

PART I



FEDERAL REGISTER

VOLUME 25 NUMBER 145

Washington, Wednesday, July 27, 1960

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Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Department of State

Effective upon publication in the FEDERAL REGISTER, paragraph (u) (3) of § 6.302 is revoked.

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

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] MARY V. WENZEL,
Executive Assistant to the Commissioners.

[F.R. Doc. 60-6990; Filed, July 26, 1960; 8:48 a.m.]

Title 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 446—PEANUTS

Subpart—1960 Crop Peanut Price Support Program Amendment 1

DEFINITIONS

The regulations issued by Commodity Credit Corporation with respect to the 1960 Crop Peanut Price Support Program (25 F.R. 5437) are amended for the purpose of stating correctly the size of the screen openings which extra large kernels in Virginia type peanuts shall not pass through.

Section 446.1204(o) is amended to read as follows:

§ 446.1204 Definitions.

(o) *Extra large kernels.* Shelled Virginia type peanuts which will not pass through a screen having 21.5/64 x 1 inch openings and which are "whole" and free from "minor defects" and "damage" as such terms are defined in the U.S. Standards for Shelled Virginia Type Peanuts (effective August 31, 1959).

(Sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 401, 63 Stat. 1051, 1054, sec. 201, 68 Stat. 899; 73 Stat. 178; 15 U.S.C. 714c, 7 U.S.C. 1441, 1421)

Issued this 21st day of July 1960.

WALTER C. BERGER,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 60-6992; Filed, July 26, 1960; 8:48 a.m.]

Title 7—AGRICULTURE

Chapter VIII—Commodity Stabilization Service (Sugar), Department of Agriculture

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

PART 818—REQUIREMENTS RELATING TO NON-QUOTA PURCHASE SUGAR FOR 1960

Miscellaneous Amendments

Paragraph (k) of § 818.2 of Part 818 is hereby amended to read as follows:

§ 818.2 [Amendment]

(k) The term "non-quota purchase sugar" means sugar purchased pursuant to the provisions of section 408(b) of the act.

Section 818.4 of Part 818 is hereby amended to read as follows:

§ 818.4 Source of non-quota purchase sugar.

For the calendar year 1960 the amount of non-quota purchase sugar to be imported into the continental United States for consumption therein from foreign countries is as follows:

Country:	Short tons, raw value
Haiti	26,567
Netherlands	6,129
China	6,258
Panama	6,258
Costa Rica	6,267
Republic of the Philippines	109,755
Peru	135,000
Mexico	250,540
Nicaragua	22,000
Canada	1,657
United Kingdom	1,358
Belgium	478
Hong Kong	8
British West Indies and British Gulana	70,000
El Salvador	6,000
Guatemala	6,000
Brazil	100,347

Non-quota purchase sugar is limited to raw sugar except sugar testing in excess of 99 degrees polarization is authorized for importation into the United States prior to September 30 from Mexico, Nicaragua, Panama, Costa Rica, Netherlands, Canada, United Kingdom, Belgium, and Hong Kong, within the quantities established above for such countries, provided that such sugar in excess of 2,000 tons from any such country is to be further refined or improved in quality in the United States.

FINDING AND BASES AND CONSIDERATIONS

On July 14, 1960, pursuant to the Sugar Act of 1948, as amended, and further amended by Public Law 86-592, approved July 6, 1960, the purchase of approximately 137,000 short tons, raw value, of non-quota purchase sugar from six countries was authorized under subparagraphs (i) and (ii) of section 408 (b) (2) of the act. The quantity of

sugar which may now be authorized for purchase under section 408(b) and the President's Proclamation 3355 (25 F.R. 6414) is 1,097,540 short tons, raw value.

Of this quantity a total of 51,479 short tons, raw value, has been authorized for purchase from Haiti, Netherlands, China, Panama, and Costa Rica, under subparagraphs (i) and (iii) of section 408(b) (2). A quantity of 109,755 short tons, raw value, has been authorized for purchase from the Republic of the Philippines under subparagraph (ii) of section 408(b) (2). A quantity of 411,038 short tons, raw value, from other countries for which quotas have been established under section 202(c) of the act has been authorized for purchase under subparagraph (iii) of section 408(b) (2). The quantities for each of the latter group of countries have been established pro rata on the basis of the quotas established for these countries under section 202(c) of the act to the extent of the ability of each such country to supply sugar. The proviso in subparagraph (iii) of section 408(b) (2) authorizes the purchase of additional sugar without regard to allocations provided for in subparagraphs (i), (ii) and (iii) of that section if additional amounts of sugar are required. Pursuant to that proviso additional quantities have been authorized for purchase from the following countries in the amounts shown:

Country:	Short tons, raw value
British West Indies and British Gulana	70,000
Brazil	100,347
El Salvador	6,000
Guatemala	6,000

Not authorized for purchase at this time are the Dominican Republic apportionment under subparagraph (iii) of section 408(b) (2) of 291,893 short tons, raw value, and 51,028 short tons, raw value, of the Republic of the Philippines apportionment under subparagraph (ii) of section 408(b) (2).

The regulation can be amended from time to time to increase or decrease the quantities of sugar authorized for purchase from any of the countries named if it later appears that supplies from any country will not be forthcoming in a manner that meets the requirements of this market.

It is hereby found that raw sugar is not reasonably available in sufficient quantity to supply our requirements during the summer months. Accordingly, sugar testing in excess of 99 degrees polarization may be authorized for purchase for arrival in the United States prior to September 30 from certain countries specified in § 818.4 provided that such sugar in excess of 2,000 tons from any such specified country is destined to be further refined or improved in quality in the United States.

To permit such non-quota purchase sugar to be marketed in an orderly manner it is essential that this regulation be made effective immediately. Therefore,

It is hereby determined and found that compliance with the notice, procedure, and effective date requirements of the Administrative Procedure Act is unnecessary, impracticable, and contrary to the public interest, and these amendments to the regulations shall become effective when published in the FEDERAL REGISTER.

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153. Interprets or applies secs. 101, 408; 61 Stat. 922, as amended, 933, as amended; 7 U.S.C. 1101, Pub. Law 86-592, approved July 6, 1960)

Done at Washington, D.C., this 21st day of July 1960.

TRUE D. MORSE,
Acting Secretary.

Concurred in for the Secretary of State by:

THOMAS C. MANN,
Assistant Secretary.

[F.R. Doc. 60-6979; Filed, July 26, 1960; 8:46 a.m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture
PART 958—IRISH POTATOES GROWN IN COLORADO

Order, as Amended, Regulating Handling

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AUTHORITY: §§ 958.0 to 958.92 issued pursuant to secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

§ 958.0 Findings and determinations.

(a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674), and the rules and practices and procedures governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Denver, Colorado, on February 1-2, 1960, upon proposed amendments to Marketing Agreement No. 97 and Order No. 58 regulating the handling of Irish potatoes grown in the State of Colorado. Upon the basis of the evidence introduced at such hearing and the record thereof it is found that:

(1) This order, as amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act with respect to Irish potatoes produced in the production area, by establishing and maintaining such orderly marketing conditions therefor as will tend to establish, as prices to the producers thereof, parity prices, and by protecting the interest of the consumer (i) by approaching the level of prices which it is declared in the Act to be the policy of Congress to establish by a gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and (ii) by authorizing no action which has for its purpose the maintenance of prices to producers of such potatoes above the parity level, and (iii) by authorizing the establishment and maintenance of such minimum standards of quality and maturity, and such grading and inspection requirements as may be incidental thereto, as will tend to effectuate such orderly marketing of such potatoes as will be in the public interest;

(2) This order, as amended, authorizes regulation of the handling of Irish potatoes grown in the production area in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activities classified in, a proposed order upon which a hearing has been held;

(3) This order, as amended, is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act; and the issuance of several orders applicable to any subdivision of the production area would not effectively carry out the declared policy of the Act;

(4) This order, as amended, prescribes so far as practicable, such different terms applicable to different parts of the production area, as are necessary to give due recognition to the differences in the production and marketing of Irish potatoes grown in the production area; and

(5) All handling of potatoes grown in the production area, as defined in this order, as amended, is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce.

(b) *Additional findings.* It is hereby found that good cause exists for making the provisions of this order, as amended, effective not later than the time hereinafter specified so that the area committees, the administrative agencies provided for in the order, as amended, can be organized and start to function as soon as possible. Only thereby can regulations be formulated and issued so that potato producers can obtain the benefits of the amended order on all their 1960 crop.

The provisions of the order, as amended, are well know to handlers of potatoes grown in the production area by reason of the following facts:

(1) The public hearing, at which evidence was received from the industry and from which this order, as amended, was based, was held in Denver, Colorado, February 1-2, 1960;

(2) The recommended decision and the final decision were issued on April 22, 1960 (25 F.R. 3653), and May 26, 1960 (25 F.R. 4815), respectively;

(3) Copies of the order, as amended, were made available, to all known parties who may be subject thereto, prior to and during the course of the referendum, which was held June 20-28, 1960, to determine whether producers of Irish potatoes in the production area favored issuance of this order, as amended;

(4) All known handlers in the production area were mailed a copy of the marketing agreement, as amended, the regulatory provisions of which are the same as those contained in this order, as amended;

(5) Potatoes grown in the production area will be shipped in interstate commerce, on or before the effective date specified herein;

(6) Benefits of the order as amended, should apply to as high a portion of the crop as possible; and

(7) Order No. 58 became effective August 30, 1941, and handlers have oper-

ated under regulations issued thereunder since 1949. Compliance with regulatory provisions of this order, as amended, will not require advance preparation on the part of persons subject thereto which cannot be completed prior to the effective date of regulations pursuant hereto. Therefore, it would be contrary to the public interest to delay the effective date hereof beyond the date hereinafter specified (5 U.S.C. 1001-1011).

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

(1) Handlers (excluding cooperative associations of producers who are not engaged in processing, distributing or shipping potatoes covered by this order, as amended) of more than 50 percent of the volume of potatoes covered by this order, as amended, have signed a marketing agreement, as amended, regulating the handling of Irish potatoes grown in the production area, and

(2) The issuance of this order, as amended, is approved or favored (i) by at least two-thirds of the producers of Irish potatoes who participated in a referendum, held during a period June 20 through June 28, 1960, and who, during the determined representative period (June 1, 1959, through May 31, 1960), have been engaged within the production area in the production of potatoes for market, and (ii) by producers who participated in the aforesaid referendum and who, during the aforesaid representative period, produced for market at least two-thirds of the volume of such potatoes produced for market within the production area specified herein by all producers who participated in the said referendum.

Order relative to handling. It is, therefore, ordered that on and after the effective time hereof, the handling of Irish potatoes grown in Colorado shall be in conformity to and in compliance with, the terms and conditions of this order, as amended, and such terms and conditions are as follows:

DEFINITIONS

§ 958.1 Secretary.

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

§ 958.2 Act.

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

§ 958.3 Person.

"Person" means an individual, partnership, corporation, association, legal representative, or any organized group or business unit of individuals.

§ 958.4 Area.

"Area" means any of the subdivisions of the State of Colorado as set forth in this section or as reestablished pursuant to § 958.53.

(a) "Area No. 1," commonly known as the Western Slope, includes and consists of the counties of Routt, Eagle, Pitkin, Gunnison, Hinsdale, La Plata, in State of Colorado, and all counties in said State west of the aforesaid counties.

(b) "Area No. 2," commonly known as the San Luis Valley, includes and consists of the Counties of Saguache, Huerfano, Las Animas, Mineral, Archuleta, in the State of Colorado, and all counties in said State, south of the counties enumerated in this definition of Area No. 2.

(c) "Area No. 3" includes and consists of all the remaining counties in the State of Colorado which are not included in Area No. 1 or Area No. 2.

§ 958.5 Potatoes.

"Potatoes" means and includes all varieties of Irish potatoes grown within any of the aforesaid areas.

§ 958.6 Seed potatoes.

"Seed potatoes" or "seed" means any potatoes which have been certified by the official seed certification agency of the State of Colorado and bear the official tags, seals, or other appropriate identification indicating such certification.

§ 958.7 Handler.

"Handler" is synonymous with "shipper" and means any person, except a common or contract carrier of potatoes owned by another person, who handles potatoes.

§ 958.8 Handle or ship.

"Handle" or "ship" means to transport, sell, or in any way to place potatoes in the current of the commerce between the State of Colorado and any point outside thereof.

§ 958.9 Producer.

"Producer" means any person engaged in the production of potatoes for market.

§ 958.10 Fiscal period.

"Fiscal period" means the period beginning and ending on the dates approved by the Secretary pursuant to recommendations by an area committee.

§ 958.11 Grade, size and maturity.

"Grade," means any of the officially established grades of potatoes, "Size" means any of the officially established sizes of potatoes, and "Maturity" means any of the stages of development or condition of the outer skin (epidermis) of potatoes, as defined in the United States Standards for Potatoes issued by the United States Department of Agriculture (§§ 51.1540 to 51.1556, inclusive of this title) or Colorado grades established by the Commissioner, or amendments thereto, or modifications thereof, or variations based on any of the foregoing.

§ 958.12 Varieties.

"Varieties" means all classifications or subdivisions of Irish potatoes according to those definitive characteristics now or hereafter recognized by the United States Department of Agriculture.

§ 958.13 Pack.

"Pack" means a quantity of potatoes in any type of container, which falls

within specific weight limits, numerical limits, grade limits, or any combination of these recommended by the committee and approved by the Secretary.

§ 958.14 Container.

"Container" means a sack, bag, crate, box, basket, barrel, or bulk load or any other receptacle used in the packaging, transportation, or sale of potatoes.

§ 958.15 Culls.

"Culls" means potatoes which do not meet the requirements set forth in § 958.20.

§ 958.16 Committee.

"Committee" means any of the area committees established pursuant to § 958.50 or the Colorado Potato Committee established pursuant to § 958.51.

§ 958.17 Export.

"Export" means the shipment of potatoes to any destination which is not within the 48 contiguous States, or the District of Columbia, of the United States.

REGULATION

§ 958.20 Marketing policy.

(a) *General cull regulation.* (1) It shall be the marketing policy for the production area to maintain a general cull regulation in effect prohibiting the handling of potatoes for fresh market, except as otherwise provided in this subpart, which do not meet the requirements of the U.S. No. 2, or better, grade, 1½ inches minimum diameter and larger.

(2) Upon recommendation of the Colorado Potato Committee, or on other available information, the general cull regulation may be suspended or modified by the Secretary during a specified period with respect to any or all varieties of potatoes.

(b) *Area marketing policies.* Each season prior to or at the same time as initial recommendations are made pursuant to § 958.21, each area committee shall submit to the Secretary a report setting forth the marketing policy it deems desirable for the industry to follow in handling the respective area's potatoes during the ensuing season. Additional reports shall be submitted from time to time if it is deemed advisable by an area committee to adopt a new marketing policy because of changes in the demand and supply situation with respect to potatoes. The committee shall publicly announce the submission of each such marketing policy report and copies thereof shall be available at the committee's office for inspection by any producer or any handler. In determining each such marketing policy the committee shall give due consideration to the following:

(1) Supply of potatoes by grade, size, quality, and maturity in the respective area, in the production area, and in other areas;

(2) Market prices for fresh potatoes, including grower, shipping point, and terminal market prices by grade, size, and quality in different packs or in different containers;

(3) Market prices for potatoes in other outlets, including growers' and other

market price levels by grade, size, and quality;

(4) The trend and level of consumer income;

(5) Establishing and maintaining such orderly marketing conditions for potatoes as will be in the public interest; and

(6) Other relevant factors.

§ 958.21 Recommendations for regulations.

An area committee upon complying with the requirements of § 958.20 may recommend regulations, or modifications, suspension or termination thereof, to the Secretary whenever it finds that such regulations as provided for in this subpart will tend to effectuate the declared policies of the act.

§ 958.22 Issuance of regulations.

(a) The Secretary shall limit by regulation the handling of potatoes whenever he finds from recommendations and information submitted by an area committee, or from other available information, that such regulation would tend to effectuate the declared policy of the act. Such regulation may:

(1) Limit the handling of particular grades, sizes, qualities, or maturities of any or all varieties of potatoes, or any combination of the foregoing during any period.

(2) Limit the handling of particular grades, sizes, qualities, or maturities of potatoes differently, for different varieties, for different containers, for different packs, for different portions of the production area, for different purposes under § 958.23, or for any combination of the foregoing, during any period.

(3) Provide a method through rules and regulations issued pursuant to this subpart for fixing the size, capacity, weight, dimensions, or pack of the container, or containers, which may be used in the packaging or handling of potatoes, or both.

(4) Establish in terms of grades, sizes, or both, minimum standards of quality and maturity.

(b) Any regulation issued hereunder may be amended, modified, suspended, or terminated by the Secretary on recommendations by an area committee, or on other available information, to provide for

(1) Such changes in regulations found necessary by changes in supplies, demand, or prices;

(2) Minimum quantities which should be relieved of regulatory or administrative obligations; or

(3) Relief from regulations no longer tending to effectuate the declared policies of the Act.

(c) The Secretary shall notify each committee of each regulation recommended by it and issued pursuant to this section. The respective committee shall give reasonable notice thereof to handlers. No regulation, except when relieving limitations, shall become effective less than two days after issuance thereof.

§ 958.23 Handling for special purposes.

Upon the basis of recommendations and information submitted by an area

committee, or other available information, the Secretary, whenever he finds that it will tend to effectuate the declared purposes of the Act, shall modify, suspend, or terminate requirements in effect pursuant to §§ 958.20 to 958.22, inclusive, or §§ 958.40 or 958.77, or any combination thereof, to facilitate handling of potatoes for:

(a) Relief or charity;

(b) Livestock feed;

(c) Export;

(d) Seed;

(e) Potatoes, other than certified seed, sold to a producer exclusively for planting within specific geographic limits;

(f) Manufacture or conversion into specified products;

(g) Other purposes recommended by the committees and approved by the Secretary.

§ 958.24 Safeguards.

(a) Each area committee, with the approval of the Secretary, shall prescribe adequate safeguards for potatoes handled pursuant to § 958.23 from entering trade channels other than those authorized by regulations and by such rules as may be necessary and incidental thereto.

(b) Such safeguards may include requirements that handlers or processors desiring to handle potatoes pursuant to § 958.23 shall:

(1) Apply for and obtain Certificates of Privilege from the area committee for handling potatoes affected or to be affected under the provisions of § 958.23.

(2) Obtain inspection as required by § 958.40, or pay the assessment levied pursuant to § 958.77, or both, except as modified pursuant to § 958.23 in connection with shipments made under any such certificate; and

(3) Furnish the committee such information, and execute or obtain execution of such documents, as the committee may require.

(c) An area committee may rescind or deny to any handler permission to handle potatoes pursuant to § 958.23 of this subpart if proof satisfactory to the committee is obtained that potatoes handled by him for a purpose stated in § 958.23 were handled contrary to the provisions of this subpart.

(d) The committee shall make reports to the Secretary, as requested, showing the number of applications for such certificates, the quantity of potatoes covered by such applications, the number of such applications denied and certificates granted, the quantity of potatoes handled under duly issued certificates, and such other information as may be requested.

EXEMPTIONS

§ 958.28 Policy.

Any producer whose potatoes have been adversely affected by acts beyond the control or reasonable expectation of a prudent grower and who, by reason of any regulation issued pursuant to this part, is or will be prevented from shipping or having shipped during the then current marketing season, or a specific portion thereof, as large a proportion of his potato crop as the average proportion shipped or to be shipped during

comparable portions of the season by all producers in his immediate area of production, may apply to the committee for exemptions from such regulations for the purpose of obtaining equitable treatment under such regulations.

§ 958.29 Procedure.

Rules and procedures for granting exemptions may be issued by the Secretary, upon recommendation of area committees. Such rules and procedures may provide for methods of determinations by area committees of average proportions of crops shipped or being shipped in respective areas or subdivisions thereof during any or all portions of a season, for processing applications for exemption, for issuing or denying certificates of exemption, for administrative compliance with certificates issued, for reports by handlers thereon, and for such other procedures as may be necessary to administration hereof.

§ 958.30 Granting exemptions.

An area committee may issue certificates of exemption to any qualified applicant who furnishes adequate evidence to such committee:

(a) That the grade, size, or quality of the applicant's potatoes have been adversely affected by acts beyond his control or reasonable expectations;

(b) That by reason of regulations issued pursuant to § 958.20 or § 958.22, the applicant will be prevented as a producer from shipping or having shipped as large a proportion of his production as the average proportion of production shipped by all producers in said applicant's immediate area of production during the season, or a specific portion thereof.

(c) Each such certificate issued shall permit the person identified therein to ship or have shipped the potatoes described thereon, and evidence of such certificates shall be made available to subsequent handlers thereof.

§ 958.31 Investigation.

An area committee shall be permitted at any time to make a thorough investigation of any applicant's claim pertaining to exemptions.

§ 958.32 Appeal.

If any applicant for exemption certificates is dissatisfied with the determination by an area committee with respect to his application, he may file an appeal with the committee. Any applicant filing an appeal shall furnish evidence satisfactory to the committee for a determination on the appeal.

RESEARCH AND DEVELOPMENT

§ 958.35 Research and development.

The committee, with the approval of the Secretary, may provide for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of potatoes and may make available committee information and data to any person, or to any employee of an agency or its agent, authorized by the committee as its agent with the approval of the Secretary, to conduct such projects.

INSPECTION

§ 958.40 Inspection and certification.

(a) During any period in which the handling of potatoes is regulated pursuant to § 958.20 through § 958.24, inclusive, no handler shall handle potatoes unless such potatoes are inspected by an authorized representative of the Federal or a Federal-State Inspection Service and are covered by a valid inspection certificate, except when relieved of such requirements by § 958.22(b), § 958.23, or § 958.40(b).

(b) Rules may be issued by the Secretary, upon recommendation of the Colorado Potato Committee requiring inspection on regraded, resorted or repacked lots, or providing for special inspection requirements or relief therefrom. Such rules may provide distinctions, insofar as practical, between handling at shipping point and handling in receiving markets within the production area.

(c) Upon recommendation of an area committee and approval by the Secretary, any or all potatoes so inspected and certified shall be identified by appropriate seals, stamps, or tags to be affixed to the containers by the handler under the direction and supervision of a Federal or Federal-State Inspector or the committee. Master containers may bear the identification instead of the individual containers within said master container.

(d) Insofar as the requirements of this section are concerned, the length of time for which an inspection certificate is valid may be established by the committee with the approval of the Secretary.

(e) When potatoes are inspected in accordance with the requirements of this section, a copy of each inspection certificate issued shall be made available to the committee by the inspection service.

(f) Area committees with the approval of the Colorado Potato Committee may recommend and the Secretary may require that no handler shall transport or cause the transportation of potatoes by motor vehicle or by other means unless such shipment is accompanied by a copy of the inspection certificate issued thereon, or other document authorized by the committee to indicate that such inspection has been performed. Such certificate or document shall be surrendered to such authority as may be designated.

COMMITTEES

§ 958.50 Area committees.

A committee is hereby established as an administrative agency for each area. Each area committee shall be comprised of members and alternates as set forth in this section or as reestablished by § 958.53.

(a) Area No. 1 (Western Slope): Four producers and three handlers selected as follows:

Two (2) producers and one (1) handler from the counties of Eagle, Garfield, Pitkin, Moffat, and Routt, in the State of Colorado;

Two (2) producers and one (1) handler from the remaining counties of Area No. 1;
One (1) handler representing all producers' cooperative marketing associations in Area No. 1.

(b) Area No. 2 (San Luis Valley): Seven producers and five handlers selected as follows:

Three (3) producers from Rio Grande County;

One (1) producer from Saguache County;
One (1) producer from Conejos County;
One (1) producer from Alamosa County;
One (1) producer from all other counties in Area No. 2;

Two (2) handlers representing all producers' cooperative marketing associations in Area No. 2;

Three (3) handlers representing handlers in Area No. 2 other than producers' cooperative marketing associations.

(c) Area No. 3: Five Producers and four handlers selected as follows:

Three (3) producers from Weld County;
One (1) producer from Morgan County;
One (1) producer from the remaining counties of Area No. 3;

Four (4) handlers from Area No. 3.

§ 958.51 Colorado Potato Committee.

The Colorado Potato Committee is hereby established consisting of six members, with alternates. Two members and alternates shall be selected from each area committee. Committeemen shall be selected by the Secretary from nominations of area committee members or alternates.

§ 958.52 Alternates.

(a) For each committee member there shall be an alternate who shall have the same qualifications. During a member's absence, or when called upon to do so in accordance with the terms hereof, or in the event of a member's death, removal, resignation, or disqualification, an alternate shall act in his place and stand until the member's successor is selected and has qualified.

(b) Area committees, with the Secretary's approval, may provide through rules for members or for alternates to recommend regulations for early crop potatoes or for late crop potatoes and to specify the particular crop for which each group shall be responsible.

§ 958.53 Reestablishment.

Areas, subdivisions of areas, the distribution of representation among the subdivision of areas, or among marketing organizations within respective areas may be reestablished by the Secretary upon area committee recommendations. Upon approval thereof of respective committees affected thereby, areas may be reestablished. In recommending any such changes, the committee shall consider (a) the relative importance of new producing sections, (b) relative production, (c) changes in marketing organizations and their relative status in the industry, (d) the geographic locations of producing sections as they would affect the efficiency of administration of this part, and (e) other relevant factors.

§ 958.54 Eligibility.

Area committee members and alternates shall be individuals who shall be residents of, and producers or handlers, as the case may be, in the respective area. Also, each member or alternate to qualify as a representative (a) for producers shall be a producer, or an

officer or employee of a producer; (b) for producers' cooperative marketing associations shall be members or employees of such associations; or (c) for handlers other than cooperative marketing associations shall be a handler, or an officer or employee of a handler.

§ 958.55 Term of office.

The term of office of each area committee member and alternate shall be for two years. The term of office for Colorado Potato Committee members and alternates shall be for one year. The dates on which terms of office for each committee shall begin and end shall be established by the Secretary pursuant to respective committee recommendation. Terms of office of area committee members shall be arranged so that approximately one-half shall terminate each year. Determination of which initial members and alternates shall serve for one year or two years shall be by lot.

§ 958.56 Nomination and selection.

(a) Each area committee shall hold or cause to be held, not less than 15 days prior to the expiration date of respective terms of office, meetings of producers and handlers for each subdivision in which terms expire or in which vacancies otherwise occur.

(b) At each such meeting one or more nominees shall be designated for each impending vacancy as member or alternate. Such designation may be by ballot or by motion at the option of those present in voting capacity.

(c) Only producers may participate in designating producer nominees; only handlers may participate in designating handler nominees; and only duly authorized representatives of producers' cooperative marketing associations may participate in designating nominees to represent such associations. If no separate representation is provided for producers' cooperative marketing associations, duly authorized representatives of such associations may participate in designating handler nominees.

(d) Each producers' cooperative marketing association shall be entitled to cast only one vote in designating nominees to represent such associations. Each producer and each handler shall be entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives.

(e) If a producer, handler, or producers' cooperative marketing association is engaged in producing or handling potatoes in more than one area, or in more than one subdivision of an area, such producer, handler, or producers' cooperative marketing association shall elect the area or subdivision in which he may participate in designating nominees. In no event shall there be participation in more than one area or subdivision.

§ 958.57 Failure to nominate.

If nominations are not made pursuant to the provisions of § 958.56 by the date provided therein, the Secretary may, without regard to nominations, select members and alternates on the basis of the representation provided for in this part.

§ 958.58 Vacancies.

To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate to qualify, or in the event of the death, removal, resignation, or disqualification of a member or alternate, a successor for his unexpired term may be selected by the Secretary from nominations made pursuant to § 958.56, from previously unselected nominees on the current nominee list, or from other eligible persons.

§ 958.59 Qualification.

Each person selected as a member or as an alternate shall qualify by promptly filing a written acceptance with the Secretary.

§ 958.60 Compensation and expenses.

(a) Members of each area committee and their alternates shall serve without salary, but may be compensated at a rate not in excess of \$10.00 per day while engaged on committee business, and may be reimbursed for necessary expenses actually incurred while so engaged. At the discretion of an area committee, alternates may be requested to attend any or all committee meetings and receive compensation and expenses therefor regardless of attendance by the respective members.

(b) The compensation and expenses of members and alternates of the Colorado Potato Committee shall be paid by the respective area committee they represent.

(c) Such other expenses as may be incurred by the Colorado Potato Committee pursuant to a budget of expenses approved by the Secretary shall be allotted to, and paid by, one or more of the area committees as may be specified in an order issued by the Secretary pursuant to the provisions of this subpart.

§ 958.61 Procedure.

(a) A majority of all members of a committee shall be necessary to constitute a quorum or to pass any motion or approve any committee action.

(b) Each committee may provide for the members thereof, including the alternate members when acting as members, to vote by mail, telegraph, telephone, or other means of communication, provided that any such vote cast orally shall be confirmed promptly in writing. If any assembled meeting is held all votes shall be cast in person.

§ 958.62 Powers.

Each committee shall have the following powers:

(a) To administer the provisions of this subpart as specified herein;

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

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

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

§ 958.63 Duties.

(a) Each committee shall:

(1) Meet and organize as soon as practical after the beginning of each term of office, select a chairman and such

other officers as may be necessary, select subcommittees and adopt such rules and procedures for the conduct of its business as it may deem advisable;

(2) Act as intermediary between the Secretary and any producer or handler;

(3) Appoint such employees, agents and representatives as it may deem necessary and determine the salaries and define the duties of each;

(4) Keep minutes, books, and records which clearly reflect all its acts and transactions. Such minutes, books and records shall be subject to examination at any time by the Secretary;

(5) Furnish promptly notices of meetings, copies of the minutes of each committee meeting, and such other reports or information as may be requested by the Secretary, including annual reports of each area committee's operations for the preceding marketing season or fiscal period;

(6) Make available to producers, and to other area committees and the Colorado Potato Committee the committee's voting record on recommended regulations and other matters of policy;

(7) Meet jointly with other area committees when requested to do so by the Colorado Potato Committee;

(8) Consult, cooperate, and exchange information with other area committees, with other marketing agreement committees and other agencies or individuals in connection with proper committee activities and objectives;

(9) Take any proper action necessary to carry out the provisions of this subpart; and

(10) Cause the books of the committee to be audited by a competent accountant at least once each fiscal period.

(b) The Colorado Potato Committee shall also:

(1) Supervise the regulation of shipments pursuant to the provisions of the general cull regulation in the absence of more restrictive regulations, and shall cooperate with any area committee in administering any regulation issued pursuant to this subpart;

(2) Make recommendations to the Secretary with respect to suspending or modifying the provisions of the general cull regulation;

(3) Make available to area committees its voting record on recommendations for modification of the cull regulation and other matters of policy;

(4) Submit to each area committee such available information as may be requested; and

(5) Call joint meetings of area committees on matters requiring consideration of statewide marketing policies when requested to do so by an area committee.

EXPENSES AND ASSESSMENTS**§ 958.75 Expenses.**

Each area committee is authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred during each fiscal period for its maintenance and functioning, and for purposes determined to be appropriate for administration of this part. Handlers shall share expenses upon the basis of a fiscal period. Each handler's share of such expense shall be proportionate

to the ratio between the total quantity of potatoes handled by him as the first handler thereof during a fiscal period and the total quantity of potatoes handled by all handlers as first handlers thereof during such fiscal period.

§ 958.76 Budget.

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

§ 958.77 Assessments.

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

(b) Assessments shall be levied upon handlers at rates established by the Secretary. Such rates may be established upon the basis of each area committee's budget, recommendations, and other available information. Such rates may be applied to specified containers used in the production area.

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

(d) The payment of assessments for the maintenance and functioning of each area committee may be required under this part throughout the period it is in effect irrespective to whether particular provisions thereof are suspended or become inoperative.

(e) In order to provide funds to enable each area committee to perform its functions under this part, handlers may make advance payment of assessments.

§ 958.78 Accounting.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess is not retained in a reserve, as provided in subparagraph (2) of this paragraph, it shall be refunded proportionately to the persons from whom it was collected.

(2) An area committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal periods as a reserve: *Provided*, That funds already in the reserve are less than approximately two fiscal period's expenses. Such reserve funds may be used (i) to defray expenses, during any fiscal period, prior to the time assessment income is sufficient to cover such expenses; (ii) to cover deficits incurred during any fiscal period when assessment income is less than expenses; (iii) to defray expenses incurred during any period when any or all provisions of this subpart are suspended or are inoperative; (iv) to cover necessary expenses of liquidation in the event of termination of this subpart. Upon such termination, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate. To the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by an area committee pursuant to the provisions of this part shall be used solely for the purposes specified herein. The Secretary may at any time require an area committee and its members to account for all receipts and disbursements.

(c) Upon the removal or expiration of the term of office of any member of an area committee, such member shall account for all receipts and disbursements and deliver all property and funds in his possession to such committee, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such committee full title to all of the property, funds, and claims vested in such member pursuant to this part.

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

REPORTS

§ 958.80 Reports.

Upon request of an area committee or of the Colorado Potato Committee through an area committee, each handler within the respective area of such area committee shall furnish to the area committee in such manner and at such time as it may prescribe, reports and other information as may be necessary for the committee to perform its duties under this part.

(a) Such reports may include, but are not necessarily limited to the following examples:

(1) The quantities of potatoes received by a handler during any or all periods of a season;

(2) The quantities disposed of by him, segregated as to quantities subject to

regulation, and where necessary segregated as to types of outlets and special or modified regulations applicable to alternative outlets, and including quantities not subject to grade, inspection, assessment, or other similar regulations;

(3) The date of each such disposition and the identification of the carrier transporting such potatoes;

(4) Information essential to identification of any or all specific quantities, lots, and disposition of potatoes handled under §§ 958.23 to 958.30, inclusive, which may include identification of inspection certificates, exemption certificates, certificates of privilege, or other appropriate identification, including the destination of each special shipment, where necessary.

(b) All such reports shall be held under appropriate protective classification and custody by the committee, or duly appointed employees thereof, so that the information contained therein which may adversely affect the competitive position of any handler in relation to other handlers will not be disclosed. Compilations of general reports from data submitted by handlers is authorized, subject to prohibition of disclosure of individual handlers' identities or operations.

(c) Each handler shall maintain for at least two succeeding years such records of the potatoes received and disposed of by such handler as may be necessary to verify the reports he submits to the committee pursuant to this section.

COMPLIANCE

§ 958.81 Compliance.

Except as provided in this subpart, no handler shall handle potatoes, the handling of which has been prohibited by the Secretary in accordance with provisions of this subpart, and no handler shall handle potatoes except in conformity to the provisions of this subpart.

MISCELLANEOUS PROVISIONS

§ 958.82 Right of the Secretary.

The members of each area committee (including successors and alternates) and any agent or employee appointed or employed by any committee shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination or other act of each committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the said committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 958.83 Effective time.

(a) The provisions of this subpart or any amendments thereto shall become effective at such time as the Secretary may declare and shall continue in force until terminated in one of the ways specified in this subpart.

(b) All regulations and rules, including the General Cull Regulation effective

July 18, 1949 (§ 958.301; 14 F.R. 3979), issued pursuant to the order (this part) and in effect immediately prior to the effective date of the order as amended (this part), and not in conflict with the amended order, shall continue in effect under this subpart, until such regulations and rules are changed, modified, or suspended. Also, all committee members and alternates selected pursuant to the order and occupying a term of office immediately prior to the effective date of the order as amended, shall continue in office under the amended order until their successors have been selected and have qualified.

§ 958.84 Termination.

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

(2) The provisions of § 958.83(b) may be terminated when its purpose has been attained.

(b) The Secretary may terminate or suspend the operations of any or all of the provisions of this subpart whenever he finds that such provisions do not tend to effectuate the declared policy of the Act.

(c) The Secretary shall terminate the provisions of this subpart at the end of any fiscal period whenever he finds that such termination is favored by a majority of producers, who during a representative period, as determined by the Secretary have been engaged in the production of potatoes for market: *Provided*, That such majority has, during such representative period, produced for market more than fifty percent of the volume of such potatoes produced for market.

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

§ 958.85 Proceedings after termination.

(a) Upon the termination of the provisions of this subpart the then functioning members of each area committee shall continue as joint trustees for the purpose of liquidating the affairs of their respective area committee of all funds and property then in the possession of or under control of the committee, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

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

(c) Any person to whom funds, property, or claims have been transferred or delivered by an area committee or its members pursuant to this section shall be subject to the same obligations imposed upon the members of such committees and upon the said trustees.

§ 958.86 Effect of termination or amendment.

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

§ 958.87 Duration of immunities.

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

§ 958.88 Agents.

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

§ 958.89 Derogation.

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

§ 958.90 Personal liability.

No member or alternate of any committee or any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, agent, or employee, except for acts of dishonesty, willful misconduct or gross negligence.

§ 958.91 Separability.

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

§ 958.92 Amendments.

Amendments to this subpart may be proposed from time to time by a committee or by the Secretary.

Issued at Washington, D.C., this 22d day of July 1960, to become effective August 1, 1960.

CLARENCE L. MILLER,
Assistant Secretary.

[F.R. Doc. 60-6991; Filed, July 26, 1960;
8:48 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter III—Federal Aviation Agency

SUBCHAPTER C—AIRCRAFT REGULATIONS

[Reg. Docket 422; Amdt. No. 170a]

PART 507—AIRWORTHINESS DIRECTIVES

Mooney M-20A Aircraft

Amendment 170 to Part 507 of the regulations of the Administrator which was published in the FEDERAL REGISTER (25 F.R. 6516) on July 12, 1960, contains a typographical error. Pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), this amendment is hereby corrected by changing the reference to "P/N 6362" in paragraph 2 to read "P/N 6363."

Issued in Washington, D.C., on July 21, 1960.

B. PUTNAM,
Acting Director, Bureau of Flight Standards.

[F.R. Doc. 60-6960; Filed, July 26, 1960;
8:45 a.m.]

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket 59-WA-23]

PART 600—DESIGNATION OF FEDERAL AIRWAY

Modification

On September 16, 1959, a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (24 F.R. 7464) stating that the Federal Aviation Agency proposed to modify the segment of VOR Federal airway No. 141 between Nantucket, Mass., and Boston, Mass., via the Hyannis, Mass., VOR.

Since this action involves the designation of navigable airspace outside of the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854 and has obtained their concurrence thereto.

No adverse comments were received concerning the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) § 600.6141 (24 F.R. 10518; 25 F.R. 4377) is amended as follows:

In the text of § 600.6141 VOR Federal airway No. 141 (Nantucket, Mass.,

to Massena, N.Y.), delete "via the INT of the Nantucket VOR 339° and the Boston VOR 133° radials;" and substitute therefor "via the Hyannis, Mass., VOR; the INT of the Hyannis VOR 332° and the Boston VOR 133° radials;".

This amendment shall become effective 0001 e.s.t. September 22, 1960.

(Secs. 307(a), 313(a), 1110, 72 Stat. 749, 752, and 800, 49 U.S.C. 1348, 1354, and 1510, and Executive Order 10854, 24 F.R. 9565)

Issued in Washington, D.C., on July 20, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-6962; Filed, July 26, 1960;
8:45 a.m.]

[Airspace Docket 60-WA-108]

PART 602—ESTABLISHMENT OF CODED JET ROUTES AND NAVIGATIONAL AIDS IN THE CONTINENTAL CONTROL AREA

Modification of Coded Jet Routes

On May 12, 1960, a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (25 F.R. 4261) stating that the Federal Aviation Agency proposed to extend VOR/VORTAC jet route No. 25 from Butler, Mo., to Minneapolis, Minn., and revoke the segment of VOR/VORTAC jet route No. 33 from Kansas City, Mo., to Minneapolis.

No adverse comments were received regarding the proposed amendments.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reasons stated in the Notice, § 602.525 (14 CFR, 1958 Supp., 602.525) and § 602.533 (14 CFR, 1958 Supp., 602.533) are amended to read:

§ 602.525 VOR/VORTAC jet route No. 25 (San Antonio, Tex., to Minneapolis, Minn.).

From the San Antonio, Tex., VORTAC via the Austin, Tex., VORTAC; Dallas, Tex., VORTAC; Tulsa, Okla., VORTAC; Butler, Mo., VOR; INT of the Butler VOR 009° True and the Des Moines VOR 196° True radials; Des Moines, Iowa, VORTAC; Mason City, Iowa, VORTAC, to the Minneapolis, Minn., VOR.

§ 602.533 VOR/VORTAC jet route No. 33 (Lake Charles, La., to Kansas City, Mo.).

From the Lake Charles, La., VOR via the INT of the Lake Charles VOR 343° True and the Shreveport VORTAC 176° True radials; Shreveport, La., VORTAC; Springfield, Mo., VORTAC to the Kansas City, Mo., VORTAC.

These amendments shall become effective 0001 e.s.t. September 22, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on July 20, 1960.

D. D. THOMAS,
Director, Bureau of
Air Traffic Management.

[F.R. Doc. 60-6961; Filed, July 26, 1960;
8:45 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 55185]

PART 8—LIABILITY FOR DUTIES; ENTRY OF IMPORTED MERCHAN- DISE

Powers of Attorney to Customhouse Brokers

Notice was published on May 28, 1960, in the FEDERAL REGISTER (25 F.R. 4752) that under the authority of sections 484 and 624, Tariff Act of 1930, as amended (19 U.S.C. 1484, 1624), it was proposed to amend § 8.19 of the Customs Regulations. Upon thorough consideration of the data, views, and arguments received, the amendment as set forth below is hereby adopted effective 30 days after the date of publication in the FEDERAL REGISTER.

Section 8.19(a) now provides that a customs power of attorney executed in favor of a licensed corporate customhouse broker may specify that the power of attorney is granted to the corporation to act through any of its licensed officers or any employees specifically authorized to act for such corporation by power of attorney filed by the corporation with the collector of customs. To make this provision applicable to a customs power of attorney executed in favor of any licensed customhouse broker, whether or not the broker is a corporation, the last sentence of § 8.19(a) of the Customs Regulations is amended to read: "A customs power of attorney executed in favor of a licensed customhouse broker may specify that the power of attorney is granted to the customhouse broker to act through any of its licensed officers or any employee specifically authorized to act for such customhouse broker by power of attorney filed by the customhouse broker with the collector of customs."

(Secs. 484, 624, 46 Stat. 722, as amended, 759; 19 U.S.C. 1484, 1624)

[SEAL] D. B. STRUBINGER,
Acting Commissioner of Customs.

Approved: July 21, 1960.

A. GILMORE FLUES,
Acting Secretary of the Treasury.

[F.R. Doc. 60-7001; Filed, July 26, 1960;
8:49 a.m.]

[T.D. 55184]

PART 16—LIQUIDATION OF DUTIES Countervailing Duties; Almonds From Spain

The Bureau has determined that effective July 21, 1959, no bounties or

grants within the purview of section 303, Tariff Act of 1930 (19 U.S.C. 1303), are being, or are likely to be, paid or bestowed upon the manufacture, production, or export of almonds from Spain, imported directly or indirectly into the United States.

Treasury Decision 54792 is hereby superseded with respect to all almonds exported from Spain on or after July 21, 1959, which are or will be entered, or withdrawn from warehouse, for consumption, and which have not been liquidated, or the liquidation of which has not become final, on the date of publication of this Treasury decision in the FEDERAL REGISTER.

The table in § 16.24(f) of the Customs Regulations is amended by inserting the number of this Treasury decision immediately following number 54792 in the column headed "Treasury Decision" and the words "Discontinued as to shipments exported on or after July 21, 1959," in the column headed "Action".
(R.S. 251, secs. 303, 624, 46 Stat. 687, 759; 19 U.S.C. 66, 1303, 1624)

[SEAL] RALPH KELLY,
Commissioner of Customs.

Approved: July 21, 1960.

A. GILMORE FLUES,
Acting Secretary of the Treasury.

[F.R. Doc. 60-7000; Filed, July 26, 1960;
8:49 a.m.]

Title 20—EMPLOYEES' BENEFITS

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

SUBCHAPTER C—LONGSHOREMEN'S AND HAR- BOR WORKERS' COMPENSATION ACT

PART 31—GENERAL ADMINIS- TRATIVE PROVISIONS

Clarification of Definition of Com- pensation District No. 8

Pursuant to section 39(b) of the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1442, 33 U.S.C. 939), Reorganization Plan No. 19 of 1950 (15 F.R. 3178, 64 Stat. 1271), and General Order No. 46 of the Secretary of Labor (15 F.R. 3290), 20 CFR 31.2 is hereby amended to clarify the geographical limits of the compensation district designated as District No. 8 by expressly defining it to include that part of the Sabine River between Texas and Louisiana.

As amended, § 31.2 reads as follows:

§ 31.2 Establishment of compensation districts.

* * * * *
District No. 8. Comprises the State of Texas including that part of the Red River between Texas and Oklahoma and that part of the Sabine River between Texas and Louisiana, with headquarters at Galveston, Texas.

This amendment shall become effective immediately upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., this 20th day of July 1960.

WM. McCAULEY,
Director,
Bureau of Employees' Compensation.

[F.R. Doc. 60-6969; Filed, July 26, 1960;
8:45 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Adminis- tration, Department of Health, Edu- cation, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

EMULSIFIERS IN FROZEN DESSERTS

The Commissioner of Food and Drugs, having evaluated the data submitted in petitions filed by Atlas Powder Company, Wilmington, Delaware, and other relevant material, has concluded that the following food additive regulation should issue in conformance with section 409 of the Federal Food, Drug, and Cosmetic Act as amended, with respect to certain polyoxyethylene-sorbitan-fatty acid compounds in frozen desserts, as emulsifiers. In anticipation of the issuance of standards of identity for frozen desserts, the Commissioner has considered section 401 of the act and has concluded that these additives in frozen desserts will be in conformity with that section of the act as well as with section 409. Therefore, pursuant to the provisions of the act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (23 F.R. 9500): *It is ordered*, That Subpart D (21 CFR Part 121 (24 F.R. 2434)) be amended by adding thereto the following new sections:

§ 121.1008 Polyoxyethylene (20) sorbitan tristearate as an emulsifier in ice cream, frozen custard, ice milk, and fruit sherbet.

A food additive known as polyoxyethylene (20) sorbitan tristearate, which is a mixture of polyoxyethylene ethers of mixed stearic acid esters of sorbitol anhydrides and related compounds, may be used as an emulsifier in ice cream, frozen custard, ice milk, and fruit sherbet, when prepared and when used in accordance with the following prescribed conditions:

(a) The food additive is manufactured by reacting stearic acid with sorbitol to yield essentially sorbitan tristearate with a maximum acid number of 15 and a maximum water content of 0.2 percent, which is then reacted with ethylene oxide.

(b) The food additive meets the following specifications:

Saponification number 88-98.
Acid number 0-2.
Hydroxyl number 44-60.
Oxyethylene content 46 percent-50 percent.

(c) It is used alone or in combination with polysorbate 80, whereby the maxi-

imum amount of these additives, alone or in combination, does not exceed 1,000 parts per million (0.1 percent) of the finished frozen dessert.

(d) To assure safe use of the additive, the label of the additive and any intermediate mixes shall contain, in addition to the other information required by the act, the following:

(1) The name of the additive, polyoxyethylene (20) sorbitan tristearate.

(2) A statement of the concentration or strength of the additive in the basic raw material or intermediate mixes.

(3) Appropriate and accurate directions, which, when followed, will provide a finished frozen dessert containing no more than the permitted amount of the additive, whether or not intermediate mixes are also used.

§ 121.1009 Polysorbate 80 (polyoxyethylene (20) sorbitan monooleate) as an emulsifier in ice cream, frozen custard, ice milk, and fruit sherbet.

A food additive known as polysorbate 80 (polyoxyethylene (20) sorbitan monooleate), which is a mixture of polyoxyethylene ethers of mixed partial oleic acid esters of sorbitol anhydrides and related compounds, may be used as an emulsifier in ice cream, frozen custard, ice milk, and fruit sherbet, when used in accordance with the following prescribed conditions:

(a) The food additive is manufactured by reacting oleic acid with sorbitol to yield essentially sorbitan monooleate with a maximum acid number of 7.5 and a maximum water content of 0.5 percent which is then reacted with ethylene oxide.

(b) The food additive meets the following specifications:

Saponification number 45-55.
Acid number 0-2.
Hydroxyl number 65-80.
Oxyethylene content 65 percent-69.5 percent.

(c) It is used alone or in combination with polyoxyethylene (20) sorbitan tristearate, whereby the maximum amount of the additives, alone or in combination, does not exceed 1,000 parts per million (0.1 percent) of the finished frozen dessert.

(d) To assure safe use of the additive, the label of the additive and any intermediate mixes shall contain, in addition to the other information required by the act, the following:

(1) The name of the additive, polysorbate 80.

(2) A statement of the concentration or strength of the additive in the basic raw material or intermediate mixes.

(3) Appropriate and accurate directions, which, when followed, will provide a finished frozen dessert containing no more than the permitted amount of the additive, whether or not intermediate mixes are used.

Any person who will be adversely affected by the foregoing order may at any time prior to the thirtieth day from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and

Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall become effective upon publication in the FEDERAL REGISTER.

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

Dated: July 19, 1960.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 60-6930; Filed, July 26, 1960; 8:45 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Chapter II—Federal Housing Administration, Housing and Home Finance Agency

SUBCHAPTER A—GENERAL

PART 200—INTRODUCTION

Subpart D—Delegations of Basic Authority and Functions

EXECUTIVE BOARD

In § 200.85 paragraph (a) is amended to read as follows:

§ 200.85 Executive Board.

(a) *Members.* The committee called the Executive Board is comprised of the following members: Commissioner, Chairman; Deputy Commissioner (Administration) and Deputy Commissioner (Operations), Vice Chairmen; General Counsel; Assistant Commissioner for Field Operations; Assistant Commissioner for Mortgages and Properties; Assistant Commissioner for Technical Standards; Assistant Commissioner for Programs; Assistant Commissioner for Title I; Assistant Commissioner for Audit and Examination; Assistant Commissioner for Administration; and Comptroller.

(Sec. 2, 48 Stat. 1246, as amended; sec. 211, 52 Stat. 23, as amended; sec. 607, 55 Stat. 61, as amended; sec. 712, 62 Stat. 1281, as amended; sec. 807, 69 Stat. 651, as amended; sec. 907, 65 Stat. 301, as amended; 12 U.S.C. 1703, 1715b, 1742, 1747k, 1748f, 1750f)

Issued at Washington, D.C., July 21, 1960.

JULIAN H. ZIMMERMAN,
Federal Housing Commissioner.

[F.R. Doc. 60-6989; Filed, July 26, 1960; 8:48 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

PART 171—MISCELLANEOUS REGULATIONS RELATING TO LIQUOR

CROSS REFERENCE: For document deleting §§ 171.1(a), 171.6 and 171.7, see F.R. Doc. 60-7002, Title 26—Internal Revenue, 1954, Chapter I, Parts 170 and 235, *infra*.

Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER E—ALCOHOL, TOBACCO, AND OTHER EXCISE TAXES

[T.D. 6484]

PART 170—MISCELLANEOUS REGULATIONS RELATING TO LIQUORS

PART 235—RECTIFICATION OF SPIRITS AND WINES

Miscellaneous Amendments

On June 7, 1960, a notice of proposed rule making (1) to delete 26 CFR (1939) 171.1(a), (2) to revise and include in 26 CFR (1954) Part 170 certain provisions of 26 CFR (1939) Part 171 and 26 CFR (1954) Part 235, and (3) to implement the changes in section 5025(i), I.R.C., was published in the FEDERAL REGISTER (25 F.R. 4995). In accordance with the notice, interested parties were afforded an opportunity to submit written comments or suggestions pertaining thereto. No comments or suggestions were received within the 30-day period, prescribed in the notice. Accordingly, the regulations as so published are hereby adopted subject to the changes set forth below:

1. Paragraph (A) is amended to read as set forth below.

2. Paragraph (B) is redesignated paragraph (C) and is changed to read as set forth below.

3. Immediately after the subpart heading a preamble is inserted.

4. By deleting the undesignated centerhead "Effect on Other Documents" and § 170.619 *Regulations superseded*, and by changing the authority paragraph.

5. A new paragraph (B) is added to read as set forth below:

This Treasury decision shall be effective on the first day of the first month which begins not less than 30 days after the date of publication in the FEDERAL REGISTER.

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: July 22, 1960.

DAVID A. LINDSAY,
Acting Secretary of the Treasury.

The purposes of this Treasury decision are to delete certain obsolete material now contained in 26 CFR (1939) Part 171, to revise and include in 26 CFR Part 170 certain regulatory provisions now contained in 26 CFR (1939) Part 171 and in Subparts C, D, and E of 26 CFR Part 235, and to implement the changes in section 5025(1), I.R.C., as amended by Public Law 85-859.

Pursuant to the above:

(A) 26 CFR (1939) Part 171 is amended by deleting—

- (1) Obsolete § 171.1(a); and
- (2) Sections 171.6 and 171.7, the provisions of which are revised and incorporated in Subpart U of 26 CFR (1954) Part 170.

(B) 26 CFR (1954) Part 235 is amended and superseded in its entirety by deleting §§ 235.40 through 235.42, 235.50 through 235.61, 235.75, and 235.76, the provisions of which are revised and incorporated in Subpart U of 26 CFR (1954) Part 170.

(C) 26 CFR Part 170 is amended by adding, immediately following § 170.585, a new Subpart U, as follows:

Subpart U—Manufacture and Sale of Certain Compounds, Preparations, and Products Containing Alcohol

Preamble. The regulations in this subpart shall not affect any act done or any liability or right accruing or accrued, or any suit or proceeding had or commenced before the effective date of the regulations in this subpart.

- Sec.
170.611 Scope of subpart.
170.612 Meanings of terms.

COMMODITY TAX STATUS OF PRODUCTS

- 170.613 Products exempt from commodity taxes.
- 170.614 Other exempt U.S.P. and N.F. preparations.
- 170.615 Change of formula; when required.
- 170.616 Products classed as rectified products.

SPECIAL (OCCUPATIONAL) TAX STATUS OF APOTHECARIES AND MANUFACTURERS

- 170.617 Apothecaries and manufacturers exempt.
- 170.618 Sale of products for beverage use; special tax.

Authority: §§ 170.611 to 170.618 issued under 68A Stat. 917; 26 U.S.C. 7805. Other statutory provisions interpreted or applied are cited to text in parenthesis.

§ 170.611 Scope of subpart.

This subpart contains provisions relating to the special tax status of persons who compound, mix, manufacture, or sell compounds, mixtures, preparations, or products containing taxpaid distilled spirits or wines, and the commodity tax status of such compounds, mixtures, preparations, and products.

§ 170.612 Meanings of terms.

When used in this subpart, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and

"including" do not exclude things not enumerated which are in the same general class.

Assistant regional commissioner. An assistant regional commissioner (alcohol and tobacco tax) who is responsible to, and functions under the direction and supervision of, a regional commissioner of internal revenue.

Commodity tax. The tax or taxes imposed by sections 5021 and 5022, I.R.C., on products of rectification.

Director. The Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Treasury Department, Washington, D.C.

Distilled spirits, or spirits. That substance known as ethyl alcohol, ethanol, or spirits of wine, including all dilutions and mixtures thereof.

I.R.C. The Internal Revenue Code of 1954, as amended.

Liquors. Distilled spirits and/or wines.

Person. An individual, trust, estate, partnership, association, company, or corporation.

Special tax. The special (occupational) tax imposed by sections 5081, 5111, and 5121, I.R.C., on rectifiers and dealers in liquors.

Taxpaid distilled spirits, or wines. Distilled spirits or wines, as the case may be, on which the distilled spirits tax imposed by section 5001, I.R.C., or the wine taxes imposed by section 5041, I.R.C., have been paid or determined.

This chapter. Chapter I of Title 26 of the Code of Federal Regulations.

U.S.C. The United States Code.

COMMODITY TAX STATUS OF PRODUCTS

§ 170.613 Products exempt from commodity taxes.

(a) *Products meeting requirements.* Except as provided in § 170.616(b), apothecaries, pharmacists, and manufacturers are not required to pay commodity taxes on medicines, medicinal preparations, food products, flavors, and flavoring extracts manufactured or compounded by them, if the tax has been paid or determined on all of the distilled spirits and/or wines contained therein, as follows:

(1) *Medicines and medicinal preparations.* Medicines and medicinal preparations (including such preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, the National Formulary, or the Homeopathic Pharmacopoeia of the United States) that are unfit for use for beverage purposes.

(2) *Patent medicines.* Patented, patent, and proprietary medicines that are unfit for use for beverage purposes.

(3) *Toilet preparations.* Toilet, medicinal, and antiseptic preparations and solutions that are unfit for use for beverage purposes.

(4) *Flavoring extracts.* Flavoring extracts, sirups, and concentrates that are unfit for use for beverage purposes.

(5) *Laboratory reagents.* Laboratory reagents, stains, and dyes that are unfit for use for beverage purposes.

(6) *Salted wines.* Salted wines which contain not in excess of 21 percent alcohol by volume and not less than 1.5 grams of salt per 100 cubic centimeters.

(7) *Sauces.* Sauces, or sirups consisting of sugar solutions and liquors, in which the alcohol content is not more than 12 percent by volume and the sugar content is not less than 60 grams per 100 cubic centimeters.

(8) *Brandied fruits.* Brandied fruits consisting of solidly packaged fruits, either whole or segmented, and liquors not exceeding the quantity and alcohol content necessary for flavoring and preserving.

(9) *Food products.* Food products such as mincemeat, plum pudding, and fruit cake, where only sufficient liquor is used for flavoring and preserving; and ice cream and ices where only sufficient liquor is used for flavoring purposes.

(b) *Formulas and samples; when required.* On request of the Director, or when in doubt as to the classification of his product, the manufacturer shall submit to the Director the formula for and a sample of his product for examination to verify the manufacturer's claim of exemption from tax.

(72 Stat. 1328; 26 U.S.C. 5025)

§ 170.614 Other exempt U.S.P. and N.F. preparations.

The following United States Pharmacopoeia and National Formulary preparations which are used by physicians and pharmacists principally as vehicles may be made with distilled spirits without incurring liability for rectification and special taxes for their manufacture and sale:

- Elixir aromaticum.
- Elixir aromaticum rubrum.
- Elixir aurantii amari.
- Elixir cardamom compositum.
- Elixir glycyrrhizae.
- Elixir taraxaci compositum.
- Elixir terpinii hydratis.
- Spiritus aetheris.
- Spiritus myrciae compositus.
- Tinctura aurantii dulcis.
- Tinctura limonis.

§ 170.615 Change of formula; when required.

If the assistant regional commissioner finds at any time that any product manufactured under this subpart as an unfit product exempt from tax is being used for beverage purposes, or for mixing with beverage liquors other than by a rectifier, he shall notify the manufacturer to desist the manufacturing of such product until the formula is so changed as to render the product not susceptible of beverage use and such change is approved by the Director: *Provided,* That the provisions of this section shall not be so construed as to prohibit the use of such unfit products in small quantities for flavoring drinks at the time of serving for immediate consumption. Where, pursuant to notice, the manufacturer does not desist, or the formula is not so modified as to render the product unsusceptible of beverage use, the manufacturer shall immediately qualify as a rectifier and pay the rectification tax on such product.

§ 170.616 Products classed as rectified liquors.

(a) *Rectified liquors.* United States Pharmacopoeia tincture of ginger is held

to be rectified liquor. Bitters, patent medicines, and similar alcoholic preparations which are fit for beverage purposes, although held out as having certain medicinal properties, are also classed as rectified liquors. The commodity tax imposed by section 5021 or 5022, I.R.C., as the case may be, is required to be paid on alcoholic preparations classed as rectified liquors (including cordials or liqueurs). Such preparations are required to be manufactured in the rectifying facilities of a distilled spirits plant, taxpaid, bottled or packaged, stamped, recorded, and disposed of in accordance with the procedure prescribed in Part 201 of this chapter for other rectified spirits or products. Sellers of such preparations will be subject to the provisions of Part 194 of this chapter with respect to special taxes.

(b) *Products sold for beverage use.* Any product described in §§ 170.613 and 170.614, or any other product declared by the Director to be unfit for use for beverage purposes, or any taxpaid distilled spirits recovered from any such product, which is sold for beverage purposes, or is sold under circumstances from which it might reasonably appear that it is the intention of the purchaser to procure the same for sale or use for beverage purposes, is subject to commodity tax.

(72 Stat. 1328; 26 U.S.C. 5021, 5022)

SPECIAL TAX STATUS OF APOTHECARIES AND MANUFACTURERS

§ 170.617 Apothecaries and manufacturers exempt.

(a) *Compounders or manufacturers.* An apothecary, a pharmacist, or a manufacturer is not required to qualify as a rectifier, or pay special (occupational) tax as a rectifier or, except as provided in § 170.618, to qualify as a dealer in liquors in order to prepare, manufacture, or sell products described in §§ 170.613 and 170.614, or products declared by the Director to be unfit for use for beverage purposes.

(b) *Manufacturers recovering taxpaid alcohol.* A manufacturer who recovers taxpaid distilled spirits from dregs or marc or percolation or extraction, or from medicines, medicinal preparations, food products, flavors, or flavoring extracts, which do not meet the manufacturer's standards, is not required to qualify or pay special tax as a rectifier, if such manufacturer uses the recovered distilled spirits exclusively in the manufacture of medicine, medicinal preparations, food products, flavors, or flavoring extracts, which are unfit for use for beverage purposes.

(c) *Records.* Each manufacturer intending to recover taxpaid distilled spirits under the provisions of paragraph (b) of this section shall notify the assistant regional commissioner of his intention to do so and advise where such operations will be conducted. Such manufacturer shall keep a record of the distilled spirits recovered and the subsequent use to which they are put. The records shall show, (1) the date of recovery, (2) the commodity from which

the spirits were recovered, (3) the amount of distilled spirits recovered, (4) the amount of recovered distilled spirits reused, (5) the commodity in which the recovered distilled spirits were reused, and (6) the date of such reuse. Such records shall be retained at the premises where the recovery operations are conducted for not less than two years, and shall be available during regular business hours for examination by internal revenue officers.

§ 170.618 Sale of products for beverage use; special tax.

Any person (including the manufacturer) who sells for beverage purposes any of the products described in §§ 170.613 and 170.614, or any other product declared by the Director to be unfit for use for beverage purposes, or any distilled spirits recovered as provided in § 170.617(b), or who sells any such substance under circumstances from which it might reasonably appear that it is the intention of the purchaser to procure the same for sale or use for beverage purposes, is required to pay special tax as a wholesale dealer in liquors or a retail dealer in liquors, as the case may be, and, in the case of a manufacturer, may also be required to pay special tax as a rectifier (plus any penalties and interest due).

(72 Stat. 1338, 1340, 1343; 26 U.S.C. 5081, 5111, 5113, 5121)

[F.R. Doc. 60-7002; Filed, July 26, 1960; 8:49 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 202—ANCHORAGE REGULATIONS

Mississippi River, Louisiana

Pursuant to the provisions of section 7 of the River and Harbor Act of March 4, 1915 (38 Stat. 1053; 33 U.S.C. 471), § 202.195 establishing and governing the use and navigation of anchorages in the Mississippi River is hereby amended by revising paragraph (a)(6) and (a)(7) redesignating the boundaries of the anchorages, as follows:

§ 202.195 Mississippi River below Baton Rouge, La., including South and Southwest Passes.

(a) *The anchorage grounds.* * * *
 (6) *Temporary anchorages, Baton Rouge, New Orleans.* Vessels awaiting berthing at riverside wharves between Mile 233 above Head of Passes and the upper limits of the Port of New Orleans, Mile 107 above Head of Passes, will anchor in a manner and area as prescribed by the District Engineer, U.S. Army Engineer District, New Orleans.

(7) *Baton Rouge general anchorage.* An area, 1,400 feet wide, between Mile 225 and Mile 226.5 above Head of Passes

with its west limit along the low water line.

[Regs., July 5, 1960, 285/91 (Mississippi River, La.)—ENGCW-O] (38 Stat. 1053; 33 U.S.C. 471)

R. V. LEE,
 Major General, U.S. Army,
 The Adjutant General.

[F.R. Doc. 60-6993; Filed, July 26, 1960; 8:48 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 7—SPECIAL REGULATIONS RELATING TO PARKS AND MONUMENTS

Fort Jefferson National Monument, Florida; Fishing, Anchoring, Dumping Refuse and Protecting Wildlife

By notice of proposed rule making published in the FEDERAL REGISTER on May 28, 1960 (25 F.R. 4751-2) interested persons were invited to submit written comments, suggestions, or objections on the proposed changed amending Title 36 CFR, § 7.27 by revising the present language so as to more effectively limit and control fishing activities as well as to establish reasonable regulations regarding the protection of other marine wildlife.

Such written comments, suggestions, or objections were required to be filed with the Superintendent, Everglades National Park, P.O. Box 275, Homestead, Florida, within 30 days from the publication of notice in the FEDERAL REGISTER.

No written comments, suggestions, or objections were presented, therefore it has been determined that the following regulations should be and are hereby adopted without change and as set forth below. These regulations shall become effective 30 days after publication in the FEDERAL REGISTER.

Section 7.27 is amended to read as follows:

§ 7.27 Fort Jefferson National Monument.

(a) *Fishing.* No species of coral, shells, shellfish, seafan, sponges, sea anemones or other forms of marine life found in the waters of the Monument, shall be taken or disturbed in any manner, except that fish, crawfish, and the common species of conch, may be taken in accordance with subparagraphs (2) to (8) of this paragraph.

(1) Protection of turtles: Sea turtles and terrapins, turtle or terrapin nests and their eggs shall not be taken, disturbed or molested at any time.

(2) Crawfish (*Panulirus argus*), Florida Lobster, Langouste:

(i) Crawfish measuring at least 12 inches from the tip of head to the tip of tail, exclusive of feelers, may be taken only during the legal open season for taking crawfish as determined by Florida

Statutes and the limit shall be two per day per person, except that the total for any one vessel having more than 12 persons aboard shall not exceed twenty-five.

(ii) The taking or catching of crawfish for commercial purposes is prohibited at all times.

(3) Conch (*Strombus gigas*):

(i) The taking of Conchs shall be limited to the species (*Strombus gigas*), which is also known as Queen Conch or Pink Conch, and the limit per person, per day, is two Conch, except that the total for any vessel having more than 12 persons aboard shall not exceed twenty-five.

(ii) The taking or catching of Conchs for commercial purposes is prohibited at all times.

(4) Commercial fishing or shrimping, or the taking of fish for the purpose of sale is prohibited in the area of the National Monument described as follows:

Beginning at Pulaski Shoal Light at latitude 24°41'36" North, longitude 82°46'23" West, thence on a straight line to a point at latitude 24°38'00" North, longitude 82°48'00" West; thence on a straight line to a buoy "N2" at latitude 24°37'23" North, longitude 82°49'48" West; thence in a straight line to a buoy "C1" at latitude 24°35'35" North, longitude 82°52'19" West; thence in a straight line to buoy "N8" at latitude 24°35'07" North, longitude 82°54'07" West; thence in a straight line to a buoy "C-1" at latitude 24°36'27" North, longitude 82°55'40" West; thence in a straight line to a buoy "N-10" at latitude 24°36'39" North, longitude 82°57'27" West; thence in a straight line to a point at latitude 24°40'57" North, longitude 82°54'16" West; thence in a straight line to a point at latitude 24°41'50" North, longitude 82°53'10" West; thence in a straight line to a point at latitude 24°42'22" North, longitude 82°51'50" West; thence in a straight line to a point at latitude 24°42'53" North, longitude 82°49'34" West; thence in a straight line to a point at latitude 24°42'44" North, longitude 82°48'20" West; and thence in a straight line to the point of beginning at Pulaski Shoal Light.

(5) (i) The taking of live bait in the area described in subparagraph (4) of this paragraph is prohibited, except that minnows or "pilchers" may be taken by sports fishermen by a cast net not to exceed 12 feet in diameter, or by hook and line, and that possession is limited to one day's supply.

(ii) No bait shall be taken for the purpose of sale.

(6) Fish or other marine life in the moat around the Fort shall not be disturbed or taken at any time.

(7) The use or possession of spears, gigs, or grains, within the boundaries of the National Monument, is prohibited at all times.

(8) Applicability of State laws: Except as otherwise provided in this section, all fishing in the water of Fort Jefferson National Monument shall be done in accordance with the laws of Florida and the regulations made pursuant thereto by the Florida State Board of Conservation.

(b) *Prohibited anchorage.* All vessels are prohibited from anchoring in the channels immediately surrounding Garden Key, at any point southerly from and between Marker No. 1 of the East channel and Marker No. 1 of the West chan-

nel: *Provided*, That passenger carrying vessels and yachts carrying visitors to historic Fort Jefferson will be permitted to anchor temporarily within the above-described channel in such a manner as not to obstruct the passage of other vessels or craft. No vessels shall be moored at any of the piers of Fort Jefferson except with the permission of the Superintendent or his representative.

(c) *Dumping of refuse prohibited.* Dumping of trash, oily liquids or wastes, or refuse of any kind in the waters or on the beaches or lands of the National Monument is prohibited.

(d) *Protection of wildlife.* Landing in any area which is used as a nesting or roosting place by summer nesting birds, or the molesting of any wildlife is prohibited. The Superintendent or his representative may, upon application of qualified persons, issue permits to study or photograph the birds at roosting or nesting sites.

Issued this 29th day of June 1960.

WARREN F. HAMILTON,
Superintendent,
Fort Jefferson National Monument.

[F.R. Doc. 60-6983; Filed, July 26, 1960; 8:47 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration PART 17—MEDICAL

Veterans Administration Policy on Priorities for Hospital and Domiciliary Care

In § 17.49(b) (2), subdivision (iv) is amended, a new subdivision (v) and note are added and former subdivision (v) is designated (vi) to read as follows:

§ 17.49 Veterans Administration policy on priorities for hospital and domiciliary care.

(b) *Priorities for domiciliary care.* * * * (2) * * *

(iv) Group IV includes applicants eligible under § 17.47(d) who are in receipt of less than \$200 income a month for their own use.

(v) Group V includes applicants eligible under § 17.47(d) who are in receipt of \$200 or more income a month for their own use.

(vi) Group VI includes members awaiting transfer for personal reasons from other Veterans Administration domiciliary and domiciliary sections of centers.

NOTE: The provisions of § 17.48(d) (1) will apply in determining whether the veteran has \$200 income available for his own use.

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

This regulation is effective July 27, 1960.

[SEAL]

A. H. MONK,
Acting Associate
Deputy Administrator.

[F.R. Doc. 60-6984; Filed, July 26, 1960; 8:47 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department PART 43—MAIL DEPOSIT AND COLLECTION

Procedure for Approving Manufacturers of Mailing Chutes and Receiving Boxes

Federal Register document 60-5128, published at page 4994 of the FEDERAL REGISTER of June 7, 1960, gave notice of the proposal by the Post Office Department to amend the regulations in § 43.6 (h) of Title 39, Code of Federal Regulations, by adding regulations which outline the general procedure to be followed by a firm desiring to have its name placed on the list of approved manufacturers of mailing chutes and receiving boxes. Interested persons were given 30 days in which to submit written comments with respect to the proposed regulations.

No comments have been received by the Department with respect to the proposed amendment.

Accordingly, the amendment is adopted without change. As so adopted, the amendment reads as follows:

In § 43.6 *Mail chutes and receiving boxes*, paragraph (h) is amended by redesignating subparagraphs (1) and (2) as subparagraphs (2) and (3), and by inserting a new subparagraph (1). As so amended, paragraph (h) reads as follows:

§ 43.6 Mail chutes and receiving boxes.

(h) *Mailing chute and receiving box manufacturers.* (1) A firm interested in the manufacture of mailing chutes or mailing chute receiving boxes must first submit to the Regional Operations Director, through the postmaster, specifications, drawings, and a full size working model of the chute and receiving box. The chute section should be at least five feet in length and must contain a mail slot. This section is to be attached to the receiving box. If the specifications, drawings, and model are found satisfactory, the Regional Operations Director will request the firm to submit a \$10,000 bond as specified in paragraph (f) (3) of this section. After the bond is examined and approved, he will authorize installation of not more than three mailing chutes and receiving boxes for a 90-day actual service condition test. If no unsatisfactory condition is disclosed during the test period, the Regional Operations Director will give the concern final approval for the manufacture of this equipment. The company's name and address will then be added to the list of authorized manufacturers of mailing chutes and receiving boxes.

(2) Manufacturers of approved receiving boxes and mailing chutes are: Capitol Mail Chute Corp., 55 Cozine Avenue, Brooklyn 7, N.Y.; Cutler Mail Chute Co., 76 Anderson Avenue, Rochester 7, N.Y.; Federal Mail Chute Corp., Ltd., 436 Kearny Street, San Francisco 8, Calif.

RULES AND REGULATIONS

(3) Louis Sack Co., Inc., 24 Lake Street, Somerville 43, Mass., is authorized to manufacture only receiving boxes for mailing chutes.

NOTE: The corresponding Postal Manual section is 153.68.

(R.S. 161, as amended, 396, as amended, sec. 1, 24 Stat. 569, as amended; 5 U.S.C. 22, 369, 39 U.S.C. 156)

[SEAL] HERBERT B. WARBURTON,
General Counsel.

[F.R. Doc. 60-6975; Filed, July 26, 1960;
8:46 a.m.]

PART 112—PARCEL POST

PART 143—FORWARDING DOMESTIC MAIL ABROAD

International Mail Regulations

The regulations of the Post Office Department are amended as follows:

§ 112.4 [Amendment]

I. In § 112.4 *Printed matter*, as published in Federal Register Document 60-1246, 25 F.R. 1095-1126, and amended by Federal Register Document 60-1416, 25 F.R. 1314-1315, Federal Register Document 60-1648, 25 F.R. 1618-1619, make the following changes:

A. In paragraph (b) delete subparagraph (4) and redesignate subparagraph (5) as the new subparagraph (4). The exceptional weight limit of 22 pounds for a single volume sent to Paraguay and Peru is removed.

NOTE: The corresponding Postal Manual sections are 222.42d and 222.42e.

B. In paragraph (d), amend subdivision (x) of subparagraph (3) by deleting the last sentence therein. The requirement that check books addressed to Great Britain and Northern Ireland be sent exclusively in letter mail has been eliminated.

NOTE: The corresponding Postal Manual section is 222.443j.

II. Section 143.1 *Individual licenses*, as published in Federal Register Document 60-1246, 25 F.R. 1095-1126, and amended by Federal Register Document 60-1416, 25 F.R. 1314-1315, is amended to show that in addition to firearms of less than .22 caliber and shotguns, firearms using only .22 caliber rim-fire ammunition are also exempt from State Department licensing requirements. As so amended, § 143.1 reads as follows:

§ 143.1 *Individual licenses.*

Exportation of certain arms or implements of war and related technical data requires individual licenses issued by the Office of Munitions Control, Department of State. Firearms of less than .22 caliber, those using only .22 caliber rim-fire ammunition, and shotguns are exempt. The mailer can obtain information as to the applicability of the State Department requirements and how to apply for individual licenses from the Office of

Munitions Control, Department of State, Washington 25, D.C.

NOTE: The corresponding Postal Manual section is 253.1.

(R.S. 161, as amended, 396, as amended, 398, as amended, 5 U.S.C. 22, 369, 372)

[SEAL] HERBERT B. WARBURTON,
General Counsel.

[F.R. Doc. 60-6976; Filed, July 26, 1960;
8:46 a.m.]

Title 43—PUBLIC LANDS:
INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 2165]

[Montana 032906]

SOUTH DAKOTA

Reserving Lands in Black Hills National Forest for Use of Forest Service as Administrative Sites

By virtue of the authority vested in the President by the act of June 4, 1897 (30 Stat. 34, 36; 16 U.S.C. 473), and otherwise, and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Subject to valid existing rights, the following-described lands in the Black Hills National Forest, in South Dakota, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining but not the mineral leasing laws nor disposals of materials under the act of July 31, 1947 (61 Stat. 681; 30 U.S.C. 601-604), as amended, and reserved for use of the Forest Service as indicated:

BLACK HILLS MERIDIAN

ALLEN GULCH ADMINISTRATIVE SITE

T. 1 S., R. 4 E.,
Sec. 25, lot 4.

ESTE ADMINISTRATIVE SITE

T. 2 N., R. 5 E.,
Sec. 3, that portion of lot 2 exclusive of M.S. 1487.

T. 3 N., R. 5 E.,
Sec. 34, lot 3.

CROWS NEST LOOKOUT ADMINISTRATIVE SITE

T. 1 N., R. 1 E.,
Sec. 11, SW $\frac{1}{4}$ SE $\frac{1}{4}$.

The areas described aggregate 133.82 acres.

This order shall take precedence over but not otherwise affect the existing reservation of the lands for national forest purposes.

ROGER ERNST,
Assistant Secretary of the Interior.

JULY 21, 1960.

[F.R. Doc. 60-6967; Filed, July 26, 1960;
8:45 a.m.]

[Public Land Order 2166]

[Washington 03318]

WASHINGTON

Revoking Executive Order No. 5397 of July 18, 1930

By virtue of the authority vested in the President by Section 1 of the Act of June 25, 1910 (36 Stat. 847; 43 U.S.C. 141), and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

1. Executive Order No. 5397 of July 18, 1930, which withdrew the following-described lands for use of the State of Washington for lookout station purposes, is hereby revoked:

WILLAMETTE MERIDIAN

T. 31 N., R. 38 E.,
Sec. 14, S $\frac{1}{2}$ SW $\frac{1}{4}$.

Containing 80 acres.

2. The lands are situated on top of Stranger Mountain, 15 miles east of Cendon, Washington. Topography is steep, rough and mountainous. Soils are shallow, rocky silty clay loam. Vegetation consists of coniferous, evergreen timber.

3. Subject to any existing valid rights and the requirements of applicable law, the lands are hereby opened to filing of applications, selections, and locations in accordance with the following:

(a) Until 10:00 a.m. on January 20, 1961, the State of Washington shall have a preferred right of application to select the lands in accordance with and subject to the limitations and requirements of subsection (c) of section 2 of the Act of August 27, 1958 (72 Stat. 928; 43 U.S.C. 851, 852).

(b) Beginning at 10:00 a.m. on January 20, 1961, the lands shall be open to application, petition, location and selection by the public generally, subject to valid existing rights, to equitable claims, and the requirements of applicable law.

(c) The lands have been open to applications and offers under the mineral leasing laws, and to location for metaliferous minerals. They will be open to location for non-metalliferous minerals under the United States mining laws beginning at 10:00 a.m. on January 20, 1961.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Spokane, Washington.

ROGER ERNST,
Assistant Secretary of the Interior.

JULY 21, 1960.

[F.R. Doc. 60-6968; Filed, July 26, 1960;
8:45 a.m.]

Proposed Rule Making

FEDERAL AVIATION AGENCY

[14 CFR Part 600]

[Airspace Docket No. 59-WA-141]

FEDERAL AIRWAYS

Withdrawal of Proposed Modification

In a notice of proposed rule making published in the FEDERAL REGISTER as Airspace Docket No. 59-WA-141 on September 23, 1959 (24 F.R. 7651), it was proposed to modify VOR Federal airway No. 98, which presently extends from Fort Wayne, Ind., to Montreal, Quebec, by realigning the segment of this airway between Carlton, Mich., and the United States-Canadian Border, via the Carlton VOR 020° and the Windsor, Ontario, VOR 251° True radials. It was stated that this modification would provide an airway which would bypass the military air operations area at the Grosse Ile Naval Air Station, Mich. Subsequent to publication of the Notice, it was determined that revised air traffic management procedures have eliminated the requirement for the proposed realignment.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the proposal contained in Airspace Docket No. 59-WA-141 is withdrawn.

Sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on July 20, 1960.

J. R. BAILEY,
Assistant Chief,
Airspace Utilization Division.

[F.R. Doc. 60-6956; Filed, July 26, 1960;
8:45 a.m.]

[14 CFR Part 600]

[Airspace Docket No. 60-NY-81]

FEDERAL AIRWAYS

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 600.6037 of the regulations of the Administrator, the substance of which is stated below.

VOR Federal airway No. 37 presently extends in part from Pittsburgh, Pa., to Erie, Pa. The Federal Aviation Agency has under consideration modification of this segment of Victor 37 by realigning it from the Pittsburgh VOR via the Ellwood City, Pa., VORTAC to the Erie VORTAC. This would provide more precise navigational guidance on Victor 37 between Pittsburgh and Erie. The control areas

associated with Victor 37 are so designated that they would automatically conform to the modified airway. Accordingly, no amendment relating to such control areas would be necessary.

If this action is taken, the segment of VOR Federal airway No. 37 from Pittsburgh, Pa., to Erie, Pa., would be designated via Ellwood City, Pa.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on July 21, 1960.

CHARLES W. CARMODY,
Chief, Airspace Utilization Division.

[F.R. Doc. 60-6957; Filed, July 26, 1960;
8:45 a.m.]

[14 CFR Parts 600, 601]

[Airspace Docket No. 60-NY-68]

FEDERAL AIRWAYS AND CONTROL AREAS

Revocation of Federal Airway, Associated Control Areas and Reporting Points

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering amendments to Parts 600 and 601

of the regulations of the Administrator, the substance of which is stated below.

Red Federal airway No. 91 presently extends from Dunkirk, N.Y., to Syracuse, N.Y. The Federal Aviation Agency has under consideration revoking this airway. The Federal Aviation Agency IFR peak-day survey for the period July 1, 1958 through June 30, 1959, and an air traffic survey conducted on April 1, 1960, showed no aircraft movements on Red 91. On the basis of this survey, it appears that the retention of this airway and associated control areas is unjustified as an assignment of airspace and that the revocation thereof would be in the public interest. In addition, § 601.4291 relating to reporting points would be revoked.

If these actions are taken, Red Federal airway No. 91, its associated control areas and § 601.4291 relating to reporting points would be revoked.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on July 20, 1960.

J. R. BAILEY,
Assistant Chief,
Airspace Utilization Division.

[F.R. Doc. 60-6958; Filed, July 26, 1960;
8:45 a.m.]

[14 CFR Parts 600, 601]

[Airspace Docket No. 60-NY-86]

FEDERAL AIRWAYS AND CONTROL AREAS**Revocation of a Segment of Federal Airway and Associated Control Areas**

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to §§ 600.6042 and 601.6042 of the regulations of the Administrator, the substance of which is stated below.

VOR Federal airway No. 42 presently extends in part from Johnstown, Pa., to Washington, D.C. The Federal Aviation Agency has under consideration revocation of this segment of Victor 42. The Federal Aviation Agency IFR peak-day airway traffic survey for the period from July 1, 1959 through June 30, 1960, shows one aircraft movement for this airway segment. On the basis of the survey, it appears that the retention of this airway segment and its associated control areas as an assignment of airspace is unjustified and that the revocation thereof would be in the public interest.

If this action is taken, the segment of VOR Federal airway No. 42 and its associated control areas from Johnstown, Pa., to Washington, D.C., would be revoked.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-136, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C., 1348, 1354).

Issued in Washington, D.C., on July 21, 1960.

CHARLES W. CARMODY,
Chief, Airspace Utilization Division.

[F.R. Doc. 60-6959; Filed, July 26, 1960;
8:45 a.m.]

[14 CFR Parts 600, 601, 602]

[Airspace Docket No. 60-NY-59]

FEDERAL AIRWAYS, CODED JET ROUTES AND REPORTING POINTS**Modification**

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to §§ 600.6046, 601.7001 and 602.562 of the regulations of the Administrator, the substance of which is stated below.

VOR Federal airway No. 46 presently extends from New York, N.Y. (the point of intersection of the Riverhead, N.Y., VOR 264° and the Wilton, Conn., VOR 195° True radials) via the Riverhead VOR; Hampton VOR, including a south alternate via the point of intersection of the Riverhead VOR 146° and the Idlewild, N.Y., VOR 083° True radials; intersection of the Hampton VOR 083° and the Norwich, Conn., VOR 127° radials; to the Nantucket, Mass., VOR. The portion of this airway which lies within the geographic limits of, and between the designated altitudes of, the Westhampton Beach, N.Y. (Suffolk AFB) Restricted Area/Military Climb Corridor (R-545) is excluded during its time of designation. VOR/VORTAC Jet route No. 62 is presently designated from the Idlewild, N.Y., VOR via the intersection of the Idlewild VOR 083° and the Nantucket, Mass., VOR 252° True radials; to the Nantucket VOR. The Federal Aviation Agency has under consideration the modification of this airway and jet route as follows:

1. Realign Victor 46 and its south alternate from the point of intersection of the Riverhead, N.Y., VORTAC 264° and the Wilton, Conn., VOR 195° True radials via the Riverhead VORTAC; Hampton, N.Y., VOR, including a south alternate from the Riverhead VORTAC to the Hampton VOR via the intersection of the Riverhead VORTAC 119° and the Hampton VOR 223° True radials; the intersection of the Hampton VOR 079° and the Nantucket, Mass., VOR 257° True radials to the Nantucket VOR.

2. Redesignate Jet Route 62-V from the Idlewild, N.Y., VORTAC to the Nantucket, Mass., VOR via the intersection of the Idlewild VORTAC 075°, the Albany, N.Y., VORTAC 148° and the Nantucket VOR 259° True radials to the Nantucket VOR.

In addition, it is proposed to redesignate the Newport Intersection as the intersection of the Norwich, Conn., VORTAC 127° and the Nantucket, Mass., VOR 257° True radials. These modifications would facilitate flight planning and assist air traffic management by providing a more direct airway and route for aircraft operating between New York, N.Y., and Nantucket, Mass., to or from overseas terminals. In addition, the modification would provide additional lateral spacing between Victor 46/Jet Route 62-V and Warning Areas 105 and 106. The control areas associated with Victor 46 are so designated that they would automatically conform with the modified airway. Accordingly, no amendment relating to control areas would be necessary.

If these actions are taken, VOR Federal airway No. 46 from New York, N.Y., to Nantucket, Mass., would be realigned from the intersection of the Riverhead, N.Y., VORTAC 264° and the Wilton, Conn., VOR 195° True radials via the Riverhead VORTAC; Hampton, N.Y., VOR, including a south alternate from the Riverhead VORTAC to Hampton VOR via the intersection of the Riverhead VORTAC 119° and the Hampton VOR 223° True radials; the intersection of the Hampton VOR 079° and the Nantucket, Mass., VOR 257° True radials to the Nantucket VOR.

VOR/VORTAC jet route No. 62 from New York, N.Y., to Nantucket, Mass., would be realigned from the Idlewild, N.Y., VORTAC via the intersection of the Idlewild VORTAC 075°, the Albany, N.Y., VORTAC 148° and the Nantucket VOR 259° True radials to the Nantucket VOR.

The Newport reporting point would be redesignated as the intersection of the Norwich, Conn., VORTAC 127° and the Nantucket VOR 257° True radials.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment.

No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Fed-

eral Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on July 21, 1960.

CHARLES W. CARMODY,
Chief, Airspace Utilization Division.

[F.R. Doc. 60-6964; Filed, July 26, 1960;
8:45 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 60-AN-24]

CONTROL ZONES

Revocation

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 601.1984 of the regulations of the Administrator, the substance of which is stated below.

The Skwentna, Alaska, control zone is presently designated within a 5-mile radius of the Skwentna Airport. The Federal Aviation Agency has under consideration the revocation of this control zone. Weather reporting service is not

conducted on a 24-hour basis at the Skwentna Airport, and a review of the airport operations record indicates that eight instrument approaches were conducted during the period January 1, 1959 through December 31, 1959. On the basis of this information, it appears that the retention of this control zone is unjustified as an assignment of airspace, and the revocation thereof would be in the public interest.

If this action is taken, the Skwentna, Alaska, control zone would be revoked.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, P.O. Box 440, Anchorage, Alaska. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the

Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on July 21, 1960.

CHARLES W. CARMODY,
Chief, Airspace Utilization Division.

[F.R. Doc. 60-6955; Filed, July 26, 1960;
8:45 a.m.]

Notices

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Order Directing That a Referendum Be Conducted; Designation of Referendum Agents To Conduct Such Referendum; and Determination of Representative Period

Pursuant to the applicable provisions of Marketing Agreement No. 131 and Order No. 22, as amended (7 CFR Part 922), and the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), it is hereby directed that a referendum be conducted among the growers who, during the period February 1, 1959, through January 31, 1960 (which period is hereby determined to be a representative period for the purposes of such referendum), were engaged, in the State of Arizona and that part of the State of California, south of the 37th Parallel, in the production of Valencia oranges for market to determine whether such growers favor continuation of the said marketing agreement and order. Warren C. Noland and Edmund J. Blaine of the Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, are hereby designated as agents of the Secretary of Agriculture to perform, jointly, or severally, the following functions in connection with the referendum:

(a) Conduct said referendum in the manner herein prescribed:

(1) By giving opportunity for each of the aforesaid growers to cast his ballot, in the manner herein authorized, relative to the aforesaid continuance of the marketing agreement and amended order, on a copy of the appropriate ballot form. A cooperative association of such growers, bona fide engaged in marketing Valencia oranges grown in the aforesaid production area or in rendering services for or advancing the interests of the growers of such Valencia oranges, may vote for the growers who are members of, stockholders in, or under contract with, such cooperative association (such vote to be cast on a copy of the appropriate ballot form), and the vote of such cooperative association shall be considered as the vote of such growers.

(2) By determining the time of commencement and termination of the period of the referendum and by giving public notice, as prescribed in (a) (3) hereof, (i) of the time during which the referendum will be conducted, (ii) that any ballot may be cast by mail, and (iii) that all ballots so cast must be addressed to Warren C. Noland, Field Representative, Fruit and Vegetable Division, Agricultural Marketing Service, 1031 South

Broadway, Room 1006, Los Angeles 15, California, and the time such ballots must be received.

(3) By giving public notice (i) by utilizing available agencies of public information (without advertising expense), including both press and radio facilities in the State of Arizona and designated part of California; (ii) by mailing a notice thereof (including a copy of the appropriate ballot form) to each such cooperative association and to each grower whose name and address are known; and (iii) by such other means as said referendum agents or any of them may deem advisable.

(4) By conducting meetings of growers and arranging for balloting at the meeting places, if said referendum agents or any of them determine that voting shall be at meetings. At each such meeting, balloting shall continue until all of the growers who are present, and who desire to do so, have had an opportunity to vote. Any grower may cast his ballot at any such meeting in lieu of voting by mail.

(5) By giving ballots to growers at the meetings, and receiving any ballots when they are cast.

(6) By securing the name and address of each person casting a ballot, and inquiring into the eligibility of such person to vote in the referendum.

(7) By giving public notice of the time and place of each meeting authorized hereunder by posting a notice thereof, at least two days in advance of each such meeting, at each such meeting place, and in two or more public places within the applicable area; and, so far as may be practicable, by giving additional notice in the manner prescribed in paragraph (a) (3) hereof.

(8) By appointing such person or persons as are deemed necessary or desirable to assist said agents in performing their functions hereunder. Each person so appointed shall serve without compensation and may be authorized, by said referendum agents or any of them, to perform any or all of the functions set forth in paragraphs (a) (5), (6), (7), and (8) hereof (which, in the absence of such appointment of subagents, shall be performed by said referendum agents) in accordance with the requirements set forth; and shall forward to Warren C. Noland, Field Representative, Fruit and Vegetable Division, Agricultural Marketing Service, 1031 South Broadway, Room 1005, Los Angeles 15, California, immediately after the close of the referendum, the following:

(i) A register containing the name and address of each grower to whom a ballot form was given;

(ii) A register containing the name and address of each grower from whom an executed ballot was received;

(iii) All of the ballots received by the respective referendum agent in connection with the referendum, together with a certificate to the effect that the ballots

forwarded are all of the ballots cast and which were received by the respective agent during the referendum period;

(iv) A statement showing when and where each notice of the referendum posted by said agent was posted and, if the notice was mailed to growers, the mailing list showing the names and addresses to which the notice was mailed and the time of such mailing; and

(v) A detailed statement reciting the method used in giving publicity to such referendum.

(b) Upon receipt by Warren C. Noland of all ballots cast in accordance with the provisions hereof, he shall canvass the ballots and prepare and submit to the Secretary a detailed report covering the results of the referendum, the manner in which the referendum was conducted, the extent and kind of public notice given, and all other information pertinent to the full analysis of the referendum and its results; and shall forward such report, together with the ballots and other information and data, to the Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C.

(c) Each referendum agent and appointee pursuant hereto shall not refuse to accept a ballot submitted or cast; but should they, or any of them, deem that a ballot should be challenged for any reason, or if such ballot is challenged by any other person, said agent or appointee shall endorse above his signature, on the back of said ballot, a statement that such ballot was challenged, by whom challenged, and the reasons therefor; and the number of such challenged ballots shall be stated when they are forwarded as provided herein.

(d) All ballots shall be treated as confidential. The Director of the Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is hereby authorized to prescribe additional instructions, not inconsistent with the provisions hereof, to govern the procedure to be followed by the said referendum agents and appointees in conducting said referendum.

Copies of the text of the aforesaid marketing agreement and amended order may be examined in the Office of the Hearing Clerk, United States Department of Agriculture, Washington, D.C., and at the Western Marketing Field Office, Fruit and Vegetable Division, Agricultural Marketing Service, 1031 South Broadway, Room 1005, Los Angeles 15, California.

Ballots to be cast in the referendum may be obtained from any referendum agent, and any appointee hereunder.

Dated: July 21, 1960.

CLARENCE L. MILLER,
Assistant Secretary.

[F.R. Doc. 60-6978; Filed, July 26, 1960; 8:46 a.m.]

**Office of the Secretary
IDAHO AND KENTUCKY**

**Designation of Areas for Production
Emergency Loans**

For the purpose of making production emergency loans pursuant to section 2(a) of Public Law 38, 81st Congress (12 U.S.C. 1148a-2(a)), as amended, it has been determined that in the following counties in the States of Idaho and Kentucky production disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

IDAHO

Bannock.	Clark.
Bear Lake.	Franklin.
Bonneville.	Oneida.
Butte.	Power.
Caribou.	Teton.

KENTUCKY

Carter.	Lewis.
Rowan.	

Pursuant to the authority set forth above, production emergency loans will not be made in the above-named counties, after June 30, 1961, except to applicants who previously received such assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 21st day of July 1960.

TRUE D. MORSE,
Acting Secretary.

[F.R. Doc. 60-6980; Filed, July 26, 1960;
8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

CHARLES R. LEEVER

**Statement of Changes in Financial
Interests**

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

No change from previous filings.

This statement is made as of July 5, 1960.

Dated: July 5, 1960.

CHARLES R. LEEVER.

[F.R. Doc. 60-6972; Filed, July 26, 1960;
8:46 a.m.]

HARRY R. WALL

**Statement of Changes in Financial
Interests**

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken

place in my financial interests during the past six months:

- (1) No change.
- (2) No change.
- (3) No change.
- (4) No change.

This statement is made as of June 24, 1960.

Dated: June 24, 1960.

HARRY R. WALL.

[F.R. Doc. 60-6973; Filed, July 26, 1960;
8:46 a.m.]

ALAN A. WOODWARD

**Statement of Changes in Financial
Interests**

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

- (1) None.
- (2) Eliminate: American Surety Company, Fluor Corporation.
- (3) None.
- (4) None.

This statement is made as of June 28, 1960.

Dated: June 28, 1960.

ALAN A. WOODWARD.

[F.R. Doc. 60-6974; Filed, July 26, 1960;
8:46 a.m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

**LYKES BROS. STEAMSHIP CO., INC.,
ET AL.**

**Notice of Agreements Filed for
Approval**

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

(1) Agreement No. 8486, between Lykes Bros. Steamship Co., Inc., and Zim Atid Maritime Services, Ltd., provides for the fixing of rates to apply on cargo which Lykes transships to Zim Atid Maritime at Italian ports for transportation to Haifa and/or Tel Aviv.

(2) Agreement No. 8511, between Dampskibsselskabet AF 1912 Aktieselskab/Aktieselskabet Dampskibsselskabet Svendborg (carriers comprising the A. P. Moller-Maersk Line joint service), and Pacific Far East Line, Inc., covers a through billing arrangement on cargo from the Panama Canal Zone to Guam, M.I., with transshipment at Los Angeles or San Francisco.

Interested parties may inspect these agreements and obtain copies thereof at the Office of Regulations, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER,

written statements with reference to either of these agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: July 22, 1960.

By order of the Federal Maritime Board.

JAMES L. PIMPER,
Secretary.

[F.R. Doc. 60-6995; Filed, July 26, 1960;
8:48 a.m.]

**REDERIAKTIEBOLAGET SVENSKA
LLOYD ET AL.**

**Notice of Agreements Filed for
Approval**

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

(1) Agreement No. 7559-2, between Rederiaktiebolaget Svenska Lloyd, Stockholm's Rederiaktiebolag Svea and Rederiaktiebolaget Fredrika, (carriers comprising the Norton Line joint service), modifies the approved agreement of that joint service (No. 7559, as amended), in the trade between Canadian and United States Atlantic ports and United States Gulf ports, on the one hand, and all ports in Central and South America, and all islands in the Caribbean Sea, on the other hand. This modification provides that the joint service parties shall proportion payments or accruals of revenues under any pooling agreement approved by the Board to which they become parties.

(2) Agreement No. 7592-2, between Rederiaktiebolaget Disa, Rederiaktiebolaget Poseidon and Angfartygsaktiebolaget Tirfing (carriers comprising the Brodin Line joint service) modifies the approved agreement of that joint service (No. 7592, as amended), in the trades between Canadian and United States Atlantic ports and United States Gulf ports, on the one hand, and ports of Argentina, Paraguay, Uruguay and Brazil, on the other hand. This modification provides that the joint service parties shall proportion payments or accruals of revenues under any pooling agreement approved by the Board to which they become parties.

Interested parties may inspect these agreements and obtain copies thereof at the Office of Regulations, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to either of these agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: July 22, 1960.

By order of the Federal Maritime Board.

JAMES L. PIMPER,
Secretary.

[F.R. Doc. 60-6996; Filed, July 26, 1960;
8:49 a.m.]

[Agreements Nos. 7604, 7607, 7676, as amended]

**N.V. STOOMVAART MAATSCHAPPIJ
"NEDERLAND" ET AL.; JOINT SERVICE AND POOLING AGREEMENTS**

Notice of Request for Cancellation of Agreements

Notice is hereby given that N.V. Stoomvaart Maatschappij "Nederland", Koninklijke Rotterdamsche Lloyd, N.V., N.V. Nederlandsch-Amerikaansche Stoomvaart Maatschappij "Holland-Amerika Lijn", The Ocean Steam Ship Company, Ltd., The China Mutual Steam Navigation Co., Ltd., and Nederlandsche Stoomvaart Maatschappij "Ocean" N.V., the parties to the agreement, described below, have requested cancellation thereof:

(1) Agreement No. 7604, as amended, covers the establishment and maintenance of the "Java New York Line" joint service in the trade from Atlantic and Gulf ports of the United States to ports in the Netherlands East Indies;

(2) Agreement No. 7607, as amended, covers the establishment and maintenance of the "Java New York Line" joint service in the trade from Atlantic and Gulf ports of the United States to Singapore, and ports in the Federation of Malaya and Thailand (Siam); and

(3) Agreement No. 7676, as amended, covers the pooling of net freight on all cargo, exclusive of reefer cargo, from East Coast and Gulf ports of the United States to Indonesia, Colony of Singapore, Malayan Union and Siam.

Any written statements, comments or protests with respect to the cancellation of any of the three (3) agreements, listed above, pursuant to section 15 of the Shipping Act, 1916, or request for hearing in connection therewith, may be filed with the Secretary, Federal Maritime Board, Washington 25, D.C., within 20 days from the date of publication of this notice in the FEDERAL REGISTER.

Dated: July 22, 1960.

By order of the Federal Maritime Board.

JAMES L. PIMPER,
Secretary.

[F.R. Doc. 60-6994; Filed, July 26, 1960; 8:48 a.m.]

Maritime Administration

[Docket No. S-115]

MOORE-McCORMACK LINES, INC.

Notice of Application and of Hearing

Notice is hereby given of the application of Moore-McCormack Lines, Inc., for written permission of the Maritime Administrator, under section 805(a) of the Merchant Marine Act, 1936, as amended, 46 U.S.C. 1223, for its owned vessel, the "SS Mormacguide," which is under time charter to States Marine Lines, Inc., to engage in one voyage in the domestic coastwise and intercoastal trade commencing at Hawaii on or about August 7, 1960, to load general cargo at Hawaii and California for discharge at U.S. Gulf Ports. This application may

be inspected by interested parties in the Office of Government Aid, Maritime Administration.

A hearing on the application has been set before the Maritime Administrator for August 3, 1960, at 9:30 a.m., e.d.t., in Room 4458, General Accounting Office Building, 441 G Street NW., Washington 25, D.C. Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) must, before the close of business August 2, 1960, notify the Secretary, Maritime Administration in writing, in triplicate, and file petition for leave to intervene, which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief. Notwithstanding anything in Rule 5(n) of the rules of practice and procedure, Maritime Administration, petitions for leave to intervene received after the close of business on August 2, 1960, will not be granted in this proceeding.

Dated: July 26, 1960.

JAMES L. PIMPER,
Secretary.

[F.R. Doc. 60-7054; Filed, July 26, 1960; 10:23 a.m.]

Docket No.	Respondent	Rate schedule No.	Supplement No.	Producing area	Notice of change dated—	Rate in effect	Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI61-8...	The Atlantic Refining Co.	34	23	W. Spring Creek, Tom Lyne, Clay West, and Chapa Ranch Fields, Live Oak County, Tex.	6-14-60	14.7	15.4444	G-15412
		35	16	Meyersville Field, DeWitt County, Tex.	6-14-60	13-8733	14.9444	G-15233
		37	13	Jennie Bell Field, DeWitt County, Tex.	6-14-60	13-8733	14.9444	G-15233
		38	11	Rhode Ranch Field, McMullen County, Tex.	6-14-60	11.52768	14.9444	
		134	7	Meyersville Field, DeWitt County, Tex.	6-13-60	13.8733	14.9444	G-18752
		161	6	Cabeza Creek Field, Goliad County, Tex.	6-13-60	13.8733	14.9444	G-18752
		RI61-9...	The Atlantic Refining Co. (Operator), et al.	36	14	San Domingo Field, Bee County, Tex.	6-14-60	13.8733
160	13			Various fields, Lavaca, Live Oak, McMullen, Bee, Goliad, and DeWitt Counties, Tex.	6-13-60	14.3733	15.4444	G-18753

In support of its favored-nation increased rate proposals, Atlantic states in effect that its proposed changes will not result in an excessive rate of return to Atlantic from its regulated business, but will assist it in obtaining a return commensurate with the risks inherent in the exploration, development, production, gathering and sale of natural gas; cites the favored-nation clauses of its contracts; and further states that such clauses were triggered by redetermined rates of 14.9444 cents per Mcf, plus 0.5 cents per Mcf for dehydration where applicable, which Texas Eastern has been paying subject to refund to other producers in the favored-nation area. Atlantic specifically mentions, among others, a redetermined rate of 15.44 cents per Mcf, provided by Supplement No. 13

FEDERAL POWER COMMISSION

[Docket Nos. RI61-8—RI61-9]

ATLANTIC REFINING CO. ET AL.

Order Providing for Hearings and Suspending Proposed Changes in Rates¹

JULY 20, 1960.

In the matter of The Atlantic Refining Company, Docket No. RI61-8, The Atlantic Refining Company (Operator), et al., Docket No. RI61-9.

On June 20, 1960, The Atlantic Refining Company, individually and as Operator, et al. (each hereinafter referred to as Atlantic), tendered for filing eight proposed favored-nation rate increases for its jurisdictional sales of natural gas to Texas Eastern Transmission Corporation (Texas Eastern) from leases in Live Oak, DeWitt, Bee, Lavaca, Goliad, and McMullen Counties, Texas. In each filing, the natural gas is sold at 14.65 psia and the effective date is July 21, 1960, which is the first day after expiration of the required thirty day's notice. The proposed changes in rates, as set forth in each filing, are designated as follows:

to Shell Oil Company's FPC Gas Rate Schedule Nos. 4 and 5, respectively, which rate was based upon the average of the three highest prices paid by transporters of gas in the area specified by contract.

Texas Eastern had protested the above-mentioned 14.94 cents and 15.44 cents per Mcf redetermined rates at the time they were filed by the various producers, and has submitted a protest with respect to each of Atlantic's subject favored-nation increased rate proposals.

The proposed changes may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

¹ This order does not provide for the consolidation for hearing or disposition of the several matters covered herein, nor should it be so construed.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the several proposed changes and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure and the regulations under the Natural Gas Act (18 CFR Chapter I), public hearings shall be held upon a date to be fixed by notices from the Secretary concerning the lawfulness of the several proposed increased rates and charges contained in the above-designated supplements.

(B) Pending hearings and decisions thereon, each of the above-designated supplements is hereby suspended and the use thereof deferred until December 21, 1960, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the rate schedules nor the supplements thereto involved in the above-proposed changes shall be changed until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Notices of intervention 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 and 1.37(f)) on or before September 5, 1960.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-6965; Filed, July 26, 1960; 8:45 a.m.]

[Docket Nos. RI60-159—RI60-170]

BRITISH-AMERICAN OIL PRODUCING CO. ET AL.

Order Amending "Order Providing for Hearings on and Suspension of Proposed Changes in Rate"

JULY 20, 1960.

In the matter of The British-American Oil Producing Company, Docket No. RI60-159; Continental Oil Company, Docket No. RI60-160; Van Norman Oil Company, Docket No. RI60-161; Sun Oil Company, Docket No. RI60-162; Charles B. Wrightsman, Docket No. RI60-163; Standard Oil Company of Texas, Docket No. RI60-164; Continental Oil Company (Operator), et al., Docket No. RI60-165; Carl M. Smith, Docket No. RI60-166; Socony Mobil Oil Company, Inc., Docket No. RI60-167; Cities Service Oil Company, Docket No. RI60-168; Phillips Petroleum Company (Operator), et al., Docket No. RI60-169; Kerr-McGee Oil Industries, Inc., Docket No. RI60-170.

On February 24, 1960, the Commission issued its order in the above-designated proceedings suspending certain proposed increased rates. The order included a list of the rates presently in effect under the rate schedules involved in the pro-

ceedings. These rates, appearing under the "Rate in Effect" column of that order describe only what the respondents claim to be the presently effective rates. The inclusion of the list was not intended as a Commission determination that the listed rates are the presently effective legal rates. Our order should be amended to reflect the purport of the "Rate in Effect" column.

The Commission finds: The suspension order issued February 24, 1960, in the proceedings in Docket Nos. RI60-159 through RI60-170 should be amended to include a footnote "2A" to the "Rate in Effect" column, as hereinafter ordered.

The Commission orders: The Commission's suspension order issued February 24, 1960, in the proceedings in Docket Nos. RI60-159 through RI60-170 is amended to include a footnote "2A" to the "Rate in Effect" column appearing on pages 2 and 3 of that order, as follows:

^{2A} The rates listed in this column are those claimed by the respondents to be the presently effective rates. The reflection of these rates in this manner is not a Commission determination that these are the presently effective legal rates.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-6966; Filed, July 26, 1960; 8:45 a.m.]

HOUSING AND HOME FINANCE AGENCY

Office of the Administrator

REGIONAL DIRECTOR OF COMMUNITY FACILITIES ACTIVITIES, REGION VI, SAN FRANCISCO

Redelegation of Authority With Respect to Housing for Educational Institutions

The Regional Director of Community Facilities Activities, Region VI (San Francisco), with respect to the program of loans for housing for educational institutions authorized under Title IV of the Housing Act of 1950, as amended (64 Stat. 77, as amended, 12 U.S.C. 1749-1749c), is hereby authorized within such Region to execute loan agreements and amendments thereof involving loans for student and/or faculty housing and for other educational facilities.

This redelegation supersedes the redelegation effective June 3, 1960 (25 F.R. 6454, July 8, 1960).

(62 Stat. 1283 (1948), as amended by 64 Stat. 80 (1950), 12 U.S.C. 1701c; Housing and Home Finance Administrator's delegation effective July 1, 1960 (25 F.R. 5801, June 23, 1960))

Effective as of the 19th day of July 1960.

[SEAL] ANNABELLE HEATH,
Regional Administrator, Region VI.

[F.R. Doc. 60-6997; Filed, July 26, 1960; 8:49 a.m.]

REGIONAL DIRECTOR OF COMMUNITY FACILITIES ACTIVITIES, REGION VI, SAN FRANCISCO

Redelegation of Authority With Respect to Public Facility Loans

The Regional Director of Community Facilities Activities, Region VI (San Francisco), with respect to the public facility loans program authorized under section 202 of Public Law 345, 84th Congress, as amended (69 Stat. 643, as amended, 42 U.S.C. 1492), is hereby authorized within such Region to enter into contracts and amendments thereof with public agencies involving loans for essential public works or facilities.

This redelegation supersedes the redelegation effective June 3, 1960 (25 F.R. 6454, July 8, 1960).

(62 Stat. 1283 (1948), as amended by 64 Stat. 80 (1950), 12 U.S.C. 1701c; Housing and Home Finance Administrator's delegation effective July 1, 1960 (25 F.R. 5801, June 23, 1960))

Effective as of the 19th day of July 1960.

[SEAL] ANNABELLE HEATH,
Regional Administrator, Region VI.

[F.R. Doc. 60-6998; Filed, July 26, 1960; 8:49 a.m.]

REGIONAL DIRECTOR OF COMMUNITY FACILITIES ACTIVITIES, REGION VI, SAN FRANCISCO

Redelegation of Authority With Respect to Public Works Planning

The Regional Director of Community Facilities Activities, Region VI (San Francisco), with respect to the program of advances for public works planning authorized under section 702 of the Housing Act of 1954 (68 Stat. 641), as amended by section 112 of the Housing Amendments of 1955 (69 Stat. 641), 40 U.S.C. 462, is hereby authorized within such Region:

1. To execute offers and amendments thereof to public agencies involving advances to aid in planning proposed public works;
2. To determine the amount of partial repayment due if the public agency undertakes construction of only a portion of the planned public work;
3. To approve the planning data submitted by public agencies in accordance with contracts resulting from acceptance of offers under subparagraph 1 above;
4. To authorize payments under any contracts resulting from acceptance of offers under subparagraph 1 above.

This redelegation supersedes the redelegation effective June 3, 1960 (25 F.R. 6454, July 8, 1960).

(62 Stat. 1283 (1948), as amended by 64 Stat. 80 (1950), 12 U.S.C. 1701c; Housing and Home Finance Administrator's delegation effective July 1, 1960 (25 F.R. 5801, June 23, 1960))

Effective as of the 19th day of July 1960.

[SEAL] ANNABELLE HEATH,
Regional Administrator, Region VI.

[F.R. Doc. 60-6999; Filed, July 26, 1960; 8:49 a.m.]

ATOMIC ENERGY COMMISSION

[Docket 27-20]

OCEAN TRANSPORT CO.

Notice of Issuance of an Amendment to Byproduct, Source and Special Nuclear Material License

Please take notice that since no requests for a formal hearing have been filed following the filing of notice of the proposed amendment of License No. 4-5668-1 held by Ocean Transport Company, No. 1 Drumm Street, San Francisco 11, California, with the Federal Register Division on June 27, 1960, the Atomic Energy Commission has this date issued Amendment No. 2 to License No. 4-5668-1. This amendment authorizes (1) an increase in the possession limit from 750 curies of byproduct material, 2,000 pounds of source material and 4 grams of special nuclear material to 1,000 curies of byproduct material, 4,000 pounds of source material and 300 grams of special nuclear material; and (2) the packaging of waste byproduct, source and special nuclear material in precast concrete blocks, 55 gallon drums, and solidified liquid waste disposal units for disposal at sea.

Notice of the proposed action was published in the FEDERAL REGISTER on June 28, 1960, 25 F.R. 5950.

Dated at Germantown, Md., July 15, 1960.

For the Atomic Energy Commission.

H. L. PRICE,

Director,

Licensing and Regulation.

[F.R. Doc. 60-6954; Filed, July 26, 1960; 8:45 a.m.]

FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES

NOTICE WITH RESPECT TO DATES FOR FILING CLAIMS AGAINST THE POLISH GOVERNMENT

Notice is hereby given that pursuant to the provisions of section 4(b) of Title I of the International Claims Settlement Act of 1949, 22 U.S.C. 1623(b), the Foreign Claims Settlement Commission of the United States will receive, during the period ending at midnight, September 30, 1961, claims of United States citizens against the Polish Government for losses resulting from: (1) Nationalization or other taking of their property; (2) Appropriation or loss of use or enjoyment of property under Polish laws, decrees, or other measures restricting or limiting rights and interests in property, and; (3) Debts owed by enterprises which have been nationalized, or which were a charge upon property so nationalized, appropriated, or otherwise taken. Such claims are to be settled in accordance with the terms and conditions prescribed in Title I of the International Claims Settlement Act of 1949, the Polish

Claims Agreement of 1960, and the published regulations of the Commission with respect thereto.

Dated: July 22, 1960.

By the Commission.

ANDREW T. MCGUIRE,
General Counsel.

[F.R. Doc. 60-6982; Filed, July 26, 1960; 8:47 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812-1300]

CENTURY INVESTORS, INC., ET AL.

Notice of Filing of Application for Order Extending Period of Exemption From Provisions of Act

JULY 20, 1960.

In the matter of Century Investors, Inc., Webster Investors, Inc., American Manufacturing Company, Inc.; (File No. 812-1300).

Notice is hereby given that American Manufacturing Company, Inc. ("American"), a Delaware corporation, has filed an application requesting that the sixty day exemption from the provisions of the Investment Company Act of 1940 ("Act") provided under section 3(b)(2) of the Act be extended until the disposition by the Commission of American's pending application for exemption filed pursuant to section 3(b)(2) of the Act.

Century Investors, Inc. ("Century") and Webster Investors, Inc. ("Webster"), both Delaware corporations, registered under the Act as closed-end, non-diversified management investment companies, and American have previously filed a joint application pursuant to section 17(b) of the Act for an order of the Commission exempting from the provisions of section 17(a) of the Act certain transactions incident to a merger of Century, Webster and American, with American as the surviving corporation under the same name. American also filed its above-mentioned application pursuant to section 3(b)(2) of the Act for an order declaring that American is not now and will not be an investment company upon consummation of the merger.

The Commission on June 16, 1960, issued a notice of and order for hearing on the aforesaid applications (Investment Company Act Release No. 3049) which recited the facts pertinent to the requested orders, (which notice and order for hearing is incorporated herein by reference).

The section 3(b)(2) application was filed by American on June 2, 1960. Section 3(b)(2) of the Act provides that the filing of an application under that Section shall exempt an applicant for a period of sixty days from all provisions of the Act applicable to investment companies. It also provides that for cause shown the Commission by order may extend such period of exemption. American has requested an extension of the exemption period on the basis of a com-

mitment that pending determination of its status under the Act, it will not, without prior permission of the Commission, engage in any transaction or take any action which would be prohibited to a registered investment company.

Notice is further given that any interested person may, not later than August 2, 1960, at 12:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason 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 should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for a hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL]

ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 60-6971; Filed, July 26, 1960; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 131]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JULY 22, 1960.

The following letter-notices of proposals to operate over deviation routes for operating convenience only with service at no intermediate points have been filed with the Interstate Commerce Commission, under the Commission's deviation rules revised, 1957 (49 CFR 211.1(c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1(d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(e)) at any time but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's deviation rules revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-1074 (Deviation No. 1), ALLEGHENY FREIGHTLINES, INC., Winchester, Va., filed July 5, 1960. Carrier proposes to operate as a common

carrier by motor vehicle of *general commodities*, with certain exceptions, over a deviation route as follows: From Winchester, Va., over U.S. Highway 522 to junction Pennsylvania Highway 126, near Warfordsburg, Pa., thence over Pennsylvania Highway 126 to junction with the Pennsylvania Turnpike near Breezewood, Pa., thence over Pennsylvania Turnpike to the Irwin, Pa., Interchange, thence over U.S. Highway 30 to Pittsburgh, Pa., and return over the same routes, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized the same commodities over a pertinent service route as follows: Between Winchester, Va., and Clarksburg, W. Va., over U.S. Highway 50, serving all intermediate points, and the off-route point of Grafton, W. Va.; between Clarksburg, W. Va., and Pittsburgh, Pa., over U.S. Highway 19, serving all intermediate points and the off-route points of Oakmont, and Glenfield, Pa.

No. MC-1324 (Deviation No. 1), HICKS EXPRESS, INC., 201-225 North Franklinton Road, Baltimore, Md., filed June 1, 1960. Donald E. Freeman, Uniontown Road, Box 24, Westminster, Maryland. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route as follows: From the junction of U.S. Highway 13 and 422 in Philadelphia, Pa., over U.S. Highway 422 and the Tacony-Palmyra Bridge to New Jersey Highway 73, thence over New Jersey Highway 73 to its junction with U.S. Highway 130 thence over U.S. Highway 130 to its junction with U.S. Highway 40, thence over U.S. Highway 40 and the Delaware Memorial Bridge to the junction of U.S. Highways 40 and 13, 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 pertinent service routes as follows: From Philadelphia over U.S. Highway 13 to junction U.S. Highway 40, thence over U.S. Highway 40 to Baltimore, Md., and return over the same route.

No. MC-2202 (Deviation No. 9), ROADWAY EXPRESS, INC., 147 Park Street, Akron 9, Ohio, filed July 5, 1960. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route as follows: From the junction of U.S. Highway 224 and Interstate Highway 71 near Lodi, Ohio, over Interstate Highway 71 to its junction with U.S. Highway 36, thence over U.S. Highway 36 to Delaware, Ohio, 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 a pertinent service route as follows: From Akron, Ohio over U.S. Highway 224 to its junction with U.S. Highway 42 thence over U.S. Highway 42 to Delaware, Ohio.

No. MC-2401 (Deviation No. 1), MOTOR FREIGHT CORPORATION, 2345 South 13th Street, Terre Haute,

Ind., filed June 30, 1960. Carrier proposes to operate as a *common carrier* by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Chicago, Ill., over Illinois Highway 1 to Paris, Ill., 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 a pertinent service route as follows: From Chicago over Illinois Highway 49 to Kansas, Ill., thence over Illinois Highway 16 to Paris, Ill., and return over the same route.

No. MC-2589 (Deviation No. 2) C. A. B. Y. TRANSPORTATION COMPANY, 3212 St. Clair Avenue, Cleveland 14, Ohio, filed June 27, 1960. Carrier proposes to operate as a *common carrier*, by motor vehicle of *general commodities*, with certain exceptions, over a deviation route as follows: From the New York-Pennsylvania State line (New York Thruway Interchange No. 61 near Ripley, N.Y.) over Interstate Highway 90 to Cleveland, Ohio, and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that a carrier is presently authorized to operate to transport the same commodities over pertinent service routes as follows: From Cleveland over U.S. Highway 20 via Ashtabula and Conneaut, Ohio, to Erie, Pa., thence over Pennsylvania Highway 5 to the Pennsylvania-New York State line; from Cleveland over Ohio Highway 283 to Painesville, Ohio, thence over Ohio Highway 44 to junction of Ohio Highway 84, thence over Ohio Highway 84 to Ashtabula, Ohio, and return over the same routes.

No. MC-3420 (Deviation No. 1), MOTOR EXPRESS, INC., 410 Lincoln Building, Cleveland, Ohio, filed June 16, 1960. Carrier proposes to operate as a *common carrier* by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Buffalo, N.Y., over the New York Thruway and Interstate Highway 90 to a point south of Painesville, Ohio, 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 a pertinent service as follows: From Buffalo over U.S. Highway 20 to Painesville and return.

No. MC-77477 (Deviation No. 2), ATLANTIC FREIGHT LINES, INC., P.O. Box 32, Uniontown, Pa., filed July 6, 1960. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route as follows: Between Buffalo, N.Y., and Cleveland, Ohio, over Interstate Highway 90, 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 a pertinent service route as follows: From Cleveland over Ohio Highway 283 to junction Ohio Highway 640, thence over Ohio Highway 640 to Willoughby, Ohio, thence over

U.S. Highway 20 to Kirtland Hills, Ohio, thence over Ohio Highway 84 to junction Ohio Highway 534, thence over Ohio Highway 534 to Geneva, Ohio, thence over Ohio Highway 20 to Silver Creek, N.Y., thence over U.S. Highway 5 to Buffalo, N.Y.

No. MC-106456 (Deviation No. 2), SUPER SERVICE MOTOR FREIGHT CO., Fessler Lane, Nashville, Tenn., filed July 8, 1960. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over the deviation route as follows: From Lebanon, Tenn., over Tennessee Highway 26 to its junction with U.S. Highway 70S to Crossville, Tenn., 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 a pertinent route as follows: From Lebanon over U.S. Highway 70N and to Crossville and return.

MOTOR CARRIERS OF PASSENGERS

No. MC-2866 (Deviation No. 2) EDWARDS MOTOR TRANSIT COMPANY, 56 East Third Street, Williamsport, Pa., filed June 24, 1960. Attorney Robert H. Maurer, Box 432, Harrisburg, Pa. Carrier proposes to operate as a *common carrier*, by motor vehicle of *passengers* over a deviation route as follows: From junction of Pennsylvania Highway 29 and U.S. Highway 209 over U.S. Highway 209 to junction with the Northeastern Extension, Pennsylvania Turnpike, at Interchange No. 34 (Mahoning Valley), thence over Northeastern Extension, Pennsylvania Turnpike, to junction Pennsylvania Turnpike at Interchange No. 25 (Norristown), thence over Pennsylvania Turnpike to junction U.S. Highway 611 at Interchange No. 27 (Willow Grove), 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 a pertinent service route as follows: From junction of Pennsylvania Highway 29 and U.S. Highway 209, over Pennsylvania Highway 29 to junction Pennsylvania Highway 45, thence over Pennsylvania Highway 45 to junction Pennsylvania Highway 145; and from junction Pennsylvania Highways 45 and 145 over Pennsylvania Highway 145 to Allentown, Pa., thence over U.S. Highway 309 to Quakertown, Pa., thence over Pennsylvania Highway 313 to junction U.S. Highway 611, north of Doylestown, Pa., thence over U.S. Highway 611 to junction Pennsylvania Turnpike; and return over the same routes.

No. MC-3680 (Deviation No. 1), LAKE SHORE SYSTEM, 714 East Broad Street, Columbus 15, Ohio, filed July 1, 1960. Carrier proposes to operate as a *common carrier* by motor vehicle of *passengers and their baggage*, and *express, newspapers, and mail* in the same vehicles with passengers, over a deviation route as follows: From Steubenville, Ohio, via city streets to U.S. Highway 22, thence over U.S. Highway 22 to junction with West Virginia Highway 2, thence over West Virginia Highway 2 to Wheeling, W. Va., and return over the same serving

no intermediate points, as an alternate route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers over a pertinent service route as follows: From Steubenville, Ohio over Ohio Highway 7 to Bridgeport, Ohio, thence over U.S. Highway 40 to Wheeling, W. Va., and return over the same route.

By the Commission.

[SEAL] HAROLD D. McCoy,
Secretary.

[F.R. Doc. 60-6986; Filed, July 26, 1960;
8:47 a.m.]

[Notice 334]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JULY 22, 1960.

The following publications are governed by the Interstate Commerce Commission's general rules of practice including special rules (49 CFR 1.241) governing notice of filing of applications by motor carriers of property or passengers or brokers under sections 206, 209 and 211 of the Interstate Commerce Act and certain other proceedings with respect thereto.

All hearings will be called at 9:30 o'clock a.m., United States standard time (or 9:30 o'clock a.m., local daylight saving time), unless otherwise specified.

APPLICATIONS ASSIGNED FOR ORAL HEARING OR PRE-HEARING CONFERENCE

MOTOR CARRIERS OF PROPERTY

No. MC 4405 (Sub No. 360), filed July 13, 1960. Applicant: DEALERS TRANSPORT, INC., 13101 South Torrence Avenue, Chicago 33, Ill. Applicant's attorney: James W. Wrape, Sterick Building, Memphis, Tenn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers, semi-trailers, trailer chassis and semi-trailer chassis*, other than those designed to be drawn by passenger automobile, in initial movements by truckaway and driveaway service, from Mattoon, Ill. and points within five miles thereof, to all points in the United States, including Alaska but excluding Hawaii.

HEARING: September 1, 1960, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Maurice S. Bush.

No. MC 52657 (Sub No. 593), filed July 12, 1960. Applicant: ARCO AUTO CARRIERS, INC., 7530 S. Western Avenue, Chicago 20, Ill. Applicant's attorney: G. W. Stephens, 121 West Doty Street, Madison, Wis. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Trailers*, in initial movements, in truckaway and driveaway service, from Mattoon, Ill., to all points in the United States, including Alaska and Hawaii. (B) *Tractors*, in secondary movements, in driveaway service, only when drawing trailers moving in initial movements, in driveaway service as described in (A), from Mattoon, Ill., to points in Alabama, Alaska,

Arizona, Arkansas, California, Colorado, Georgia, Hawaii, Idaho, Kansas, Louisiana, Maine, Mississippi, Montana, Nevada, New Hampshire, New Mexico, North Dakota, Oklahoma, Oregon, South Carolina, Tennessee, Texas, Utah, Vermont, Washington, Wyoming, and the District of Columbia. (C) *Construction equipment, forestry and road maintenance and harvesting vehicles, with or without attachments such as loader, plow, grader, and dozer attachments*, (attachments not limited to those specified), from Mattoon, Ill., to all points in the United States, including Alaska and Hawaii.

HEARING: September 1, 1960, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Maurice S. Bush.

No. MC 69116 (Sub No. 55), (CORRECTION), filed July 15, 1960, published in the FEDERAL REGISTER issue of July 20, 1960. Applicant: SPECTOR FREIGHT SYSTEM, INC., 3100 South Wolcott Avenue, Chicago, Ill. Applicant's attorney: David Axelrod, 39 South La Salle Street, Chicago 3, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the plant site of the J. I. Case Company, located approximately one mile north of the junction of Minnesota Highways 55 and 49, as an off-route point in connection with applicant's presently authorized regular route operations to and from St. Paul and Minneapolis, Minn.

NOTE: The purpose of this correction is to show applicant's correct number as shown above. Previous publication showed applicant's docket number as No. MC 69166, in error.

HEARING: Remains as assigned July 28, 1960, in Room 926, Metropolitan Building, Second Avenue, South and Third, Minneapolis, Minn., before Joint Board No. 145.

No. MC 107002 (Sub No. 156), filed June 24, 1960. Applicant: W. M. CHAMBERS TRUCK LINE, INC., 920 Louisiana Boulevard, P.O. Box 547, Kenner, La. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from the plant site of the Tamak Gas Products Company at or near West Memphis, Ark., to points in Mississippi, Alabama, Georgia, Tennessee, Kentucky, Missouri, and points in that part of Indiana on and south of U.S. Highway 40, extending from the Ohio-Indiana State line to Indianapolis, and points on and south of U.S. Highway 36 from Indianapolis and extending to the Indiana-Illinois State line, points in that part of Illinois on and south of U.S. Highway 36.

HEARING: September 21, 1960, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Abraham J. Essrick.

No. MC 107403 (Sub No. 310), filed July 5, 1960. Applicant: E. BROOKE MATLACK, INC., 33d and Arch Streets,

Philadelphia 4, Pa. Applicant's attorney: Paul F. Barnes, Suite 601, 226 South 16th Street, Philadelphia 2, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Toledo, Ohio to points in Illinois, Indiana, Kansas, Kentucky, Michigan, Minnesota, Missouri, Pennsylvania (except Philadelphia), West Virginia, and Wisconsin.

NOTE: Applicant holds contract carrier authority in Permit No. MC 117637 and Subs thereunder. Dual operations under section 210 may be involved.

HEARING: September 20, 1960, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Gerald F. Colfer.

No. MC 108446 (Sub No. 22), filed June 14, 1960. Applicant: FISCHBACH TRUCKING CO., 921 Sherman Street, Akron, Ohio. Applicant's attorney: Dale C. Dillon, 1825 Jefferson Place NW., Washington, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured, processed or dealt in by rubber or rubber products manufacturers, including materials and supplies incidental to the conduct of such businesses, between the plant site of the B. F. Goodrich Co. at Woodburn, Ind., on U.S. Highway 24 in Allen County, Ind., on the one hand, and, on the other, points in Ohio, Kentucky, Michigan, Illinois, Massachusetts, Connecticut, Rhode Island, New Jersey, those in New York on and east of a line extending in a southerly direction along the St. Lawrence River to Alexandria Bay, N.Y., thence along New York Highway 12 to Binghamton, and thence along U.S. Highway 11 to the New York-Pennsylvania State line, those in Pennsylvania on and south of U.S. Highway 22 and on and east of U.S. Highway 11, and Clarksville, Tenn., and St. Louis, Mo.

NOTE: A proceeding has been instituted under section 212(c) of the Interstate Commerce Act to determine whether applicant's status is that of a contract or common carrier in No. MC 108446 (Sub No. 17).

HEARING: September 21, 1960, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Jerry F. Laughlin.

No. MC 108984 (Sub No. 8), filed July 5, 1960. Applicant: C. L. DELONG TRUCKING, INC., Willis Street, Box 98, Bedford, Ohio. Applicant's attorney: Edwin C. Reminger, 75 Public Square, Suite 1316, Cleveland 13, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt*, liquid, in bulk, in tank vehicles, from Cleveland, Ohio, to points in Forest and Warren Counties, Pa.

HEARING: September 21, 1960, at the New Post Office Building, Columbus, Ohio, before Examiner Edith H. Cockerill.

No. MC 110012 (Sub No. 7), (REPUBLICAN), filed November 7, 1958, published in the FEDERAL REGISTER, issue of March 4, 1959. Applicant: G. B. C., INCORPORATED, Morristown, Tenn. Applicant's attorney: Arthur M. Mar-

shall, 145 State Street, Springfield 3, Mass. By application filed November 7, 1958, as amended, applicant sought a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *New furniture*, as described in Appendix II to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, crated and uncrated, from Morristown, Tenn., to points in Arkansas, Iowa, Kansas, Louisiana, Nebraska, and Texas, *materials and supplies* used in the manufacture of new furniture, which materials and supplies were specifically described, for example, burlap, cord and twine, electric motors, fibre, etc., between specified cities in numerous states to Morristown, Tenn. The application as originally filed and noticed in the previous publication of the FEDERAL REGISTER did not seek authority to transport returned shipments of new furniture, on return movements, however, at the hearing, the Examiner allowed an amendment to include the transportation of returned shipments of new furniture to Morristown, Tenn., from points in various states named below. A report and order of Division 1, decided June 24, 1960, and served July 11, 1960, finds that the present and future public convenience and necessity require operation by applicant in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: (1) *New furniture* as described in Appendix II to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, 273, crated, uncrated, and wrapped, from Morristown, Tenn., to points in Arkansas, Iowa, Kansas, Louisiana, Nebraska, and Texas, and (2) *returned shipments of new furniture* on return to Morristown, Tenn., from points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia. Any person or persons who may have been prejudiced by the allowance of the amendment above listed, may, within 30 days from the date of this publication in the FEDERAL REGISTER, file an appropriate pleading.

No. MC 111785 (Sub No. 10), filed July 1, 1960. Applicant: FRED C. BURNS, doing business as BURNS MOTOR FREIGHT, 1005 Third Avenue, Marlinton, W. Va. Applicant's attorney: Donald E. Cross, Watkins & Rea, Munsey Building, Washington 4, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber*, from points in Nicholas and Clay Counties, W. Va., to points in Maryland, Pennsylvania, Ohio, New Jersey, New York, and Virginia. (2) *Tanning materials and supplies*, from Erie, Pa., Syracuse, N.Y., and Everett, Mass., to points in Pocahontas County, W. Va.

HEARING: September 21, 1960, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner A. Lane Cricher.

No. MC 112020 (Sub No. 99) (AMENDMENT), filed May 13, 1960, published in the FEDERAL REGISTER, issue of June 29, 1960. Applicant: COMMERCIAL OIL TRANSPORT, a Corporation, 1030 Stayton Street, Fort Worth, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils and animal fats, products and blends* thereof, in bulk, in tank vehicles, between the Kansas City, Kans.-Mo., and the St. Louis, Mo. Commercial Zones, as defined by the Commission, on the one hand, and, on the other, points in Arkansas, Missouri, Illinois, Tennessee, Oklahoma, Kansas, Nebraska, Iowa, Louisiana, and Texas.

NOTE: Applicant indicates it is controlled and owned by the same stockholders who control and own Commercial Oil Transport of Oklahoma, Inc., an Oklahoma Corporation.

HEARING: Remains as assigned September 23, 1960, at the Baker Hotel, Dallas, Tex., before Examiner Leo M. Pellerzi.

No. MC 113267 (Sub No. 23) (CORRECTION), filed May 9, 1960, published in the FEDERAL REGISTER issue of July 13, 1960. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris, Caseyville, Ill. Applicant's representative: Frederick H. Figge, 410 O'Farrell Street, Collinsville, Ill. Authority sought to operate as a *common or contract carrier*, by motor vehicle, over irregular routes, transporting: *Ground Mica*, in bulk, and in bags, between Kings Mountain, N.C., Erwin and Greenville, Tenn., and points within five (5) miles thereof, on the one hand, and, on the other, Heflin, Ala.

NOTE: A proceeding has been instituted under section 212(c) of the Interstate Commerce Act to determine whether applicant's status is that of a contract or common carrier in No. MC 50132 (Sub No. 38), therefore, dual operations may be involved. The purpose of this republication is to show the correct address of applicant's representative.

HEARING: Remains as assigned September 20, 1960, at the Hotel Thomas Jefferson, Birmingham, Ala., before Examiner Donald R. Sutherland.

No. MC 113336 (Sub No. 40), filed July 8, 1960. Applicant: PETROLEUM TRANSIT COMPANY, INC., P.O. Box 921, Lumberton, N.C. Applicant's attorney: James E. Wilson, Perpetual Building, 1111 E Street NW., Washington 4, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry cement*, in bulk, in tank vehicles, from Fayetteville and Wilmington, N.C. to points in North Carolina, South Carolina, Georgia, Florida, Tennessee and Virginia.

HEARING: October 7, 1960, at the U.S. Court Rooms, Uptown Post Office Building, Raleigh, N.C., before Examiner Donald R. Sutherland.

No. MC 116793 (Sub No. 3) (REPUBLICATION), filed June 9, 1960, published in the FEDERAL REGISTER issue of June 29, 1960. Applicant: EDGAR T.

VILLA, doing business as VILLA TRANSPORTATION CO., 187 Saranac Avenue, Buffalo, N.Y. Applicant's attorney: Israel Rumizen, 910-912 Walbridge Building, Buffalo 2, N.Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, including cottage cheese, cream cheese, butter, and pasteurized cheese products, and empty containers or other such incidental facilities, used in transporting the above-specified commodities, between Buffalo, N.Y., and Scranton, Philadelphia, Altoona and Pittsburgh, Pa., Akron, Cleveland, Columbus, and Youngstown, Ohio, Worcester, Springfield, and Boston, Mass., and New Haven, Conn.

NOTE: The purpose of this republication is to include Columbus, Ohio, inadvertently omitted from the original application.

HEARING: Remains as assigned September 30, 1960, at the Hotel Buffalo, Washington and Swan Streets, Buffalo, N.Y., before Examiner Warren C. White.

No. MC 117206 (Sub No. 2), filed July 14, 1960. Applicant: NATIONAL TRUCKING COMPANY, a Corporation, 709 Talleyrand Avenue, Jacksonville, Fla. Applicant's attorney: Martin Sack, 500 Atlantic National Bank Building, Jacksonville 2, Fla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New and used automobiles, automobile chassis, trucks, truck chassis, semitrailers and buses*, in initial and secondary movements, in driveway and truckaway service, between points in Florida.

NOTE: Any duplicating authority will be eliminated.

HEARING: September 19, 1960, at the U.S. Court Rooms, Tampa, Fla., before Joint Board No. 205, or, if the Joint Board waives its right to participate, before Examiner Isadore Freidson.

No. MC 119318 (Sub No. 1), filed November 30, 1959. Applicant: GREENWOOD'S GARAGE, INCORPORATED, 1150 East North Avenue, Baltimore, Md. Applicant's attorney: William J. Little, Fidelity Building, Baltimore 1, Md. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, disabled, abandoned, stolen or repossessed motor vehicles*, by driveway, towaway, or wrecker truck, between points in Maryland and the District of Columbia, on the one hand, and, on the other, points in the United States, except points in Hawaii and Alaska.

HEARING: September 22, 1960, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner James H. Gaffney.

MOTOR CARRIERS OF PASSENGERS

No. MC 3647 (Sub No. 292), filed July 1, 1960. Applicant: PUBLIC SERVICE COORDINATED TRANSPORT, a Corporation, 180 Boyden Avenue, Maplewood, N.J. Applicant's attorney: Richard Fryling, General Counsel, Public Service Coordinated Transport, Law Department (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over

regular routes, transporting: *Passengers and their baggage, and express and newspapers*, in the same vehicle with passengers, within Madison Township, Middlesex County, N.J., as follows: (1) From junction of New Jersey Highway 18 and County Road 527 at the Old Bridge Traffic Circle, over New Jersey Highway 18 (new alignment) to the junction of U.S. Highway 9, and return over the same route, serving all intermediate points. (2) From junction of New Jersey Highway 18 and County Road 527 at the Old Bridge Traffic Circle, over County Road 516 to the junction of U.S. Highway 9, and return over the same route, serving all intermediate points. (3) From junction U.S. Highway 9 and Throckmorton Lane, over Throckmorton Lane to Gaub Road, thence over Gaub Road to junction County Road 516, and return over the same route, serving all intermediate points.

HEARING: September 16, 1960, in Room 212, State Office Building, 1100 Raymond Boulevard, Newark, N.J., before Joint Board No. 119.

No. MC 58915 (Sub No. 39), filed June 20, 1960. Applicant: LINCOLN TRANSIT CO., INC., U.S. Highway 46, East Paterson, N.J. Applicant's attorney: Robert E. Goldstein, 24 West 40th Street, New York 18, N.Y. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, express, and newspapers*, in the same vehicle with passengers, in Madison Township, Middlesex County, N.J., as follows: (1) From the junction of New Jersey Highway 18 and County Road 527 at the Old Bridge Traffic Circle over New Jersey Highway 18 to the junction of U.S. Highway 9, and return over the same route, serving all intermediate points. (2) From the junction of New Jersey Highway 18 and County Road 527 at the Old Bridge Traffic Circle over County Road 516 to the junction of U.S. Highway 9, and return over the same route, serving all intermediate points.

HEARING: September 19, 1960, in Room 212, State Office Building, 1100 Raymond Boulevard, Newark, N.J., before Joint Board No. 119.

APPLICATIONS SET FOR PRE-HEARING CONFERENCE

The following applications are set for pre-hearing conference on August 3, 1960, at the Baker Hotel, Dallas, Texas, before Examiner James C. Cheseldine. At the pre-hearing conference it is contemplated that the following matters will be discussed: (1) The issues generally with a view to their simplification; (2) The possibility and desirability of agreeing upon special procedure to expedite and control the handling of this application including the submission of the supporting and opposing shipper testimony by verified statement; (2) The time and place or places of such hearing or hearings as may be agreed upon; (4) The number of witnesses to be presented and the time required for such presentations by both applicant and protestants; (5) The practicability of both applicant and the opposing carriers submitting in

written form their *direct* testimony with respect to: (a) Their present operating authority, (b) Their corporate organizations if any, ownership and control, (c) Their Fiscal data, (d) Their equipment, terminals, and other facilities; (6) The practicability and desirability of all parties exchanging exhibits covering the immediately above-listed matters in advance of any hearing; and (7) Any other matters by which the hearing can be expedited or simplified or the Commission's handling thereof aided.

No. MC 4405 (Sub No. 362), filed July 21, 1960. Applicant: DEALERS TRANSIT, INC., 13101 South Torrence Avenue, Chicago 33, Ill. Applicant's attorney: James W. Wrape, 2111 Sterick Building, Memphis, Tenn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, other than pipelines used for the transmission of natural gas or petroleum, their products and by-products, from Memphis, Tenn., to West Memphis, Ark., and from West Memphis, Ark., to points in Mississippi. **RESTRICTION:** The applicant will not combine the authority specified above with other certificated authority so as to provide through service from, to, or between points other than those specified above. Between points in Texas, on the one hand, and, on the other, points in Colorado, Wyoming, Utah, and Montana. Between points in Arkansas, Kansas, Louisiana, New Mexico, Oklahoma, and Texas.

NOTE: Applicant states that the purpose of this application is to obtain authority to transport the involved commodities in connection with all types of pipelines, not limited to those for the transmission of natural gas, petroleum or their products and by-products. Applicant presently holds appropriate authority to transport the involved commodities in connection with pipelines used for the transmission of natural gas, petroleum or their products and by-products. No extension of territorial authority is sought. Applicant further states it proposes to operate between all points in the above territory traversing the gateways required to be observed in its present operations.

No. MC 25518 (Sub No. 15), filed July 18, 1960. Applicant: JOHN BUNNING TRANSFER COMPANY, INC., Rialto Theatre Building, Rock Springs, Wyo. Applicant's attorneys: Stockton, Linville and Lewis, The 1650 Grant Street Building, Denver 3, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines including the stringing and picking up thereof, other than pipe lines, used for the transmission of natural gas, petroleum or their products and by-products, between points in Alaska, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, and Wyoming.

NOTE: Applicant states the purpose of the application is to obtain authority to transport the involved commodities in connection with all types of pipe lines, not limited to those for the transmission of natural gas, petroleum, or their products or by-products. Applicant presently holds appropriate authority to transport the involved commodities in connection with pipe lines used for the transmission of natural gas, petroleum or their products and by-products. No extension of territorial authority is sought.

No. MC 71920 (Sub No. 2), filed July 21, 1960. Applicant: PROGRESSIVE TRANSPORTATION CO., a Corporation, 1911 So. Santa Fe Avenue, Compton, Calif. Applicant's attorney: Phil Jacobson, 510 West Sixth Street, Suite 723, Los Angeles 14, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof of all kinds of pipe, between points in California, Arizona, Nevada, Utah, Wyoming, Idaho, Washington, Oregon, New Mexico, Montana, and Colorado.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HANDLING IS REQUESTED

MOTOR CARRIERS OF PROPERTY

No. MC 33973 (Sub No. 2), filed July 13, 1960. Applicant: C. W. ANDERSON, INC., R.D. No. 1, Darlington, Pa. Applicant's representative: G. H. Dilla, 3350 Superior Avenue, Cleveland 14, Ohio. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal and clay*, in bulk, from Darlington, Pa., and 10 miles thereof, to points in Ohio and Brooke, Hancock, Marshall, and Ohio Counties, W. Va.

No. MC 57435 (Sub No. 5), filed July 11, 1960. Applicant: LOUISIANA, ARKANSAS & TEXAS TRANSPORTATION COMPANY, a Corporation, 4601 Blanchard Road, Shreveport, La. Applicant's attorney: W. E. Davis, General Solicitor, The Kansas City Southern Railway Company, Law Department, 114 West 11th Street, Kansas City 5, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities (without exceptions)*, between junction of Louisiana Highways 1 and 970, also junction of Louisiana Highways 1 and 418, and site of Old River Lock Project near Torras, La. (1) From junction of Louisiana Highway 1 (formerly Louisiana Highway 30) with Louisiana Highway 970, over Louisiana Highway 970 to junction with Louisiana Highway 418, thence over Louisiana Highway 418 to junction with unnumbered highway, thence over unnumbered highway to site of Old River Lock Project, serving the intermediate point of Keller, La. (2) From Simmesport, La., over Louisiana Highway 1 (formerly Louisiana Highway 30) to junction with Louisiana Highway 418, thence over Louisiana Highway 418 to junction with unnumbered highway, thence over unnumbered highway to site

of Old River Lock Project. (3) Return over either of said routes.

NOTE: Applicant states it is a wholly owned subsidiary of Louisiana & Arkansas Railway. Common control may be involved.

No. MC 61403 (Sub No. 55), filed July 15, 1960. Applicant: THE MASON AND DIXON TANK LINES, INC., Wilcox Drive, Kingsport, Tenn. Applicant's attorney: S. S. Eisen, 140 Cedar Street, New York 6, N.Y. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Greensboro, N.C., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

No. MC 66562 (Sub No. 1700), filed July 13, 1960. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N.Y. Applicant's attorney: William H. Marx, 219 East 42d Street, New York 17, N.Y. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities including Classes A and B explosives*, moving in express service, serving Hartford, Ky., as an off-route point in connection with applicant's authorized regular-route operations between Louisville and Fulton, Ky., under Certificate issued in No. MC 66562 (Sub No. 1432), subject to the restrictions set forth therein.

No. MC 66562 (Sub No. 1703), filed July 18, 1960. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, Principal Office—219 East 42d Street, New York 17, N.Y. Local Office—Room 11, Express Annex, Union Station, Kansas City 8, Mo. Applicant's attorneys: Slovacek and Galiani, Suite 2800, 188 Randolph Tower, Chicago 1, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities, including Classes A and B explosives*, moving in express service, between Pittsburg, Kans., and Miami, Okla., from Pittsburg north over U.S. Highway 69 to junction Kansas Highway 57, thence west over Kansas Highway 57 to Girard, thence south over Kansas Highway 7 to Cherokee and Columbus, Kans., thence south over U.S. Highway 69 to Miami, Okla., thence north over U.S. Highway 66 to Baxter Springs, Kans., continuing north over U.S. Highway 66 to junction Kansas Highway 26, thence north over Kansas Highway 26 to junction U.S. Highway 69, thence north over U.S. Highway 69 to Pittsburg, serving the intermediate points of Girard, Cherokee, Columbus and Baxter Springs, Kans. RESTRICTIONS: The service to be performed by applicant shall be limited to service which is auxiliary to or supplemental of air or rail express service of applicant. Shipments transported by applicant shall be limited to those moving on through express receipts, covering, in addition to motor carrier movement by applicant an immediate prior or an immediate subsequent movement by air or rail service.

NOTE: Applicant states it does not propose to institute any new service to any point not heretofore served by it nor to extend its previous service, but proposes only to change

the method or mode whereby such service is rendered.

No. MC 107496 (Sub No. 168), filed July 15, 1960. Applicant: RUAN TRANSPORT CORPORATION, 408 Southeast 30th Street, P.O. Box 855, Des Moines, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Des Moines, Iowa, to points in Mercer County, Mo.

NOTE: Common control may be involved.

No. MC 111812 (Sub No. 105), filed July 18, 1960. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 747, Wilson Terminal Building, Sioux Falls, S. Dak. Applicant's attorney: Donald L. Stern, 924 City National Bank Building, Omaha 2, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, dairy products, and articles distributed by meat packing houses* as defined in Subdivisions A, B, and C of Appendix I of *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Fremont, Nebr., and Mitchell, S. Dak., to Austin, Minn.

No. MC 114897 (Sub No. 26), filed July 11, 1960. Applicant: WHITFIELD TANK LINES, INC., 240 West Amador, Las Cruces, N. Mex. Applicant's representative: J. P. Rose, General Traffic Manager, Whitfield Tank Lines, Inc., P.O. Box 5345, El Paso, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Varnish*, in bulk, in tank vehicles, from Los Angeles, Calif. to Albuquerque, N. Mex., and *refused or rejected shipments* of varnish on return.

MOTOR CARRIERS OF PASSENGERS

No. MC 109780 (Sub No. 59), filed July 11, 1960. Applicant: TRANSCONTINENTAL BUS SYSTEM, INC., 315 Continental Avenue, Applicant's attorney: Warren A. Goff, 315 Continental Avenue, Dallas, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and express, newspapers and baggage of passengers* in the same vehicle with passengers, from El Paso, Tex., to Santa Fe, N. Mex.; from El Paso, over U.S. Interstate Highway 10 to Las Cruces, N. Mex., thence over U.S. Interstate Highway 25 to Santa Fe, N. Mex., via Albuquerque, N. Mex., and return over the same route, serving no intermediate points.

NOTICE OF THE FILING OF PETITIONS

No. MC 54430 and No. MC 54430 (Sub No. 2), (PETITION FOR MODIFICATION OF RESTRICTION), filed July 7, 1960. Petitioner: MARCEL'S MOTOR EXPRESS, INC., Burlington, Vt. Petitioner's attorneys: J. Boone Wilson and Douglas C. Pierson, 178 Main Street, Burlington, Vt., and Paul Coyle, 5631 Utah Avenue NW., Washington 15, D.C. Certificate No. MC 54430 issued October 5, 1955, in the first territorial description, authorizes the transportation of general commodities, except those of unusual value, Class A and B explosives, house-

hold goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Burlington, Vt., and New York, N.Y., serving all intermediate points between Burlington, Vt., and the Vermont-New York State line, the off-route points of Essex Junction and Fort Ethan Allen, Vt., and those in Vermont within 25 miles of Rutland, restricted to traffic moving to or from New York and New Jersey points; and Albany, Amsterdam, Garden City, Kingston, Port Chester, Troy and White Plains, N.Y., Belleville, East Rutherford, Garfield, Irvington, Newark, Metuchen, and Paterson, N.J., and points in the New York, N.Y., Commercial Zone as defined by the Commission restricted to traffic moving to or from Vermont points: From Burlington over U.S. Highway 7 to Rutland, Vt., thence over U.S. Highway 4 via Hudson Falls, N.Y., to junction U.S. Highway 9, and thence over U.S. Highway 9 to New York, and return over the same route. From Burlington to Hudson Falls, N.Y., as specified above, thence over New York Highway 32B to Glens Falls, N.Y., thence over U.S. Highway 9 to Albany, N.Y., thence over U.S. Highway 9W to Newburgh, N.Y., thence over New York Highway 32 to Harriman, N.Y., thence over New York Highway 17 to the New York-New Jersey State line, thence over New Jersey Highway 17 to Jersey City, N.J., and thence across the Hudson River to New York, and return over the same route. As noted the transportation is "restricted to traffic moving to or from New York and New Jersey points". Petitioner prays that the subject restriction be modified to read: "Restricted to traffic moving to or from New York and New Jersey points but not restricted to traffic moving to or from points in the New England States," and prays that the petition be assigned for hearing to give petitioner an opportunity to prove that the proposed modification is required by the present and future public convenience and necessity. Any person or persons desiring to oppose the relief sought, may, within 30 days from the date of this publication in the FEDERAL REGISTER, file an appropriate pleading.

No. MC 109210 (Sub No. 112), (PETITION FOR CHANGE IN CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY), dated July 7, 1960. Petitioner: CRANEL B. HERNDON, doing business as CRANEL B. HERNDON TRUCK TRANSPORTATION, P.O. Box 605, Hampton, S.C. By Certificate issued September 15, 1950, petitioner was authorized to transport wrapping paper, from Franklin, Va., to Hampton, S.C. Sometime ago the shipper found it more advantageous or more proper to describe the material as lower rated wood pulp-board, fibre content consisting of not less than 80 percent wood pulp. This change in wording was for freight classification purposes only. The actual material that is being shipped is still the same and identical grade and type of saturating Kraft Paper as that which was formally described as wrapping paper. Petitioner prays that the Commission grant a change in wording in that portion of the certificate to the

following new description: "*Kraft paper, saturating or wood pulpboard fibre content consisting of not less than 80% wood pulp*, from Franklin, Va., to Hampton, S.C. Any persons desiring to appose the relief sought, may, within 30 days from the date of this publication in the FEDERAL REGISTER, file an appropriate pleading.

NOTICE OF THE FILING OF PETITION AND ASSIGNMENT FOR PRE-HEARING CONFERENCE

No. MC 67916 (Sub-Nos. 3, 9, 13, and 14), (PETITION), filed June 9, 1960. Petitioner: THE NEW YORK CENTRAL RAILROAD COMPANY, 466 Lexington Avenue, New York 17, N.Y. Petitioner's Attorneys: Robert D. Brooks and Kenneth H. Lundmark (same address as Petitioner). By this petition petitioner seeks reconsideration and modification of its certificates in the above-numbered proceedings by the elimination of the key point restrictions at Peoria, Kankakee, Danville, Mattoon, Cairo, and Lawrenceville, Ill., Terre Haute, Lafayette, Elkhart, Evansville, Anderson and Greensburg, Ind., Dayton-Farmersville, Springfield, Bellefontaine, Columbus, Galion, Sandusky, Bryan, Ansonia, and Greenville, Ohio, Erie and Lock Haven, Pa., Adrian, Niles, and Jackson, Mich., Rochester, Utica, Chatham and Kingston, N.Y., Springfield and Worcester, Mass., and Jersey City, N.J., which would enable petitioner to subordinate its highway service to rail merchandise service of the New York Central Railroad (which is not now possible), and to provide via highways paralleling the lines of said railroad, those services which present-day volume does not permit to be performed efficiently and economically in rail cars. Petitioner requests handling of the petition without oral hearing. Any party desiring a copy of the petition and the accompanying verified statement of George M. Casady may obtain same by appropriate request to Mr. Kenneth H. Lundmark, 466 Lexington Avenue, New York 17, N.Y.

PRE-HEARING CONFERENCE: September 8, 1960, at the Hotel Buffalo, Washington and Swan Streets, Buffalo, N.Y., Examiner Frank R. Saltzman presiding. It is contemplated that petitioner will make available to all parties at or prior to such pre-hearing conference an outline of the testimony to be presented by its witnesses and of the exhibits it expects to submit. The following matters will be discussed: (1) The issues generally, with a view to their clarification and possible simplification. (2) The possibility and desirability of agreeing upon special procedure to expedite and control the handling of the petition. (3) The interests of opposing carriers and others as a guide to the parties as to the number of public witnesses to be presented and the place or places most convenient for their presentation. (4) The time required for the presentation by both petitioner and opposing parties, and the time and place of such hearing or hearings, if any, as may be necessary. (5) Any other matter by which the handling of the petition may

be expedited, or the Commission's handling of the petition may be aided.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carrier of property or passengers under section 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F 7593. Authority sought by HALL'S MOTOR TRANSIT COMPANY, Fifth and Vine Streets, Box 738, Sunbury, Pa., to control and merge the operating rights and property of BUCH EXPRESS, INC., 2800 Paxton Street, Harrisburg, Pa., and to control the operating rights and property of BINGAMAN MOTOR EXPRESS CO., INC., 2800 Paxton Street, Harrisburg, Pa., and for acquisition by JOHN N. HALL and GERALD N. HALL, both of 1151 South 21st Street, Harrisburg, Pa., W. LEROY HALL, 300 West Willow Street, Carlisle, Pa., and J. DUFF GEORGE, 1039 Northwest Street, Carlisle, Pa., of control of such rights and property through the transaction. Applicants' attorneys: John E. Fullerton, 1151 South 21st Street, Harrisburg, Pa., and Homer S. Carpenter, 618 Perpetual Building, Washington 4, D.C. Operating rights sought to be controlled and merged: *General commodities*, excepting, among others, household goods but not excepting commodities in bulk, as a *common carrier* over regular routes, between Harrisburg, Pa., and New York, N.Y., serving certain intermediate and off-route points; *general commodities*, excepting, among others, household goods and commodities in bulk, between Hamburg, Pa., and Philadelphia, Pa., between Millersburg, Pa., and Lemoyne, Pa., between Schuylkill Haven, Pa., and Harrisburg, Pa., between Lewistown, Pa., and Duncannon, Pa., and between York, Pa., and Frederick and Williamsport, Md., and Reading, Pa., serving certain intermediate points; *grocery store supplies*, between Baltimore, Md., and York, Pa., and from York, Pa., to Lebanon, Pa., serving certain intermediate points; *macaroni*, from Lebanon, Pa., to Baltimore, Md., serving the intermediate point of Harrisburg, Pa., restricted to pick-up only; *bedding*, from Baltimore, Md., to Hershey, Pa., serving no intermediate points; *general commodities*, except those of unusual value, and except dangerous explosives, sand, gravel, earth, stone, household goods as defined by the Commission, commodities requiring special equipment, and those injurious or contaminating to other lading, over irregular routes, between points in Harford County, Md., on the one hand, and, on the other, points in Pennsylvania north and west of U.S. Highway 1, within 60 miles of Bel Air, Md.; *general commodities*, excepting, among others, household goods and commodities in bulk, between Baltimore, Md., on the one hand, and, on the other, points on

U.S. Highway 1 and 40 and except Edgewood Arsenal and Aberdeen Proving Grounds, Md., between New York, N.Y., and Jersey City, N.J., on the one hand, and, on the other, points in Westchester, Nassau, and Suffolk Counties, N.Y., between certain points in New Jersey, on the one hand, and, on the other, points in Pennsylvania along U.S. Highway 1 and within 10 miles of said highway, including Philadelphia, Pa., and Camden, N.J., and from certain points in New Jersey to certain points in Pennsylvania; *household goods* as defined by the Commission, and general commodities, except those of unusual value, dangerous explosives, commodities in bulk, and those requiring special equipment, between points in the WASHINGTON, D.C., COMMERCIAL ZONE, as defined by the Commission, and between points in the WASHINGTON, D.C., COMMERCIAL ZONE, as defined by the Commission, on the one hand, and, on the other, certain points in Maryland and Virginia, with the restriction that building materials may not be transported from Washington, D.C., to Baltimore, Md., points in Fairfax, Loudoun, and Prince William Counties, Va., and those in Anne Arundel, Prince Georges, Calvert, Charles, St. Marys, Baltimore, Montgomery and Howard Counties, Md.; *canned goods*, from Baltimore, Md., and points within 50 miles of Baltimore, to certain points in Pennsylvania; *grocery store supplies and bedding*, from Baltimore, Md., to certain points in Pennsylvania; *chains*, from York, Pa., to Wilmington, Del.; *leather and leather goods*, from Williamsport, Md., to Binghamton and Rochester, N.Y., and Philadelphia, Pa.; *paper and paper products*, from York Haven, Pa., to Hagerstown, Md.; *rubber heels, soles, and materials* used in the manufacture of heels and soles, between Hagerstown, Md., on the one hand, and, on the other, Binghamton, N.Y., and between Gettysburg, Pa., on the one hand, and, on the other, Winchester, Va., Binghamton, N.Y., Dansville, and Rochester, N.Y., and Hagerstown and Westminster, Md.; *fresh meats*, from Royalton, Pa., to Utica, Binghamton, Waterford, Cohoes, and Albany, N.Y. Operating rights sought to be controlled: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier* over regular routes, between Reading, Pa., and New York, N.Y. (restricted against movements of traffic between Reading, Pa., and points within five miles thereof, on the one hand, and, on the other, points in the Philadelphia, Pa., Commercial Zone, as defined by the Commission, those in New York within the New York, N.Y., Commercial Zone, as defined by the Commission, and those in New Jersey within ten miles of the city limits of New York, N.Y., except traffic moving in foreign commerce destined to, or originating at, points in Canada), between Reading, Pa., and the boundary of the United States and Canada near Niagara Falls, N.Y. (restricted to traffic destined to or originating at points in Canada), and between Reading, Pa., and the boundary of the United States and Canada near Rouses Point, N.Y. (re-

stricted to traffic destined to or originating at points in Canada), serving certain intermediate and off-route points; those rights claimed in an application seeking a "grandfather" certificate under section 7 of the Transportation Act of 1958, which amended section 203(b)(6) of the Act, viz *frozen vegetables*, from Seabrook, N.J., to the port of entry on the boundary between the United States and Canada at or near Niagara Falls, N.Y., and from Seabrook, N.J., to the boundary of the United States and Canada near Rouses Point, N.Y., with one alternate route for operating convenience only. HALL'S MOTOR TRANSIT COMPANY is authorized to operate as a *common carrier* in Pennsylvania, New York, New Jersey, Ohio, Connecticut, Delaware, Maryland, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

MOTOR CARRIERS OF PASSENGERS

No. MC-F 7594. Authority sought for purchase by LAS VEGAS-TONOPAH-RENO STAGE LINE, INC., 917 Stewart Street, P.O. Box 1472, Las Vegas, Nev., of the operating rights of THERON W. DRANEY, doing business as TAHOE STAGES, Box 3, Crystal Bay, Nev. Applicants' attorney: Wm. J. Crowell, P.O. Box 1000, Carson City, Nev. Operating rights sought to be transferred: *Passengers and their baggage, express and newspapers*, in the same vehicle with passengers, during the season extending from June 1 to September 30 of each year, as a *common carrier* over a regular route between Reno, Nev., and Tahoe City, Calif., serving certain intermediate points. Vendee is authorized to operate as a *common carrier* in Arizona, Nevada, and California. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 60-6987; Filed, July 26, 1960;
8:47 a.m.]

[Notice 353]

MOTOR CARRIER TRANSFER PROCEEDINGS

JULY 22, 1960.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of service of the order. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 62566. By order of July 19, 1960, Division 4, Acting as an Appel-

late Division, approved the transfer to Harman and Myers, Inc., Williamsport, Pa., of Certificates Nos. MC 107375 and MC 107375 Sub 3, issued June 16, 1950 and December 9, 1952, respectively, to Donald B. McChesney, doing business as Clinton Delivery Service, Lock Haven, Pa., authorizing the transportation of: General commodities, between Lock Haven, Pa., and Woolrich and Farrandsville, Pa., over specified routes, serving the intermediate and off-route points of McElhattan, Queens Run, and Ferney, Pa., as restricted; packing-house products from Lock Haven, Pa., to points within 40 miles of Lock Haven; and paper mill engraving rolls, between Lock Haven, Pa., on the one hand, and, on the other, Newark, N.J., and Waterbury, Conn. Raymond A. Thistle, Jr., 811 Lewis Tower Building, Philadelphia, Pa., for applicants.

No. MC-FC 62568. By order of July 19, 1960, Division 4, Acting as an Appellate Division, approved the transfer to Harman and Myers, Inc., Williamsport, Pa., of Certificates Nos. MC 107543, MC 107543 Sub 5, and MC 107543 Sub 6, issued October 28, 1949, February 28, 1950, and February 16, 1951, respectively, to Joseph M. Myers, doing business as Harman and Myers Express, Williamsport, Pa., authorizing the transportation of: General commodities, excluding household goods, commodities in bulk, and other specified commodities, from New York, N.Y., to Williamsport, Pa., and points within 15 miles of Williamsport; hot-house supplies, from Elizabeth, N.J., to Muncy, Pa.; machinery, chair frames, glass, popcorn and wooden doors, from Williamsport, Pa., and points within 15 miles of Williamsport, to New York, N.Y.; oleomargarine, prepared mustard, table sauces, pickles, salad dressings, edible vegetable oils, in containers, lard substitutes, vegetable stearine, and cooking oils, in containers, from Bayonne, N.J., to Williamsport, Pa.; malt beverages, in bottles, in cases, from Williamsport, Pa., to Buffalo, Rochester, Elmira, Plattsburg, Watertown, Olean, Binghamton, Schenectady, Watervliet, North Troy, South Troy, Mechanicsville, Utica, Green Island, Glens Falls and Saratoga, N.Y., Baltimore, Md., and Washington, D.C.; rake handles, shovel handles, and beetle trap stakes, from Picture Rocks, Lycoming County, Pa., to New York, N.Y., and East Rutherford, Jersey City, Newark and Passaic, N.J.; new furniture and such commodities as are used or useful in the manufacture thereof, between Williamsport, Picture Rocks, and Montgomery, Pa., on the one hand, and, on the other, Chicago and Cicero, Ill., Baltimore, Md., Washington, D.C., Cincinnati, Toledo, Youngstown and Cleveland, Ohio, and points in New York and New Jersey; household goods, between Williamsport, Pa., and points within 15 miles thereof, on the one hand, and, on the other, points in New York and New Jersey; machinery, between Muncy, Pa., on the one hand, and, on the other, New York, N.Y., and points in Hudson, Bergen, Essex, Union and Middlesex Counties, N.J.; household goods, between points in New Jersey, on the one hand, and, on the other, points in New York,

Connecticut, Massachusetts, Rhode Island, Pennsylvania, Ohio, Michigan, and Indiana; household goods, between Jersey Shore, Pa., and points within 15 miles of Jersey Shore, on the one hand, and, on the other, points in Massachusetts, Connecticut, New York, New Jersey, Virginia, Delaware, West Virginia, Ohio, North Carolina, and the District of Columbia. Raymond A. Thistle, Jr., 811 Lewis Tower Building, Philadelphia, Pa., for applicants.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 60-6988; Filed, July 26, 1960;
8:47 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

JULY 21, 1960.

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. 36417: *Lumber—Between points in southern territory*. Filed by O. W. South, Jr., Agent (SFA No. A3989), for interested rail carriers. Rates on lumber and related articles, in carloads between points in southern territory, also Helena, West Helena, West Memphis, Ark., Ohio River crossing, border points in official territory, St. Louis, Mo., and intermediate points in Illinois and Indiana located on southern lines.

Grounds for relief: Motor-truck competition, short-line distance formula and grouping.

FSA No. 36418: *Substituted service—PRR and NYNH&H for Spector Freight System, Inc., et al.* Filed by The Eastern Central Motor Carriers Association, Inc., Agent (No. 143), for interested carriers. Rates on property loaded in trailers and transported on railroad flat cars between Detroit, Mich., and New Haven, Conn., on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 2 to Eastern Central Motor Carriers Association, Inc., tariff MF-I.C.C. A-179.

FSA No. 36419: *Substituted service—C&NW for Acme Carriers, Inc.* Filed by The Eastern Central Motor Carriers Association, Inc., Agent (No. 144), for interested carriers. Rates on property loaded in trailers and transported on railroad flat cars between Council Bluffs, Iowa and Chicago, Ill., on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 2 to Eastern Central Motor Carriers Association, Inc., tariff MF-I.C.C. A-179.

FSA No. 36420: *Substituted service—PRR for Liberty Motor Freight Lines, Incorporated.* Filed by The Eastern Central Motor Carriers Association, Inc.,

Agent (No. 145), for interested carriers. Rates on property loaded in trailers and transported on railroad flat cars between Columbus, Ohio, and Ft. Wayne, Ind., on the one hand, and Baltimore, Md., Kearny, N.J., Harrisburg, and Philadelphia, Pa., on the other, on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 2 to Eastern Central Motor Carriers Association, Inc., tariff MF-I.C.C. A-179.

FSA No. 36421: *Substituted service—C&O and LV for Daniels Motor Freight, Inc., et al.*, Filed by The Eastern Central Motor Carriers Association, Inc., Agent (No. 146), for interested carriers. Rates on property loaded in trailers and transported on railroad flat cars between Detroit, and Saginaw, Mich., on the one hand, and Jersey City, N.J., on the other, on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 2 to Eastern Central Motor Carriers Association, Inc., tariff MF-I.C.C. A-179.

FSA No. 36422: *Substituted service—C&O and PRR for Houff Transfer, Incorporated.* Filed by The Central Motor Carriers Association, Inc., Agent (No. 147), for interested carriers. Rates on property loaded in trailers and transported on railroad flat cars between Charleston, W. Va., and Baltimore, Md., on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 2 to Eastern Central Motor Carriers Association, Inc., tariff MF-I.C.C. A-179.

FSA No. 36423: *Substituted service—Wabash, et al., for Chicago Express, Inc., et al.* Filed by The Eastern Central Motor Carriers Association, Inc., Agent (No. 148), for interested carriers. Rates on property loaded in trailers and transported on railroad flat cars between Decatur and East St. Louis, Ill., on the one hand, and East Cambridge, Holyoke, and Worcester, Mass., on the other, on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 2 to Eastern Central Motor Carriers Association, Inc., tariff MF-I.C.C. A-179.

FSA No. 36424: *Substituted service—Wabash, et al., for Chicago Express, Inc., et al.* Filed by The Eastern Central Motor Carriers Association, Inc., Agent (No. 149), for interested carriers. Rates on property loaded in trailers and transported on railroad flat cars between Decatur and East St. Louis, Ill., on the one hand, and Boston, Springfield and Worcester, Mass., Hartford and New Haven, Conn., and Providence, R.I., on the other, on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 2 to Eastern Central Motor Carriers Association, Inc., tariff MF-I.C.C. A-179.

AGGREGATE OF INTERMEDIATES

FSA No. 36416: *Passenger fares in the United States.* Filed by A. J. Winkler, Agent (No. A-9), for interested rail carriers. Rates involving basic first-class fares and basic coach fares for the transportation of persons between points in the East and between points in the East, on the one hand, and points in the United States, except the East, on the other.

Grounds for relief: Maintenance of through one-factor fares in excess of lower combinations of intermediate fares, due to method of disposition of fractions in proposed increased fares.

By the Commission.

[SEAL] HAROLD D. McCoy,
Secretary.

[F.R. Doc. 60-6926; Filed, July 25, 1960;
8:46 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

JULY 22, 1960.

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. 36425: *Phosphate rock—Tennessee to Illinois territory.* Filed by O. W. South, Jr., Agent (SFA No. A3990), for interested rail carriers. Rates on phosphate rock, as described in the application, in carloads from producing points in Tennessee to points in Illinois Territory.

Grounds for relief: Market competition.

Tariff: Supplement 58 to Southern Freight Association tariff I.C.C. 1386.

FSA No. 36426: *Calcium carbide residue—Woodstock, Tenn., to southern territory.* Filed by O. W. South, Jr., Agent (SFA No. A3991), for interested rail carriers. Rates on carbide of calcium residue, as described in the application, in carloads from Woodstock, Tenn., to points in southern territory.

Grounds for relief: Short-line distance formula and grouping.

Tariff: Supplement 134 to Southern Freight Association tariff I.C.C. 1345.

FSA No. 36427: *Joint rail-motor rates—Within the southwest.* Filed by J. D. Hughett, Agent (No. 27), for interested carriers. Rates on various commodities, moving on class or commodity rates, loaded in highway trailers of the motor line over the highways, thence transported on railroad flat cars of the railroad between points in the southwest, and between points in the southwest on the one hand, and Memphis, Tenn., Vicksburg and Natchez, Miss., Baton Rouge and New Orleans, La., on the other.

Grounds for relief: Rail-truck competition.

Tariffs: Southwestern Motor Freight Bureau tariff MF-I.C.C. 314 and seven other motor carrier tariffs named in the application.

FSA No. 36428: *Glycols—From Geismar, La., to Clinton, Iowa.* Filed by O. W. South, Jr., Agent (SFA No. A3993), for interested rail carriers. Rates on ethylene glycol and propylene glycol, in tank-car loads from Geismar, La., to Clinton, Iowa.

Grounds for relief: Market competition.

Tariff: Supplement 257 to Southern Freight Association tariff I.C.C. 400.

FSA No. 36429: *Soda ash—Baton Rouge, La. to Memphis, Tenn.* Filed by O. W. South, Jr., Agent (No. A3994), for interested rail carriers. Rates on soda ash, in carloads, from Baton Rouge and North Baton Rouge, La., to Memphis, Tenn.

Grounds for relief: Barge competition.

Tariff: Supplement 152 to Southern Freight Association tariff I.C.C. 452 (Marque series).

FSA No. 36430: *Substituted service—L&N for Wilson Truck Company, Inc.* Filed by Southern Motor Carriers Rate Conference, Agent (No. 32), for interested carriers. Rates on property loaded in trailers and transported in railroad flat cars (1) between Evansville, Ind., on the one hand, and Atlanta, Ga., Chattanooga and Nashville, Tenn., on the other, (2) between Nashville, Tenn., on the one hand, and Atlanta, Ga., and Chattanooga, Tenn., on the other, and (3) between Chattanooga, Tenn., and Atlanta, Ga.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 10 to Southern Motor Carriers Rates Conference, tariff I.C.C. 33, MF-I.C.C. 1071.

FSA No. 36431: *Substituted service—L&N for Johnson Freight Lines, Company, Inc.* Filed by Southern Motor Carriers Rate Conference, Agent (No. 33), for interested carriers. Rates on property loaded in trailers and transported on railroad flat cars between Atlanta, Ga., and Nashville, Tenn., on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 10 to Southern Motor Carriers Rate Conference tariff I.C.C. 33, MF-I.C.C. 1071.

FSA No. 36432: *Newsprint paper—Tenn., and Ala., to Fort Lauderdale, Fla.* Filed by O. W. South, Jr., Agent (SFA No. 3992), for interested rail carriers. Rates on newsprint paper, in carloads from Calhoun, Tenn.; Childersburg, Coosa Pines and Mobile, Ala., to Fort Lauderdale, Fla.

Grounds for relief: Foreign waterborne competition.

Tariff: Supplement 35 to Southern Freight Association tariff I.C.C. S-46.

By the Commission.

[SEAL] HAROLD D. McCoy,
Secretary.

[F.R. Doc. 60-6985; Filed, July 26, 1960;
8:47 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division
LEARNER EMPLOYMENT
CERTIFICATES

Issuance to Various Industries

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulations on employment of learners (29 CFR Part 522), and Administrative Order No. 524 (24 F.R. 9274), the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. The effective and expiration dates, occupations, wage rates, number or proportion of learners, learning periods, and the principal product manufactured by the employer for certificates issued under general learner regulations (§§ 522.1 to 522.11) are as indicated below. Conditions provided in certificates issued under special industry regulations are as established in these regulations.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.20 to 522.24, as amended).

The following learner certificates were issued authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

Ashland Crafts, Inc., 18th Street and Carter Avenue, Ashland, Ky.; effective 7-19-60 to 7-18-61 (children's dresses).

Barblizon of Utah, 150 West 12th North, Provo, Utah; effective 7-11-60 to 7-10-61 (ladies' lingerie).

Blue Bell, Inc., Madison, Va.; effective 7-14-60 to 7-13-61 (children's play clothing).

The Foster Co., Greenville, Ala.; effective 7-11-60 to 7-10-61 (men's and boys' rayon and cotton trousers).

Frackville Pajama Corp., Frackville, Pa.; effective 7-21-60 to 7-20-61 (men's and boys' pajamas and nightshirts).

Heath Springs Manufacturing Co., Inc., Heath Springs, S.C.; effective 7-12-60 to 7-11-61 (children's wear).

Edward Hyman Co., Prentiss, Miss.; effective 7-24-60 to 7-23-61 (doctors', technicians', etc. coats, smocks; men's pants).

Kahn Manufacturing Co., Inc., 150 North Royal Street, Mobile, Ala.; effective 7-11-60 to 7-10-61 (men's and boys' trousers).

Lanier Manufacturing Co., Easley, S.C.; effective 7-19-60 to 7-18-61 (men's and boys' sport shirts).

Oberman Manufacturing Co., Morrilton, Ark.; effective 7-16-60 to 7-15-61 (men's and boys' single pants).

Pioneer Manufacturing Co., Inc., 83 Waller Street, Wilkes-Barre, Pa.; effective 7-15-60 to 7-14-61 (children's dresses).

Top Notch Manufacturing Co., Inc., 400 South Kansas Street, 2101 Cypress Street, El Paso, Tex.; effective 7-24-60 to 7-23-61 (men's and boys' denim overalls).

The following learner certificates were issued for normal labor turnover purposes. The effective and expiration

dates and the number of learners authorized are indicated.

Altamont Garment Co., North Third and Division Streets, Altamont, Ill.; effective 7-11-60 to 7-10-61; 10 learners (boys' cotton trousers).

Isaacson-Carrico Manufacturing Co., 210 East First Street, El Campo, Tex.; effective 7-11-60 to 7-10-61; 10 learners (girls' underwear—woven and knit).

Lora Dress Co., 59 Blinman Street, New London, Conn.; effective 7-11-60 to 7-10-61; five learners (ladies' street dresses).

So-Rite Lingerie, Bright Building, Keyser, W. Va.; effective 7-13-60 to 7-12-61; 10 learners (ladies' pajamas and dusters).

Sulcraft Manufacturing Co., Dushore, Pa.; effective 7-8-60 to 7-7-61; 10 learners (boys' pajamas).

Terry Sportswear Co., Inc., 12 East Main Street, Glen Lyon, Pa.; effective 7-6-60 to 7-5-61; 10 learners (women's and children's blouses).

The following learner certificates were issued for plant expansion purposes. The effective and expiration dates and the number of learners authorized are indicated.

Barblizon of Utah, 150 West 12th North, Provo, Utah; effective 7-11-60 to 1-10-61; 15 learners (ladies' lingerie).

C. R. Dix, Inc., 7 Augusta Street, Greenville, S.C.; effective 7-6-60 to 1-5-61; 50 learners (dresses).

The Foster Co., Greenville, Ala.; effective 7-11-60 to 1-10-61; 100 learners (men's and boys' rayon and cotton trousers).

Lake Butler Appafel Co., Lake Butler, Fla.; effective 7-11-60 to 12-9-60; 15 learners (supplemental certificate) (men's rayon and cotton walking shorts).

Fred Ronald Manufacturing Co., North Eighth Street, Neodesha, Kans.; effective 7-11-60 to 9-30-60; 75 learners (children's shirts) (replacement certificate).

So-Rite Lingerie, Bright Building, Keyser, W. Va.; effective 7-11-60 to 1-10-61; 15 learners (ladies' pajamas and dusters).

Top Notch Manufacturing Co., Inc., 2101 Cypress Street, El Paso, Tex.; effective 8-1-60 to 1-31-61; 100 learners (men's and boys' denim overalls).

Glove Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.60 to 522.66, as amended).

Wells Lamont Corp., Eupora, Miss.; effective 7-6-60 to 7-5-61; 10 percent of the total number of machine stitchers for normal labor turnover purposes (jersey work gloves).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.40 to 522.44, as amended).

Van Raalte Co., Inc., Franklin, N.C.; effective 7-15-60 to 7-14-61; five learners for normal labor turnover purposes (full-fashioned).

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.11, as amended).

The following learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods, and the number or proportion of learners authorized to be employed, are as indicated.

Consolidated Cigar Corp., Caguas, P.R.; effective 6-25-60 to 6-24-61; 170 learners for normal labor turnover purposes in the occupations of: (1) cigar making, packing, each for a learning period of 320 hours at the

rates of 65 cents an hour for the first 160 hours and 75 cents an hour for the remaining 160 hours; (2) sorting, selecting, sizing and tying, each for a learning period of 240 hours at the rate of 65 cents an hour; (3) machine stripping, inspectors, each for a learning period of 160 hours at the rate of 65 cents an hour.

Consolidated Cigar Corp., Caguas, P.R.; effective 6-25-60 to 12-24-60; 30 learners for plant expansion purposes in the occupations of: (1) cigar making, packing, each for a learning period of 320 hours at the rates of 65 cents an hour for the first 160 hours and 75 cents an hour for the remaining 160 hours; (2) sorting, selecting, sizing and tying, each for a learning period of 240 hours at the rate of 65 cents an hour; (3) machine stripping, inspectors, each for a learning period of 160 hours at the rate of 65 cents an hour.

Dentsply Puerto Rico, Inc., Caguas, P.R.; effective 7-1-60 to 6-30-61; five learners for normal labor turnover purposes in the occupations of moulders, drillers, heater operators, carders, each for a learning period of 240 hours at the rate of 75 cents an hour (artificial teeth).

Juana Diaz Co., Inc., Juana Diaz, P.R.; effective 7-13-60 to 7-12-61; 15 learners for normal labor turnover purposes in the occupation of sewing machine operators for a learning period of 480 hours at the rates of 70 cents an hour for the first 320 hours and 78 cents an hour for the remaining 160 hours (brassieres).

General Enterprises, Inc., Lajas, P.R.; effective 7-1-60 to 12-31-60; 10 learners for plant expansion purposes in the occupations of: (1) machine embroidery operators for a learning period of 480 hours at the rates of 53 cents an hour for the first 240 hours and 62 cents an hour for the remaining 240 hours; (2) hand cutting of applique for a learning period of 240 hours at the rates of 53 cents an hour for the first 160 hours and 62 cents an hour for the remaining 80 hours (embroidery on ladies' underwear).

General Enterprises, Inc., Lajas, P.R.; effective 7-1-60 to 6-30-61; 10 learners for normal labor turnover purposes in the occupations of: (1) machine embroidery operators for a learning period of 480 hours at the rates of 53 cents an hour for the first 240 hours and 62 cents an hour for the remaining 240 hours; (2) hand cutting of applique for a learning period of 240 hours at the rates of 53 cents an hour for the first 160 hours and 62 cents an hour for the remaining 80 hours (embroidery on ladies' underwear).

Hannit Corp., 702 Figueroa Street, Stop 18½, Santurce, P.R.; effective 6-27-60 to 12-26-60; 40 learners for plant expansion purposes in the occupations of: (1) loopers, hand fashioning, knitting machine operators each for a learning period of 480 hours at the rates of 72 cents an hour for the first 240 hours and 84 cents an hour for the remaining 240 hours; (2) machine stitchers, hand sewers, pressers, each for a learning period of 320 hours at the rates of 72 cents an hour for the first 160 hours and 84 cents an hour for the remaining 160 hours (full-fashioned sweaters and knitted shirts).

La Torre Co., Inc., Aibonito, P.R.; effective 7-5-60 to 1-4-61; 100 learners for plant expansion purposes in the occupation of sewing machine operators for a learning period of 480 hours at the rates of 53 cents an hour for the first 240 hours and 62 cents an hour for the remaining 240 hours (ladies' underwear and shoulder straps).

Rico Glove Corp., Cayey, P.R.; effective 7-1-60 to 6-30-61; 14 learners for normal labor turnover purposes in the occupation of machine sewing for a learning period of 480 hours at the rates of 57 cents an hour for the first 240 hours and 66 cents an hour for the remaining 240 hours (fabric gloves).

San Juan Flower Co., Carolina, P.R.; effective 6-30-60 to 6-29-61; 15 learners for

normal labor turnover purposes in the occupation of plastic injection molding machine operators for a learning period of 320 hours at the rates of 54 cents an hour for the first 160 hours and 62 cents an hour for the remaining 160 hours (plastic plants and flowers).

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at subminimum

rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within

fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9.

Signed at Washington, D.C., this 15th day of July 1960.

ROBERT G. GRONEWALD,
*Authorized Representative of the
Administrator.*

[F.R. Doc. 60-6970; Filed, July 26, 1960;
8:45 a.m.]

Announcement

CFR SUPPLEMENTS

(As of January 1, 1960)

The following Supplements are now available:

Title 26, Parts 222-299	\$1.75
Title 32A	\$0.65
Titles 40-41, Revised	\$0.70
Title 44, Revised	\$3.25
General Index	\$1.00

Previously announced: Title 3 (\$0.60); Titles 4-5 (\$1.00); Title 7, Parts 1-50 (\$0.45); Parts 51-52 (\$0.45); Parts 53-209 (\$0.40); Parts 210-399, Revised (\$4.00); Parts 400-899, Revised, (\$5.50); Parts 900-959 (\$1.50); Part 960 to End (\$2.50); Title 8 (\$0.40); Title 9 (\$0.35); Titles 10-13 (\$0.50); Title 14, Parts 1-39 (\$0.65); Parts 40-399 (\$0.75); Part 400 to End (\$1.75); Title 15 (\$1.25); Title 16, Revised (\$6.50); Title 17 (\$0.75); Title 18 (\$0.55); Title 19 (\$1.00); Title 20 (\$1.25); Title 21 (\$1.50); Titles 22-23 (\$0.45); Title 24 (\$0.45); Title 25 (\$0.45); Title 26 (1939), Parts 1-79 (\$0.40); Parts 80-169 (\$0.35); Parts 170-182 (\$0.35); Parts 300 to End (\$0.40); Title 26, Part 1 (§§ 1.01-1.499) (\$1.75); Parts 1 (§ 1.500 to End)-19 (\$2.25); Parts 20-169 (\$1.75); Parts 170-221 (\$2.25); Part 300 to End (\$1.25); Titles 28-29 (\$1.75); Titles 30-31 (\$0.50); Title 32, Parts 1-399 (\$2.00); Parts 400-699 (\$2.00); Parts 700-799 (\$1.00); Parts 800-999, Revised (\$3.75); Parts 1000-1099, Revised (\$6.50); Part 1100 to End (\$0.60); Title 33 (\$1.75); Title 35, Revised (\$3.50); Title 36, Revised (\$3.00); Title 37, Revised (\$3.50); Title 38 (\$1.00); Title 39 (\$1.50); Title 42, Revised (\$4.00); Title 43 (\$1.00); Title 46, Parts 1-145 (\$1.00); Parts 146-149, Revised (\$6.00); Parts 146-149 (1950 Supp. 1) (\$0.55); Part 150 to End (\$0.65); Title 47, Parts 1-29 (\$1.00); Part 30 to End (\$0.30); Title 49, Parts 1-70 (\$1.75); Parts 71-90 (\$1.00); Parts 91-164 (\$0.45); Part 165 to End (\$1.00); Title 50 (\$0.70).

Order from the Superintendent of Documents,
Government Printing Office, Washington 25, D.C.

CUMULATIVE CODIFICATION GUIDE—JULY

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during July.

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Frozen Desserts; Definitions and
Standards of Identity

Title 21—FOOD AND DRUGS

Chapter 1—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

[Docket Nos. 34, 34(a)]

PART 20—FROZEN DESSERTS; DEFINITIONS AND STANDARDS OF IDENTITY

Ice Cream, Ice Milk, Frozen Custard, Sherbet, Water Ices, and Related Foods; Order Establishing Standards of Identity

In the matter of fixing and establishing definitions and standards of identity for ice cream, frozen custard, ice milk, sherbet, water ices, and related foods:

After due notices published in the FEDERAL REGISTER, public hearings were held in the above-entitled matter in 1942, 1951, and 1952. Based upon evidence received at these hearings, the Commissioner of Food and Drugs, under authority delegated to him by the Secretary of Health, Education, and Welfare, published on March 26, 1958 (23 F.R. 1991) proposed findings of fact, conclusions, and proposed identity standards for these foods. After consideration of the exceptions and written arguments received, some of which were adopted in whole or in part and some of which were rejected, as is shown by marginal notations on the exceptions on file in the office of the Hearing Clerk, the Commissioner, pursuant to the authority provided in the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 1055, as amended 70 Stat. 919; 21 U.S.C. 341, 371 (e)), and delegated to him by the Secretary of Health, Education, and Welfare (25 F.R. 5611), and on the basis of reliable, probative, and substantial evidence in the whole record, orders the promulgation of the following findings of fact, conclusions, and definitions and standards of identity for the subject foods.

commercial ice cream contain milk fat or nonfat milk solids or both in varying proportions and may also contain added sweetening agents. Such dairy products are dried cream, concentrated milk, evaporated milk, sweetened condensed milk, superheated condensed whole milk, dried milk, skim milk, concentrated (evaporated or condensed) skim milk, superheated condensed skim milk, sweetened condensed skim milk (including sweetened condensed part skim milk), nonfat dry milk, liquid or condensed or dried sweet cream buttermilk (see findings 6), butter and butter oil. (Cream includes plastic cream and a so-called concentrated milk fat; butter oil includes milk fat prepared from milk, cream, or butter.) Combinations of two or more of these products may be used. Water is added if necessary. To produce the properties associated by consumers with ice cream, the proportions of the various products used in such combinations are so adjusted that the finished ice cream mix contains substantial amounts of both milk fat and nonfat milk solids. In recent years the proportion of nonfat milk solids to milk fat in ice cream has been generally increased, as compared with the proportion naturally present in cream or mixtures of cream and milk previously used as the dairy ingredient. The most important and expensive single constituent of ice cream, however, is milk fat, and ice cream cannot be made without a substantial proportion of this constituent. There is no evidence that any milk or a cow's milk product other than cow's milk or a cow's milk product is used in making ice cream. (R. 44, 46, 50, 402, 440, 532-533, 564, 696-697, 721-728, 732, 786, 1101, 4422, 5204, 5482-5491, 5909-5910, 5967, 5969, 6189, 6198, 6241, 6386, 6502-6504, 6913-6933, 6994-7013)

4. The fat of milk is sometimes separated from milk or from butter by processes that free it almost entirely from moisture and nonfat milk solids. Such fat from butter is usually referred to as butter oil. When prepared directly from milk or cream it may also be called dry butter or dry butterfat. Butter oil is the name commonly used to designate milk fat prepared from butter by processes which eliminate moisture

and nonfat milk solids almost completely. Such a product can be prepared directly from milk or cream. (R. 5908, 5968, 6241, 6386, 6422, 6503, 6917, 6933, 7010-7013, 7445-7446, 9754)

5. A proposal was made to recognize as an optional ingredient of ice cream a product prepared from skim milk by the following process: The acidity of the skim milk is adjusted to about 0.05 percent. Then water is removed until the solids content reaches about 20 percent. To this concentrated skim milk a lactic acid starter is added, and the mixture is held at 70°-72° F. until the acidity reaches 1.5 percent. It is then spray-dried. No satisfactory explanation was given of how a product of such high acidity could be used in ice cream making without causing the mix to curdle during pasteurization, unless the cultured skim milk powder were to be used in an ice cream mix that was neutralized. In experimental batches of ice cream that were neutralized the use of the cultured product was said to offer a means of producing a distinctive culture flavor in ice cream. It cannot be concluded that these manipulations are necessary or desirable or that the use of such a product would promote honesty and fair dealing in the interest of consumers. The abuses that might arise from neutralization of ice cream mixes are described in finding 37. (R. 7158-7180, 7210-7243)

6. Sweet cream buttermilk, in liquid or condensed or dried form, has substantially the same composition as the corresponding form of skim milk. Careful selection and handling of the product as sweet cream buttermilk are necessary to avoid some degree of souring. To be suitable for use in ice cream, the product is made from cream churned when it is fresh and sweet. No starter or neutralizer is used, and the resulting buttermilk is promptly used or is promptly evaporated or dried while it is still sweet. Such buttermilk, or the concentrated or dried product mixed with water to a total solids content of 8.5 percent, has a titratable acidity of not more than 0.17 percent, calculated as lactic acid. While there was evidence concerning the desirability of limiting the total bacteria count, this is impracticable at this time. (R. 276-277, 406,

FINDINGS OF FACT¹

1. Ice cream is the common and usual name of the frozen food made from cream or a mixture of milk and cream, or from a combination of dairy products, with or without water, having substantially an equivalent composition. The food is sweetened with sugar or other suitable sweetening agent and may contain natural or artificial flavoring or other food ingredients, such as cocoa, fruit, and nuts, to characterize it as a kind of ice cream. It may contain small amounts of added salt as seasoning. Substances described in later findings and often referred to as stabilizers are usually added to prevent formation of large ice crystals. Artificial coloring and certain other optional ingredients may be added. (R. 42-46, 82, 231-232, 397, 430, 528-529, 688, 800, 4834)

2. The usual household practice of preparing ice cream is to prepare it from sweet cream or a mixture of sweet milk and sweet cream. However, a large portion of commercially produced ice cream is prepared from various dairy products, with or without water, so combined that in composition the mixture closely resembles cream or a mixture of milk and cream (see finding 3). When prepared for freezing, the sweetened dairy ingredient (with other ingredients used with or without the addition of flavoring or other characterizing ingredient) is known in the trade as ice cream mix. Certain characterizing ingredients such as fruit may be, and frequently are, added while the mix is being frozen. (R. 230-233, 402, 671-672, 699, 1049, 2252, 5236)

3. Milk and cream are composed of certain proportions of water, milk fat, and other constituents commonly referred to as nonfat milk solids or serum solids. The nonfat milk solids include proteins, milk sugar, various minerals, and certain water-soluble vitamins. The dairy products other than milk and cream (referred to in finding 2) that are used and are suitable for use in making

¹ The citations following each finding of fact refer to the pages of the transcript of the testimony and the exhibits received in evidence at the hearing.

626-628, 660-661, 989, 994, 1513-1514, 1517-1519, 1520-1530, 1532-1535, 1539-1546, 1548-1555, 1562-1563, 1570-1585, 1592-1606, 1607-1615, 1620-1622, 3064, 5469-5473, 5512-5527, 7023-7086, 10619-10623)

7. The tendency in recent years to use increasing amounts of nonfat milk solids in ice cream (see finding 3) has had the effect of improving the texture and when the fat content is held at the same level, of enhancing the nutritive value of the ice cream. Lactose (milk sugar) constitutes about half or slightly more of the nonfat milk solids. It has a limited solubility in cold water, and when the nonfat milk solids of ice cream are raised to about 12 percent or above, the lactose tends to crystallize if the ice cream is held in storage. These crystals impart an undesirable grittiness known in the trade as sandiness. In order to incorporate larger amounts of nonfat milk constituents without danger of sandiness, several processes have been proposed. (R. 491-499, 668, 681-684, 906, 1819, 1844)

8. A product was proposed from which some of the lactose is removed from sweetened condensed skim milk by crystallization. The resulting product differs from sweetened condensed skim milk only in that it has a lower lactose content. It is a suitable ingredient for ice cream. (R. 491-499, 684)

9. Another product with less lactose proposed as an optional ingredient derived from skim milk is prepared by separating the casein from skim milk by the addition of a gum. Usually, calcium chloride is also added. The precipitated mass is collected and dried. The final product contains casein, gum, some calcium chloride if this salt is used to aid precipitation, and a part of the soluble constituents of the skim milk. The method of preparing this product also results in a very considerable loss of the vitamins and minerals of the original skim milk. Optional use of this product as an ingredient added to, but not in substitution for, required milk solids would help avoid sandiness and furnish some of the desired effects claimed for this ingredient. (R. 685-686, 728-729, 916, 1627-1650, 2200)

10. Other partially "delactosed" products were proposed as optional ingredients. These consisted of concentrated skim milks to which various enzymes had

been added to hydrolyze the lactose in part to the more soluble sugars glucose and galactose. No exact description nor identification of the enzymes was furnished. It was stated that the enzyme was obtained by separating active enzymatic material from media prepared from milk and corn products on which a lactose-splitting yeast had been grown. Several yeasts are known to be capable of forming enzymes that hydrolyze lactose. Some are reported to form toxic products. The proponents of the recognition, as an optional ingredient of ice cream, of milk or skim milk treated with an enzyme prepared from a special lactose-splitting yeast did not name the yeast they used, as they considered this fact a trade secret. They did name a number of yeasts and implied that the yeast used was one of these. Feeding tests were reported on milk preparations in which the lactose had been in part hydrolyzed by an enzyme preparation from an unidentified yeast.

This testimony does not adequately identify the proposed optional ingredients. Accordingly, it is impossible to determine that their inclusion in ice cream would promote the interest of the consumer. (R. 6958-6989, 9405-9408, 15376-15397, 15412-15430, 21088-21140)

11. A number of products were offered as optional ingredients in ice cream which also fall in the category of casein compounds derived from the manipulation of skim milk. They were advocated to increase the solids content of ice cream without danger of sandiness. These caseinates were said to be prepared by the following basic procedure: The casein of skim milk is coagulated by the addition of an acid, usually hydrochloric, or by methods described in findings 8 and 9. The coagulated casein is separated from the other solids of the skim milk and is then treated with alkalizing reagents to yield products designated in the testimony as sodium caseinates, calcium caseinates, potassium caseinates, and ammonium caseinates. Excess alkali is washed out, and the resulting product is usually dried. These products consist mostly of casein or a compound of casein and the alkali used. They are suitable ingredients for addition to ice cream already having 20 percent total solids furnished by unaltered dairy ingredients. (R. 686-687, 927-932, 1640-1641, 2200, 7091-7098, 9351-9353,

9364-9399, 15600-15657, 15664-15668, 15677-15700)

12. The caseinates referred to in the previous findings of fact are derived by considerable manipulation of skim milk. Such manipulation leads to a product different from unaltered dairy ingredients. In the methods of preparation practically all the lactose and much of the minerals and vitamins present in skim milk are removed. To this extent, the expected nutritive value of the ice cream would be lessened if the caseinates were permitted to be substituted for the dairy ingredients. Witnesses who testified could be used in addition to the nonfat milk solids for the purpose of increasing the total solids content of ice cream without danger of sandiness. The use of sodium caseinate in ice cream is reported to result in a "wet ice cream" (see finding 38). The main use of caseinates has been as ingredients of special types of mixes, sold under trade names, for the preparation of some special types of frozen dessert. There is no need to manipulate the casein of milk for the commercial production of ice cream. Most of the caseinates are seldom used in the commercial preparation of ice cream. There was no evidence to justify the conclusion that substitution of these caseinates for the nonfat milk solids is in the interest of consumers of commercial ice cream. There is no justification for considering the caseinates as milk solids. The testimony does indicate that the caseinates may serve some useful purpose in increasing the protein value of ice cream if they are added to the permitted total milk solids. Use of such products in substitution for the nonfat milk solids of ice cream would not be in the interest of the consumer, but where these products are added to an ice cream mix already containing not less than 20 percent total milk solids, such ice cream could contain more solids without sandiness and would permit the attainment of the desirable qualities attributed to high-solids ice cream. (R. 7091-7098, 7045-7646, 9351-9353, 9364-9399, 11302-11303, 15600-15657, 15664-15668, 15677-15700)

13. There was testimony proposing as an optional ingredient a product said to be effective in combating sandiness in ice cream when high total solids are present. The testimony referred to this product sometimes as base-exchange

treated milk and sometimes as ion-exchange treated milk. The precise treatment encompassed by either of these terms is not clear from the record, although mention was made of passage through sodium aluminum silicate as one method of preparation. There are other ion-exchange reagents the effects of which on milk were not discussed. No testimony was given proposing any limitation on what ion-exchange reagents might be used in preparing the proposed ingredient. In the one process discussed, approximately 20 percent of the calcium in the milk is replaced with sodium, approximately 20 percent of the phosphorus is also removed, and the acidity is reduced. It is not known what effects other ion-exchange reagents might produce in the milk. Lactose crystallization or sandiness in ice cream containing more than 12 percent of nonfat milk solids is claimed to be less likely when base-exchange treated milk is used. Evidence used to support this contention by the witnesses may be interpreted differently. Substantial testimony had been previously offered by other witnesses that sandiness occurs with high levels of serum solids and may be prevented by adding ingredients in which the lactose content has been lowered. The so-called base- or ion-exchange treated milk has had no lactose removed. The use of such milk is also claimed to improve whipping properties of the ice cream mix. Such a product has been used in widely sold ice cream mix concentrates for preparing a frozen dessert in home refrigerators, but it is doubtful that such a product would be of significant advantage to an ice cream manufacturer.

Neither the substitution of sodium for calcium nor the partial elimination of phosphorus will promote the interests of consumers of ice cream. The evidence does not show that the only effects on the milk are the exchange of sodium for calcium, reduction of phosphorus, and reduction of acidity. It is not established that use of base-exchange or ion-exchange treated milk will promote the interests of the consumers. (R. 7091-7106, 9351-9353, 9373, 9449-9461, Ex. 80)

14. A milk protein product proposed as an optional ingredient was referred to in the testimony as "solubilized whole milk protein." This product is essentially sodium caseinate with some of the

product sometimes as base-exchange

product sometimes as base-exchange

product sometimes as base-exchange

should prescribe the type of flavor used and that for the food with the specified name "vanilla ice cream" the standard should require that only natural flavor from vanilla beans could be used. The notices of the hearing and the preponderance of the evidence as submitted by other persons support establishing a standard for the food "ice cream" and listing the characterizing ingredients and flavorings as optional ingredients. The testimony of the witnesses appearing in behalf of the vanilla bean industry pointed toward prescribing separate specific standards for each of the many kinds of ice cream. Aside from being inadequately supported by the record, regulations setting separate specific standards for the different kinds of ice cream would be more complex and restrictive than a standard listing the characterizing ingredients and flavorings as optional ingredients. The purpose sought to be served by prescribing the flavoring ingredients was the prevention of misleading labeling. It is concluded that a preferable way to achieve this purpose, and one which will promote honesty and fair dealing in the interest of consumers, is to provide, in designating artificial flavoring for label declaration, that where the label names the food as "vanilla ice cream" or "vanilla flavored ice cream" no artificial flavoring is used, and to provide further that in any ice cream where both natural and artificial flavors are used, any representation made on the label that the ice cream contains natural flavoring shall be accompanied immediately and conspicuously by labeling to show that artificial flavoring is also used. (R. 54-55, 237, 538, 540, 1394, 1395, 4451-4452, 4459, 4462-4465, 4468, 4471, 4473, 4479, 4511-4513, 4517, 4521, 4527, 4532-4535, 4552-4553, 4566, 4578, 4587-4591, 4650, 4659, 4661, 4681-4683, 4688, 4710, 4713, 4728, 4730, 4756, 4782, 4799, 4801, 4912-4913, 4916-4917, 4943, 4952, 4971, 4980, 5093-5094, 11101-11119, 11122-11123, 11129-11131, 11137, 15289, 15306, 15319, 15323; Ex. 228-232, 310)

binations. (R. 44-45, 407-409, 537, 693, 733, 831, 1126, 1705-1715, 1784-1787, 1799-1803, 1814-1820, 1835-1838, 1845-1846, 1853-1859, 1862, 1882-1937, 1939-1953, 11275-11295, 11312-11324, 11332-11374; 15040-15103, 15114-15126, 15148-15220)

18. Ground spices, ground vanilla beans, infusions of coffee or tea, and a large variety of natural food flavorings, such as extracts of lemon and vanilla, are used as characterizing flavors of ice cream and are suitable for such use. (R. 54-55, 237, 248, 409, 544, 1152, 3032; OP Ex. 3)

19. Various artificial food flavorings are also widely used to modify or characterize the flavor of ice cream. They may be added as such or as components of other ingredients. When so used that they do not create a misleading impression as to the presence of a natural ingredient or the amount of a natural ingredient present, artificial food flavorings are suitable ingredients of ice cream. Consumers quite generally prefer natural over artificial flavorings and desire to know when artificial flavorings are present in ice cream. To the extent that accurate information can be conveyed to consumers by labeling on ice cream, label statements of the use of artificial flavorings are in the consumer's interest. Label statements that comply with the requirements of the general provisions of the Federal Food, Drug, and Cosmetic Act are "artificially flavored," "artificially flavored," or, if the artificial flavoring is not added as such but as a component of some other ingredient, the statement "artificially flavored," the blank being filled in with the name of such other ingredient. (R. 85-86, 416, 426-429, 1248, 1382-1384, 1391-1394, 1401-1402, 1963-1965, 1982, 1997, 2011-2012, 2903, 5095-5099, 5254, 21324-21326, 21371-21374; Ex. 413)

20. The kind of ice cream now produced in greatest quantity has a flavor derived from one or a combination of the substances vanilla beans and extract of vanilla beans (which are the sources of the flavoring recognized by consumers as "vanilla"), and from artificial flavoring substances such as synthetically produced vanillin, which simulate vanilla flavor. Persons interested in the vanilla bean industry advocated that standards for ice cream

16. There was evidence about a product sold under the trade name of Sana-lac and the advantages of using it in ice cream. It was first said to be made by treating skim milk with an alkali to a point where some change occurred in the lactose. The mixture was then neutralized with an acid, concentrated, and dried. Further testimony indicated that this method was changed, and that the skim milk was treated in some other way. The evidence on the composition of this product is contradictory, and the record contains no substantial basis upon which its suitability for use in ice cream can be determined. The sponsors of this product later withdrew their proposal to have it recognized as an optional ingredient. (R. 729, 1428-1505, 1661-1675, 1677-1694, 2719-2720, 2729-2731, 5462-5464, 7313)

17. The sweetening agent most commonly used in ice cream is sugar (sucrose). It is often used in the form of a sugar sirup. Sirups containing various proportions of sugar and invert sugar are sometimes used. The term "liquid sugar" is used in the sugar trade to designate various sugar and invert sugar sirups or combinations thereof. Other products that impart sweetness are used and are suitable for such use. These are dextrose or corn sugar, corn sirup or dried corn sirup, glucose sirup or dried glucose sirup, and invert sugar in the form of paste or sirup. There are some sirups of which the sweetening ingredient is mainly maltose that may be described as "maltose sirup," and these are suitable ingredients for ice cream. Although lactose has little sweetening efficacy in comparison with sucrose, it is occasionally added in small amounts to ice creams having a relatively low content of nonfat milk solids. The amount of lactose that can be used is limited by danger of "sandy," which may occur if too much is used. For such use lactose should be considered a sweetening ingredient. It is unnecessary in definitions and standards of identity for ice cream, frozen custard, sherbets, etc., to prescribe rigid specifications for the sweetening ingredients designated by their common names. Additional products that serve the dual purpose of sweetening the ice cream and imparting to it their own characteristic taste and flavor are specified in finding 27. Sweetening ingredients may be used in various com-

minor protein fractions of the skim milk. The product is prepared by adding mild alkalinizing ingredients to skim milk and heating the mixture. Hydrochloric acid is added in an amount sufficient to effect precipitation of the protein fractions. Alkali is then added to the precipitated curd to adjust the pH to approximately 6.6 or 6.7. The product is spray-dried. The resultant powder is said to have extensive water-holding properties. The product appears to be essentially a caseinate and may properly be classed as sodium caseinate and permitted as an optional ingredient for addition to ice cream mix containing not less than 20 percent total milk solids. (R. 6447-6459, 15600-15657, 15664-15668, 15677-15700)

18. Cheese whey is the product from milk remaining after the removal of most of the fat and casein in the process of cheese making. It may contain some of the enzymatic or other material used for coagulating the casein and is often slightly acid in reaction. Cheese whey in ice cream, ice milk, and sherbet has been advocated, based largely on some experimental use of a dried cheese whey in replacing part of the nonfat milk solids normally used in preparing ice cream and sherbet. Dried whey is inferior in some respects to the common dairy products used in ice cream or ice milk. Dried cheese whey has had limited commercial testing, and there is no evidence in the record that would indicate that the consumer would expect ice cream or ice milk to contain even limited amounts of this byproduct from cheesemaking in substitution for the customary ingredients. Milk solids are less important as characterizing factors in sherbet than in ice cream, and sherbets in which cheese whey has been substituted for skim milk are reported to have desirable properties and to have been used commercially for some time. If cheese whey is used as an optional ingredient in sherbet it would promote honesty and fair dealing in the interest of the consumer for such sherbets to bear informative labeling to properly distinguish them from ordinary fruit sherbets (see finding 52). (R. 5910-5912, 6671-6724, 6729, 6772-6791, 6800-6810, 6825-6829, 6851-6856, 6866-6867, 6887-6892, 6895, 6896, 6903-6904, 7111-7146, 7449-7450, 7646, 9401-9408, 9440-9446, 9657, 9753-9759, 10749, 12856)

21. Chocolate, various kinds of cocoas, the unpulverized residual material prepared by removing part of the fat from ground cacao beans, or mixtures of any two or more of these substances are used as characterizing ingredients of a kind of ice cream. These cacao ingredients may be added to the ice cream mix as

the dry substances or as suspensions in a sirup. When certain kinds of chocolate or cocoa are used they may cause undue thickening of the mix during pasteurization, which results in difficulties in subsequent steps of manufacture. This may be prevented by the use of a small quantity of disodium phosphate or sodium citrate. The quantity necessary and suitable for this purpose is not more than 0.2 percent by weight of disodium phosphate or sodium citrate. Sodium bicarbonate was also proposed as an optional ingredient for use in chocolate-flavored ice cream to reduce viscosity due to chocolate or cocoa. However, its use might lead to neutralization of a slightly sour mix which is undesirable, as explained in finding 37. Disodium phosphate and sodium citrate are much less likely to be used as neutralizers than sodium bicarbonate. (R. 56, 87, 238, 414-415, 546, 648, 692-693, 790-791, 1790, 1807-1808, 3072, 3076, 3102, 5826, 5856-5859, 5961, 6051-6062, 6235-6237, 6249-6253, 6501-6502, 6566-6570; finding 37)

22. When fruits are used to characterize ice cream it is customary to use the fresh fruits, when they are available. However, frozen and canned fruits are also extensively used and are suitable for such use. Dried fruits are suitable for use, as are fruits from which a part of the water is removed. Fruit juices, alone or in combination with fruits, are also suitable for use in ice cream. The fruit juice used may be fresh, canned, frozen, concentrated, or dried. In removing water from fruit and from fruit juices some volatile flavoring is usually lost. This may be recovered and added back to improve the flavor of such fruit and fruit juices. (R. 57, 238-240, 529, 1104, 1167-1168, 1278-1282, 12785-12795, 12960-12966, 13194-13196, 13257-13260)

incorporation of any of the citrus oils found in the skin of the fruit. Most of the flavoring materials in the citrus fruits are found in the oil of the peel. The citrus oils may be recovered separately and added back to the juice to improve the flavor of the citrus juices. Addition of the citrus oils will not be suitable in excess of the amount that would have been obtained if the peel from the whole fruit had been used. Fruits are usually sweetened before addition to ice cream, and for some types of ice cream (ripple, variegated, marbled) the fruit and sugar mixture is thickened with pectin or one of the ingredients named in finding 32. The proportion of sugars to fruits varies, but the sugar content of mixtures usually ranges from 30 percent to 55 percent of the weight of the fruit. Sometimes prepared fruits have been acidulated or are acidulated before use. Citric and ascorbic acids are suitable for the acidulation of such fruits. Ascorbic acid is sometimes used in frozen fruit to reduce discoloration due to enzymatic oxidation. (R. 57, 194-196, 415, 469, 543, 788, 1059, 1145, 1276-1284, 1364, 1957, 1966, 1973-1974, 2001, 2006, 2023, 2417, 2422-2425, 2460-2461, 2469-2472, 2490, 2503-2504, 3031, 3083-3084, 4265-4266, 4296, 4359-4360, 4393-4397, 5870-5874, 5885-5886, 5889-5891, 6637-6638, 13190-13261)

24. Coconut in several forms is used to characterize ice cream. The coconut ingredient may be shredded, comminuted, or in particles of varying sizes in fine particles of comminuted coconut. The shredded form of coconut is often sweetened. The comminuted form imparts a greater proportion of coconut flavor to ice cream than the other forms. On a moisture-free basis, the flesh of the coconut contains a high proportion (usually over 60 percent) of a fatty oil. When comminuted coconut is added to an ice cream mix, this fatty oil becomes commingled with the milk fat of the mix. When shredded coconut is so used, most of the coconut oil remains in the shreds. It is possible, however, by chemical analysis to estimate the quantity of coconut oil in the mixture. Coconuts are sometimes considered a fruit, and for the purposes of an ice cream standard it is reasonable to classify coconut as a fruit and permit a reduction in milk fat in proportion to the weight of coconut

added, with the same allowance for sugar as added to the coconut ingredient as with other sweetened fruits. The use of coconut should be subject to the same minimum requirements for milk fat in the fruit ice cream as are required in the case of other fruits. (R. 11176-11266)

693, 1714, 1730, 1733, 1948-1951, 5891, 6133-6375, 11306-11312, 11321-11324, 11332, 11334-11373, 15040-15103, 15114-15126, 15147-15222)

28. Malted milk is used, and is suitable for use, as a characterizing ingredient of ice cream. Although malted milk contains substantial quantities of milk solids, its use by ice cream manufacturers is solely as a characterizing ingredient and not as a source of milk fat or nonfat milk solids. (R. 694, 801-802, 936-938, 1653-1657, 11326-11327)

29. Candy, cakes, cookies, cooked cereals, and glaceed fruits also are used to characterize ice cream, and are suitable for such use. (R. 57, 59, 244-247, 424-425, 4826-4828)

30. Wines and distilled alcoholic beverages, including liqueurs, are used to characterize ice cream and are suitable for such use. (R. 59, 425-426, 1153, 1338-1343)

26. Properly prepared nuts are frequently used to characterize ice cream. The nuts used are sometimes roasted or cooked in butter or other food oil or fat and are sometimes preserved in a sirup. Substantial quantities of nuts must be added to ice cream to impart the definite characteristics expected by consumers in a nut-type ice cream. However, the record does not contain sufficient evidence to establish numerical minima for the contents of the various nuts so used. (R. 58-59, 86, 197, 241-242, 254-265, 271, 422-424, 545, 1060-1063, 1110, 1151, 1153, 1231-1232, 1288-1289, 1365, 1961-1963, 1978-1979, 1981, 2005, 2973-2974, 2994, 5095-5099, 5822, 5827, 5954-5955, 6193-6194; Govt. Ex. 8, 9, 10; OPEX. 5)

27. In addition to contributing sweetness, maple sirup, maple sugar, honey, brown sugar, malt sirup, dried malt sirup, malt extracts in liquid or dry form, and molasses (other than blackstrap) are frequently used to characterize ice cream or modify its flavor, and are suitable for such use. A product somewhat similar to molasses but obtained in the process of refining crude sugar is known under the general term "refiner's sirup." There was evidence that some refiner's sirups are suitable for sweetening ice cream. In addition to sweetness, refiner's sirup may impart some flavor. There was no evidence that any designation of a kind of ice cream has ever contained a reference to refiner's sirup, but there is no reason to conclude that refiner's sirup cannot be used in a special type of ice cream without jeopardizing the consumer's interest. (R. 43, 243, 408,

31. Eggs or egg yolks (liquid, frozen, or dried) are often used in small quantities in ice cream, both in the home and in commercial manufacturing plants. Their use commercially is said to facilitate whipping or the incorporation of air into the ice cream. When eggs or egg yolks are used in sufficient quantity they impart their color and flavor and create a frozen product different from ice cream and which is known as frozen custard (see finding 50). The egg ingredient should be added before the mix is pasteurized. The quantity of eggs or egg yolk used in ice cream is such that the egg yolk solids in the finished ice cream are less than in frozen custard. (R. 65-68, 82, 87, 234, 397, 431-437, 691-692, 741-742, 932-936, 997-998, 4834-4835)

32. A number of different substances used in ice cream for the same general purpose may be grouped into the class commonly known to ice cream manufacturers as stabilizers. The practice of using such substances began many years ago with the addition to ice cream mix of small amounts of gelatin. Other substances were also found to be helpful in retarding the formation of large ice crystals in ice cream, particularly when the ice cream is stored for some time under conditions that cause it to undergo changes in temperature. Effects on the properties of ice cream other than retardation of ice formation can be obtained with some of the stabilizers now used. The capacity of an ice cream mix

used, with the same allowance for sugar as added to the coconut ingredient as with other sweetened fruits. The use of coconut should be subject to the same minimum requirements for milk fat in the fruit ice cream as are required in the case of other fruits. (R. 11176-11266)

25. Substantial quantities of fruit must be added to ice cream to impart the definite fruit characteristics expected by consumers in a fruit type of ice cream. However, the evidence is insufficient to establish numerical minima for the content of the various fruits so used. (R. 48, 86, 188-192, 252-265, 269-271, 417-421, 1050-1059, 1091, 1097, 1105-1109, 1111-1113, 1128, 1144, 1147, 1152, 1161-1162, 1282-1286, 1304, 1330, 1365-1366, 1377, 1959-1960, 1973, 6936-6939; OPEX. 5; Govt. Ex. 8, 9, 10)

to hold incorporated air may be affected. The viscosity of the mix and of the melted ice cream may be increased. The use of some stabilizers may produce a smoothness suggestive of richness. Deception of consumers through use of some stabilizers appears possible; but aside from suggesting that a limit be set on the quantity of stabilizer used, the record affords insufficient basis for restricting the use of stabilizers to those that affect only ice formation. A limit of not more than 0.5 percent of stabilizing substance has long been in effect in many State standards, and this limit is generally regarded by ice cream manufacturers as reasonable. In addition to using a stabilizer in the ice cream mix, a stabilizing substance, including pectin, is sometimes added separately to the fruit ingredient.² A limit of 0.5 percent of pectin or other stabilizer is sufficient to include this additional use.

The following substances were, at one time or another prior to the hearing held in 1942, used as stabilizers: Gelatin, sodium alginate (often referred to as leigin), extract of Irish moss, Irish moss, and several gums, including gum acacia, gum karaya, locust bean gum (carob bean gum), gum tragacanth. Guar seed gum has since been used. Dextrin is often used as a carrier for such stabilizers. A substance derived from oat flour and referred to as oat gum is also apparently effective as a stabilizer. Oat flour has some stabilizing properties, but such large quantities are needed that, when used alone, it is not a satisfactory stabilizer. There was testimony that oat flour has antioxidant properties, but no need for the use of such an antioxidant in ice cream was established. Pectin may be used as a stabilizing ingredient in the fruit component of some ice cream. Since 1941, a substance prepared from cotton linters by treating them with sodium hydroxide and then reacting with monochloroacetic acid has been widely used as a stabilizer. The chemical name of the substance is sodium carboxymethylcellulose. It is often referred to by the rather misleading designation "cellulose gum." Pharmacological tests of this product were reported which

² Although this practice may be without deception when such fruit is used in ice cream, this finding has no application to thickeners added to fruit for other uses.

variable. In some instances only male rats were used; in others there were combinations of males and females, but predominantly males. In the Kelcoloid experiments, some rats died early on the lowest level (5 percent) fed; diarrhea was noted at times, but no attempt was made to establish whether the deaths were due to Kelcoloid or to ascertain the significance of the diarrhea. In the experimental feeding of Kelcoloid to chicks their growth was retarded at all levels used, but this was ascribed to the physical condition of the diet, without further experimental feeding using variable quantities of the test substance in the diets and of diets prepared to have different consistencies. (R. 9466, 9473-9474, 9486-9489, 9514, 9903-9966, 9969-9989, 9990-10017, 10180-10192, 10214-10240; Ex. 84, 86)

34. Calcium sulfate has been used in conjunction with some stabilizers for the purpose of making ice cream stiffer, drier, and slower melting. There was considerable testimony that its use imparted desirable characteristics to ice cream drawn from counter freezers for cups, cones, and some novelties. When calcium sulfate is used it supplements the other stabilizers, and their combined weight need not exceed 0.5 percent of the weight of the finished ice cream. (R. 10428-10430, 10438-10469, 15434-15447, 15453, 15459-15463, 15469-15475, 15488, 15495, 15503-15535, 15556-15564)

35. A proposal was made that a propylene glycol solution of butyated hydroxyanisole, propyl gallate, and citric acid be permitted as an antioxidant for dairy ingredients used in ice cream, but before testimony on this substance was completed the proposal was withdrawn. (R. 21146-21287)

36. A proposal was made to make nordihydroguaiaric acid (NDGA) and citric acid dissolved in propylene glycol optional ingredients of any of the dairy products recognized in the definition and standard of identity adopted for ice cream, with limits of 0.005 percent for NDGA and 0.0025 percent for citric acid, calculated as percentages by weight of the butterfat (milk fat) content of such dairy product ingredients. The evidence indicated that in some instances where cream was frozen and stored for later use in ice cream, a type of off-flavor (referred to as oxidized flavor) developed in the cream, and that the development of this off-flavor could be pre-

vented or retarded by adding the solution of NDGA and citric acid to the cream before freezing. Citric acid was said to have a synergistic effect on the NDGA; propylene glycol was merely a convenient solvent. It was said that sweetened condensed milk also developed oxidized off-flavors at times and that this could be prevented or retarded by the addition of NDGA to the sweetened condensed milk. There was also evidence of the development of off-flavors in fluid milk, but little connection was shown between such milk and ice cream. Although there are rather voluminous reports in the literature on the subject of so-called oxidized flavors in dairy products, there is little real proof that flavors so noted are due to oxidation.

There are definitions and standards of identity for cream and sweetened condensed milk issued under the Federal Food, Drug, and Cosmetic Act (21 CFR, Part 18), and in neither standard is NDGA, citric acid, or propylene glycol listed as an optional ingredient. To provide in the standard for ice cream that NDGA, citric acid, and propylene glycol may be added to cream and sweetened condensed milk that are later to be used in ice cream would have the effect of amending the standards for cream and sweetened condensed milk or making separate standards for these foods for use in ice cream, without following the requirements of section 701 of the Federal Food, Drug, and Cosmetic Act. There was evidence concerning the pharmacological properties of NDGA, but in view of the finding of the inadequacy of this record as a basis for amending the standards for cream and sweetened condensed milk, no findings on evidence relative to pharmacological properties of NDGA will be made. (R. 13288-13371, 15567-15598)

37. Ice cream has traditionally been made from dairy ingredients that are fresh and sweet. Consumers, from their general knowledge of the composition of ice cream, would not expect the dairy ingredients used in ice cream to be otherwise. The development of lactic acid or souring in a dairy ingredient indicates that that dairy ingredient is not fresh, and consequently is not a proper ingredient in ice cream. Testimony was offered that neutralizing small amounts of developed lactic acid in souring milk would permit this milk to be used without the processing difficulties that are apt to

be experienced when such milk is used without neutralizers in ice cream making. Neutralizers were also alleged to increase the whipability of the mix and retard sandiness. It was urged that if only milk with a slight development of acidity were used it would not be detrimental to the consumer's interest. Proponents of the use of neutralizers admitted that the use of highly acid dairy ingredients in ice cream would be detrimental to the consumer's interest. Accordingly, they proposed a complex regulation intended to limit the amount of developed lactic acid that would be permitted to be neutralized. The limitations proposed would not be effective in preventing the abuses inherent in permitting use of souring dairy ingredients. To permit the inclusion of these neutralizing ingredients in the ice cream standard would give implicit recognition that dairy ingredients with developed acidity are proper for use in ice cream. The record does not permit such implicit recognition. (R. 51-52, 183, 397, 404, 525, 571, 624, 701, 704, 792, 809-811, 822, 945-954, 975, 978, 1010, 1179, 1245, 1260, 1790, 1807-1808, 1867-1870, 2164, 2264, 2279-2286, 2308-2323, 2487, 2522, 2882-2897, 2944, 2965-2968, 3004-3006, 3012-3018, 3022, 3054-3058, 3071, 3189-3192, 3297-3300, 3317, 3371, 3374, 3570, 3637-3640, 4016, 4495-4497, 4504, 4847, 4912, 5136-5140, 5181, 5239-5242, 5280, 5302-5303, 5336-5339, 5417-5462, 5492, 5501-5505, 5586, 5881, 5904-5906, 6269, 6270, 6294, 6443-6447, 6474-6482, 6498-6500, 6559-6566, 6626-6633, 6635-6636, 6869-6870, 6941-6942, 6945, 6952-6956, 7255, 7286-7291, 9517, 9608, 9824, 9893-9894, 10552-10554, 10618, 10647, 10747, 10769, 10853, 12346, 12413, 12420-12441, 12497-12567, 12571-12607, 12610-12619, 12625-12626, 12632-12653, 12656-12670, Ex. 7; Govt. Ex. 18-24, 37)

38. Batches of ice cream occasionally have the appearance of being "wet" or not fully frozen. Sometimes there is a partial separation of the casein in curd-like particles. Sometimes there is difficulty in cooling the mix after pasteurization and homogenization, because it is too thick to flow freely, a condition often ascribed to the clumping together of particles of fat. Occasionally, different batches of ice cream prepared by the same formula show differences in apparent smoothness and richness. These difficulties often arise from the improper adjustment of certain mechanical equip-

ment used in preparing the mix or in freezing the ice cream. Most, if not all, of these difficulties occur when dairy ingredients are used in which souring has progressed to some degree, and in such cases the use of small quantities of the neutralizing ingredients referred to in finding 37 will correct the trouble; but such use is subject to the objection expressed in that finding. Some persons advance the theory that these difficulties may arise when the mechanical equipment is in proper adjustment and the dairy ingredients used are sweet. In such circumstances these persons ascribe the difficulties to a condition of the mineral salts naturally present in milk, which condition they call lack of salt balance. They attribute this to abnormalities in the relative proportions of calcium and magnesium ions, on the one hand, to phosphate and citrate ions on the other. To compensate for a deficiency in calcium and magnesium ions these persons recommend the use of calcium chloride or calcium lactate, and for a deficiency in phosphate or citrate ions they recommend the use of sodium citrate, disodium phosphate, sodium pyrophosphate, or sodium metaphosphate. If salts are used that have an alkaline reaction in solution some neutralization will occur, and most of the testimony in support of the so-called salt-balancing ingredients referred to materials having an alkaline reaction in solution. It is not clear whether the alleged value of the mineral salts was due to the neutralizing properties or to other effects. A proposal was made to use sodium hexametaphosphate, for the purpose of altering the calcium concentration in the ice cream mix. This product has had limited use in ice cream mix, and the testimony was not clear as to the quantity of sodium hexametaphosphate needed or the action to be expected when used in ice cream preparation. The testimony indicated that sodium hexametaphosphate is not an alkaline-reacting salt and that it reacts with calcium ions to form a complex compound. It is not clear whether this action affects the acidity of the mix or whether the compound actually used in the ice cream mix contained an excess of alkali from the manufacturing process. The use of any of the above-discussed salts, except disodium phosphate or sodium citrate, in a mix characterized by cacao ingredients has been limited. The

testimony in the record does not reveal sufficient facts to determine that the other uses of the mineral salts proposed as optional ingredients would be in the interest of consumers. (R. 624, 709-711, 748-763, 769-770, 809-822, 846-858, 869-874, 921-926, 960-977, 998-1000, 1790, 1876-1881, 2172, 2289-2296, 2499, 2520-2523, 3113-3150, 3152-3160, 3162-3170, 3205-3233, 5135, 5260-5267, 5332-5336, 5418, 5421, 5432, 6044-6045, 6121-6124, 6390-6391, 6438-6440, 6465-6473, 6482, 6484, 6498-6500, 6513-6519, 6570, 9765-9766, 12673-12712)

39. Several products have been made by adding alkalies to skim milk and concentrating the mixture or by first concentrating the skim milk and then adding the alkalies. The mixtures are dried to a powder and sold under various trade names with representations to ice cream manufacturers that use of the particular product will affect an ice cream in various desirable ways. The desirable effects claimed usually involve the adjustment of the viscosity of the mix, changing the whipping qualities, elevating the water-holding power of the protein, and increasing the quantity of nonfat milk solids in the mix without danger of sandiness.

There was testimony concerning a mixture of an alkali-treated dried skim milk and dried egg yolk, the claimed use of which would cause a change in the texture and whipping quality of the mix and permit a high overrun.

There was considerable testimony about a product sold under the trade name of Nutrimix. Witnesses for the manufacturer gave different information concerning the composition of the product. Some of the testimony indicates that skim milk is evaporated to either 40 percent or 30 percent solids, and calcium hydroxide is added to one portion of the condensed skim milk and disodium phosphate is added to a second portion. The two portions are blended into a mixture containing approximately 1 percent calcium hydroxide and 0.35 percent disodium phosphate on a dry-weight basis. The resultant mixture may be used in either liquid or spray-dried form. Sometimes magnesium hydroxide and sodium citrate may be used. The principal claim made for this product was that the likelihood of sandiness from crystallization of lactose would be reduced by using Nutrimix as an ingredient of ice cream with high nonfat milk sol-

ids. It was also claimed that use of this product will enhance the whipping properties and the water-holding power of the protein in ice cream mixes.

The testimony shows that these various products have all had alkalies added to them and the effects claimed for these products are the same as those claimed by other witnesses who testified about direct addition by the ice cream manufacturer of these same alkalies for neutralization. The alkalies are discussed in finding 37 and their addition to ice cream directly or in admixture with other constituents is subject to the objections expressed in that finding.

The record contains conflicting testimony on the effect of alkalinized products in preventing sandiness caused by lactose crystallization. According to the testimony of competent investigators, the addition of calcium hydroxide and disodium phosphate to ice cream mix for the prevention of sandiness is not justified. The diversity in the testimony of record is such as to make unwarranted a finding of fact that Nutrimix or other alkali-treated products have significant effects on the formation of lactose crystals. (R. 44, 730, 3238-3280, 3557-3570, 3605-3616, 6564-6567, 7735-7880, 12355-12400, 12412-12438, 12444-12493, 12592, 12603-12608, 12656-12669; Ex. 20, 24, 37)

40. Carotene (provitamin A) was proposed by a manufacturer of this substance as an optional ingredient of ice cream for the purpose of enhancing its nutritive value. The evidence does not establish that carotene is stable and retains its potency in ice cream. It is not shown that, even if carotene retains its potency in ice cream, the quantity of vitamin A it would contribute to such diets would be of any substantial significance; nor was it shown that carotene would otherwise serve a useful purpose in ice cream. To avoid confusing and misleading consumers, the fortification of foods with vitamins should be restricted to a few staple foods that are effective carriers of the particular vitamins deficient in the diet of a significant segment of the population that regularly consumes the foods to be fortified. The quantities of carotene suggested for addition to ice cream would be of no substantial nutritional significance and would tend to mislead consumers. (R. 3850-3868, 3871-3897, 4992-5012, 5041-5046; OPEX. 100)

In some areas the milk fat content of the formula found most profitable is around 10 percent and in other areas is 12 percent or higher. In either case, the total milk solids content is usually 20 percent or more. Ice creams having a fat content ranging from 10 percent to about 14 percent do not vary so greatly in their richness that they are readily distinguishable from each other by merely tasting, particularly if the consistency of the melted ice cream is increased by use of a stabilizer or heat treatment of the mix; and ice cream manufacturers depend on consumers' acquiring a liking for a particular brand from continued use. When the fat content goes about 15 percent, however, an ice cream can be readily distinguished from ice cream with a fat content of around 10 percent.

Generally, the retail price of ice creams of a fat content higher than 15 percent is definitely more than that of ice creams around 10 and 12 percent. In the case of ice creams having 10 percent to a little over 12 percent milk fat, the retail prices overlap. In some areas consumers are able to purchase high-fat ice creams (14 percent or more fat) at an increased price; in many areas, however, no such ice creams are available. In some areas competition or other factors have brought the fat content of most of the ice creams down to nearly the State minimum, and the consumer has little choice insofar as the real richness of ice cream is concerned. The per capita consumption of ice cream seems to have been affected by the per capita income more than by any other factor.

A representative of the Food and Nutrition Board of the National Research Council testified that certain nutritive ingredients in ice cream are of great importance to the nutrition status of the population of the United States, and that an ice cream consisting of 10 percent milk fat and 20 percent total milk solids would better supply these essential ingredients than an ice cream consisting of 12 percent milk fat and 20 percent total milk solids.

It will promote honesty and fair dealing in the interest of consumers to provide that ice cream meeting minimum standards will have a fat and total milk solids content such that a reasonable degree of richness will be furnished while providing optimum nutritive value. It is concluded that a requirement for a mini-

45. In deciding upon what ice cream to purchase, the factors considered most important by consumers are the richness of the ice cream and satisfactory flavor. Although there are ice creams on the market with varying fat contents and with many kinds of flavors, the consumer at the present time has no practical way of determining the fat content of an ice cream he purchases. The retail price of ice cream and of related frozen products such as ice milk and sherbet vary, and the price is not a reliable indication of the fat content. The fat content of ice cream sold in the United States is influenced by many factors, one of the most important factors probably being the minimum limits on fat content established by standards in several States. Probably, however, the most important factor is the desire of manufacturers to provide a fat content of ice cream that is generally acceptable to consumers at prices that return the maximum profit. When deciding upon the formula for an ice cream to be sold in a particular area, the manufacturer naturally chooses the one that he believes will bring him the greatest financial returns. Without increasing the fat content of ice cream, it is possible to increase the property referred to as smoothness (for lack of a better term) by the judicious use of nonfat milk solids and some stabilizing and emulsifying agents and by heat treatment of the mix before freezing. Smoothness and richness are closely related factors, probably not separated in the minds of most consumers. There is no question about the desirability of an adequate quantity of nonfat milk solids in ice cream. Due to the relatively low cost of nonfat milk solids in comparison with milk fat and to the fact that an increase in the quantity of nonfat milk solids tends to compensate in some ways for lowering the fat content of ice cream, there has been no serious problem from failure of ice cream manufacturers to use sufficient nonfat milk solids. It is therefore necessary to fix a minimum fat content to insure real richness in ice cream, and it is desirable to set a minimum limit on total milk solids.

In fixing such a minimum limit for fat and total milk solids, it is in the interest of consumers to consider the nutritive values of ice creams of varying compositions.

Carolina, Tennessee, Virginia, Washington.

Minimum requirement of 12 percent milk fat: Colorado, Delaware, Illinois, Iowa, Maryland, Michigan, Minnesota, New Mexico, North Dakota, Oregon, South Dakota, Utah, Wyoming.

Minimum requirement of 13 percent milk fat: Wisconsin.

Minimum requirement of 14 percent milk fat: Idaho, Maine, Nebraska, Nevada, New Hampshire, Oklahoma, Vermont.

Because of short supplies during World War II, many States relaxed their requirements for a minimum milk fat content of ice cream. After the end of hostilities, most, but not all, States reinstated their former requirements for milk fat in ice cream. In 1951 the requirements of various States for minimum milk fat content of plain ice cream were as follows:

Minimum requirement of 8 percent milk fat: District of Columbia, Missouri, Rhode Island, Texas, West Virginia.

Minimum requirement of 10 percent milk fat: Alabama, Arizona, Arkansas, California, Connecticut, Florida, Georgia, Indiana, Kansas, Kentucky, Louisiana, Massachusetts, Mississippi, Montana, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Washington, Wyoming.

Minimum requirement of 12 percent milk fat: Colorado, Delaware, Idaho, Illinois, Iowa, Maine, Maryland, Michigan, Minnesota, Nebraska, New Mexico, North Dakota, Oregon, South Dakota, Utah.

Minimum requirement of 13 percent milk fat: Wisconsin.

Minimum requirement of 14 percent milk fat: Nevada, New Hampshire, Vermont.

In all States ice cream with a milk fat content higher than the minimum required by the State law are manufactured and sold. A survey made in 1947 by the International Association of Ice Cream Manufacturers among wholesale ice cream manufacturers indicated that about two-thirds of the so-called vanilla ice cream (including unflavored ice cream) made in the United States had a fat content of 12 percent or over. (R. 11395-11434; Ex. 135, 135A, 136, 137, 138, 139, 182, 415; Govt. Ex. 4)

41. Many kinds of ice cream are colored. When so used that they do not create a misleading impression regarding the presence of a natural ingredient or the amount of a natural ingredient present, colorings are suitable ingredients of ice cream. (R. 53-54, 86, 547-548, 614, 776-778, 1021, 1102-1103, 1119-1126, 1143-1144, 1148, 1183, 1344, 1958, 1970, 1975, 1993-1995, 2507, 3025, 4361, 4835, 4845)

42. To obtain uniformity of distribution of the components of ice cream mix and to disperse the fat particles so as to produce a better texture in the finished product, it is customary to heat the ice cream mix to a temperature of about 145° F. or above while the mix is being stirred and then to run it through a homogenizer. (R. 43, 530, 745-747)

43. The heating prior to homogenization is normally such that it pasteurizes the mix. Pasteurization reduces the danger of milk-borne diseases and increases the keeping quality of ice cream. Pasteurization is generally recognized as an essential step in the preparation of commercial ice cream, and consumers expect the protection from milk-borne diseases afforded by pasteurization. (R. 397, 534, 745)

44. The milk fat content of ice cream has always been considered an important factor in the identity of this frozen food. A sufficient quantity of milk fat is necessary to impart certain properties to ice cream that serve to differentiate ice cream from less rich frozen foods, such as ice milk and sherbets. In the period 1900-1941 each State and the District of Columbia by legislation or regulation fixed minimum limits for milk fat in ice cream. In many cases the limits in a State have been changed once or oftener, reflecting changing conditions in the ice cream industry. Just prior to the beginning of World War II, the minimum requirements for milk fat in plain ice cream in the various States and the District of Columbia were as follows:

Minimum requirement of 8 percent milk fat: District of Columbia, Missouri, Rhode Island, Texas, West Virginia.

Minimum requirement of 10 percent milk fat: Alabama, Arizona, Arkansas, California, Connecticut, Florida, Georgia, Indiana, Kansas, Kentucky, Louisiana, Massachusetts, Mississippi, Montana, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South

ity that the egg yolk solids are not less than 1.4 percent of the weight of the finished food. Findings 1 through 49 on ice cream, except that part of finding 1 on the name "ice cream" and that part of finding 31 limiting the egg yolk solids content of ice cream, are applicable to whole milk custard. It is reasonable to provide that the minimum quantity of egg yolk solids prescribed for frozen custard or french ice cream may be lowered when bulky ingredients are used to characterize such foods, in the same manner as provided for lowering fat content in ice cream. (See page references under finding 31; also R. 523-524, 569; Govt. Ex. 4.)

48. A frozen product closely resembling ice cream but containing less milk fat than ice cream is defined by the laws of several States. In 1941, the laws of 14 States defined such a product as "imitation ice cream," and 10 of these States prohibited the sale of imitation ice cream. Twelve States had laws which, among other things, defined a frozen milk product containing less milk fat than ice cream as "ice milk." These laws prescribed restrictions designed to prevent deception of purchasers through the sale of ice milk. Investigation in 1941 of local sales of ice milk showed that ice milk could be easily passed off as ice cream.

Since 1941, the sale of frozen products resembling ice cream but having less milk fat has increased, and additional States have defined such a product as "ice milk." A substantial proportion of the sales of this low-fat product is a product sold direct from the freezer and often referred to as "soft ice cream" to differentiate it from ice cream that has been hard-frozen by holding at around 0° F. after being withdrawn from the freezer. A large part of this soft-frozen low-fat product is sold from roadside stands that advertise their products under fanciful names. In States having laws requiring it, such stands display signs reading "Ice milk sold here." In several States the low-fat product is sold under fanciful names, without restrictions.

In addition to a low-fat product (soft- or hard-frozen) sold direct to consumers, there is considerable traffic in a low-fat hard-frozen product used as a component of a semifrozen food sold at soda fountains. This is often unflavored. It seems probable that many consumers

even in very high-fat ice creams. A minimum of 6 percent by weight of nonfat milk solids therein, is a reasonable limitation. (R. 50, 681, 1717-1722, 1725-1726, 1745, 1753-1756, 1766-1767, 1771-1773, 1804-1805, 1824; OPEX. 15)

48. When ice cream mix is frozen, air is whipped in and the volume of finished ice cream is greater than the volume of the original mix. This increase in volume is known in the trade as overrun. The amount of overrun depends on the vigor and duration of whipping, the kind of freezer, the temperature of freezing, and the composition of the mix. A certain amount of overrun is necessary to give ice cream some of its characteristic properties, but ice cream can be excessively inflated and thus cheapened, since it is commonly sold by volume. As the amount of air is increased the weight of a given volume of the ice cream decreases. In manufacturing ice cream it is practicable to control the quantity of overrun with either of the two types of freezers in general use; that is, the batch type and the continuous type. Most of the State standards limit the overrun, by establishing a minimum weight per gallon for the finished ice cream or by other provisions. An overrun of more than approximately 100 percent is excessive. A requirement that the weight of ice cream be not less than 4.5 pounds per gallon, coupled with a minimum limit on solids per gallon (see finding 49), permits an overrun of about 100 percent, is effective in preventing the excessive incorporation of air, and is reasonable. (R. 60-62, 85, 443B-443C, 448-449, 765-768, 771-776, 2229, 4914, 10626-10627; Govt. Ex. 4)

49. Excessive water in ice cream mix dilutes its solids content and cheapens the product. A reasonable limitation against excessive dilution is a requirement that the solids content be not less than 1.6 pounds per gallon of finished ice cream. Such a requirement also serves as a desirable adjunct to the method of controlling overrun referred to in finding 48, since it allows higher overrun in the case of higher solids content and restricts overrun in the case of lower solids content. (R. 29, 60-61, 448, 525; Govt. Ex. 4)

50. Frozen custard, french ice cream, and french custard ice cream are common and usual names for the food that is identical with ice cream, except that it contains eggs or egg yolk in such quantity

caused by the sweetened fruit or nut product added, provided the sweetening ingredient of such product does not amount to more than 40 percent of the weight of the fruit or nuts used.

The extent of the dilution of a mix with chocolate or cocoa, when making a chocolate-flavored ice cream, depends on whether the chocolate or cocoa is added as such or suspended in a sirup. When dry cacao products are used, the total dilution from the chocolate product and from additional sugar is relatively small, but if a suspension of a cacao product in sirup is used the dilution may be much greater. A proposal was made that the standard for ice cream provide that "the components of a sirup made from chocolate or cocoa may be considered equivalent to such sirup and may be added prior to pasteurization." Since this proposal sets no limit on the content of water (the cheapest ingredient of such a sirup), the adoption of the proposal might result in abuses from the addition of water. The weight of dry cacao ingredients increased by 50 percent of such weight for additional sweetening agents should furnish a reasonable allowance for calculating a normal reduction in milk fat and milk solids from the use of cacao products to flavor a kind of ice cream. It would be illogical to consider water added in a sirup as part of the bulky flavoring ingredient in making such calculations. The characterizing and sweetening ingredients specified in finding 27 replace other sweetening agents and do not lower the fat content of the mix. (See page references under findings 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, and 30; also R. 440A, 786-788, 524-525, 566-568, 3399-3404, 5953-5954, 5970-5972, 6021-6022, 6062-6066, 6186-6189, 6239, 6254-6257, 6506-6508, 7419-7423, 11624-11625; Govt. Ex. 4)

47. Although there was no evidence of the use of insufficient nonfat milk solids in ice cream, attention was called to the possibility that abuses in this respect might arise unless a minimum nonfat milk solids content is required. The requirements of 20 percent total milk solids with milk fat levels equal to or slightly above the minimum of 10 percent provides for adequate nonfat milk solids (see finding 45). With ice creams containing higher fat levels the nonfat milk solids content tends to be lower but generally does not fall below about 6 percent

num fat content of 10 percent in plain ice cream coupled with a requirement of not less than 20 percent milk solids is likely to achieve these objectives. Consumers wishing a less rich frozen dairy product should be able to obtain it by purchasing a very similar product with less fat under the name "ice milk." (R. 23-25, 27, 46, 50, 83-84, 440-443, 478-479, 564, 678-679, 1022-1025, 1101, 1158-1159, 1236-1244, 1259, 1263, 1834, 1865, 2230-2231, 2240, 2489, 2908-2912, 2981-2982, 3175-3184, 3321-3323, 3349-3350, 3364, 4422, 4433-4447, 4487-4494, 4498-4500, 4836, 4914, 5133, 5482-5491, 5900-5903, 5915-5916, 5978, 6168-6177, 6191, 6270-6273, 6401-6403, 6427-6430, 6432, 6536-6540, 6603-6605, 6646-6648, 6857-6859, 7014-7016, 7257-7262, 7264-7273, 7579, 7630-7631, 7636-7645, 8278, 8508, 9759-9762, 9825-9826, 9841-9844, 9888-9889, 10139-10144, 10203-10206, 10535-10545, 10549-10550, 10610-10611, 10616, 10644-10647, 10665, 10740, 10746, 10757-10760, 10836, 10845-10846, 11277-11278, 11507-11548, 11567-11573, 11590, 11612-11624, 11681-11684, 11704-11714, 11720, 11745-11750, 11770-11776, 11787-11791, 11856-11858, 21060, 21295-21320, 21324-21348, 21371-21374, 21410-21428; Govt. Ex. 3, 5, 28-34; Ex. 137-140, 142, 143, 224, 408, 413-417)

46. The characterizing ingredients specified in findings 21, 22, 23, 24, 25, 26, and 29 are bulky; that is, they must be used in relatively large quantities in order to characterize ice cream. When such quantities are added to an ice cream mix, the fat content of the finished ice cream will be lowered in proportion to the quantity of such characterizing ingredients used. This provision for dilution is recognized in practically all State standards. A considerable number of States permit a reduction in fat content proportional to the quantity of such characterizing ingredients, but provide that in no case shall the reduction be more than 2 percent. Many States provide for a flat reduction of 2 percent. Most State standards limit the reduction to not more than 2 percent below the minimum prescribed for ice cream characterized by nonbulky ingredients. The characterizing ingredients specified in findings 18, 19, and 30 are used in relatively small quantities and do not significantly lower the fat content of the mix. In calculating the dilution from fruit and nuts, it is reasonable to allow for the dilution

erally does not fall below about 6 percent

expecting ice cream as a component of fanciful soda-fountain foods receive the lower fat product instead of ice cream as an ingredient of such foods.

The International Association of Ice Cream Manufacturers proposed that a definition and standard of identity for ice milk be adopted, although members of the Association in some States are opposed to the legal recognition of such a food. Many members of the Association manufacture both ice cream and ice milk. Although recognizing that the problems of regulating the sale of ice milk, to prevent its being sold as ice cream at retail, cannot be solved by the adoption of a standard for ice milk under the Federal Food, Drug, and Cosmetic Act, the various interests wishing to promote the sale of ice milk all seemed to believe that a Federal standard is desirable.

The interests of the large wholesale manufacturers and of the operators selling soft-frozen ice milk from the freezer diverge somewhat. The International Association of Ice Cream Manufacturers proposed the following standard for ice milk:

§ 20.5 *Ice milk; identity.* Ice milk is the food prepared from the ingredients prescribed in § 20.1 for ice cream. The kind and quantity of optional dairy ingredients used, and the content of milk and nonfat milk solids therein, are such that the weight of milk fat is not less than 2 percent but not more than 3.5 percent of the weight of the finished ice milk and the weight of milk-solids-nonfat is not less than 11 percent. Ice milk contains not less than 1.3 pounds of food solids per gallon and weighs not less than 4.5 pounds per gallon. In all other respects ice milk conforms to the definition and standard of identity prescribed for ice cream under § 20.1 except that milk fat shall apply regardless of the presence of one or more of the optional ingredients indicated in subparagraphs (3) to (8) inclusive of § 20.1(b).

When ice milk is packaged in containers of greater than one pint in content, it does not contain color nor does it contain any of the optional ingredients indicated in subparagraphs (1) to (9) inclusive of § 20.1(b).

A somewhat different standard was advocated by operators of retail stores

selling a low-fat frozen-milk product under the name "Dairy Queen." Their proposal was as follows:

Ice milk is the food prepared from the ingredients prescribed in § 20.1 for ice cream. The kind and quantity of optional dairy ingredients used, and the content of milk and non-fat milk solids therein, are such that the weight of milk fat is not less than 2 percent but not more than the lowest limits of ice cream by weight of finished ice milk. The weight of total milk solids is not less than 11 percent. Ice milk contains not less than 1.3 pounds of food solids per gallon and weighs not less than 4.5 pounds per gallon. In all other respects, ice milk conforms to the definition and standard of identity prescribed for ice cream under § 20.1.

Ice cream manufacturers in Pennsylvania, New Jersey, and New York, where the sale of low-fat frozen products resembling ice cream has been illegal under State laws, opposed the adoption of a definition and standard of identity for ice milk. It was shown that such a product is easily mistaken for ice cream. However, subsequent to these hearings the laws of Pennsylvania and New Jersey have been amended to permit the sale of ice milk.

It is concluded that the likelihood of correcting abuses in the sale of low-fat frozen products resembling ice cream by failing to adopt a standard for ice milk under the Federal Food, Drug, and Cosmetic Act is remote. The interest of consumers will be better served by giving the accurately descriptive name "ice milk" to such a product. The proposal to prohibit flavoring in ice milk packed in containers larger than a pint does not appear likely to correct suggested abuses in connection with the use of ice milk in preparing soda-fountain drinks, but rather to approve such use. With the minimum fat content of ice cream in a standard under the Federal Food, Drug, and Cosmetic Act fixed at 10 percent, a maximum fat content for ice milk that should differentiate ice milk from ice cream is 7 percent. The other limits suggested by the two major interested industries appear reasonable. Where coloring is used so as not to mislead consumers concerning the presence or amount of some other ingredient in the food it is reasonable for the standard of identity to permit coloring as an optional

ingredient in ice milk. The Federal Food, Drug, and Cosmetic Act requires food (with exceptions not here applicable) containing artificial coloring to bear labeling stating that fact. (R. 22, 68, 75-76, 89, 551, 2508-2511, 2513-2514, 2983-2988, 3000, 3037-3039, 3086-3096, 3325-3338, 3531-3556, 3576-3588, 3700-3704, 3722-3725, 3775-3786, 3791, 3835-3836, 3900-3904, 3908-3923, 3925-3954, 3955-3969, 3970-3993, 4000-4005, 4007-4111, 4139-4149, 5141-5145, 5245-5248, 5252, 5287-5297, 5328, 5341-5350, 5473-5482, 5959, 6228-6229, 7263, 7333-7337, 7345-7418, 7462-7468, 7498, 7616-7625, 7544-7554, 7566-7578, 7616-7625, 7632, 7650, 7665-7712, 7714-7726, 7729-7734, 7883-7894, 7898-7969, 7974-8019, 8031-8065, 8080-8085, 8109-8153, 8198-8221, 8245-8246, 8260-8300, 8337-8552, 8562-8645, 8917, 8925-9070, 9075-9195, 9197-9247, 9278-9308, 9332-9337, 9668, 9740-9741, 9847-9849, 9896-9898, 10341-10346, 10617, 10637-10640, 10662-10665, 10741-10743, 10847-10849, 11947-11948, 21059-21060, 21079-21082, 21346-21348, 21429-21461, 21499-21500; Ex. 62-63, 66-70; Govt. Ex. 15, 26, 27; OPEX. 98, 99, 101, 102, 105).

52. Sherbet is a frozen food having a number of characteristics that distinguish it from ice cream. The most outstanding characteristics of ice cream, even of the fruit types, are the smoothness, texture, and richness in taste and the food values arising from a relatively high content of milk fat and nonfat milk solids; whereas, the principal characteristic of most sherbet arises from its content of fruit or fruit juice. Sherbet contains milk-constituent solids, but in quantities much less than does ice cream, and these solids usually serve to impart to the frozen food no more than a slightly milky (not creamy) taste. Most States have standards or regulations limiting the milk fat and milk solids and requiring some acidity in sherbets, so as to enable consumers to distinguish sherbets from ice cream and ice milk. (R. 21-22, 69-70, 88, 398, 410, 443B, 530, 2504-2506, 4211, 4278-4279, 4834, 4914-4915, 5146-5147, 5249, 13064-13089, 13107-13152, 12159-13183, 21349-21368; Ex. 183, 184, 185, 188).

53. There are other significant differences between ice cream and sherbet. Sherbet has a tarter taste, due to its fruit content or to added acid or both; it is usually somewhat sweeter than ice

cream, lower in total solids, and of somewhat coarser texture. (R. 22, 69-70, 203, 209, 398, 530, 1961, 2524, 4186, 4196, 4212, 4223-4224, 4291-4292, 4834)

54. Small quantities of frozen foods that contain no fruit or fruit juice but that are characterized by mint, wine, chocolate, vanilla, tea, coffee, spices, ginger ale, or pistachio have at times been sold as sherbets. Some of these are not acidulated and do not have the characteristic tartness of sherbet. Such products can be made to resemble ice cream or ice milk; and to the extent that they are so made they tend toward deception of consumers. The name "sherbet" so generally implies a frozen food of fruity characteristics that it is likely to be misleading when applied to a non-fruity food. Such so-called sherbets containing no fruit nor fruit juice are very similar to ice milk, and it is concluded that they should comply with the standard for ice milk. (R. 72, 411-412, 4219, 4238, 4241-4244, 4249, 4257, 4304, 4834, 4914-4915, 5146-5147, 5249)

55. The findings with respect to the preparation of fruit ingredients for use in ice cream are applicable to fruit ingredients for use in sherbets. Screened or crushed tomato and rhubarb may be considered as fruits when used to characterize sherbets. The quantity of fruit used in sherbets by wholesale manufacturers varies widely. The International Association of Ice Cream Manufacturers proposed as minimum limits for fruit or fruit juice in sherbets: 2 percent including the peel, in the case of citrus sherbets; 6 percent in the case of berry sherbets; and 10 percent in the case of other sherbets. Such limits will serve some useful purposes in the consumer's interest. The International Association of Ice Cream Manufacturers also proposed that in addition to fruit there might be used in sherbets artificial fruit flavorings and natural food flavoring derived from fruit.

At present many manufacturers of sherbets add flavoring materials to enhance the flavor imparted by the actual fruit or fruit juice used. Such flavorings, if added without label declaration, are misleading to consumers who feel that sherbets should be characterized by fruit or fruit juice. The record shows that there is dissatisfaction with some sherbets the flavor of which has been described by dissatisfied consumers as

"artificial." Where such flavorings are added to sherbets containing fruit or fruit juice, label statements of their use are in the consumer's interest. Except in the case of citrus fruits, where the oils in the peel are suitable for use in flavoring sherbets, the evidence does not support the conclusion that so-called natural food flavoring derived from fruit was really what it purported to be. Most such flavorings contain materials derived from sources other than the fruit the name of which they bear. Use of any flavoring materials added to the fruit or fruit juice characterizing the particular sherbet should in the interest of consumers be declared on the label.

Where the flavoring material added consists in whole or in part of any artificial flavor, label statements that comply with the requirements of the general provisions of the Federal Food, Drug, and Cosmetic Act are "artificially flavored," "artificially flavored added," "with added artificial flavoring," or, if the artificial flavoring is not added as such but as a component of some other ingredient, the statement "----- artificially flavored," the blank being filled in with the name of such other ingredient. When the flavoring material added consists entirely of flavors other than artificial flavors, it will promote honesty and fair dealing in the interest of consumers for the label to bear the statement "flavoring added," "with added flavoring" or "----- flavoring added," the blank being filled in with the name of the flavoring used. (R. 70-270-271, 411, 417-418, 530, 543, 1960, 2504-2507, 2517-2518, 3031-3035, 4189-4190, 4192-4195, 4219, 4221-4222, 4246, 4261-4262, 4278-4279, 4289, 4295, 4303, 4336-4337, 4372, 4507, 5146-5147, 5917-5918, 5924-5931, 5972-5975, 6192, 6218-6223, 6243-6246, 6259-6266, 7426-7431, 9827-9828, 9849-9850, 11891-11892, 12785-12795, 12805-12876, 12904-12955; Ex. 180, 181)

for use in making ice cream. Sometimes milk is used alone or in combination with other dairy products. All the dairy ingredients found suitable for use in ice cream, are also suitable for use in fruit sherbet, but the use of skim milk in any of its forms as the sole dairy ingredient would tend to mislead consumers. Milk solids are less important as characterizing factors in sherbet than in ice cream. There was testimony that cheese whey gives sherbets certain desirable properties, enhancing the fruity characteristics, and such sherbets have been commercially distributed. Cheese whey is a suitable optional ingredient of fruit sherbet. Honesty and fair dealing in the interest of the consumer will be promoted by designating this ingredient for label declaration. Label statements that are informative to the consumer are "----- added" or "with added -----" the blank being filled in with the appropriate name "whey." (R. 70, 72, 400-402, 440, 443A, 530, 4186-4187, 4214, 4286)

57. The quantity of milk-constituent solids necessary to characterize fruit sherbet is at least 2 percent by weight of the finished product. More than 5 percent of such solids tends to make the product resemble ice cream or ice milk, as does a quantity of milk fat above 2 percent. Maxima of not more than 5 percent total milk-constituent solids and not more than 2 percent milk fat and minima of not less than 2 percent total milk-constituent solids and not less than 1 percent milk fat are reasonable limits to characterize fruit sherbet and to differentiate it from ice milk and water ice. (R. 440A, 4188, 4215-4217, 4236, 4281-4282, 4371-4372)

58. The sweetening agents that are used and are suitable for use in fruit sherbet are sugar, dextrose, invert sugar (as paste or sirup), corn sirup, glucose sirup, malt sirup, maltose sirup, and malt extract. The solids of such sirup and extract are also suitable for sweetening fruit sherbets. (R. 1786-1787, 1820, 1838, 1858, 1917, 1971, 4286)

59. Finding 32 is, in general, applicable to fruit sherbets, except that there is evidence indicating the use and suitability of egg white as a stabilizer for fruit sherbet. Pectin, in a quantity not more than 0.5 percent by weight, is also suitable for use for this purpose. (R. 70, 88,

439, 530, 2417, 2420-2421, 2430-2431, 2441, 2459-2460, 2478-2479, 2502, 4218, 4282-4285)

60. Most State laws defining sherbet are designed to prevent its manufacture in simulation of ice cream. One requirement of many such laws is that the acidity of the product be not less than 0.35 percent, calculated as lactic acid. The acidity of fruit sherbets averages about 0.5 percent to 0.6 percent. A minimum of 0.35 percent acidity, calculated as lactic acid, is a reasonable limit for fruit sherbet. (R. 22, 71-72, 2903-2904, 4257)

61. To reach the desired acidity, harmless acids may be added, in addition to fruit or fruit juice. Those generally used and suitable for use are citric, tartaric, lactic, and malic. Ascorbic acid is often an ingredient of the frozen fruit used. (R. 202-203, 207, 1978, 2006, 4197, 4223-4224, 4291-4292)

62. Salt and eggs or egg yolks are sometimes present in fruit sherbet as a result of the use of ice cream mix in its preparation. The quantity of egg yolk solids thus introduced is less than one-half of 1 percent. (R. 70, 400, 4211)

63. Much fruit sherbet is colored. When so used that they do not create a misleading impression as to the quantity of fruit or fruit juice present, colorings are suitable ingredients of fruit sherbet. The Federal Food, Drug, and Cosmetic Act requires food (with exceptions not here applicable) containing artificial coloring to bear labeling stating that fact. (R. 70, 1960, 2504-2506, 4200, 4211, 4251)

64. The dairy ingredient of fruit sherbet is pasteurized and may be homogenized, either before or after addition to the fruit sherbet mix. Pasteurization of the dairy ingredient separately or pasteurization of the entire mix is generally recognized as an essential step in the preparation of commercial fruit sherbet, and consumers expect the protection from milk-borne diseases afforded by pasteurization. (R. 72, 214, 398, 401)

65. The normal overrun in fruit sherbet is less than in ice cream. A requirement that the weight of fruit sherbet be not less than 6 pounds per gallon is effective in preventing the excessive incorporation of air and is a reasonable limit. (R. 69, 72, 449, 4278, 4290, 4386)

fruit sherbet is the word "sherbet," preceded by the common or usual name of the fruit or fruits from which the fruit ingredient used is obtained. When the names of two or more fruits are included such names shall be arranged in order of predominance, if any, by weight of the respective fruit ingredients used. (R. 76-77, 12882-12883, 12903)

67. Most of the commercially produced water ices are characterized by their fruit flavor and are of the same composition as the correspondingly flavored commercial fruit sherbets, except that no dairy ingredient is used therein. These products are herein designated as "water ices." Some nonfruit-flavored water ices are produced, but the record contains insufficient evidence to determine what the composition and characteristics of each of such various products should be, and they are not included in the term "water ice." (R. 72-73, 398-399, 4237, 4278, 4363-4365, 21368-21374)

68. Findings 32, 55, 58, and 59 are applicable to water ices for which standards are established. (R. 72-73, 401)

69. To obtain the desired tartness, the acids specified in finding 61 are frequently used and are suitable for use in water ice. (R. 72-73, 212, 1234-1235)

70. Finding 63 and 65 are also applicable to water ice. (R. 72-73, 89, 1234, 1235)

71. The common and usual name of each kind of water ice is the word "ice" preceded by the common or usual name of the fruit or fruits from which the fruit ingredient used is obtained. When the names of two or more fruits are included, such names shall be arranged in order of predominance, if any, by weight of the respective fruit ingredients used. (R. 73, 453)

72. There are other frozen foods that differ from ice cream, ice milk, fruit sherbet, and water ice. They are not sold under these names but usually are referred to collectively as "frozen confections." These "frozen confections" are distinguishable from the frozen desserts for which standards are being established on this record. Such "confections" are frozen without stirring, whereas ice cream, ice milk, fruit sherbets, and water ices are all stirred while being frozen. The desserts frozen without stirring are often referred to as "quiescently frozen confections." They are not sold in bulk but are purveyed to the consumer in in-

66. It is concluded that the name that should be prescribed for each kind of

dividually labeled packages. A proposal was advanced that a definition and standard of identity be prescribed for these articles under the name "frozen confections." The composition and characteristics of these articles are so varied that no blanket requirements sufficiently definitive to be of substantial significance to consumers is presently practicable. (R. 552, 553, 563, 597-598, 4253, 5163)

73. There was a limited amount of testimony showing that in some parts of the country there are being sold frozen products resembling ice cream in taste and appearance but differing from ice cream in that instead of milk fat they contained a vegetable fat. Such products were designated with fanciful names. No proposal was made to include vegetable fats as optional ingredients of ice cream or to adopt a definition and standard of identity for frozen foods resembling ice cream but in which a vegetable fat was used instead of milk fat. (R. 10339-10341, 10248, 10350, 21411, 21416-21417, 21419-21428, 21487-21489)

74. Testimony at the first phase of these hearings in 1942 indicated that a recent development in the manufacture of ice cream was the addition of a surface-active agent to the stabilizing ingredient. This new ingredient was often called an emulsifier or emulsifying agent. At that time, the only combination of stabilizer and surface-active agent described was a mixture of mono- and diglycerides of fat-forming fatty acids and gelatin. No evidence explaining the effect of mono- and diglycerides alone on the properties of ice cream was presented. (R. 2115-2121, 2128-2160, 2189-2198)

75. Since 1942, there has been an increase in the number of surface-active agents used in the manufacture of ice cream. There was voluminous testimony in the later hearings in support of proposals to make surface-active agents optional ingredients. This was to the effect that the use in ice cream mix of from 0.1 to 0.2 percent of surface-active agents caused ice cream to come from the freezers in a slightly stiffer and "drier" state. The properties of ice cream to which manufacturers apply the terms "wet" and "dry" are difficult to describe and apparently difficult to measure objectively, but some objective tests designed to show the effect of surface-

active agents were described and the results reported. These suggested that surface-active agents might cause the homogenization of the mix to be more effective by aiding in the division of the fat into minute particles. Some possible shortening of the time required for freezing was indicated. Surface-active agents are said to aid in producing smoother ice cream. They also are said to have an effect on the physical properties of ice milk and sherbet but not to the same extent as on the physical properties of ice cream. (R. 6027-6036, 6041-6043, 6077-6120, 6248-6249, 6382-6386, 6488-6492, 6521-6525, 6579-6584, 9498, 9542-9544, 9563, 9591, 9598-9600, 9768, 9771-9772, 9815-9816, 9819-9820, 9834-9835, 9854, 9858-9864, 10133-10139, 10144-10147, 10150-10152, 10166-10168, 10250-10332, 10338-10339, 10359-10368, 10384-10388, 10403-10406, 10473-10507, 10518-10535, 10559-10575, 10586-10597, 10606-10609, 10631-10637, 10655-10656, 10668-10690, 10727-10731, 10733-10734, 10744-10745, 10763, 11009-11021, 11034-11037, 11039-11043, 11057-11058, 11071-11095, 11686-11689, 16112-16125; Ex. 5, 97-104)

76. Several types of synthetically prepared surface-active agents are used in stabilizing preparations sold to ice cream manufacturers and are thus incorporated into ice cream, ice milk, sherbets, etc. A few ice cream manufacturers buy surface-active agents directly from the primary manufacturers. Mono- and diglycerides of fat-forming fatty acids were accepted as food ingredients prior to this hearing. The other surface-active agents are substances in which a commercial fatty acid is combined with a polyhydric alcohol other than glycerin. These polyhydric alcohols are synthetic substances that the human body does not utilize as food. The pharmacological properties of such surface-active agents cannot be predicted from their chemical composition, but their chemical composition draws their pharmacology into question. There was a large amount of testimony about the composition and properties of several surface-active agents manufactured by the Atlas Powder Company. Similar (if not identical) preparations are to some extent manufactured, or may at any time be manufactured, by other companies. Since

S 1097. S 1097 is the trade designation applied by Glyco Products Company to a product similar to S 1096, except that it was said to contain from 4 percent to 5 percent of potassium oleate. Details of the method of preparation were not furnished. (R. 10788, 10789)

Drew Mulse ME. Drew Mulse ME is the trade name applied by E. F. Drew Company to a substance said to be a glyceride containing 1 mol of stearic acid and 2 mols of lactic acid. It was said to be made by heating under vacuum a mixture of tristearin with glycerin and lactic acid or by heating a mixture of glycerin and stearic acid and lactic acid under vacuum until all fatty acid is combined. (R. 11050-11090, 11062-11064)

Glyceryl Monostearate (Drew). This was said to be a mixture of mono- and diglycerides manufactured by the E. F. Drew Company and referred to as glyceryl monostearate. (R. 11067)

Span 60. Span 60 is the Atlas trade name for a substance prepared by a reaction, under controlled conditions, between sorbitol and commercial stearic acid. The crude product is deodorized and bleached.

Span 60 is said to consist mainly of sorbitan (sorbitol less 1 mol of water) monostearate. Upon saponification with an alkali, it will yield approximately 74 percent of fatty acids and 31 percent of polyhydric residue having a hydroxyl value in the range of 1,200 to 1,300.

Span 60 is a tan-colored, hard, waxy solid melting in the range of 49° C. to 56° C. It is insoluble in water but dispersible in warm water above its melting point. The manufacturing specifications for Span 60 are:

Acid number: 10 maximum.
Saponification number: 150-165.
Hydroxyl number: 235-265.

The water content should not be above 1 percent. There is some ash present, but no data on quantity were furnished. In the bleaching process there is a small amount of mineral acid present, so that any soap that may be present is converted to fatty acid and an inorganic salt; and since this salt is insoluble in the ester, the filtration step (when used in preparing Span 60) tends to remove in ash-forming substances. (R. 13837-13840, 16074)

Tween 60. Tween 60 is Atlas' trade name for a substance prepared by reaction, under controlled conditions, be-

most of the testimony about surface-active agents referred to them by their trade names, and since such products though similar may not be identical in composition, their trade names will be used here. A description of the methods of preparation and probable chemical composition of most of the substances referred to by trade names was furnished by their manufacturers. Other than to their manufacturers, however, the composition of the various surface-active agents was unknown, and often these manufacturers themselves have reliable information only as to the process of manufacture and not as to exact chemical identity. The methods of preparation and something of the chemical composition of various surface-active agents proposed as optional ingredients are summarized below:

Mono- and diglycerides of fat-forming fatty acids. These preparations usually consist of mixtures of monoglycerides and diglycerides and some unchanged triglycerides in about the proportion of 40 parts of monoglycerides, 40 parts of diglycerides, and 20 parts of a mixture of unreacted triglycerides and glycerin. Such a product is usually made by heating a fatty substance such as lard or cottonseed oil (either of which may be hydrogenated) with glycerin, in the presence of a small amount of an alkali. Similar preparations containing larger proportions of the monoglycerides (sometimes as high as 90 percent) are sold under special names. Preparations containing more than 40 percent monoglycerides are usually made by a reaction between a fatty acid and glycerin. The monoglyceride is more effective as a surface-active agent than the diglyceride. (R. 6381-6383, 6385-6386, 10158, 13566-13585, 16699-16705, 16726-16755, 16777-16781)

Aldo 33. Aldo 33 is the trade name applied by Glyco Products Company to a mixture of mono- and diglycerides prepared from a reaction between hydrogenated lard and glycerin. Presumably an alkaline catalyst is used. Details of the method of preparation were not furnished. (R. 10778, 10785-10786)

S 1096. S 1096 is the trade designation applied by Glyco Products Company to a substance said to consist substantially of glyceryl monooleate. Details of the method of preparation were not furnished. (R. 10778, 10787)

Acid number: Not over 2.
Hydroxyl number: 25-45, inclusive.
Saponification number: 25-35.
Water content: Not given.

Myryl 52 contains some free fatty acid. What becomes of the unreacted ethylene oxide that may remain after termination of the reaction with stearic acid is not clear. Small amounts of ethylene glycol or diethylene glycol may get into the product from this and possibly other sources. The stearic acid used carries some impurities into the Myryl 52, including unsaponifiable matter in the fat from which the stearic acid was prepared. Although the theoretical composition of Myryl 52 calls for 40 mols of ethylene oxide, examination of an actual sample of the product indicated about 36 mols. (R. 13851, 16098, 16100, 17150-17154)

Myryl 45. Myryl 45 is the trade name applied by the Atlas Powder Company to a substance somewhat similar to Myryl 52 but containing 8 mols of ethylene oxide to 1 mol of commercial stearic acid. (R. 13967)
Emulgent 45 and 52. Emulgent 45 and 52 are trade names applied by the General Emulsifier Corporation to substances prepared for them which should be about the same products as Myryl 45 and 52. (R. 13965-13968)

E-4CS. E-4CS is the trade designation applied by Process Chemicals Company to a substance prepared, under controlled conditions, by a reaction between polyethylene glycol 400-W and commercial stearic acid. The reaction is planned to give an end product consisting of a mono-stearate of the polyethylene glycol. The final products of reaction contain some uncombined reactants and impurities present in the starting materials. The testimony indicates the likelihood that the glycol used contains small quantities of ethylene glycol and diethylene glycol. The possibility that the glycol used may contain impurities consisting of products similar to aldehydes is suggested. (R. 9776-9809)

PEG 42. PEG 42 is the name applied by Glyco Products Company to a substance formed by a reaction of stearic acid with a polyethylene glycol or mixture of such glycols known by the trade name Carbowax 1500. A substance referred to as gray phosphoric acid was said to be used as a catalyst. Conditions

various substances present in Spans as modified by reactions with ethylene oxide. The ethylene oxide does not react with a Span to form a compound containing a definite number of mols of ethylene oxide, but forms a range of compounds of varying molecular weights having, on the average, for the Tween compounds with which we are concerned, 20 mols of ethylene oxide to 1 mol of the Span used. When small quantities of water are present in the Spans used for making Tweens, this water will react with ethylene oxide to form glycols, including ethylene glycol and diethylene glycol. There are probably small quantities of unreacted ethylene oxide in the crude Tween-type compound before deodorization and bleaching. This is said to be removed before steam is applied.

The polyol portions of different Tween-type compounds are not identical. The actual chemical structure of the polyols of Tween-type compounds is not known to chemists of the Atlas Powder Company. No satisfactory data concerning possible presence of ethylene glycol and diethylene glycol in Tween-type compounds were furnished.

Tween-type compounds can be separated from ice cream in an impure state and the quantity of oxyethylene determined in the products removed. This procedure would not distinguish one Tween from another or distinguish a Tween-type compound from a Myryl-type compound, which would also be removed, if present, by the procedure used for separating Tweens. (R. 13846, 16079-16085, 16089-16091)

Myryl 52. Myryl 52 is Atlas' trade name for a substance prepared by a reaction, under controlled conditions, between commercial stearic acid and ethylene oxide. The reaction is planned to add 40 mols of ethylene oxide to 1 mol of stearic acid. The reaction product is deodorized with steam and bleached with hydrogen peroxide at 100° C.

Myryl 52 is a hard, brittle, waxy solid melting in the range of 42° C. to 47° C. It contains approximately 85 percent of oxyethylene units. Upon saponification with alkali it yields approximately 15 percent of fatty acid and 86 percent of polyhydric residue containing 99 percent oxyethylene and having a hydroxyl value of about 70. The manufacturing specifications for Myryl 52 call for:

method of manufacture are not described in the record.

Tween 80 is a lemon-colored, oily liquid having a viscosity of 300 to 475 centipoises at 25° C. It is completely soluble in water. It contains approximately 67 percent of oxyethylene units. Upon saponification with an alkali, it will yield approximately 25 percent of fatty acids and 77 percent of polyhydric residue having a hydroxyl value of approximately 160 and an oxyethylene content of approximately 87 percent. It was stated that the manufacturing specifications for Tween 80 call for:

Acid number: Not over 2.
Hydroxyl number: 68-83, inclusive.
Saponification number: 45-60, inclusive.
Water content: 2 1/2 percent to 3 percent.

Sporns. Span 60 and the other compounds grouped under the class name of Spans are not chemical entities but each is a mixture of several compounds. For example, Span 60 will contain some unreacted sorbitol or sorbitol anhydrides or both, some unreacted fatty acids, reaction products of catalysts and fatty acids, and esters of varying degrees of dehydration and fatty-acid content. The fatty acids will consist mainly of one acid, but appreciable amounts of related fatty acids will be present. The commercial grade fatty acids commonly used will also introduce some unsaponifiable matter from the fats from which they are prepared. There are some sorbitol (sorbitol less 2 mols of water) esters as well as sorbitan esters and some di- and tri-esters. Spans contain small quantities of moisture and some ash. The ash results from neutralization of the alkaline catalysts that are not entirely removed in the manufacturing process. Spans may also contain traces of nickel used as a catalyst in preparing sorbitol. Whether Spans may at times contain some reducing sugars is not entirely clear. There is no analytical method available at the present time for accurately identifying the polyol portions of Span compounds and no method for detecting Spans in ice cream. (R. 13846, 16067, 16076-16078)

Tweens. The compounds grouped under the class designation of Tweens are not chemical entities but are mixtures of several compounds. Since they are prepared by reactions between Spans and ethylene oxide, they contain the

tween Span 60 and ethylene oxide. The reaction is planned to add 20 mols of ethylene oxide to 1 mol of Span 60. The reaction product is deodorized by steam. It is bleached with hydrogen peroxide at 100° C. and is filtered.

Tween 60 is a yellow- to orange-colored, oily liquid or semigel, that is completely soluble in water. It contains approximately 67 percent oxyethylene units. Upon saponification with alkali it will yield approximately 25 percent of fatty acids and approximately 71 percent of polyhydric residue having a hydroxyl value of approximately 180 and an oxyethylene content of approximately 86 percent. The manufacturing specifications for Tween 60 call for:

Acid number: Not over 2.
Hydroxyl value: 80-100, inclusive.
Saponification number: 45-60, inclusive.
Water content: 2 1/2 percent to 3 percent.

Tween 65. Tween 65 is Atlas' trade name for a substance prepared by a reaction, under controlled conditions, between sorbitan tristearate and ethylene oxide. The reaction is planned to add 20 mols of ethylene oxide to 1 mol of sorbitan tristearate. Methods of purification were not specifically described but are presumably the same as used with Tween 60.

Tween 65 is a yellow-colored, waxy solid, insoluble in water but dispersible in warm water. It melts in the range of 27° C. to 31° C. It contains approximately 48 percent of oxyethylene units. Upon saponification with an alkali it will yield approximately 45 percent of fatty acids and 58 percent of a polyhydric residue having a hydroxyl value of approximately 250 and an oxyethylene content of approximately 83 percent. It was stated that the manufacturing specifications for Tween 65 call for:

Acid number: Not over 2.
Hydroxyl number: 45-55, inclusive.
Saponification number: 90-105, inclusive.
Water content: 2 1/2 percent to 3 percent.

Tween 80. Tween 80 is Atlas' trade name for a substance prepared by a reaction, under controlled conditions, between Span 80 (sorbitan monooleate) and ethylene oxide. The reaction is planned to add 20 mols of ethylene oxide to 1 mol of Span 80. The details of the

for controlling the reaction were not described. (R. 10795-10803)

S 1193, S 1193, S 1199 and S 1193 are designations applied by Glyco Products Company to substances said to be formed by a reaction between polyethylene glycol 400-W and glyceryl trioleate. The term "glyceryl trioleate" was used to describe an oil such as cottonseed oil or corn oil. The reaction is said to be catalyzed by a small amount of potassium hydroxide. Conditions necessary to bring about a reaction between these products were not described nor was there a satisfactory explanation of what substances are present after the reaction is completed. (R. 10780, 10799, 10804-10808)

Dri Freeze. *Dri Freeze* is the trade name applied by the E. F. Drew Company to a substance said to be a monoester of 400 polyoxyethylene glycol and stearic acid. The glycol and stearic acid, in definite proportions, are said to be heated together under vacuum to cause a reaction between them to take place. No description of the method for removing any impurities was given. Presumably this substance is similar to Myrj 45 in composition, if the reaction takes place as planned. (R. 11079-11080)

Analytical methods for the determination of polyhydric-alcohol emulsifiers in frozen desserts are not furnished.

77. The complex chemistry of the polyhydric-alcohol type of surface-active agents, their method of manufacture, the presence of impurities, and their relationship to substances known to be toxic all combine to draw into question the safety of these materials for use in foods so widely consumed in substantial quantities as are these frozen desserts. The voluminous record establishes that the polyhydric-alcohol type of surface-active agents are substances that are not generally recognized, among experts qualified by scientific training and experience to evaluate their safety, as having been adequately shown through scientific procedures or through experience based on common use in food to be safe for their intended use. They are "food additives" within the meaning of the food additives amendment of 1958. Before they can be used lawfully in frozen desserts, petitions must be filed to supply information required by section 409 of this amendment,

and regulations will have to be established. This record does not contain the needed information and will not support the establishment of regulations or exemptions. (See findings 76 and 78 of the proposed order (23 F.R. 1991).) Petitions have been filed for polyoxyethylene (20) sorbitan monooleate and polyoxyethylene (20) sorbitan tristearate and date have been granted for polyoxyethylene (20) sorbitan monooleate and polyoxyethylene (20) sorbitan tristearate, in frozen desserts (other than water ices). 78. Mono- and diglycerides of fat-forming fatty acids are known to be present in small quantities in fats and oils used for food purposes; they are formed to some extent when some foods containing triglycerides are cooked; in metabolic tests, utilizing small test animals, mono- and diglycerides appear to be metabolized and furnish approximately the same energy as triglycerides; and in the process of the human metabolism of triglycerides, mono- and diglycerides are formed, to some extent at least, from triglycerides before absorption of the triglycerides occurs.

An experiment reported by one investigator, in which rats did not do well on a diet containing a preparation said to be high in monoglyceride, was not considered by him to give an accurate indication of the properties of the monoglyceride. That the preparation fed had become rancid before use and the effects noted were due to rancidity appears possible. From the data available on the subject at the present time, mono- and diglycerides of fat-forming fatty acids appear suitable for incorporation in foods containing substantial quantities of triglycerides. (R. 13564-13585, 16678-16688, 17882-17885, 17898, 17913-17918, 17932-17933, 18017-18020, 18026-18028, 18034-18037, 18063-18066; Ex. 239, 243, 248-255, 260-264, 346, 347, 360-361, 364)

Conclusion. Upon consideration of the whole record and the foregoing findings of fact, it is concluded that it will promote honesty and fair dealing in the interest of consumers to fix and establish the definitions and standards of identity hereinafter set forth for the following foods: Ice cream, frozen custard, french ice cream, french custard ice cream, ice milk; fruit sherbet; and water ices.

PART 20—FROZEN DESSERTS; DEFINITIONS AND STANDARDS OF IDENTITY

Sec.

20.1 Ice cream; Identity; label statement of optional ingredients.

20.2 Frozen custard, french ice cream, french custard ice cream; Identity; label statement of optional ingredients.

20.3 Ice milk; Identity; label statement of optional ingredients.

20.4 Fruit sherbet; Identity; label statement of optional ingredients.

20.5 Water ices; Identity; label statement of optional ingredients.

AUTHORITY: §§ 20.1 to 20.5 issued under sec. 701, 52 Stat. 1055; 21 U.S.C. 371. Interpret or apply sec. 401, 52 Stat. 1046, as amended; 21 U.S.C. 341.

§ 20.1 Ice cream; Identity; label statement of optional ingredients.

(a) Ice cream is the food prepared by freezing, while stirring, a pasteurized mix composed of one or more of the optional dairy ingredients specified in paragraph (c) of this section, sweetened with one or more of the optional sweetening ingredients specified in paragraph (d) of this section. One or more of the optional characterizing ingredients specified in paragraph (b) of this section and one or more of the optional ingredients specified in paragraphs (d) (5) to (10) may be used to characterize the ice cream. One or more of the optional caseinates specified in paragraph (e) and one or more of the optional ingredients specified in paragraph (f) of this section may be used, subject to the conditions hereinafter set forth. Coloring may be added. The mix may be seasoned with salt, and may be homogenized. The kind and quantity of optional dairy ingredients used, as specified in paragraph (c) of this section, and the content of milk fat and nonfat milk solids therein, are such that the weights of milk fat and total milk solids are not less than 10 percent and 20 percent, respectively, of the weight of the finished ice cream; but in no case shall the content of milk solids not fat be less than 6 percent, except that when one or more of the bulky optional ingredients as specified in paragraph (b) (3) to (8), inclusive, of this section, are used, the weights of milk fat and total milk solids (exclusive of such fat and solids in any

malted milk used) are not less than 10 percent and 20 percent, respectively, of the remainder obtained by subtracting the weight of such optional ingredients, modified as prescribed below, from the weight of the finished ice cream; but in no case is the weight of milk fat or total milk solids less than 8 percent and 16 percent, respectively, of the weight of the finished ice cream. The optional caseinates specified in paragraph (e) of this section are not deemed to be milk solids. In calculating the reduction of milk fat and total milk solids from the use of bulky optional ingredients, chocolate and cocoa solids used shall be considered the bulky ingredients of paragraph (b) (3) of this section. In order to make allowance for additional sweetening ingredients needed when bulky ingredients are used, the weight of chocolate or cocoa solids may be multiplied by 1.5; the weight of fruit or nuts used may be multiplied by 1.4; and the weight of partially or wholly dried fruits or fruit juices may be multiplied by appropriate factors to obtain the original weights before drying and this weight multiplied by 1.4. The finished ice cream contains not less than 1.6 pounds of total solids to the gallon and weighs not less than 4.5 pounds to the gallon. Any artificial flavoring in any chocolate, cocoa, confectionery, or other ingredient used is an optional ingredient of the finished ice cream.

(b) The optional characterizing ingredients referred to in paragraph (a) of this section are:

(1) Ground spice, ground vanilla beans, infusion of coffee or tea, or any natural food flavoring.

(2) Any artificial food flavoring.

(3) Chocolate or cocoa, which may be added as such or as a suspension in sirup, and which may contain disodium phosphate or sodium citrate in such quantity that the finished ice cream contains not more than 0.2 percent by weight of disodium phosphate or sodium citrate. For the purposes of this section, the term "cocoa" means one or any combination of two or more of the following: Cocoa, breakfast cocoa, low-fat cocoa, and the unpulverized residual material prepared by removing part of the fat from ground cacao nibs.

(4) Mature fruit or the juice of mature fruit, either of which may be fresh, frozen, canned, concentrated, or partially or wholly dried. The fruit may be

whole, shredded, or comminuted; it may be sweetened, thickened with pectin or with one or more of the ingredients named in paragraph (f) (2) of this section, subject to the restriction on the total quantity of such substances in ice cream prescribed in that paragraph, and may be acidulated with citric or ascorbic acid. The fruit is prepared by the removal of pits, seeds, skins, and cores, where such removal is usual in preparing that kind of fruit for consumption as fresh fruit. In the case of fruit or fruit juice from which part of the water is removed, the substances contributing flavor volatilized during water removal may be condensed and reincorporated in the concentrated fruit or fruit juice. In the case of the citrus fruits the whole fruit, including the peel but excluding the seeds, may be used, and in the case of citrus juice or concentrated citrus juice, cold-pressed citrus oil may be added in an amount not exceeding that which would have been obtained if the peel from the whole fruit had been used. For the purposes of this section, the flesh of the coconut shall be considered a fruit.

- (5) Nut meats, which may be roasted, cooked in an edible fat or oil, or preserved in sirup, and which may be salted.
- (6) Malted milk.
- (7) Confectionery. For the purposes of this section, the term "confectionery" means candy, cakes, cookies, and glacéed fruits.
- (8) Properly prepared and cooked cereal.
- (9) Any distilled alcoholic beverage, including liqueurs, or any wine, or mixtures of two or more of these.

(c) The optional dairy ingredients referred to in paragraph (a) of this section are: Cream, dried cream, plastic cream (sometimes known as concentrated milk fat), butter, butter oil, milk, concentrated milk, evaporated milk, sweetened condensed milk, superheated condensed milk, dried milk, skim milk, concentrated skim milk, evaporated skim milk, condensed skim milk, superheated condensed skim milk, sweetened condensed skim milk, sweetened condensed part-skim milk, nonfat dry milk, sweet cream buttermilk, condensed sweet cream buttermilk, dried sweet cream buttermilk, and skim milk that has been concentrated and from which part of the lactose has been removed by crystallization. Water may be added, or water may

be evaporated from the mix. The sweet cream buttermilk and the concentrated sweet cream buttermilk or dried sweet cream buttermilk, when adjusted with water to a total solids content of 8.5 percent, has a titratable acidity of not more than 0.17 percent, calculated as lactic acid. The term "milk" as used in this section means cow's milk.

(d) The optional sweetening ingredients referred to in paragraph (a) of this section are:

- (1) Sugar (sucrose) or sugar sirup.
- (2) Dextrose.
- (3) Invert sugar (in paste or sirup form).
- (4) Corn sirup, dried corn sirup, glucose sirup, dried glucose sirup.
- (5) Maple sirup, maple sugar.
- (6) Honey.
- (7) Brown sugar.
- (8) Malt sirup, maltose sirup, malt extract.
- (9) Dried malt sirup, dried maltose sirup, dried malt extract.
- (10) Refiner's sirup.
- (11) Molasses (other than blackstrap).
- (12) Lactose.

(e) The optional caseinates referred to in paragraph (a) of this section which may be added to ice cream mix contain not less than 20 percent total milk solids are: Casein prepared by precipitation with gums, ammonium caseinate, calcium caseinate, potassium caseinate, and sodium caseinate. Caseinates may be added in liquid or dry form, but must be free of excess alkali.

(f) Other optional ingredients referred to in paragraph (a) of this section are:

- (1) Liquid eggs, frozen eggs, dried eggs, egg yolks, frozen egg yolks, and dried egg yolks. Any egg ingredient used is added to the mix before it is pasteurized. The total weight of egg yolk solids in the finished ice cream from one or a combination of two or more such ingredients is less than the minimum prescribed for frozen custard by § 20.2 of this chapter (1.4 percent).
- (2) Agar-agar, algin (sodium alginate), calcium sulfate, gelatin, gum acacia, guar seed gum, gum karaya, locust bean gum, oat gum, gum tragacanth, Irish moss, extract of Irish moss, lecithin, psyllium seed husk, sodium carboxymethylcellulose. The total weight of the solids of any such ingredi-

ent used singly or of any combination of two or more such ingredients used (including any such ingredient and pectin added separately to the fruit ingredient) is not more than 0.5 percent of the weight of the finished ice cream. Such ingredients may be added in admixture with dextrin.

(3) Monoglycerides or diglycerides or both from the glycerolysis of edible fats. The total weight of such ingredient is not more than 0.2 percent of the weight of the finished ice cream.

(g) (1) The name of the food is "ice cream." All statements permitted or required by this section relating to principal characterizing ingredient shall appear in written or printed words of equal size and prominence as those used for the name of the food, and shall appear on the label so as to be easily read by the consumer under customary conditions of purchase.

(2) When only natural flavoring is used as the sole principal characterizing ingredient, the label shall bear, as the characterizing ingredient statement, the common or usual name of the natural flavor: e.g., "vanilla ice cream, or vanilla-flavored ice cream."

(3) When any artificial flavoring is used as the sole principal characterizing ingredient in ice cream, the label shall bear, as the characterizing ingredient statement, "artificially flavored _____," the blank being filled in with the common or usual name of the flavor simulated; e.g., "artificially flavored vanilla."

(4) When both natural and artificial flavorings are used as the principal characterizing ingredients and the natural flavor ingredient constitutes the predominant flavor of any one of the principle flavoring ingredients, the label shall bear as the characterizing ingredient statement for that ingredient the common or usual name of the natural flavoring together with the statement "and artificial _____" or "and artificially flavored _____" or "and artificially flavored _____" the blank being filled in with the common or usual name of the flavor simulated; e.g., "vanilla and artificial vanilla flavor." Where the artificial flavoring constitutes the predominant flavor of any one of the principal flavoring ingredients, the label shall bear as the sole characterizing statement for that ingredient, "artificially flavored _____" the blank being filled in with

the common or usual name of the flavor simulated; e.g., "artificial vanilla flavor." Whenever a characterizing ingredient is used with an artificial flavor which does not simulate the principal flavor, the label shall include the statement "artificial flavor added" or "artificially flavored _____" the blank being filled in with the common or usual name of the flavor simulated; e.g., "chocolate, artificial vanilla flavor added."

§ 20.2 Frozen custard, french ice cream, french custard ice cream; identity; label statement of optional ingredients.

Frozen custard, french ice cream, french custard ice cream conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for ice cream by § 20.1, except that one or more of the optional egg ingredients permitted by § 20.1(f) (1) are used in such quantity that the total weight of egg yolk solids therein is not less than 1.4 percent of the weight of the finished frozen custard: *Provided, however*, That when the ingredients named in § 20.1(b) (3) through (8), inclusive, are used the content of egg yolk solids may be reduced in proportion to the bulky ingredient or ingredients added, under the conditions prescribed by § 20.1(a) for reduction in milk fat and total milk solids; but in no case is the content of egg yolk solids less than 1.12 percent.

§ 20.3 Ice milk; identity; label statement of optional ingredients.

Ice milk is the food prepared from the same ingredients and in the same manner prescribed in § 20.1 for ice cream and complies with all the provisions of § 20.1 (including the requirements for label statement of optional ingredients), except that:

- (a) Its content of milk fat is more than 2 percent but not more than 7 percent.
- (b) Its content of total milk solids is not less than 11 percent.
- (c) Caseinates may be added when the content of total milk solids is not less than 11 percent.
- (d) The provision for reduction in milk fat and total milk solids from the addition of bulky ingredients in § 20.1(a) does not apply.

the common or usual name of the flavor simulated; e.g., "artificial vanilla flavor."

Whenever a characterizing ingredient is used with an artificial flavor which does not simulate the principal flavor, the label shall include the statement "artificial flavor added" or "artificially flavored _____" the blank being filled in with the common or usual name of the flavor simulated; e.g., "chocolate, artificial vanilla flavor added."

§ 20.2 Frozen custard, french ice cream, french custard ice cream; identity; label statement of optional ingredients.

Frozen custard, french ice cream, french custard ice cream conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for ice cream by § 20.1, except that one or more of the optional egg ingredients permitted by § 20.1(f) (1) are used in such quantity that the total weight of egg yolk solids therein is not less than 1.4 percent of the weight of the finished frozen custard: *Provided, however*, That when the ingredients named in § 20.1(b) (3) through (8), inclusive, are used the content of egg yolk solids may be reduced in proportion to the bulky ingredient or ingredients added, under the conditions prescribed by § 20.1(a) for reduction in milk fat and total milk solids; but in no case is the content of egg yolk solids less than 1.12 percent.

§ 20.3 Ice milk; identity; label statement of optional ingredients.

Ice milk is the food prepared from the same ingredients and in the same manner prescribed in § 20.1 for ice cream and complies with all the provisions of § 20.1 (including the requirements for label statement of optional ingredients), except that:

- (a) Its content of milk fat is more than 2 percent but not more than 7 percent.
- (b) Its content of total milk solids is not less than 11 percent.
- (c) Caseinates may be added when the content of total milk solids is not less than 11 percent.
- (d) The provision for reduction in milk fat and total milk solids from the addition of bulky ingredients in § 20.1(a) does not apply.

(e) The quantity of food solids per gallon is not less than 1.3 pounds.

(f) When any artificial coloring is used in ice milk, directly or as a component of any other ingredient, the label shall bear the statement "artificially colored," "artificial coloring added," "with added artificial color," or "-----, an artificial color added," the blank being filled in with the common or usual name of the artificial color; or in lieu thereof, in case the artificial color is a component of another ingredient, "----- artificially colored."

(g) The name of the food is "ice milk."

(h) If both artificial color and artificial flavorings are used, the label statements may be combined.

§ 20.4 Fruit sherbets; identity; label statement of optional ingredients.

(a) Fruit sherbets are the foods each of which is prepared by freezing, while stirring, a mix composed of one or more of the optional characterizing fruit ingredients specified in paragraph (b) of this section and one or more of the optional dairy ingredients specified in paragraph (c) of this section, sweetened with one or more of the optional sweetening ingredients specified in paragraph (d) of this section. One or more of the optional ingredients specified in paragraph (e) of this section may be used, subject to the conditions hereinafter set forth. The mix of combined dairy ingredients, with or without other ingredients, is pasteurized. The titratable acidity of the finished fruit sherbet, calculated as lactic acid, is not less than 0.35 percent. Coloring may be added. The mix with or without added water may be seasoned with salt, and may be homogenized. The optional dairy ingredients used and the content of milk fat and nonfat milk solids therein are such that the weight of milk fat is not less than 1 percent and not more than 2 percent, and the weight of total milk solids is not less than 2 percent and not more than 5 percent of the weight of the finished fruit sherbet. The optional caseinates specified in paragraph (e) (5) of this section are not deemed to be milk solids. The finished fruit sherbet weighs not less than 6 pounds to the gallon.

(b) The optional fruit characterizing ingredients referred to in paragraph (a) of this section are any mature fruit or

the juice of any mature fruit. The fruit or fruit juice used may be fresh, frozen, canned, concentrated, or partially or wholly dried. The fruit may be thickened with pectin or other of the optional ingredients named in paragraph (e) (2) of this section, subject to the restriction on the total quantity of such substances in fruit sherbets prescribed in that paragraph. The fruit is prepared by the removal of pits, seeds, skins, and cores, where such removal is usual in preparing that kind of fruit for consumption as fresh fruit. The fruit may be screened, crushed, or otherwise comminuted. It may be acidulated with citric or ascorbic acid. In the case of concentrated fruit or fruit juices, from which part of the water is removed, substances contributing flavor volatilized during water removal may be condensed and reincorporated in the concentrated fruit or fruit juice. In the case of citrus fruits, the whole fruit, including the peel but excluding the seeds, may be used, and in the case of citrus juice or concentrated citrus juices, cold-pressed citrus oil may be added thereto in an amount not exceeding that which would have been obtained if the whole fruit had been used. The quantity of fruit ingredients used is such that, in relation to the weight of the finished sherbet, the weight of fruit or fruit juice, as the case may be (including water necessary to reconstitute partially or wholly dried fruits or fruit juices to their original moisture content), is not less than 2 percent in the case of citrus sherbets, 6 percent in the case of berry sherbets, and 10 percent in the case of sherbets prepared with other fruits. For the purposes of this section, tomatoes and rhubarb are considered as kinds of fruit.

(c) The optional dairy ingredients referred to in paragraph (a) of this section are: Cream, dried cream, plastic cream (sometimes known as concentrated milk fat), butter, butter oil, milk, concentrated milk, evaporated milk, superheated condensed milk, sweetened condensed milk, dried milk, skim milk, concentrated skim milk, evaporated skim milk, condensed skim milk, superheated condensed skim milk, sweetened condensed skim milk, nonfat dry milk, sweet cream buttermilk, condensed sweet cream buttermilk, dried sweet cream buttermilk, skim milk that has been con-

centrated and from which part of the lactose has been removed after crystallization, cheese whey, concentrated cheese whey, dried cheese whey. Water may be added. The sweet cream buttermilk, concentrated sweet cream buttermilk, or dried sweet cream buttermilk, adjusted with water to a total solids content of 8.5 percent in each case, has a titratable acidity of not more than 0.17 percent, calculated as lactic acid. The term "milk" as used in this section means cow's milk.

(d) The optional sweetening ingredients referred to in paragraph (a) of this section are: Sugar (sucrose), dextrose, invert sugar (paste or sirup), glucose sirup, dried glucose sirup, corn sirup, dried corn sirup, malt sirup, malt extract, dried malt sirup, dried malt extract, maltose sirup, dried maltose sirup.

(e) Other optional ingredients referred to in paragraph (a) of this section are:

(1) Liquid eggs, frozen eggs, dried eggs, egg yolks, frozen yolks, dried yolks; but the weight of egg yolk solids therein is less than $\frac{1}{2}$ of 1 percent of the weight of the finished fruit sherbet.

(2) Agar-agar, algin (sodium alginate), calcium sulfate, egg white, gelatin, gum acacia, guar seed gum, gum karaya, locust bean gum, oat gum, gum tragacanth, Irish moss, extract of Irish moss, lecithin, pectin, psyllium seed husk, sodium carboxymethylcellulose. The total weight of the solids of any such ingredient used singly or of any combination of two or more such ingredients used (including any such ingredient added separately to the fruit ingredient) is not more than 0.5 percent of the weight of the finished fruit sherbet. Such ingredients may be added in admixture with dextrin.

(3) Monoglycerides or diglycerides or both from the glycerolysis of edible fats. The total weight of such ingredient is not more than 0.2 percent of the weight of the finished fruit sherbet.

(4) Citric acid, tartaric acid, malic acid, lactic acid, ascorbic acid, or any combination of two or more of these in such quantity as seasons the finished food.

(5) Casein prepared by precipitation with gums, ammonium caseinate, calcium caseinate, potassium caseinate, sodium caseinate.

(6) Any natural food flavoring.

(7) Any artificial flavoring.

(f) The name of each such fruit sherbet is "----- sherbet," the blank being filled in with the common name of the fruit or fruits from which the fruit ingredients used are obtained. When the names of two or more fruits are included, such names shall be arranged in order of predominance, if any, by weight of the respective fruit ingredients used.

(g) (1) When the optional ingredients artificial coloring, artificial flavoring, or natural flavoring are used in fruit sherbet they shall be named on the labels as follows:

(i) The label shall designate artificial coloring by the statement "artificially colored," "artificial coloring added," "with added artificial coloring," or "----- an artificial color added," the blank being filled in with the name of the artificial coloring used.

(ii) The label shall designate artificial flavoring by the statement "artificially flavored," "artificial flavoring added," "with added artificial flavoring," or "----- an artificial flavor added," the blank being filled in with the name of the artificial flavoring used.

(iii) The label shall designate natural flavoring by the statement "flavoring added," "with added flavoring," or "----- flavoring added," the blank being filled in with the name of the being filled in with the name of the flavoring used.

(iv) Whenever artificial flavoring is not added as such but as a component of some other ingredient, the label shall include the statement "----- artificially flavored," the blank being filled in with the name of such other ingredient.

Label statements may be combined, as for example, "with added flavoring and artificial coloring."

(2) When cheese whey, concentrated cheese whey, or dried cheese whey is used in fruit sherbet the label shall bear the statement "----- added," or "with added -----," the blank being filled in with the appropriate name "whey," "concentrated whey," or "dried whey."

(h) Where one or more of the optional ingredients artificial coloring, artificial flavoring, or natural flavoring are used and there appears on the label any representation as to the fruit or fruits in the sherbet, such representation shall be immediately and conspicuously accompanied by appropriate label statements

as prescribed in paragraph (g) (1) of this section, showing the optional ingredients used.

(i) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase the statements specified in this section, showing the optional ingredients used, shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter.

§ 20.5 Water ices; identity; label statement of optional ingredients.

(a) Water ices are the foods, each of which is prepared by freezing, while stirring, a mix composed of one or more of the optional characterizing fruit ingredients specified in paragraph (b) of this section, sweetened with one or more of the optional sweetening ingredients specified in paragraph (c) of this section. One or more of the optional ingredients specified in paragraph (d) of this section may be used, subject to the conditions hereinafter set forth. The titratable acidity of the finished water ice, calculated as lactic acid, is not less than 0.35 percent. Coloring may be added. The mix, with or without added water, may be seasoned with salt, and may be homogenized. The finished water ice weighs not less than 6 pounds to the gallon.

(b) The optional fruit ingredients referred to in paragraph (a) of this section are any mature fruit or the juice of any mature fruit. The fruit or fruit juice used may be fresh, frozen, canned, concentrated, or partially or wholly dried. The fruit may be thickened with pectin or other of the optional ingredients named in paragraph (d) (1) of this section

tion subject to the restriction on the total quantity of such substances in water ices prescribed in that paragraph. The fruit is prepared by the removal of pits, seeds, skins, and cores where such removal is usual in preparing that kind of fruit for consumption as fresh fruit. The fruit may be screened, crushed, or otherwise comminuted. It may be acidulated with citric or ascorbic acid. In the case of fruit or fruit juices from which part of the water is removed, substances contributing flavor volatilized during water removal may be condensed and reincorporated in the concentrated fruit or fruit juice. In the case of citrus fruits, the whole fruit, including the peel but excluding the seeds, may be used, and in the case of citrus juice or concentrated citrus juices, cold-pressed citrus oil may be added thereto in an amount not exceeding that which would have been obtained if the whole fruit had been used. The quantity of fruit ingredients used is such that in relation to the weight of the finished water ice, the weight of fruit or fruit juice as the case may be (including water necessary to reconstitute partially or wholly dried fruits or fruit juices to their original moisture content) is not less than 2 percent in the case of citrus ices, 6 percent in the case of berry ices, and 10 percent in the case of ices prepared with other fruits.

(c) The optional sweetening ingredients referred to in paragraph (a) of this section are: Sugar (sucrose), dextrose, invert sugar (paste or sirup), glucose sirup, dried glucose sirup, corn sirup, dried corn sirup, malt sirup, malt extract, dried malt sirup, dried malt extract, maltose sirup, dried maltose sirup.

(d) Other optional ingredients referred to in paragraph (a) of this section are:

(1) Agar-agar, algin (sodium alginate), egg white, gelatin, gum acacia, guar seed gum, gum karaya, locust bean gum, oat gum, gum tragacanth, Irish moss, extract of Irish moss, pectin, psyllium seed husk, sodium carboxymethylcellulose. The total weight of the solids of any such ingredient used singly, or of any combination of two or more such ingredients used (including any such ingredient added separately to the fruit ingredient), is not more than 0.5 percent of the weight of the finished water ice. Such ingredients may be added in admixture with dextrin.

(2) Citric acid, tartaric acid, malic acid, lactic acid, ascorbic acid, or any combination of two or more of these in such quantity as seasons the finished food.

(3) Any natural flavoring.

(4) Any artificial flavoring.

(e) The name of each such water ice is "----- ice," the blank being filled in with the common name of the fruit or fruits from which the fruit ingredient used is obtained. When the names of two or more fruits are included, such names shall appear in the order of predominance, if any, by weight of the respective fruit ingredients used.

(f) When the optional ingredients artificial coloring, artificial flavoring, or natural flavoring are used in water ices they shall be named on the labels as follows:

(1) The label shall designate artificial coloring by the statement "artificially colored," "artificial coloring added," "with added artificial coloring," or "----- an artificial color added," the blank being filled in with the name of the artificial coloring used.

(2) The label shall designate artificial flavoring by the statement "artificially

flavored," "artificial flavoring added," "with added artificial flavoring," or "----- an artificial flavor added," the blank being filled in with the name of the artificial flavoring used.

(3) The label shall designate natural flavoring by the statement "flavoring added," "with added flavoring," or "----- flavoring added," the blank being filled in with the name of the flavoring used.

Label statements may be combined, as for example, "flavoring and artificial coloring added."

(g) Where one or more of the optional ingredients artificial coloring, artificial flavoring, or natural flavoring are used and there appears on the labeling any representation as to the fruit or fruits in the ice, such representation shall be immediately and conspicuously accompanied by appropriate label statements as prescribed in paragraph (f) of this section, showing the optional ingredients used.

(h) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements set out in this section, showing the optional ingredients used, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

Effective date. This order shall become effective 90 days from the date of its publication in the FEDERAL REGISTER.

Dated: July 19, 1960.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 60-6879; Filed, July 26, 1960; 8:48 a.m.]

