, Inc. to show cause why its authorization for Station WTUV, Evansville, Indiana, should not be modified to specify operation on Channel 31 in lieu of Channel 7; Docket No. 11757.

It is ordered, This 23d day of January 1958, That, pursuant to a pre-hearing conference held on this date, the hearing now scheduled herein for January 27, 1958, be and the same is hereby, rescheduled for February 3, 1958, at 10 o'clock a. m. in the offices of the Commission, Washington, D. C.

Released: January 23, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-682; Filed, Jan. 28, 1958;
8:49 a. m.]

[47 CFR Parts 10, 11, and 16]

[Docket No. 12295; FCC 58-78]

PUBLIC SAFETY, INDUSTRIAL, AND LAND
TRANSPORTATION RADIO SERVICES
NARROW BAND TECHNICAL STANDARDS

1. Notice is hereby given of proposed rule making in the above entitled matter.

2. By the Commission's Report and Order of September 19, 1956, in Docket No. 11253 (FCC 56-901, released September 24, 1956) and its Second Report and Order of September 19, 1957 in the same Docket (FCC 57-1018, released September 20, 1957), new "narrow-band" technical standards were adopted with respect to radio transmitting equipment to be operated in the 25-50 and 152-162 Mc bands in the Public Safety, Industrial, and Land Transportation Radio Services. Such narrow-band technical standards, under the provisions of the above orders, are scheduled to become

mandatory on November 1, 1958, with respect to all new radio communication systems in those services and to become mandatory with respect to all systems authorized prior to the latter date in the above services on November 1, 1963.

3. The Commission is in receipt of various comments, in recent associated rule making proceedings (Docket Nos. 11959, 11990, 11991, 11992, 11993, and 12169), which indicate a possible general desire on the part of industry to accelerate the dates of mandatory compliance with the new narrow-band technical standards. Representative of the positions taken in the comments are the following: (1) Require users of frequencies immediately adjacent to the split channels to convert to the new standards by no later than December 31, 1959; (2) Require all new users (in certain services) to use narrow-band equipment immediately; (3) Eliminate any requirement that new split-channel users protect broad band assignments on the adjacent frequencies; (4) Require that users of broad-band equipment operate their transmitters within the narrow-band deviation limits; and (5) Remove any requirement for narrow-band operation until such time as it can be proven necessary in specific cases for the alleviation of interference. Variations of the foregoing positions, as well as opposed, supplementary and exception-seeking comments, have also been received. In view of the wide divergence of views in the matters of 1958 and 1963 dates, as illustrated above, the Commission believes that there is good cause for reopening the question as to the dates by which compliance with the new technical standards must be effected.

4. Accordingly, and consistent with the general trend of the above positions, the Commission proposes to amend Parts 10, 11, and 16 of its rules to provide that, in the Public Safety, Industrial and Land Transportation Services, the narrow band technical standards previously adopted shall be immediately mandatory with respect to all new radio communication systems authorized to be operated in the bands 25-50 or 152-162 Mc,¹ and that all frequencies derived from "channel splitting" in those bands shall be immediately available for assignment to applicants in the respective services under the condition that a satisfactory showing is made that the selection of each requested frequency has been coordinated in accordance with the relevant provisions regarding frequency coordination contained in the Commission's rules governing the particular service involved, and that such coordination has been effected with respect to all frequencies assigned to stations in the same or other services within 30 kc from the frequency or frequencies requested in the application. Where an applicant elects to obtain a recommendation from a frequency coordinating committee and

¹Frequencies in the 150.8-152.0 Mc band will be available in the above services on April 1, 1958, and the narrow-band standards will be mandatorily applicable from the beginning. (See First Report and Order in Docket No. 12169, FCC 57-1396, released December 20, 1957.)

where the frequency selected is immediately adjacent to any frequency normally coordinated by a similar committee in some other service the Commission will expect the committee's recommendation to reflect consultation and the results thereof between the committees involved.

5. The Commission further proposes to permit the continued use of equipment not meeting the new narrow-band technical standards without cut-off date, under the following conditions:

(a) The equipment shall have been placed in use prior to the effective date of this proposed action, or shall have been added to an existing radio communications system which was authorized prior to the effective date of this proposed action; and

(b) Whenever interference is caused to stations complying with the narrow-band technical standards by the operation of stations using equipment not meeting those standards, the deviation of such non-complying transmitting equipment shall be reduced to the point that the bandwidth occupied by the emission of the station plus an allowance for the frequency tolerance of the equipment does not exceed the bandwidth specified in the narrow-band technical standards. Licensees of both narrow-band equipment and wide-band equipment modified as above shall thereafter accept any residual interference encountered.

6. In connection with the foregoing proposed revision of the effective date

and applicability of the narrow-band technical standards, the Commission is especially desirous to obtain the views of the various frequency coordinating committees concerning the feasibility of the procedure proposed for the coordination of frequency selection. The Commission also specifically desires to invite comments from the various manufacturers of mobile radio communication system equipment which will provide the Commission and frequency coordinating committees with quantitative and qualitative data regarding the areas of interference involved (in both directions) when the older type wide-band equipment and the newer narrow-band equipment are operated on adjacent narrow-band frequencies, both under the conditions of normal frequency deviation of the older type equipment and under various conditions of reduced frequency deviation of the older type equipment.

7. As an overall matter the Commission urges all licensees to fully modify or replace all existing wide-band equipment as rapidly as possible to conform with narrow-band technical standards. The accomplishment of this objective would of course relieve the licensees involved of the responsibility for having to make an unscheduled modification of their equipment should interference be caused to an adjacent channel narrow-band system. Further, such replacement should materially decrease the probability of received interference and contribute to better spectrum utilization.

8. The proposed amendments are issued under the authority of sections 4 (i) and 303 of the Communications Act of 1934, as amended.

9. Any interested person who is of the opinion that the proposed amendments should not be adopted or should not be adopted in the form set forth herein, and any person desiring to support this proposal, may file with the Commission on or before April 1, 1958 a written statement or brief setting forth his comments. Replies to such comments may be filed within ten days from the last date for filing original comments. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing of such additional comments is established. The Commission will consider all such comments prior to taking final action in this matter, and if comments are submitted warranting oral argument, notice of the time and place of such oral argument will be given.

10. In accordance with the provisions of § 1.764 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, or comments filed shall be furnished the Commission.

Adopted: January 22, 1958.

Released: January 23, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-683; Filed, Jan. 28, 1958;
8:49 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Los Angeles 0151487]

CALIFORNIA

AIR NAVIGATION SITE WITHDRAWAL

JANUARY 21, 1958.

By virtue of the authority contained in section 4 of the Act of May 24, 1928 (45 Stat. 729; 49 U. S. C. 24) as amended, and pursuant to authority delegated to me by the California State Supervisor, Bureau of Land Management, under Part II, Document 4, California State Office dated November 19, 1954 (19 F. R. 7697). It is ordered as follows:

Subject to valid existing rights, the following described public land in California is hereby withdrawn from all forms of appropriations under public land laws, including the mining and mineral leasing laws, and reserved for the use of the Corps of Engineers, U. S. Army, Los Angeles District, in the maintenance of air navigation facilities, Los Angeles 0151487:

SAN BERNARDINO MERIDIAN, CALIFORNIA

T. 7 N., R. 5 W.,

Sec. 22: Commencing at the southeast corner of said section 10;

N. 0°50'48" W., 3,224.72 ft. to a point in the east line of said section 22;

No. 20—6

S. 89°10'49" W., 1,149.63 ft. to the true point of beginning;
N. 0°49'11" W., 37.5 ft.;
S. 89°10'49" W., 75.0 ft.;
S. 0°49'11" E., 75.0 ft.;
N. 89°10'49" E., 75.0 ft.;
N. 0°49'11" W., 37.5 ft. to the true point of beginning.

The tract as described contains 0.13 acres in the county of San Bernardino, California.

It is intended that the above described land shall be returned to the administration of the Department of the Interior when it is no longer needed for the purpose for which it is reserved.

ROLLA E. CHANDLER,
Officer-in-Charge,
Southern Field Group,
Los Angeles.

[F. R. Doc. 58-655; Filed, Jan. 28, 1958;
8:45 a. m.]

CALIFORNIA

REVOKING AIR NAVIGATION SITE WITHDRAWAL NO. 217

JANUARY 20, 1958.

By virtue of the authority contained in section 4 of the act of May 24, 1928 (45 Stat. 729; 49 U. S. C. 214), and pursuant to the authority delegated to me by the

California State Supervisor, Bureau of Land Management, Part II, Document 4, California State Office dated November 19, 1954 (19 F. R. 7697), it is ordered as follows:

1. Air Navigation Site Withdrawal No. 217, dated April 12, 1944, affecting lands described below, is hereby revoked:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 31 N., R. 15 E.,

Sec. 22: That part of NE¼NE¼, described by metes and bounds as follows:

Beginning at the northeast corner of sec. 22,

Thence S. 0°12'00" E., 1,323.6 ft.;

Thence N. 89°44' W., 853.3 ft.;

Thence N. 9°35'00" E. along the east right-of-way line of U. S. Highway 395, 1,341.4 ft.;

Thence S. 89°40'34" E., 735.4 ft. to the point of beginning.

Sec. 23, NW¼, S½.

The areas described total 504.13 acres of public lands in Lassen County.

2. The lands are flat to gently rolling of sandy clay loam covered with greasewood and big sagebrush and are part of the organized grazing district California No. 2. It is located adjacent to U. S. Highway 395 approximately 32 miles northeast of Susanville, California.

3. No application for these lands will be allowed under the homestead, desert land, small tract, or any other nonmin-

eral public land law, unless the lands have already been classified as valuable, or suitable for such type of application, or shall be so classified upon consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

4. Subject to any existing valid rights and the requirements of applicable law, the lands described are hereby opened to filing of applications, selections, and locations in accordance with the following:

a. Applications and selections under the nonmineral public land laws and applications and offers under the mineral leasing laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications, selections, and offers will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications under the Homestead, Desert Land, and Small Tract Laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284 as amended), presented prior to 10:00 a. m., local time on February 25, 1958, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a. m., local time on May 27, 1958, will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public land laws, other than those coming under paragraphs (1) and (2) above, and applications and offers under the mineral leasing laws, presented prior to 10:00 a. m., local time on May 27, 1958, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

b. The lands will be open to location under the United States mining laws, beginning 10:00 a. m., local time on May 27, 1958.

5. Persons claiming veteran's preference rights under paragraph a (2) above must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pur-

suant to this notice can be found in Title 43 of the Code of Federal Regulations.

6. Inquiries concerning these lands shall be addressed to the Manager, Land Office, 10th Floor, California Fruit Building, 4th and J Streets, Sacramento, California.

R. G. SPORLEDER,
Officer in Charge,
Northern Field Group,
Sacramento, California.

[F. R. Doc. 58-656; Filed, Jan. 28, 1958;
8:45 a. m.]

[1151018]

OREGON

REVOKING DEPARTMENTAL ORDER OF APRIL
11, 1930, CREATING RECREATIONAL WITH-
DRAWAL NO. 34

JANUARY 23, 1958.

By virtue of the authority vested in the Secretary of the Interior by the Act of June 14, 1926 (44 Stat. 741; 43 U. S. C. 869) as amended, and pursuant to Departmental Order No. 2583, § 2.22 (a) of August 16, 1950, it is ordered as follows:

1. The Departmental order of April 11, 1930, withdrawing the following-described lands in Oregon as Recreational Withdrawal No. 34, is hereby revoked:

WILLAMETTE MERIDIAN

T. 37 S., R. 11 E.,
Sec. 34, S $\frac{1}{2}$ NW $\frac{1}{4}$.

The area described contains 80 acres.

2. The land lies 30 miles east of Klamath Falls, Oregon, and is traversed by Oregon State Highway No. 66, one of the main State highways. The soil is generally coarse sandy loam intermingled with surface and solid rock. Vegetation consists of native grasses, some browse and a scattering of ponderosa pine. The land is slightly rolling to rough.

3. Beginning at 10:00 on February 28, 1958, the lands described in paragraph 1, above, will become subject to application, location, offer, or selection under the public land laws, including the mining and mineral leasing laws. This revocation is made in furtherance of a proposed exchange under section 8 of the Act of June 28, 1934 (48 Stat. 1272; 43 U. S. C. 315g), as amended, with the State of Oregon (Oregon 05260). Since this revocation is made in order to assist in a Federal land program, this opening is not subject to the provisions contained in the Act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284; 43 CFR Part 181), as amended, granting certain preference rights to veterans of World War II, the Korean Conflict, and others.

4. No application for these lands will be allowed under the homestead, desert-land, small-tract, or any other nonmineral public-land law, unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon consideration of an application. Any application that is filed will be considered on its merits and the lands will not be subject to occupancy or disposition until they have been classified and the application allowed.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Portland, Oregon.

EDWARD WOOLLEY,
Director.

[F. R. Doc. 58-657; Filed, Jan. 28, 1958;
8:45 a. m.]

NEW MEXICO

NOTICE OF PROPOSED WITHDRAWAL AND
RESERVATION OF LANDS

The United States Department of Agriculture has filed an application, Serial No. New Mexico 036793, for the withdrawal of lands described below, from all forms of appropriation, including the general mining laws, but not the mineral leasing laws.

The applicant desires the land as an administrative site.

For a period of 30 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, P. O. Box 1251, Santa Fe, New Mexico.

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

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

The lands involved in the application are:

NEW MEXICO PRINCIPAL MERIDIAN

LINCOLN NATIONAL FOREST

Queens Administrative Site

T. 24 S., R. 22 E.,
Sec. 19, S $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 30, NW $\frac{1}{4}$ NW $\frac{1}{4}$.

The area described aggregates 120 acres.

W. J. ANDERSON,
Acting State Supervisor.

[F. R. Doc. 58-658; Filed, Jan. 28, 1958;
8:46 a. m.]

Bureau of Reclamation

BOISE PROJECT, IDAHO

ORDER OF REVOCATION

JANUARY 12, 1955.

Pursuant to the authority delegated by Departmental Order No. 2765 of July 30, 1954, I hereby revoke Departmental Orders of December 22, 1903, and February 10, 1906, in so far as said orders affect the following-described land; provided, however, that such revocation shall not affect the withdrawal of any other lands by said orders or affect any other orders withdrawing or reserving the land hereinafter described:

BOISE MERIDIAN, IDAHO

T. 3 N., R. 3 W.,
Sec. 26, N $\frac{1}{2}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SW $\frac{1}{4}$.

The above area aggregates 120 acres.

N. B. BENNETT,
Acting Asst. Commissioner.

[68346]

JANUARY 22, 1958.

I concur.

The lands are included in application Idaho 06471, for withdrawal in connection with the Deer Flat Wildlife Refuge. In accordance with 43 CFR 295.11, and the provisions of the application, the lands shall be segregated from other forms of disposal under the public land laws until final action on the application for withdrawal has been taken.

EDWARD WOOLEY,
Director,
Bureau of Land Management.

[F. R. Doc. 58-660; Filed, Jan. 28, 1958; 8:46 a. m.]

The term "western style shirts" means shirts of the style worn in the Occident, as distinguished from shirts of the style worn in the Far East. Sport shirts are considered western style within the meaning of the Foreign Assets Control regulations only if they have collars, are open all the way down the front, and are woven rather than knitted. Thus, T shirts and polo shirts, for example, are not considered western style shirts.

[SEAL] ELTING ARNOLD,
Acting Director,
Foreign Assets Control.

[F. R. Doc. 58-680; Filed, Jan. 28, 1958; 8:49 a. m.]

ing filing of the notice of proposed action with the Federal Register Division the Atomic Energy Commission on January 22, 1958, issued Facility License No. CX-8 to Nuclear Development Corporation of America authorizing possession of a critical experiment facility at a site near Pawling, New York.

Notice of proposed issuance of this license was published in the FEDERAL REGISTER on December 27, 1957, 22 F. R. 10761.

Dated at Germantown, Md., this 22d day of January 1958.

For the Atomic Energy Commission.

H. L. PRICE,
Director.

Division of Licensing and Regulation.

[F. R. Doc. 58-679; Filed, Jan. 28, 1958; 8:49 a. m.]

ELUE SOUTH PLATTE PROJECT, COLORADO

AMENDED ORDER OF REVOCATION

OCTOBER 30, 1957.

Pursuant to the authority delegated by Departmental Order No. 2765 of July 30, 1954, I hereby revoke Departmental Orders dated May 13, 1943, and August 23, 1943, insofar as said orders affect the following described land; provided, however, that such revocation shall not affect the withdrawal of any other lands by said order or affect any other orders withdrawing or reserving the land hereinafter described:

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 1 N., R. 80 W.,
Sec. 20, NW $\frac{1}{4}$ NW $\frac{1}{4}$.
T. 3 S., R. 74 W.,
Sec. 26, Lots 17, 20, 21, 22, 23, 56, 57, 58, 59.

The above areas aggregate 163.62 acres.

WILLIAM I. PALMER,
Acting Assistant Commissioner.

[1952166]

JANUARY 23, 1958.

I concur.

The purpose of this order is solely to amend the order of July 9, 1957, concurred in by the Bureau of Land Management on September 3, 1957, and which appears on page 7186 of the FEDERAL REGISTER of September 7, 1957, by substituting the date "August 23, 1953" for the date "September 3, 1943" as the date of one of two departmental orders partly revoked by the order of July 9, 1957.

EDWARD WOOLEY,
Director,
Bureau of Land Management.

[F. R. Doc. 58-661; Filed, Jan. 28, 1958; 8:46 a. m.]

TUSSAH SILK CONTINUOUS FILAMENT YARN RULING REGARDING PROHIBITIONS

Inquiry has been made of the Foreign Assets Control whether tussah silk continuous filament yarn (including tussah silk continuous filament thread) is subject to the prohibitions of § 500.204 (a) (2) of the Foreign Assets Control regulations (31 CFR 500.204 (a) (2)).

This merchandise is subject to the prohibitions of that section.

[SEAL] ELTING ARNOLD,
Acting Director,
Foreign Assets Control.

[F. R. Doc. 58-681; Filed, Jan. 28, 1958; 8:49 a. m.]

ATOMIC ENERGY COMMISSION

[Docket No. 27-8]

NEW ENGLAND TANK CLEANING CO.

NOTICE OF RECEIPT OF APPLICATION FOR LICENSE TO PROVIDE RADIOACTIVE WASTE DISPOSAL SERVICES

Please take notice that an application for a license to provide radioactive waste disposal services has been filed by New England Tank Cleaning Co., 135 First Street, Cambridge, Massachusetts.

The application specifies a maximum possession limit of 1,000 curies total of Byproduct Material. The radioactive material will be stored on Lovell's Island in Boston Harbor prior to burial at sea.

A copy of the application is available for public inspection in the AEC Public Document Room located at 1717 H Street NW., Washington, D. C.

Dated at Germantown, Md., this 20th day of January 1958.

For the Atomic Energy Commission.

HAROLD L. PRICE,
Director.

Division of Licensing and Regulation.

[F. R. Doc. 58-654; Filed, Jan. 28, 1958; 8:45 a. m.]

[Docket No. 50-23]

NUCLEAR DEVELOPMENT CORPORATION OF AMERICA

NOTICE OF ISSUANCE OF FACILITY LICENSE

Please take notice that no requests for formal hearing having been filed follow-

[Docket 50-75]

NATIONAL ADVISORY COMMITTEE FOR AERONAUTICS

NOTICE OF ISSUANCE OF CONSTRUCTION PERMIT

Please take notice that no request for a formal hearing having been filed following the filing of notice of the proposed action with the Federal Register Division on December 31, 1957, the Atomic Energy Commission has issued Construction Permit CPCX-11 authorizing the National Advisory Committee for Aeronautics to construct a homogeneous zero power research reactor at the location at the NACA Lewis Flight Propulsion Laboratory in Cleveland, Ohio, described in the application in Docket 50-75. Notice of the proposed action was published in the FEDERAL REGISTER on January 1, 1958, 23 F. R. 20.

Dated at Germantown, Md., this 22d day of January 1958.

For the Atomic Energy Commission.

H. L. PRICE,
Director.

Division of Licensing and Regulation.

[F. R. Doc. 58-678; Filed, Jan. 28, 1958; 8:49 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

CHIEF, FRUIT BRANCH

DELEGATION OF AUTHORITY TO EXERCISE CERTAIN POWERS AND FUNCTIONS

By virtue of the authority vested in the Director of the Fruit and Vegetable Division of the Agricultural Marketing Service (hereinafter referred to as the "Director") by the regulations (7 CFR Part 33; 22 F. R. 7209) in effect pursuant to the so-called Export Apple and Pear Act (7 U. S. C. 581-589) and delegation by the Administrator of the Agricultural Marketing Service, effective January 2, 1954 (19 F. R. 35), as from time to time amended:

(1) The authority heretofore delegated (19 F. R. 146) to the Chief of the Regulatory Branch, Fruit and Vegetable

DEPARTMENT OF THE TREASURY

Foreign Assets Control

WESTERN STYLE SHIRTS

DEFINITION

Inquiry has been made of the Foreign Assets Control regarding the definition of "western style shirts" as that term is used in § 500.204 (a) (3) of the Foreign Assets Control regulations (31 CFR 500.204 (a) (3)).

Division, to exercise all powers and perform all functions of the Director in the administration of said Export Apple and Pear Act is hereby withdrawn and delegated to the Chief of the Fruit Branch, Fruit and Vegetable Division.

(2) No delegation or authority prescribed herein shall preclude the Director from exercising any of the powers or functions or from performing any of the duties conferred herein, and any such delegation or authorization is subject at all times to withdrawal or amendment by the Director.

Done at Washington, D. C., this 23d day of January 1958, to become effective February 3, 1958.

[SEAL] S. R. SMITH,
Director,
Fruit and Vegetable Division.

[F. R. Doc. 58-669; Filed, Jan. 28, 1958;
8:47 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 12237 etc.; FCC 58-59]

OKLAHOMA TELEVISION CORP. ET AL.

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Oklahoma Television Corporation, New Orleans, Louisiana, Docket No. 12237, File No. BPCT-2330; William G. Aly, Richard J. Carrere, Frank B. Ellis, George C. Foltz, George E. Martin, Joseph A. Paretti, Chalin O. Perez, John E. Pottharst, and William H. Saunders, Jr. d/b as Coastal Television Company, New Orleans, Louisiana, Docket No. 12289, File No. BPCT-2430; for construction permits for new television broadcast stations; Supreme Broadcasting Company, Inc., New Orleans, Louisiana, Docket No. 12238, File No. BMPCT-4679; for modification of construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C. on the 22d day of January 1958;

The Commission having under consideration the above-captioned applications, two requesting construction permits for new television broadcast stations to operate on Channel 12 in New Orleans, Louisiana, the other requesting a modification of construction permit to operate on Channel 12 in lieu of Channel 20 in New Orleans, Louisiana; and

It appearing that by an order released on November 8, 1957, the Commission designated for hearing in a consolidated proceeding the mutually exclusive applications of Oklahoma Television Corporation and Supreme Broadcasting Company, Inc.; that within ten days of said Order, William G. Aly et al. d/b as Coastal Television Company, filed, on November 18, 1957 an application which is mutually exclusive with said applications and is entitled, therefore, to be consolidated in said proceeding pursuant to the then § 1.724 (b) of the Commission's rules; and

It further appearing that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-

named applicants were advised by letters of the fact that their applications are mutually exclusive, of the necessity for a hearing and Coastal Television Company was advised of all objections to its application; and the applicants were given opportunity to reply; and

It further appearing that upon due consideration of the application of Coastal Television Company, and the replies to the above letters, the Commission finds that Coastal Television Company is legally, financially and otherwise qualified to construct, own and operate the proposed television broadcast station and is technically so qualified except as to issue "1" below;

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the application of William G. Aly, George C. Foltz, George E. Martin, Joseph A. Parotti, Chalin O. Perez, John E. Pottharst and William H. Saunders d/b as Coastal Television Company is consolidated in the proceeding on the other applications herein, Docket Nos. 12237 and 12238; and

It is further ordered, That this order shall supersede, with respect to the issues only, the Commission's above-referenced order released on November 8, 1957, designating for hearing the applications of Oklahoma Television Corporation and Supreme Broadcasting Company, Inc., and that the issues in said proceeding shall be as follows:

1. To determine whether the antenna systems and sites proposed in the above-captioned applications would constitute hazards to air navigation.

2. To determine on a comparative basis which of the operations proposed in the above-captioned applications would best serve the public interest, convenience and necessity in the light of the record made with respect to the significant differences among the applicants as to:

(a) The background and experience of each having a bearing on its ability to own and operate the proposed television broadcast station.

(b) The proposals of each with respect to the management and operation of the proposed television broadcast stations.

(c) The programming service proposed in each of the above-captioned applications.

3. To determine in the light of the evidence adduced pursuant to the foregoing issues, which of the applications, if any, should be granted.

It is further ordered, That the issues in the above-entitled proceeding may be enlarged by the Examiner on his own motion or on petition properly filed by a party to the proceeding and upon a sufficient allegation of facts in support thereof, by the addition of the following issue: To determine whether the funds available to the applicants will give reasonable assurance that the proposals set forth in the applications will be effectuated.

It is further ordered, That to avail itself of the opportunity to be heard Coastal Television Company pursuant to § 1.387 of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order file with the

Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

Released: January 24, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-684; Filed, Jan. 28, 1958;
8:50 a. m.]

[Docket Nos. 12287, 12288; FCC 58-58]

SHERRILL C. CORWIN ET AL.

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Sherrill C. Corwin, Los Angeles, California, Docket No. 12287, File No. BPCT-2368; Frederick J. Basset and William E. Sullivan (Partners) as K-UHF (TV) Los Angeles, California, Docket No. 12288, File No. BPCT-2385; for construction permits for a new television broadcast station.

At a session of the Federal Communications Commission held at its offices in Washington, D. C. on the 22d day of January 1958;

The Commission having under consideration the above-captioned applications, each requesting a construction permit for a new television broadcast station to operate on Channel 34 in Los Angeles, California; and

It appearing that the above-captioned applications are mutually exclusive, in that operation by more than one of the applicants as proposed, would result in mutually destructive interference; and

It further appearing that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-named applicants were advised by letters of the fact that their applications were mutually exclusive, of the necessity for a hearing, and of all objections to their applications, and were given an opportunity to reply; and

It further appearing that upon due consideration of the above-captioned applications, the amendments thereto and the replies to the above letters, the Commission finds that pursuant to section 309 (b) of the Communications Act of 1934, as amended, a hearing is necessary; that Sherrill C. Corwin is legally, financially, technically and otherwise qualified to construct, own and operate the proposed television broadcast station; and that it has been unable to find Frederick J. Basset and William E. Sullivan (partners) as K-UHF (TV) (hereafter referred to as K-UHF (TV)) legally, financially, or technically qualified to construct, own and operate the proposed station.

It is ordered, That pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-captioned applications of Sherrill C. Corwin and K-UHF (TV) 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 whether K-UHF (TV) is in fact a legally qualified applicant inasmuch as its partnership agreement states that such partnership shall not commence until the effective date of the requested construction permit.

2. To determine the financial qualifications of K-UHF (TV) to construct, own and operate the proposed television broadcast station.

3. To determine whether the antenna system and site proposed by K-UHF (TV) would constitute a hazard to air navigation.

4. To determine the technical qualifications of K-UHF (TV) to construct, own and operate the proposed television broadcast station.

5. To determine on a comparative basis which of the operations proposed in the above-captioned applications would better serve the public interest, convenience and necessity in the light of the record made with respect to the significant differences between the applicants as to:

(a) The background and experience of each having a bearing on its ability to own and operate the proposed television broadcast station.

(b) The proposals of each with respect to the management and operation of the television broadcast station.

(c) The programming service proposed in each of the above-captioned applications.

6. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

It is further ordered, That the issues in the above-entitled proceeding may be enlarged by the Examiner on his own motion or on petition properly filed by a party to the proceeding and upon a sufficient allegation of facts in support thereof, by the addition of the following issue: To determine whether the funds available to the applicants will give reasonable assurance that the proposals set forth in the applications will be effectuated.

It is further ordered, That to avail themselves of the opportunity to be heard, Sherrill C. Corwin and K-UHF (TV), pursuant to § 1.387 of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

Released: January 24, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-685; Filed, Jan. 28, 1958;
8:50 a. m.]

[Docket No. 12290; FCC 58-61]

WRATHER-ALVAREZ BROADCASTING, INC.
ORDER DESIGNATING APPLICATION FOR
HEARING ON STATED ISSUES

In re application of Wrather-Alvarez
Broadcasting, Inc., Yuma, Arizona,

Docket No. 12290, File No. BMPCT-4563; for extension of time within which to construct.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 22d day of January 1958;

The Commission having under consideration the above-captioned application requesting an extension of time within which to construct a television broadcast station at Yuma, Arizona; and

It appearing that Wrather-Alvarez Broadcasting, Inc., has held a construction permit from January 25, 1956, until March 25, 1957, during which time no construction of the proposed facilities was commenced; and

It further appearing that on February 25, 1957, the applicant filed an application for indefinite extension of time within which to construct its proposed facilities; and

It further appearing that the applicant was notified by letter dated October 9, 1957, that the Commission was unable to find that the applicant had been diligent in proceeding with the construction of its station or that it had been prevented from commencing construction by causes not under its control; and that the applicant was given an opportunity to reply to said letter and to request a hearing on its application; and

It further appearing that the applicant replied to the Commission's letter on October 29, 1957; that the substance of the applicant's reply is to the effect that it had commenced construction in the sense that it had evaluated transmitter site locations, assembled most of the technical equipment required for its operation and had authorized finalization of studio plans; and that it has been prevented from proceeding further with construction by evaluations of transmitter site location by a protest filed against the grant of its original construction permit, and by the consideration that the requirements of public interest might dictate the reassignment of Channel 13 from Yuma, Arizona, to El Centro, California; and

It further appearing that in its reply of October 29, 1957, the applicant requests that the Commission reconsider its action of October 9, 1957, concluding that a grant of the subject application was not warranted; that the Commission stay the designation for hearing of the subject application until it issues its decision in connection with such Petition for Reconsideration; and that the Commission grant the applicant an opportunity to present oral argument on the matters set forth in the Petition for Reconsideration; and

It further appearing that the reasons set forth by the applicant in support of its requests are merely detailed reiterations of matters already considered by the Commission; and that, therefore, no useful purpose would be served by holding oral argument on the Petition for Reconsideration; and

It further appearing that the applicant has requested a hearing on its application in the event the Commission refuses to grant this application without a hearing; and

It further appearing that upon consideration of the above-captioned application, the Commission's letter of October 9, 1957, and the applicant's reply thereto dated October 29, 1957, the Commission is unable to determine that a grant of said application would be in the public interest;

It is ordered, That the above-captioned application is designated for hearing in Washington, D. C. at a time to be specified in a subsequent order, upon the following issues:

1. To determine whether Wrather-Alvarez Broadcasting, Inc., has within the period of its construction permit (BPCT-2039) diligently proceeded with construction of the proposed television broadcast facilities authorized by such permit.

2. To determine whether the aforementioned applicant has been prevented from commencing construction of the proposed facilities during the period of its construction permit (BPCT-2039) by causes not under its control within the meaning of section 319 (b) of the Communications Act of 1934, as amended.

3. To determine whether, on the basis of the evidence adduced with respect to the above issues, a grant of the above-captioned application would serve the public interest, convenience and necessity.

It is further ordered, That the requests of Wrather-Alvarez Broadcasting, Inc., for reconsideration, stay and oral argument are denied.

It is further ordered, That the Chief, Broadcast Bureau, is hereby made a party to the proceeding herein.

It is further ordered, That to avail itself of the opportunity to be heard, Wrather-Alvarez Broadcasting, Inc., pursuant to § 1.387 of the Commission's rules, in person or by an 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.

Released: January 24, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-686; Filed, Jan. 28, 1958;
8:50 a. m.]

[Docket No. 12291; FCC 58-65]

GRANITE STATE BROADCASTING CO., INC.
(WKBR)

ORDER DESIGNATING APPLICATION FOR
HEARING ON STATED ISSUES

In re application of Granite State
Broadcasting Company, Inc. (WKBR),
Manchester, New Hampshire, Docket No.
12291, File No. BP-10857; for construc-
tion permit.

At a session of the Federal Communi-
cations Commission held at its offices in
Washington, D. C., on the 22d day of
January, 1958;

The Commission having under con-
sideration the above-captioned applica-
tion of the Granite State Broadcasting

Company, Inc., for a construction permit to change the facilities of Station WKBR, Manchester, New Hampshire, from operation on 1240 kilocycles with a power of 250 watts, unlimited time, to operation on 1250 kilocycles with a power of 5 kilowatts, utilizing different directional antenna patterns for day and night operation, unlimited time;

It appearing that, except as may appear from the issues specified below, the applicant is legally, technically, financially and otherwise qualified to operate Station WKBR as proposed but that nighttime interference from Station WCAE, Pittsburgh, Pennsylvania (1250 kc, 5 kw, DA-N, U) would affect more than ten percent of the population in the normally protected primary service area of the instant proposal in contravention of § 3.28 (c) of the Commission's rules and that the instant proposal would not serve the entire City of Manchester at night as required by § 3.188 (a) (1) of the Commission's rules; and

It further appearing that, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the subject applicant was advised by letter dated April 10, 1957, of the aforementioned deficiencies and that the Commission was unable to conclude that a grant of the application would be in the public interest; and

It further appearing that in an amendment filed on May 10, 1957, the applicant included an exhibit showing its proposed nighttime limitation contour in relation to the city limits of Manchester; that from this exhibit it has been determined that the proposal, while it serves more of the city than the present operation of WKBR, would not serve the entire city as required by § 3.188 (a) (1) of the Commission's rules; and

It further appearing that in said amendment, the applicant requests a waiver of § 3.28 (c) of the Commission's rules on the ground that, while interference from WCAE would affect more than ten percent of the population in the normally protected contour of the proposal, the operation as proposed would provide service to more people day and night than does its existing operation; but that on the basis of the information before us we are unable to conclude that circumstances exist which would warrant a waiver of said section; and

It further appearing that the Commission, after consideration of the above, is of the opinion that a hearing is necessary;

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the said application is designated for hearing, at a time and place to be specified in a subsequent order upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the operation of Station WKBR as proposed, and the availability of other primary service to such areas and populations.

2. To determine whether, because of the interference received, the instant proposal would comply with § 3.28 (c) of the Commission's rules; and if compliance with § 3.28 (c) is not achieved,

whether circumstances exist which would warrant a waiver of said section of the rules.

3. To determine whether the nighttime operation of the instant proposal would adequately serve the entire city of Manchester in accordance with the provisions of § 3.188 (a) (1) of the Commission's rules.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether the above-captioned application should be granted.

It is further ordered, That, to avail itself of the opportunity to be heard, the applicant, pursuant to § 1.387 of the Commission's rules, in person or by an attorney, shall within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

Released: January 24, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-687; Filed, Jan. 28, 1958;
8:50 a. m.]

[Docket Nos. 12292, 12293; FCC 58-67]

ARTHUR WILLIAM WILSON AND JOHN
BOZEMAN

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Arthur William Wilson, Wichita, Kansas, Docket No. 12292, File No. BP-11021; John Bozeman, Wichita, Kansas, Docket No. 12293, File No. BP-1188; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 22d day of January 1958;

The Commission having under consideration the above-captioned applications of Arthur William Wilson and John Bozeman, each for a construction permit for a new standard broadcast station to operate on 900 kilocycles with a power of 250 watts, directional antenna, daytime only, at Wichita, Kansas,

It appearing that, except as indicated by the issues specified below, each applicant is legally, technically, financially and otherwise qualified to operate his proposed station, but that the operation of both stations as proposed would result in mutually destructive interference; and

It further appearing that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the subject applicants were advised by letter dated August 20, 1957, of the aforementioned interference and that the Commission was unable to conclude that a grant of either application would be in the public interest; and

It further appearing that a timely reply to the Commission's letter was filed by each applicant; and

It further appearing, that, on November 29, 1957, the application of Arthur William Wilson was amended to specify a different transmitter site, and that it has not yet been determined whether the proposed antenna at the presently proposed location would constitute a hazard to air navigation; and

It further appearing, that the Commission, after consideration of the above, is of the opinion that a hearing is necessary;

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the said 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 whether the antenna proposed by Arthur William Wilson would constitute a hazard to air navigation.

2. To determine, on a comparative basis, which of the operations proposed in the above-entitled applications would better serve the public interest, convenience and necessity in the light of the evidence adduced under the foregoing issue and the record made with respect to the significant differences between the applicants as to:

a. The background and experience of each of the above-named applicants to own and operate the proposed stations.

b. The proposals of each of the above-named applicants with respect to the management and operation of the proposed stations.

c. The programming service proposed in each of the above-mentioned applications.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.387 of the Commission's rules, in person or by an attorney, shall within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the issues in the above-entitled proceeding may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding and upon sufficient allegations of fact in support thereof, by the addition of the following issue: To determine whether funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

Released: January 24, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-688; Filed, Jan. 28, 1958;
8:51 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-10346]

VAN LEAR CITY GAS SYSTEM

NOTICE OF APPLICATION AND DATE OF HEARING

JANUARY 23, 1958.

Take notice that Harry Ranier (Applicant) d/b/a Van Lear City Gas System, filed an application on May 3, 1956, for an order, pursuant to section 7 (a) of the Natural Gas Act, directing United Fuel Gas Company (United), to establish physical connection with and sell and deliver natural gas to Applicant for distribution in Van Lear, Kentucky, as hereinafter described, all as more fully represented in the application which is on file with the Commission and open to public inspection.

Applicant states that it proposes to construct and operate a natural gas distribution system to make natural gas available to the City of Van Lear, Kentucky, having a population of approximately 1,000.

Applicant states that the estimated cost of the proposed facilities is \$58,480.00, and will be financed largely by funds on hand.

The application sets forth that the estimated requirements for the first year of operation will be 375 Mcf peak day and 25,000 Mcf annual, increasing gradually to 700 Mcf peak day and 70,000 Mcf annual in the fifth year.

In its answer to the application filed herein, United states that the requested service to Applicant would not adversely affect either United's gas supply or its existing customers.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on March 3, 1958, at 10:00 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street N. W., Washington, D. C., concerning the matters involved in and the issues presented by the application herein.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 14, 1958.

[SEAL] **JOSEPH H. GUTRIDE,**
Secretary.

[F. R. Doc. 58-662; Filed, Jan. 28, 1958; 8:47 a. m.]

[Project No. 2230]

CITY OF SITKA, ALASKA

NOTICE OF APPLICATION FOR LICENSE

JANUARY 23, 1958.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U. S. C. 791a-825r) by City of Sitka, Alaska, for license for a proposed hydroelectric development, designated as Project No. 2230, to be located

on Blue Lake and Medvetcha River, Baranof Island, Territory of Alaska, approximately five miles east of Sitka, and affecting lands of the United States within Tongas National Forest.

The project will consist of: A concrete arch dam 260 feet long and 180 feet high on Medvetcha River, about 400 feet below outlet of Blue Lake, which will increase the area of Blue Lake to 1295 acres and will provide 76,500 acre feet of usable power storage; an intake; approximately 1500 feet of tunnels 8 to 12 feet in diameter; 240 feet of 8-foot steel penstock; a powerhouse containing two 3000 kw horizontal turbine-generators; a transmission line 4.75 miles long; a substation; and other appurtenant facilities.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is March 10, 1958. The application is on file with the Commission for public inspection.

[SEAL] **JOSEPH H. GUTRIDE,**
Secretary.

[F. R. Doc. 58-663; Filed, Jan. 28, 1958; 8:47 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812-1133]

PENNRoad CORP.

NOTICE OF FILING OF APPLICATION FOR EXEMPTION OF PURCHASE OF SECURITIES DURING EXISTENCE OF UNDERWRITING SYNDICATE

JANUARY 22, 1958.

Notice is hereby given that The Pennroad Corporation ("Pennroad"), a registered management closed-end investment company, has filed an application pursuant to sections 10 (f) and 6 (c) of the Investment Company Act of 1940 ("act") for an order of the Commission exempting from the provisions of section 10 (f) of the act, the proposed purchase by applicant of not to exceed 15,000 of the ordinary shares of Royal Dutch Petroleum Company ("Royal Dutch") presently being offered by Royal Dutch to its shareholders.

Royal Dutch filed a registration statement with the Commission pursuant to the provisions of the Securities Act of 1933 which became effective on January 17, 1958, proposing a world-wide rights offering of 7,602,285 ordinary shares to its stockholders on a one-for-eight basis at a price of \$30 per share. Such rights offering is being underwritten by an underwriting syndicate which includes Kuhn, Loeb & Co., one of whose partners is a director of Pennroad.

Pennroad proposes to purchase not more than 15,000 shares of Royal Dutch at the price at which the shares will be offered to the public by the underwriters. Such purchase will be made from the following underwriters in the following respective amounts: Bache & Co., 1,000 shares; Clark, Dodge & Co., 2,000 shares; Drexel & Co., 2,000 shares; E. F. Hutton & Company, 2,000 shares; Lawrence M.

Marks & Co., 4,000 shares, and; Riter & Co., 4,000 shares.

If Pennroad were to purchase the entire 15,000 ordinary shares of Royal Dutch as proposed, such shares would represent approximately 0.198% of the total offering and, assuming a purchase price of \$38 3/8 per share (the closing market price of the stock at January 17, 1958) the aggregate purchase price would amount to about \$575,000 or less than 3/4 of 1 percent of the total net assets of Pennroad.

Section 10 (f) of the act provides, among other things, that no registered investment company shall knowingly purchase or otherwise acquire, during the existence of any underwriting or selling syndicate, any security (except a security of which such company is the issuer) a principal underwriter of which is a person of which a director or member of an advisory board of such registered investment company is an affiliated person unless the Commission by order grants an exemption therefrom. Since an affiliate of Pennroad is an affiliated person of an investment banking firm which is part of the underwriting group referred to above, the purchase of securities of Royal Dutch by Pennroad is subject to the provisions of section 10 (f) of the act.

Section 6 (c) of the act authorizes the Commission by order upon application conditionally or unconditionally to exempt any transaction from any provisions of the act or of any rule or regulation thereunder, if and to the extent that the Commission finds that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the act.

The application represents that the proposed purchase is in the interest of Pennroad and its stockholders; and that the exemption sought in this application is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the act.

Notice is further given that any interested person may, not later than February 3, 1958, at 5:30 p. m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date, the application may be granted as provided in Rule N-5 of the rules and regulations promulgated under the act.

By the Commission.

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

[F. R. Doc. 58-664; Filed, Jan. 28, 1958; 8:47 a. m.]

[File No. 24B-992]

EAGLE OIL & SUPPLY CO., INC.

NOTICE OF AND ORDER FOR HEARING

JANUARY 23, 1958.

I. Eagle Oil & Supply Co., Inc. (Eagle Oil), a Massachusetts corporation, 41 Freight Street, Brockton, Massachusetts, filed with the Commission on August 16, 1957 a notification and an offering circular and amendments thereto relating to an offering of 125,000 shares of its \$1 par value common stock at \$1.20 per share for an aggregate offering of \$150,000 for the purpose of obtaining an exemption from the registration provisions of the Securities Act of 1933, as amended, pursuant to the provisions of section 3 (b) thereof and Regulation A promulgated thereunder. Pilgrim Securities, Inc. (Pilgrim), 19 Rector Street, New York, New York, was named as underwriter.

II. The Commission on December 13, 1957, issued an order pursuant to Rule 261 (a) of the general rules and regulations under the Securities Act of 1933, as amended, temporarily suspending the conditional exemption under Regulation A, and affording to any person having an interest therein an opportunity to request a hearing pursuant to Rule 261. A written request for hearing was received by the Commission.

The Commission, deeming it necessary and appropriate to determine whether to vacate the temporary suspension order or to enter an order permanently suspending the exemption,

It is hereby ordered, That a hearing under the applicable provisions of the Securities Act of 1933, as amended, and the rules of the Commission be held, at the Boston Regional Office, 2001 Post Office and Court House, Boston, Massachusetts, at 10:00 a. m., eastern standard time, on March 3, 1958, with respect to the following matters and questions without prejudice, however, to the specification of additional issues which may be presented in these proceedings:

A. Whether the conditional exemption provided by Regulation A is not available for the securities purported to be offered in that:

1. The terms and conditions of Regulation A have not been complied with in that sales of Eagle Oil stock were made to the public prior to the date permitted under Rule 255 (a) and that communications were used in connection with the offering without copies thereof having been filed with the Commission as required by Rule 258;

2. The notification and offering circular omit to state material facts necessary in order to make the statements made in the light of the circumstances under which they are made, not misleading concerning:

(a) The investment by Eagle Oil in February, 1957, of \$5,000 for preferred stock of Pilgrim;

(b) The advance of Eagle Oil of a total of \$15,000 to Pilgrim in June, 1957;

(c) The advance by Eagle Oil of \$2,000 in June, 1957, to Joseph L. Gruber, Jr., its president, for the purpose of setting up a Boston office for Pilgrim, in which firm Gruber was also an officer.

3. The offering is being made in violation of Section 17 of the Securities Act of 1933, as amended.

B. Whether the order dated December 13, 1957 temporarily suspending the exemption under Regulation A should be vacated or made permanent.

It is further ordered, That William W. Swift or any officer or officers of the Commission designated by it for that purpose shall preside at the hearing, and any officer or officers so designated to preside at any such hearing are hereby authorized to exercise all of the powers granted to the Commission under sections 19 (b), 21 and 22 (c) of the Securities Act of 1933, as amended, and to hearing officers under the Commission's rules of practice.

It is further ordered, That the Secretary of the Commission shall serve a copy of this order by registered mail on Eagle Oil & Supply Company, Inc., that notice of the entering of this order shall be given to all other persons by general release of the Commission and by publication in the FEDERAL REGISTER. Any person who desires to be heard or otherwise wishes to participate in such hearing shall file with the Secretary of the Commission on or before February 27, 1958, a request relative thereto as provided in Rule XVII of the Commission's rules of practice.

By the Commission.

[SEAL]

ORVAL L. DUBOIS,
Secretary.[F. R. Doc. 58-665; Filed, Jan. 28, 1958;
8:47 a. m.]

INTERSTATE COMMERCE COMMISSION

[Notice 10]

APPLICATIONS FOR CONVERSION BY MOTOR CONTRACT CARRIERS

JANUARY 24, 1958.

The following proceedings are governed by the Interstate Commerce Commission's special rules of practice, published in the FEDERAL REGISTER on November 13, 1957, Volume 22, FEDERAL REGISTER, page 9015, concerning notice of proceedings upon application of a holder of motor contract carrier authority, under section 212 (c) of the Interstate Commerce Act, for the revocation of motor contract carrier authority issued on or before August 22, 1957, and the issuance in lieu thereof of a certificate of public convenience and necessity (49 CFR 1.242). A proceeding to determine the status of the carriers' operations has been instituted under section 212 (c).

Protests may be filed with the Commission within 30 days after the date of notice of the proceedings is published in the FEDERAL REGISTER. If oral hearing is desired the protest must so indicate.

The authority set out in the pertinent permits upon which a determination is sought has, in most instances, been summarized.

MOTOR CARRIERS OF PROPERTY

No. MC 3368 (Sub No. 6) FILED ON
January 13, 1958. Applicant: R. F.

HALE, doing business as HALE TRANSFER & STORAGE, 801 High Avenue, West Oskaloosa, Iowa. For authority to operate as a *common carrier* of the same commodities between the same points or within the same territory as authorized in the following permit:

No. MC 3368, dated December 9, 1953.

Meats and packing house products, over specified regular routes, from Ottumwa, Iowa, to Sioux Falls, S. Dak., St. Louis, Mo., and Davenport, Iowa, serving no intermediate points.

Packing plant supplies, from Sioux Falls, S. Dak., to St. Louis, Mo., and Davenport, Iowa, serving no intermediate points.

Refrigerator car wheels, from St. Louis, Mo., to Ottumwa, Iowa, serving no intermediate points.

Fresh meats and packing house products, between Ottumwa, Iowa, and Omaha, Nebr.

Fresh meats and packing house products, over irregular routes from Ottumwa, Iowa, to points in Rock Island County, Ill.

Meat and packing house products, over irregular routes, from Omaha, Nebr., and Oskaloosa and Ottumwa, Iowa, to points in that part of Iowa east of U. S. Highway 65 and south of U. S. Highway 6, not including points on the indicated portions of the highways specified.

Note: Applicant is authorized to conduct operations as a *common carrier* in Certificates MC 52525 dated July 19, 1955, and MC 52525 (Sub No. 5), dated May 6, 1949, respectively.

NO. MC 9685 (Sub No. 58), (CORRECTION), published at page 10134 issue of December 18, 1957, filed November 5, 1957. Applicant: THE EMERY TRANSPORTATION COMPANY, 7000 South Pulaski Road, Chicago 29, Ill. Applicant's attorney: Charles W. Singer, 1825 Jefferson Place NW., Washington 6, D. C. The authority under No. MC 9685 (Sub No. 16), published at page 10135, line 8 of the first column, after the County of Manatee, should also include the counties of Marion, Martin, Monroe, Nassau, Okeechobee, Orange, and Osceola. On line 21 of Column 2, the correct name of the County is Cocke instead of Cooke.

No. MC 64864 (Sub No. 1) FILED ON December 20, 1957. Applicant: O. H. CURTIS, doing business as CURTIS TRUCK LINE, Mechanicsville, Iowa. For authority to operate as a *common carrier* of the same commodities between the same points or within the same territory as authorized in the following permit:

No. MC 64864, dated January 2, 1952.

Fruit, vegetables, food stuffs, beverages, empty beverage containers and gas cylinders, over a specified regular route between Chicago, Ill., and Cedar Rapids, Iowa; *empty beverage containers and empty gas cylinders* from Cedar Rapids over the above-specified route to Chicago. Service is authorized from the intermediate point of Clinton, Iowa, restricted to pick-up only.

No. MC 84568 (Sub No. 1) FILED ON January 13, 1958. Applicant: ANTONIO ROMANO, SALVATORE ROMANO, MICHAEL ROMANO, AND MARIO ROMANO, a partnership, doing business as

ROMANO & SONS TRUCKING CO., 565 West Street, New York 14, N. Y. Applicant's representative: William D. Traub, 10 East 40th Street, New York 16, N. Y. For authority to operate as a *common carrier* of the same commodities between the same points or within the same territory as authorized in the following permit:

No. MC 84568, dated April 20, 1955.

Such merchandise as is dealt in by wholesale, retail and chain grocery and food business houses, and, in connection therewith, *equipment, materials, and supplies*, used in the conduct of such business, subject to a "Keystone" restriction, over irregular routes, between New York, N. Y., Philadelphia, Pa., and Forestville, Conn., on the one hand, and, on the other, points in New Jersey.

No. MC 89520 (Sub No. 10) FILED ON January 10, 1958. Applicant: C. J. VAN BEEKUM, INC., 2223 Seventh Street, Lubbock, Tex. Applicant's attorney: W. D. Benson, Jr., 1105 Great Plains Life Building, Lubbock, Tex. For authority to operate as a *common carrier* of the same commodities between the same points or within the same territory as authorized in the following permit:

No. MC 89520, dated April 21, 1955.

Explosives and blasting supplies, over irregular routes, from Lubbock and Marne's Spur, Tex., to the Atlas Powder Company's magazines, located within 5.5 miles of Lubbock, Tex.

Class A and B explosives and blasting supplies, between site of Atlas Powder Company's magazine located approximately 5 miles north of Lubbock, Tex., and points in New Mexico.

Class A, B and C explosives and blasting supplies other than those included in Class A, B and C explosives, between the sites of magazines of Atlas Powder Company at or within 10 miles of each of the following: Baxter Springs and Pittsburg, Kans., and Atlas and Webb City, Mo., on the one hand, and, on the other, points in Arizona, New Mexico, and Texas.

No. MC 110104 (Sub No. 1), FILED January 15, 1958. Applicant: MELVIN ASTON TRUCKING CO., 2521 Rack Court, Apt. No. 3, Cincinnati, Ohio. For authority to operate as a *common carrier* of the same commodities between the same points or within the same territory as authorized in the following permit:

No. MC 110104, dated December 27, 1956.

Lubricating oils and greases, in containers, over irregular routes, from Bradford, Pa., to Cincinnati and Dayton, Ohio, and Charleston, Princeton, Huntington, and Clarksburg, West Virginia.

No. MC 111902 (Sub No. 2) FILED ON January 16, 1958. Applicant: F. E. PERRY, 100 East Second Street, South Hutchinson, Kans. For authority to operate as a *common carrier* of the same commodities between the same points or within the same territory as authorized in the following permit:

No. MC 111902, dated March 7, 1951.

Machinery, equipment and building materials used in the construction of

concrete grain elevators, subject to a "Keystone" restriction, over irregular routes, between points in Kansas, Oklahoma and Texas. RESTRICTION: The service authorized herein is subject to the following conditions: That such operations shall be conducted separately from said carrier's other activities; that separate accounting systems be maintained for its private and for-hire transportation; and that said carrier shall not transport property as both a for-hire and private carrier in the same vehicle at the same time.

No. MC 113416 (Sub No. 2) FILED ON January 16, 1958. Applicant: WARD MAUST, DONALD MAUST AND DWIGHT MAUST, Partnership, doing business as MAUST BROTHERS, R. D. 2, Berlin, Pa. Applicant's attorney: Arthur J. Diskin, 810 Frick Building, Pittsburgh 19, Pa. For authority to operate as a *common carrier* of the same commodities between the same points or within the same territory as authorized in the following permit:

No. MC 113416, dated August 11, 1953.

Potato chips, over irregular routes, from Berlin, Pa., to Barberton, Alliance, Canton, and Marietta, Ohio, Parkersburg, Sistersville, and Moundsville, W. Va., and Ashland, Ky., and *empty containers and materials and supplies* used in the manufacture of potato chips, on return.

Such equipment, materials and supplies as are used in the conduct of the painting and decorating business, subject to a "Keystone" restriction, between points in Maryland, Pennsylvania, Virginia, and West Virginia.

No. MC 113689 (Sub No. 3), FILED ON January 13, 1958. Applicant: LELAND A. DANIELS, 1916 Poplar Street, Kenova, W. Va. For authority to operate as a *common carrier* of the same commodities between the same points or within the same territory as authorized in the following permits:

No. MC 113689, dated September 18, 1953.

Telephone poles and timbers, over irregular routes, between Kenova, W. Va., on the one hand, and, on the other, points in Ohio, Kentucky, Tennessee, Virginia, and West Virginia.

No. MC 113689 (Sub No. 2), dated March 3, 1955.

Pressure treated forest products, over irregular routes, from the plant of the Koppers Company, located on an unnumbered highway approximately one and one-half miles from Russell, Ky., to points in Ohio, West Virginia, and Virginia within 250 miles of Russell, Ky.

By the Commission.

[SEAL] HAROLD D. McCoy,
Secretary.

[F. R. Doc. 58-672; Filed, Jan. 28, 1958; 8:48 a. m.]

[Notice 3]

CONVERSION PROCEEDINGS

JANUARY 24, 1958.

The following proceedings are governed by the Interstate Commerce Com-

mission's special rules of practice, published in the FEDERAL REGISTER on November 13, 1957, Volume 22, FEDERAL REGISTER, page 9015, concerning notice of proceedings instituted upon the Commission's own initiative, under section 212 (c) of the Interstate Commerce Act, for the revocation of motor contract carrier authority issued on or before August 22, 1957, and the issuance in lieu thereof of a certificate of public convenience and necessity (49 CFR 1.242).

Protests by respondent or other interested persons against the issuance of a certificate in lieu of contract carrier authority may be filed with the Commission within 30 days after the date notice of the proceedings is published in the FEDERAL REGISTER. If oral hearing is desired the protest must so indicate.

The authority set out in the pertinent permit or permits in connection with which a proceeding has been instituted, has, in most instances, been summarized.

MOTOR CARRIERS OF PROPERTY

No. MC 1978 (Sub No. 2), FILED ON October 15, 1957, and INSTITUTED ON January 14, 1958. Respondent: THE J. P. BRESLIN TRUCKING & TERMINAL CORPORATION, 142 West Ostend Street, Baltimore 30, Md. This is a *second publication* relating to the operations of the above-named carrier and the determination as to whether such contract carrier operations authorized in Permit No. MC 1978, dated October 17, 1950, covering the transportation of: *Canned goods, dried fruit, and matches*, over irregular routes between Baltimore, Md., on the one hand, and, on the other, points in the District of Columbia, Delaware, Maryland, Pennsylvania, Virginia, and West Virginia within 300 miles of Baltimore, remains such under definition as revised by amendment of section 203 (a) (15) of the Motor Carrier Act. An order of the Commission, Division 1, dated January 14, 1958 entered in the subject proceeding provides:

1. That the application filed by the carrier under date of October 15, 1957, assigned Docket No. MC 1978 (Sub No. 2) noticed by publication in the FEDERAL REGISTER on November 27, 1957, be dismissed at applicant's request dated January 2, 1958.

2. That the order of the Commission, division 1, dated November 22, 1957, instituting a proceeding under section 212 (c) of the act, shall remain in full force and effect, and the proceeding shall continue as one instituted upon the Commission's own initiative under section 212 (c), to determine whether permit No. MC 1978 described above, should be revoked and in lieu thereof a certificate of public convenience and necessity issued.

3. That The J. P. Breslin Trucking & Terminal Corporation be made the respondent in the proceeding.

4. Those persons who have filed protests shall continue to be regarded as protestants herein.

No. MC 3083 (Sub No. 28), INSTITUTED ON January 9, 1958. Respondent: ARMORED MOTOR SERVICE CO., INC., 248 Madison Avenue, Memphis, Tenn. Proceeding instituted under sec-

tion 212 (c) of the Interstate Commerce Act to determine whether the operating authority as a contract carrier presently held by respondent should be revoked and in lieu thereof a certificate of public convenience and necessity issued to operate as a *common carrier* of the same commodities between the same points or within the same territory as authorized in the following permits:

No. MC 3083 Sub 10, dated May 20, 1954.

Such commodities as require special protection by guards in armored vehicles while in transit, over irregular routes, between Huntington, W. Va., and Russell, Ky.; between Augusta, Ga., and the sites of the South Carolina National Bank of Jackson, S. C., and the Savannah River plant of the Atomic Energy Commission near Jackson, S. C.; between Augusta, Ga., and Williston, S. C.; between Augusta, Ga., and Aiken, S. C.; and between Memphis, Tenn., on the one hand, and, on the other, Marion, Crawfordsville, and Earle, Ark.

No. MC 3083 Sub 21, dated August 7, 1957.

Currency, coin, and negotiable instruments, in armored vehicles accompanied by guards, between Huntington, W. Va., and Greenup, Ky., over irregular routes.

No. MC 3083 Sub 23, dated August 7, 1957.

Such commodities as require special protection by guards in armored vehicles while in transit, over irregular routes, between Memphis, Tenn., on the one hand, and, on the other, Byhalia, Holly Springs, New Albany, Tupelo, Baldwin, Booneville, Ripley, Walnut, Olive, Branch, Potts Camp, Hickory Flat, Sherman, Guntown, Blue Mountain, Falkner, Ashland, and Slatillo, Miss.

No. MC 35807 (Sub No. 6), INSTITUTED ON January 9, 1958. Respondent: WELLS FARGO ARMORED SERVICE CORPORATION, 271 Church Street, New York, N. Y. Proceeding instituted under section 212 (c) of the Interstate Commerce Act to determine whether the operating authority as a contract carrier presently held by respondent should be revoked and in lieu thereof a certificate of public convenience and necessity issued to operate as a *common carrier* of the same commodities between the same points or within the same territory as authorized in the following permit:

No. MC 35807, dated July 23, 1941.

Currency, securities, gold, silver and bullion, over irregular routes, between New York, N. Y., and points in Westchester County, N. Y., on the one hand, and, on the other, points in Mercer, Monmouth, Middlesex, Somerset, Union, Hudson, Essex, Morris, Bergen, and Passaic Counties, N. J.; between New York, N. Y., on the one hand, and, on the other, Washington, D. C., Wilmington, Del., Philadelphia, Pa., and Greenwich and Hartford, Conn.; and between Trenton, N. J., and Philadelphia, Pa.

No. MC 36509 (Sub No. 13), INSTITUTED ON January 9, 1958. Respondent: LOOMIS ARMORED CAR SERVICE, INC., 55 Battery Street, Seattle, Wash. Respondent's attorney: George

H. Hart, Central Building, Seattle 4, Wash. Proceeding instituted under section 212 (c) of the Interstate Commerce Act to determine whether the operating authority as a contract carrier presently held by respondent should be revoked and in lieu thereof a certificate of public convenience and necessity issued to operate as a *common carrier* of the same commodities between the same points or within the same territory as authorized in the following permits:

No. MC 36509, dated May 9, 1952.

Bullion, over a specified regular route between Vancouver, Wash., on the one hand, and, on the other, Portland, Oreg.

Currency, coins, checks, securities, gold, silver, jewelry, precious stones, valuable metals, valuable papers and documents, and other articles of unusual value, over a specified regular route between Portland, Oreg., and Camas, Wash., serving the intermediate point of Vancouver, Wash.

Money, jewelry and other articles of gold and silver, stocks, bonds, and negotiable and non-negotiable instruments, over irregular routes, between Portland and Vanport City, Oreg., on the one hand, and, on the other, Vancouver, Wash., and points in Clark County, Wash., within 3 miles of Vancouver.

Currency, coins, checks, securities, gold, silver, jewelry, precious stones, valuable metals, valuable papers and documents and other articles of unusual value, between Portland, Oreg., on the one hand, and, on the other, points in Clark and Cowlitz Counties, Wash.

No. MC 36509 Sub 7, dated June 25, 1957.

Coin, currency, checks, securities, gold, silver, negotiable and non-negotiable instruments, and other valuable papers and documents, over irregular routes between San Francisco, Placerville, Tahoe Valley, Tahoe City, and Truckee, Calif., and Carson City, Reno, and Sparks, Nev.

No. MC 36509 Sub 12, dated August 22, 1957.

Silver bars, in armored car service, over irregular routes, from Selby, Calif., to Oakland and San Francisco, Calif.

No. MC 66883 (Sub No. 6), INSTITUTED ON January 3, 1958. Respondent: SPRAGUE & McCORMICK, INC., 9641 South Ewing Avenue, Chicago, Ill. Supplement: Under date of January 14, 1958, respondent also filed an application under section 212 (c) pertaining to the authority set forth in Notice No. 2, published in a previous issue of the FEDERAL REGISTER.

No. MC 83885 (Sub No. 1), INSTITUTED ON January 9, 1958. Respondent: UNITED STATES TRUCKING CORPORATION, 66 Murray Street, New York 7, N. Y. Proceeding instituted under section 212 (c) of the Interstate Commerce Act to determine whether the operating authority as a contract carrier presently held by respondent should be revoked and in lieu thereof a certificate of public convenience and necessity issued to operate as a *common carrier* of the same commodities between the same points or within the same territory as authorized in the following permit:

No. MC 83885, dated May 20, 1955.

Money, coin, bullion, precious metals and stones, jewelry, stamps, narcotics, negotiable and non-negotiable instruments and securities, stocks, bonds and rare and valuable documents and objects, between points in Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, and the District of Columbia.

Illuminated car signs, from New York, N. Y., to Berwick, Pa.

Damaged or rejected shipments of illuminated car signs, from Berwick, Pa., to New York, N. Y.

Damaged airplanes, from points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, within 250 miles of Columbus Circle, N. Y., to points on Long Island, N. Y.

Flavoring syrup, in bulk, in tank vehicles, from Kearny, N. J., to points in New Jersey, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, and Vermont within 260 miles of Kearny, and points in that part of Pennsylvania on and east of U. S. Highway 15.

Liquid sugar, in bulk, in tank vehicles, from Yonkers and New York, N. Y., to Kearny, N. J.

Note: Respondent is authorized to conduct operations as a common carrier in Certificate No. MC 11712 dated May 13, 1955.

No. MC 84375 (Sub No. 2), INSTITUTED ON January 3, 1958. Respondent: KIM FREIGHT LINES, INC., 4234 South Emerald Avenue, Chicago 9, Ill. Supplement: Under date of January 14, 1958, respondent also filed an application under section 212 (c) pertaining to the authority set forth in Notice No. 2, published in a previous issue of the FEDERAL REGISTER.

No. MC 87857 (Sub No. 32) INSTITUTED ON January 9, 1958. Respondent: BRINK'S INCORPORATED, 234 East 24th Street, Chicago 16, Ill. Respondent's attorney: F. D. Partlan, 234 East 24th Street, Chicago 16, Ill. Proceeding instituted under section 212 (c) of the Interstate Commerce Act to determine whether the operating authority as a contract carrier presently held by respondent should be revoked and in lieu thereof a certificate of public convenience and necessity issued to operate as a *common carrier* of the same commodities between the same points or within the same territory as authorized in the following permits:

No. MC 87857, dated July 8, 1941.

Precious metals, jewelry, precious stones, monies, legal tender, stocks and bonds, negotiable and non-negotiable instruments and securities, postage and revenue stamps, and other valuable documents and rare objects, over irregular routes; between points within 65 miles of Wilmington, Del., including Wilmington; between points in the Chicago, Ill., Commercial Zone, as defined by the Commission, on the one hand, and, on the other, points in Michigan within 100 miles of the above-specified Chicago Commercial Zone; between points in Illinois and Indiana within five

miles of the above-specified Chicago Commercial Zone, including the Chicago Commercial Zone; between points in Iowa and Illinois within 12 miles of Davenport, Iowa, including Davenport; between points in Kentucky and Indiana within seven miles of Louisville, Ky., including Louisville; between points in Massachusetts and New Hampshire within 56 miles of Boston, including Boston; between points in Massachusetts and Connecticut within 40 miles of Springfield, Mass., including Springfield; between points in Michigan within five miles of Detroit, Mich., including Detroit; between Kansas City, Mo., on the one hand, and on the other, points in Kansas within 12 miles of Kansas City, Mo.; between points in Missouri within five miles of Kansas City, Mo., including Kansas City, Mo.; between St. Louis, Mo., on the one hand, and on the other, points in Illinois within 115 miles of St. Louis, Mo.; between points in Missouri within five miles of St. Louis, Mo., including St. Louis; between points within 35 miles of Newark, N. J., including Newark; between points in New York, New Jersey, Connecticut, Maryland, and Pennsylvania, within 200 miles of the New York, N. Y., Commercial Zone, as defined by the Commission including the above-specified New York Commercial Zone; between points in New York within 26 miles of Buffalo, N. Y., including Buffalo; between points in Ohio and Kentucky within seven miles of Cincinnati, Ohio, including Cincinnati; between points within 14 miles of Youngstown, Ohio, including Youngstown; between Philadelphia, Pa., on the one hand, and on the other, points in Delaware, New Jersey, Maryland, and New York within 100 miles of Philadelphia, Pa.; between points within five miles of Philadelphia, Pa., including Philadelphia; between Pittsburgh, Pa., on the one hand, and on the other, points in Ohio and West Virginia within 100 miles of Pittsburgh, Pa.; between points within five miles of Pittsburgh, Pa., including Pittsburgh; between points in Rhode Island, Connecticut, and Massachusetts within 60 miles of Providence, R. I., including Providence; between points in Maryland and Virginia within 10 miles of the Washington, D. C., Commercial Zone, as defined by the Commission, including the above-specified Washington, D. C., Commercial Zone.

No. MC 87857 (Sub No. 5), dated April 13, 1942.

Moneys, legal tender, precious metals and stones, jewelry, stocks and bonds, negotiable and non-negotiable instruments and securities, postage and revenue stamps, and other valuable or rare documents, articles, or objects, over irregular routes, between Evansville, Ind., on the one hand, and; on the other, points in Indiana and Kentucky within 75 miles of Evansville.

No. MC 87857 (Sub No. 7), dated September 19, 1949.

Precious metals, jewelry, precious stones, monies, legal tender, stocks and bonds, negotiable and non-negotiable instruments and securities, postage and revenue stamps, and other valuable documents and rare objects, over irregu-

lar routes, between points in the Chicago, Ill., Commercial Zone, as defined by the Commission, on the one hand, and, on the other, Milwaukee, Wis., and points in Wisconsin within 50 miles of Milwaukee.

No. MC 87857 (Sub No. 9), dated February 23, 1951.

Precious metals, jewelry, precious stones, monies, legal tender, stocks and bonds, negotiable and non-negotiable instruments and securities, postage and revenue stamps, and other valuable documents and rare objects, over irregular routes, between Atlanta, Ga., and Chattanooga, Tenn.

No. MC 87857 (Sub No. 10), dated February 18, 1952.

Monies, legal tender, and negotiable instruments, over irregular routes, from Washington, D. C., to Indian Head, Md., and empty containers for the commodities described above, on return.

No. MC 87857 (Sub No. 13), dated June 10, 1953.

Precious metals, jewelry, precious stones, monies, legal tender, stocks and bonds, negotiable and non-negotiable instruments and securities, postage and revenue stamps, and other valuable documents and rare objects, over irregular routes, between Chicago, Ill., on the one hand, and, on the other, points in Indiana within 275 miles of Chicago, Ill.

No. MC 87857 (Sub No. 14) dated April 2, 1953.

Precious metals, jewelry, precious stones, monies, legal tender, stocks and bonds, negotiable and non-negotiable instruments and securities, postage and revenue stamps, and also valuable documents and rare objects not included in the foregoing described commodities, over irregular routes, between points in Duval and Nassau Counties, Fla., on the one hand, and, on the other, points in Camden, Charlton, Ware, Glynn, Brantley, Pierce, McIntosh, Wayne, Long, Liberty, Bryan, and Chatham Counties, Ga.

No. MC 87857 (Sub No. 18), dated February 23, 1954.

Monies (coin and currency), and negotiable instruments, over irregular routes, between Binghamton, N. Y., and South Montrose, Pa.

No. MC 87857 (Sub No. 19), dated February 23, 1954.

Monies (coin and currency) negotiable and non-negotiable instruments, between Atlanta, Ga., and Lanett and Opelika, Ala., over irregular routes.

NOTE: Respondent has been issued Interim Permit No. MC 87857 (Sub No. 21), dated November 18, 1957 covering the transportation of:

Coin, over irregular routes, between Seattle, Wash., Portland, Oreg., San Francisco and Los Angeles, Calif., Helena, Mont., Salt Lake City, Utah, Denver, Colo., El Paso, San Antonio, Houston, and Dallas, Tex., Oklahoma City, Okla., Omaha, Nebr., Minneapolis, Minn., Chicago, Ill., St. Louis, and Kansas City, Mo., Little Rock, Ark., New Orleans, La., Memphis and Nashville, Tenn., Louisville, Ky., Birmingham, Ala., Atlanta, Ga., Jacksonville, Fla., Charlotte, N. C., Richmond, Va., Baltimore, Md., Cincinnati and Cleveland, Ohio, Pittsburgh and Philadelphia, Pa., Detroit, Mich., Buffalo and New York, N. Y., Boston, Mass., and Washington, D. C.

Bullion, from New York, N. Y., Denver, Colo., and San Francisco, Calif., to Philadelphia, Pa., with no transportation for compensation on return except as otherwise authorized; from New York, N. Y., and San Francisco, Calif., to Denver, Colo., with no transportation for compensation on return except as otherwise authorized.

No. MC 87857 (Sub No. 25), dated March 23, 1956.

Currency, bonds, and securities, over irregular routes, between Atlanta, Ga., Birmingham, Ala., Jacksonville, Fla., Nashville, Tenn., and New Orleans, La.

No. MC 87857 (Sub No. 26), dated May 16, 1956.

Coin and currency, over irregular routes, between Cincinnati, Ohio, on the one hand, and, on the other, Georgetown, Lexington, Winchester, Paris, Cynthiane, and Falmouth, Ky.

No. MC 87857 (Sub No. 28), dated December 17, 1956.

Currency and coin, over irregular routes, between Los Angeles, Victorville, and Barstow, Calif., and Las Vegas, Nev.

No. MC 107882 (Sub No. 5) INSTITUTED ON January 9, 1958. Respondent: ARMORED MOTOR SERVICE CORPORATION, 1320 New Willow Street, Trenton 8, N. J. Proceeding instituted under section 212 (c) of the Interstate Commerce Act to determine whether the operating authority as a contract carrier presently held by respondent should be revoked and in lieu thereof a certificate of public convenience and necessity issued to operate as a common carrier of the same commodities between the same points or within the same territory as authorized in the following permits:

No. MC 107882 (Sub No. 1), dated July 15, 1947.

Currency, securities, gold, silver, bullion, negotiable and non-negotiable instruments, valuable documents, jewelry, and precious stones, over irregular routes, between points in Mercer County, N. J., on the one hand, and, on the other, New York, N. Y., Philadelphia, Pa., and points in Pennsylvania within 10 miles of Trenton, N. J.

No. MC 107882 (Sub No. 2), dated January 9, 1953.

Currency, securities, gold and silver coin, negotiable and non-negotiable instruments and valuable documents, over irregular routes, between Carteret, N. J., and points within three miles thereof, on the one hand, and, on the other, New York, N. Y., and Philadelphia, Pa.; between Irvington, N. J., and points within four miles thereof, on the one hand, and, on the other, New York, N. Y.

Currency, securities, gold, silver, bullion, negotiable and non-negotiable instruments and valuable documents, between points in New Jersey (except Carteret and points within three miles thereof and Irvington and points within four miles thereof and those in Mercer, Hudson, Passaic, Bergen, Morris, Union, and Somerset Counties), on the one hand, and, on the other, New York, N. Y.; between points in New Jersey (except Carteret and points within three miles thereof and those in Mercer County), on the one hand, and, on the other, Philadelphia, Pa.

NOTE: Respondent has been issued interim permit.

No. MC 107882 (Sub No. 4), dated November 18, 1957, covering the transportation of:

Coin, over irregular routes, between Boston, Mass., Buffalo, N. Y., Chicago, Ill., Cincinnati and Cleveland, Ohio, Detroit, Mich., Denver, Colo., Kansas City, Mo., Louisville, Ky., New York, N. Y., Minneapolis, Minn., Omaha, Nebr., Pittsburgh and Philadelphia, Pa., and St. Louis, Mo.

Bullion, from Denver, Colo., and New York, N. Y., to Philadelphia, Pa., and West Point, N. Y.; from New York, N. Y., to Denver, Colo.; from West Point, N. Y., to Denver, Colo., and Philadelphia, Pa.

No. MC 111103 (Sub No. 3) INSTITUTED ON January 9, 1958. Respondent: PROTECTIVE MOTOR SERVICE COMPANY, INC., 725-29 South Broad Street, Philadelphia 47, Pa. Proceeding instituted under section 212 (c) of the Interstate Commerce Act to determine whether the operating authority as a contract carrier presently held by respondent should be revoked and in lieu thereof a certificate of public convenience and necessity issued to operate as a *common carrier* of the same commodities between the same points or within the same territory as authorized in the following permit:

No. MC 111103, dated March 27, 1951.

Articles of unusual value, over irregular routes, between Philadelphia, Pa., on the one hand, and, on the other, points in New Jersey and Delaware within 75 miles of the City Hall, Philadelphia.

No. MC 112750 (Sub No. 27) INSTITUTED ON January 9, 1958. Respondent: ARMORED CARRIER CORPORATION, 222-17 Northern Boulevard, Bayside, N. Y. Respondent's attorney: Paul F. Sullivan, Sundial House, 1821 Jefferson Place, Washington 6, D. C. Proceeding instituted under section 212 (c) of the Interstate Commerce Act to determine whether the operating authority as a contract carrier presently held by respondent should be revoked and in lieu thereof a certificate of public convenience and necessity issued to operate as a *common carrier* of the same commodities between the same points or within the same territory as authorized in the following permits:

No. MC 112750, dated September 15, 1952.

Such commercial papers, documents and written instruments except currency, as are used in the conduct of businesses of banks and banking institutions, over irregular routes, between New York, N. Y., on the one hand, and, on the other, points in Hudson, Passaic, Essex, Bergen, Morris, Union, Somerset, and Middlesex Counties, N. J.

No. MC 112750 (Sub No. 1), dated February 25, 1952.

Such commercial papers, documents and written instruments, except currency, as are used in the conduct of businesses of banks and banking institutions, when transported in containers other than trace-alarm bags and in vehicles other than armored vehicles, over irregular routes, between New York, N. Y., on the one hand, and, on the other, New Canaan and Greenwich, Conn.

No. MC 112750 (Sub No. 3), dated November 26, 1952.

Such commercial papers, documents, and written instruments, except coin, currency, bullion, and negotiable instruments, as are used in the operation of banks and banking institutions over irregular routes, between New York, N. Y., and Newark, N. J., on the one hand, and, on the other, Philadelphia, Pa.

No. MC 112750 (Sub No. 4), dated February 11, 1953.

Commercial papers, documents, and written instruments (except currency and negotiable instruments), used in the operation of banks and banking institutions, restricted to individual shipments not exceeding 100 pounds, over irregular routes, between Pittsburgh, Pa., on the one hand, and, on the other, points in Ohio and West Virginia within 50 miles of Pittsburgh, Pa.; between points in Ohio and West Virginia within 50 miles of Pittsburgh, Pa.

No. MC 112750 (Sub No. 6), dated January 16, 1956.

Such commercial papers, documents, and written instruments, not including currency of negotiable securities, as are used in the conduct of banking businesses, over irregular routes, between New York, N. Y., and Boston, Mass., on the one hand, and, on the other, points in Connecticut, except between New York, N. Y., on the one hand, and, on the other, New Canaan and Greenwich, Conn.; between New York, N. Y., and Passaic, N. J., on the one hand, and, on the other, points in Rockland County, N. Y.

No. MC 112750 (Sub No. 7), dated April 16, 1954.

Such commercial papers, documents, and written instruments, except currency and negotiable securities, as are used in the conduct and operation of banks and banking institutions, over irregular routes, between points in Delaware, Maryland, Virginia, and the District of Columbia, within 100 miles of Washington, D. C.

No. MC 112750 (Sub No. 13), dated April 21, 1954.

Such commercial papers, documents, and non-negotiable securities, except coin, currency and negotiable securities, as are used in the conduct and operation of banks and banking institutions, over irregular routes, between New York, N. Y., on the one hand, and, on the other, points in Sussex County, N. J.

No. MC 112750 (Sub No. 20), dated August 5, 1957.

Such commercial papers, documents, and written instruments (except coin, currency, bullion, and negotiable instruments) as are used in the operation of banks and banking institutions between Cleveland, Ohio, and Pittsburgh, Pa.

No. MC 112750 (Sub No. 21), dated March 26, 1957.

Such commercial paper, documents, and written instruments (except coin, currency, bullion, and negotiable instruments) as are used in the operation of banks and banking institutions when transported in containers other than trace-alarm bags, and in vehicles other than armored vehicles, from Worcester,

Mass., to New York, N. Y.; and *empty containers* used in the transportation of the above-specified commodities on return.

No. MC 114772 (Sub No. 4) INSTITUTED ON January 9, 1958. Respondent: DUNBAR ARMORED SERVICE, INCORPORATED, 56 Hopkins Street, Hartford, Conn. Respondent's attorney: Reubin Kaminsky, 410 Asylum Street, Hartford 3, Conn. Proceeding instituted under section 212 (c) of the Interstate Commerce Act to determine whether the operating authority as a contract carrier presently held by respondent should be revoked and in lieu thereof a certificate of public convenience and necessity issued to operate as a *common carrier* of the same commodities between the same points or within the same territory as authorized in the following permit:

No. MC 114772, dated June 30, 1955.

Bank bills, bonds, negotiable and non-negotiable securities, notes, draft, and other valuable papers, over irregular routes, between points in Connecticut, Massachusetts, New Jersey, New York, and Rhode Island.

Such commodities, except those specified above, as require special protection by guards and armored cars, between Hartford, Conn., on the one hand, and, on the other, Boston, Mass., and New York, N. Y.

No. MC 115601 (Sub No. 6) INSTITUTED ON January 9, 1958. Respondent: BROOKS ARMORED CAR SERVICE, INC., Room M217, Delaware Trust Building, Wilmington, Del. Respondent's attorney: H. James Conaway, Jr., Delaware Trust Building, Wilmington, Del. Proceeding instituted under section 212 (c) of the Interstate Commerce Act to determine whether the operating authority as a contract carrier presently held by respondent should be revoked and in lieu thereof a certificate of public convenience and necessity issued to operate as a *common carrier* of the same commodities between the same points or within the same territory as authorized in the following permit:

No. MC 115601 (Sub No. 3), dated August 5, 1957.

Cash letters, over irregular routes, between Philadelphia, Pa., on the one hand, and, on the other, Georgetown, Rehoboth Beach, Frederica, Dover, and Smyrna, Del.; between Philadelphia, Pa., on the one hand, and, on the other, Wilmington, Newark, Middletown, and Odessa, Del.

No. MC 115646 (Sub No. 2) INSTITUTED ON January 9, 1958. Respondent: BRINK'S EXPRESS COMPANY OF CANADA, LIMITED, 234 East 24th Street, Chicago 16, Ill., Main Canadian Office: 1111 Bleury Street, Montreal, Quebec, Canada. Respondent's attorney: F. D. Partlan, 234 East 24th Street, Chicago 16, Ill. Proceeding instituted under section 212 (c) of the Interstate Commerce Act to determine whether the operating authority as a contract carrier presently held by respondent should be revoked and in lieu thereof a certificate of public convenience and ne-

cessity issued to operate as a *common carrier* of the same commodities between the same points or within the same territory as authorized in the following permit:

No. MC 115646 (Sub No. 1), dated August 31, 1956.

Currency, coin, and negotiable and non-negotiable securities, in armored car service, over irregular routes between the ports of entry at Niagara Falls and Buffalo, N. Y., on the United States-Canada Boundary line, on the one hand, and, on the other, Niagara Falls and Buffalo, N. Y.

By the Commission.

[SEAL] HAROLD D. McCoy,
Secretary.

[F. R. Doc. 58-674; Filed, Jan. 28, 1958;
8:48 a. m.]

[Notice 23]

MOTOR CARRIER ALTERNATE ROUTE
DEVIATION NOTICES

JANUARY 24, 1958.

The following letter-notices of proposals to operate over deviation routes for operating convenience only with no service at intermediate points have been filed with the Interstate Commerce Commission, under the Commission's Deviation Rules Revised, 1957 (49 CFR 211.1 (c) (8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1 (d) (4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1 (e)) at any time but will not operate to stay commencement of the proposed operation unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-730 (Deviation No. 1), PACIFIC INTERMOUNTAIN EXPRESS, CO., 299 Adeline Street, P. O. Box 958, Oakland 4, Calif., filed January 18, 1958. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between junction unnumbered highway and U. S. Highway 50 near Avondale, Colo., and Pueblo, Colo., at Fourth Street and Santa Fe Avenue, as follows: from junction unnumbered highway and U. S. Highway 50 near Avondale over unnumbered highway to junction Colorado Highway 96, thence over Colorado Highway 96 to Pueblo, and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between junction unnumbered highway and U. S. Highway 50 near

Avondale, Colo., and Pueblo, Colo., at Fourth Street and Santa Fe Avenue over the following pertinent route: from junction unnumbered highway and U. S. Highway 50 near Avondale, Colo., over U. S. Highway 50 to Pueblo.

No. MC-9876 (Deviation No. 1), NATIONAL TRANSPORTATION COMPANY, 251 State Street Extended, Bridgeport, Conn., filed January 16, 1958. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between the Western Terminus of the Connecticut Turnpike at the Connecticut-New York State line and the Eastern Terminus of the said Turnpike at the Connecticut-Rhode Island State line, as follows: from the Western Terminus of the Connecticut Turnpike at the Connecticut-New York State line over the Connecticut Turnpike, using various access routes, to the Eastern Terminus of the said Turnpike at the Connecticut-Rhode Island State line and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over the following pertinent routes: between Perth Amboy, N. J., and Hartford, Conn., as follows, from Perth Amboy over unnumbered highway to junction U. S. Highway 9, thence over U. S. Highway 9 to Newark, N. J., thence over U. S. Highway 1 to New Haven, Conn., and thence over U. S. Highway 5 to Hartford; and between New Haven, Conn., and Willimantic, Conn., as follows: from New Haven over U. S. Highway 1 to New London, Conn., thence over Connecticut Highway 12 to Norwich, Conn., and thence over Connecticut Highway 32 to Willimantic.

No. MC-9942 (Deviation No. 2), HALL FREIGHT LINES, INC., 12-18 College Street, Danville, Ill., filed January 16, 1958. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between Durham, Wis., and Dwight, Ill., for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over the following pertinent routes: between Durham, Wis., and Chicago, Ill., over U. S. Highway 45 and Illinois Highway 21; between Chicago, Ill., and Dwight, Ill., over irregular routes to Joliet, Ill., thence over alternate U. S. Highway 66 to Junction U. S. Highway 66, and thence over U. S. Highway 66 to Dwight, Ill.

No. MC-42289 (Deviation No. 1), LOMBARD BROS., INCORPORATED, 249 Mill Street, Waterbury, Conn., filed January 20, 1958. Attorney for said carrier, Thomas W. Murrett, 410 Asylum Street, Hartford, Conn. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between the Western Terminus of the Connecticut Turnpike at the Connecticut-New York State line and the Eastern Terminus of the said Turnpike at the Connecticut-Rhode Island State line as follows: from the Western Ter-

minus of the Connecticut Turnpike over the Connecticut Turnpike and various access routes to the Eastern Terminus of the said Turnpike and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over the following pertinent routes: from Marcus Hook, Pa., over U. S. Highway 13 to Philadelphia, Pa., thence over U. S. Highway 1, via Morrisville, Pa., and New Brunswick, N. J., to Bridgeport, Conn., thence over Connecticut Highway 65 to Shelton, Conn., thence over Connecticut Highway 8 to Waterbury, Conn., thence over Alternate U. S. Highway 6 to Milldale, Conn., thence over Connecticut Highway 10 via Plainville, Conn., to Farmington, Conn., thence over Connecticut Highway 4 to Hartford, Conn., thence over U. S. Highway 5 to Northampton, Mass.; from Marcus Hook to Bridgeport, Conn., as specified above, thence over U. S. Highway 1 to New Haven, Conn., thence over Connecticut Highway 69 to Waterbury, Conn., and thence to Northampton as specified above; from Marcus Hook to Milldale, Conn., as specified above, thence over Alternate U. S. Highway 6 via Meriden, Conn., to Middletown, Conn., thence over Connecticut Highway 9 to Tylerville, Conn., thence over Connecticut Highway 82 to junction Connecticut Highway 85 (near Salem, Conn.), and thence over Connecticut Highway 85 to New London, Conn.; from Marcus Hook to Middletown, Conn., as specified above, thence over Alternate U. S. Highway 6 to junction Connecticut Highway 16 (near East Hampton, Conn.), thence over Connecticut Highway 16 to Colchester, Conn., thence over Connecticut Highway 2 to Norwich, Conn., and thence over Connecticut Highway 32 via Quaker Hill, Conn., to New London; from Marcus Hook to Middletown, Conn., as specified above, and thence over Connecticut Highway 9 to Saybrook, Conn., and thence over U. S. Highway 1 to New London; from Marcus Hook to New Haven, Conn., as specified above, and thence over U. S. Highway 1 to New London, and return over the same routes.

No. MC-58936 (Deviation No. 1), JOHNSON FREIGHT LINES, INC., (BEST WAY MOTOR FREIGHT, INC.), 1905 Sixth Avenue South, Seattle 4, Wash., filed December 6, 1957. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over 2 deviation routes, (A) between junction relocated U. S. Highway 99 and Old U. S. Highway 99 south of Toledo, Wash., and Chehalis, Wash., as follows: from junction relocated U. S. Highway 99 and Old U. S. Highway 99 over relocated U. S. Highway 99 to Chehalis; and (B) between Centralia, Wash., and Tumwater, Wash., as follows: from Centralia over relocated U. S. Highway 99 to Tumwater; and return over the same routes, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over the following pertinent route: between St. Helens, Oreg., and Seattle, Wash.,

as follows: from St. Helens over U. S. Highway 30 to Rainier, Oreg., thence by bridge over the Columbia River to Longview, Wash., thence over U. S. Highway 830 to Kelso, Wash., and return over U. S. Highway 99 to Seattle.

No. MC-108152 (Deviation No. 1), D. T. & C., INC., 892 Higgs Avenue, Columbus 8, Ohio, filed January 13, 1958. Attorney for said carrier, Walter E. Shaeffer, 44 East Broad Street, Columbus 15, Ohio. Carrier proposes to operate as a *common carrier of general commodities*, with certain exceptions, over a deviation route, between Toledo, Ohio and junction U. S. Highways 24 and 24-A, as follows: from Toledo over U. S. Highway 24-A to junction U. S. Highway 24 and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Columbus, Ohio and Detroit, Mich., over the following pertinent route: from Columbus over U. S. Highway 23 to Toledo, Ohio, thence over U. S. Highway 25 to Detroit (also from Toledo over U. S. Highway 24 via Flat Rock, Mich., to Detroit).

MOTOR CARRIERS OF PASSENGERS

No. MC-1501 (Deviation No. 8), THE GREYHOUND CORPORATION, (WESTERN GREYHOUND LINES DIVISION), Market and Fremont Streets, San Francisco 5, Calif., filed January 21, 1958. Carrier proposes to operate as a *common carrier* by motor vehicle of *passengers* over a deviation route between Broderick Junction and Yolo Causeway as follows: from junction U. S. Highway 40 and unnumbered highway west of Sacramento (Broderick Junction), over U. S. Highway 40 to Yolo Causeway and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport passengers over the following pertinent route: between Sacramento, Calif., and San Francisco, Calif., as follows: from Sacramento over U. S. Highway 40 to junction unnumbered highway north of Fairfield (North Fairfield Junction), thence over unnumbered highway via Fairfield to junction U. S. Highway 40 west of Fairfield (West Fairfield Junction), thence over U. S. Highway 40 to junction unnumbered highway north-

west of San Pablo (San Pablo Junction), thence over unnumbered highway via Richmond to junction U. S. Highway 40 west of El Cerrito (West El Cerrito), thence over U. S. Highway 40 to East Bay Traffic Distribution Structure, thence over San Francisco-Oakland Bay Bridge to San Francisco.

No. MC-1510 (Deviation No. 3), SOUTHWESTERN GREYHOUND LINES, INC., 210 East Ninth Street, Fort Worth 2, Tex., filed January 14, 1958. Carrier proposes to operate as a *common carrier* by motor vehicle of *passengers* over 2 deviation routes (A) between junction New Mexico Highway 422 and U. S. Highway 85, and junction New Mexico Highway Spur 422 and U. S. Highway 85, as follows: from junction New Mexico Highway 422 and U. S. Highway 85 over New Mexico Highway 422 to junction New Mexico Highway Spur 422, thence over New Mexico Highway Spur 422 to junction U. S. Highway 85; and (B) between junction New Mexico Highway 44 and U. S. Highway 85, and junction New Mexico Highway Spur 422 and U. S. Highway 85, as follows: from junction New Mexico Highway 44 and U. S. Highway 85 over New Mexico Highway 44 to junction New Mexico Highway 422, thence over New Mexico Highway 422 to junction New Mexico Highway Spur 422, thence over New Mexico Highway Spur 422 to junction U. S. Highway 85; and return over the same routes, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport passengers between junction New Mexico Highway 422 and U. S. Highway 85, and junction New Mexico Highway Spur 422 and U. S. Highway 85 over U. S. Highway 85.

By the Commission.

[SEAL] HAROLD D. McCoy,
Secretary.

[F. R. Doc. 58-673; Filed, Jan. 28, 1958;
8:48 a. m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

JANUARY 24, 1958.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 34433: *Potash—Carlsbad and Loving, N. Mex., to Minnesota and Wisconsin.* Filed by The Atchison, Topeka and Santa Fe Railway Company (No. 83-A), for interested rail carriers. Rates on potassium (potash), carloads from Carlsbad and Loving, N. Mex., to stations in Minnesota on the Duluth, Missabe and Iron Range Railway Company.

Grounds for relief: Maintenance of higher rates to intermediate points in western trunk-line territory due to different levels of general ex parte increases.

Tariff: Supplement 14 to The Atchison, Topeka and Santa Fe Railway Company's tariff I. C. C. 14836.

FSA No. 34434: *Beams, girders or joists and caustic potash between points in Texas.* Filed by J. F. Brown, Agent (No. 315), for interested rail carriers. Rates on beams, girders or joists, building or roofing slabs, and piling, metal reinforced concrete, straight or mixed carloads; also caustic potash, tank-car loads between points in Texas over interstate routes.

Grounds for relief: Texas intrastate competition, and rates on short-line distance formulas.

Tariff: Supplement 52 to Agent Brown's tariff I. C. C. 865.

AGGREGATE-OF-INTERMEDIATES

FSA No. 34435: *Beams, girders or joists and caustic potash between points in Texas.* Filed by J. F. Brown, Agent (No. 314), for interested rail carriers. Rates on beams, girders or joists, building or roofing slabs, and piling, metal reinforced concrete, straight or mixed carloads, also caustic potash, tank-car loads between points in Texas over interstate routes on traffic originating at or destined to points outside of Texas.

Grounds for relief: Maintenance of depressed rates between points in Texas to meet intrastate competition without observing such rates as factors in constructing lower combination rates from or to points outside of Texas.

Tariff: Supplement 52 to Agent Brown's tariff I. C. C. 865.

By the Commission.

[SEAL] HAROLD D. McCoy,
Secretary.

[F. R. Doc. 58-671; Filed, Jan. 28, 1958;
8:48 a. m.]