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## TITLE 7—AGRICULTURE

### Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders)

#### PART 930—MILK IN THE TOLEDO, OHIO, MARKETING AREA

##### ORDER, AMENDING ORDER, REGULATING HANDLING

§ 930.0 *Findings and determinations—*  
(a) *Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure covering the formulation of marketing agreements and orders (7 CFR, Supps., 900.1 et seq., 12 F. R. 1159, 4904), a public hearing was held upon certain proposed amendments to the tentative marketing agreement heretofore approved by the Secretary of Agriculture and to the order, as amended, regulating the handling of milk in the Toledo, Ohio, milk marketing area; and a decision was made with respect to amendments by the Secretary on April 27, 1948. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

(2) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices specified in the order, as amended and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order, as amended and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and com-

mercial activity specified in a marketing agreement upon which hearings have been held.

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

(b) *Additional findings.* It is necessary to make effective promptly the present amendments to the said order, as amended, to reflect current marketing conditions, and to insure the production of an adequate future supply of milk. Any delay beyond May 1, 1948, in the effective date of this order, as amended, and as hereby further amended, will seriously threaten the supply of milk for the Toledo, Ohio, milk marketing area and will disrupt orderly marketing. The changes effected by this order, amending the order, as amended, do not require substantial or extensive preparation by persons affected prior to the effective date. The time intervening between the date of issuance of this order and its effective date affords persons affected a reasonable time to prepare for its effective date. In view of the foregoing, it is impracticable, unnecessary, and contrary to the public interest to delay the effective date of this order for 30 days after its publication (Sec. 4 (c), Administrative Procedure Act, Pub. Law 404, 79th Cong. 60 Stat. 237).

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

(1) The refusal or failure of such handlers to sign said marketing agreement

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tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order, further amending the said order, as amended, is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order further amending the said order, as amended, is approved or favored by at least two-thirds of the producers, who during February 1948 (said month having been determined to be a representative period) were engaged in the production of milk for sale in the said marketing area.

*Order relative to handling.* It is therefore ordered, that on and after the first day of May 1948, the handling of milk in the Toledo, Ohio, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and

as hereby further amended; and the aforesaid order, as amended, is hereby further amended as follows:

1. Delete from § 930.5 (a) (1) the two provisos contained therein and substitute therefor the following: "Provided, That for the months of May, June, July, and August, 1948, the amount added to the basic formula price shall be \$1.05."

(48 Stat. 31, 670, 875, 49 Stat. 730, 50 Stat. 246; 7 U. S. C. 601 et seq., sec. 102, Reorg. Plan 1 of 1947, 12 F. R. 4534)

Issued at Washington, D. C., this 28th day of April 1948, to be effective on and after the first day of May 1948.

[SEAL]

N. E. DODD,  
Acting Secretary of Agriculture.

[F. R. Doc. 48-3908; Filed, Apr. 29, 1948;  
9:45 a. m.]

PART 965—MILK IN THE CINCINNATI, OHIO,  
MARKETING AREA

ORDER, AMENDING ORDER, REGULATING  
HANDLING

§ 965.1 *Findings and determinations*—(a) *Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure covering the formulation of marketing agreements and orders (7 CFR, Supps., 900.1 et seq., 12 F. R. 1159, 4904) a public hearing was held upon certain proposed amendments to the tentative marketing agreement heretofore approved by the Secretary of Agriculture and to the order, as amended, regulating the handling of milk in the Cincinnati, Ohio, marketing area; and a decision was made with respect to amendments by the Secretary on April 22, 1948. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

(2) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices specified in the order, as amended and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order, as amended and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing

agreement upon which hearings have been held.

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

(b) *Additional findings.* It is necessary to make effective promptly the present amendments to the said order, as amended, to reflect current marketing conditions, and to insure the production of an adequate future supply of milk. Any delay beyond May 1, 1948, in the effective date of this order, as amended, and as hereby further amended, will seriously threaten the supply of milk for the Cincinnati marketing area and will disrupt orderly marketing. The changes effected by this order, amending the order, as amended do not require substantial or extensive preparation by persons affected prior to the effective date. The time intervening between the date of issuance of this order and its effective date affords persons affected a reasonable time to prepare for its effective date. In view of the foregoing, it is impracticable, unnecessary, and contrary to the public interest to delay the effective date of this order for 30 days after its publication (Sec. 4 (c) Administrative Procedure Act, Pub. Law 404, 79th Cong. 60 Stat. 237)

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

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

(2) The issuance of this order, further amending the said order, as amended, is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order further amending the said order, as amended, is approved or favored by at least two-thirds of the producers who, during February 1948 (said month having been determined to be a representative period) were engaged in the production of milk for sale in the said marketing area.

*Order relative to handling.* It is therefore ordered, that on and after the first day of May 1948 the handling of milk in the Cincinnati, Ohio, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended; and the afore-

said order, as amended, is hereby further amended as follows:

1. Delete from § 965.6 (a) (1) the provisos contained therein and substitute therefor the following: "Provided, That for the delivery periods of May, June, and July 1948, the amount added to the Class III price shall be \$1.35."

2. Delete from § 965.6 (a) (2) the provisos contained therein and substitute therefor the following: "Provided, That for the delivery periods of May, June, and July 1948, the amount added to the Class III price shall be \$0.90."

(48 Stat. 31, 670, 875, 49 Stat. 730, 50 Stat. 246; 7 U. S. C. 601 et seq., sec. 102, Reorg. Plan 1 of 1947, 12 F. R. 4534)

Issued at Washington, D. C., this 28th day of April 1948, to be effective on and after the 1st day of May 1948.

[SEAL]

N. E. DODD,  
Acting Secretary of Agriculture.

[F. R. Doc. 48-3913; Filed, Apr. 23, 1948;  
9:46 a. m.]

PART 971—MILK IN THE DAYTON-SPRINGFIELD,  
OHIO, MARKETING AREA

ORDER, AMENDING ORDER, REGULATING  
HANDLING

§ 971.0 *Findings and determinations*—(a) *Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73d Congress (May 12, 1933) as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act") and the rules of practice and procedure covering the formulation of marketing agreements and orders (7 CFR, Supps., 900.1 et seq., 12 F. R. 1159, 4904) public hearings were held upon certain proposed amendments to the tentative marketing agreement heretofore approved by the Secretary of Agriculture and to the order, as amended, regulating the handling of milk in the Dayton-Springfield, Ohio, milk marketing area; and a decision was made with respect to amendments by the Secretary on April 22, 1948. Upon the basis of the evidence introduced at such hearings and the record thereof, it is found that:

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

(2) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

## RULES AND REGULATIONS

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

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

(b) *Additional findings.* It is necessary to make effective promptly the present amendments to the said order, as amended, to reflect current marketing conditions, and to insure the production of an adequate future supply of milk. Any delay beyond May 1, 1948, in the effective date of this order, as amended, and as hereby further amended, will seriously threaten the supply of milk for the Dayton-Springfield, Ohio, marketing area and will disrupt orderly marketing. The changes effected by this order, amending the order, as amended, do not require substantial or extensive preparation by persons affected prior to the effective date. The time intervening between the date of issuance of this order and its effective date affords persons affected a reasonable time to prepare for its effective date. In view of the foregoing, it is impracticable, unnecessary, and contrary to the public interest to delay the effective date of this order for 30 days after its publication (sec. 4 (c), Administrative Procedure Act, Pub. Law 404, 79th Cong. 60 Stat. 237)

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

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

(2) The issuance of this order, further amending the said order, as amended, is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area, and

(3) The issuance of this order further amending the said order, as amended, is approved or favored by at least two-thirds of the producers who, during February 1948 (said month having been determined to be a representative period) were engaged in the production of milk for sale in the said marketing area.

*Order relative to handling.* It is therefore ordered, That on and after the first

day of May 1948, the handling of milk in the Dayton-Springfield marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended; and the aforesaid order, as amended, is hereby further amended as follows:

1. Delete from § 971.5 (a) subparagraph (3) and substitute therefor the following:

(3) Multiply by 0.035 the price per hundredweight of butterfat made into butter as computed pursuant to paragraph (d) (2) of this section, and add thereto the price per hundredweight of skim milk computed pursuant to paragraph (d) (1) of this section, less 20 cents for the months of January, February, March, August, September, October, November, and December, multiplied by 0.965.

2. Delete from § 971.5 (b) (1) the proviso contained therein and substitute therefor the following: "*Provided*, That for the delivery periods of May, June, and July, 1948, the amount added to the basic formula price shall be \$1.05."

3. Delete from § 971.5 (c) (1) the proviso contained therein and substitute therefor the following: "*Provided*, That for the delivery periods of May, June, and July, 1948, the amount added to the basic formula price shall be \$0.75."

(48 Stat. 31, 670, 875, 49 Stat. 730, 50 Stat. 246; 7 U. S. C. 601 et seq.; sec. 102, Reorg. Plan 1 of 1947, 12 F. R. 4534)

Issued at Washington, D. C., this 28th day of April 1948 to be effective on and after the first day of May, 1948.

[SEAL] N. E. DODD,  
*Acting Secretary of Agriculture.*

[F. R. Doc. 48-3911; Filed, Apr. 29, 1948; 9:45 a. m.]

PART 971—MILK IN THE DAYTON-SPRINGFIELD, OHIO, MARKETING AREA

ORDER TERMINATING ORDER SUSPENDING CERTAIN PROVISIONS

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

(1) The "Order Suspending Certain Provisions" of § 971.5 (d) (1) of the order, dated September 25, 1947 (12 F. R. 6430) does not tend to effectuate the declared policy of the act on and after May 1, 1948. Changes resulting from the said suspension action have been incorporated in an amendment to the order effective concurrent herewith, following a public hearing and a decision issued by the Secretary of Agriculture, April 22, 1948.

(2) In accordance with the Administrative Procedure Act (Public Law 404, 79th Cong., 60 Stat. 237) notice of proposed rule making, public procedure thereon, and publication or service of this suspension order 30 days prior to its effective date hereby are found to be im-

practicable, unnecessary, and contrary to the public interest. The termination of the said suspension order and the concurrent amendment of the order in no way changes the application and results of the provisions of the order.

It is therefore ordered, That the "Order Suspending Certain Provisions", dated September 25, 1947, be and it hereby is terminated on and after May 1, 1948.

(48 Stat. 31, 670, 675, 49 Stat. 750, 50 Stat. 246, 61 Stat. 707; 7 U. S. C. 601 et seq.)

Done at Washington, D. C., this 28th day of April 1948.

[SEAL] N. E. DODD,  
*Acting Secretary of Agriculture.*

[F. R. Doc. 48-3914; Filed, Apr. 29, 1948; 9:46 a. m.]

PART 972—MILK IN TRI-STATE MARKETING AREA

ORDER, AMENDING ORDER, REGULATING HANDLING

§ 972.0 *Findings and determinations*—(a) *Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act") and the rules of practice and procedure covering the formulation of marketing agreements and orders (7 CFR, Supps., 900.1 et seq., 12 F. R. 1159, 4904), a public hearing was held upon certain proposed amendments to the tentative marketing agreement heretofore approved by the Secretary of Agriculture and to the order, as amended, regulating the handling of milk in the Tri-State milk marketing area; and a decision was made with respect to amendments by the Secretary on April 22, 1948. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

(2) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices specified in the order, as amended and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order, as amended and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a mar-

keting agreement upon which hearings have been held.

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

(b) *Additional findings.* It is necessary to make effective promptly the present amendments to the said order, as amended, to reflect current marketing conditions, and to insure the production of an adequate future supply of milk. Any delay beyond May 1, 1948, in the effective date of this order, as amended, and as hereby further amended, will seriously threaten the supply of milk for the Tri-State milk marketing area and will disrupt orderly marketing. The changes effected by this order, amending the order, as amended, do not require substantial or extensive preparation by persons affected prior to the effective date. The time intervening between the date of issuance of this order and its effective date affords persons affected a reasonable time to prepare for its effective date. In view of the foregoing, it is impracticable, unnecessary, and contrary to the public interest to delay the effective date of this order for 30 days after its publication (Sec. 4 (c) Administrative Procedure Act, Pub. Law 404, 79th Cong. 60 Stat. 237)

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

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

(2) The issuance of this order, further amending the said order, as amended, is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order further amending the said order, as amended, is approved or favored by at least two-thirds of the producers who, during February 1948 (said month having been determined to be a representative period) were engaged in the production of milk for sale in the said marketing area.

*Order relative to handling.* It is therefore ordered, that on and after the first day of May 1948, the handling of milk in the Tri-State milk marketing area shall be in conformity to and in compliance with the terms and conditions of the

aforesaid order, as amended, and as hereby further amended; and the aforesaid order, as amended, is hereby further amended as follows:

1. Delete from § 972.5 (b) the provisos contained therein and substitute therefor the following: "Provided, That for the delivery periods of May, June, July, and August, 1948, the amount added to the basic formula price shall be \$1.35 for the Huntington district plants and \$1.15 for other plants."

2. Delete from § 972.5 (c) the provisos contained therein and substitute therefor the following: "Provided, That for the delivery periods of May, June, July, and August, 1948, the amount added to the basic formula price shall be \$1.05 for the Huntington district plants and \$0.85 for other plants."

(48 Stat. 31, 670, 875, 49 Stat. 730, 50 Stat. 246; 7 U. S. C. 601 et seq.; sec. 102, Reorg. Plan 1 of 1947, 12 F. R. 4534)

Issued at Washington, D. C., this 28th day of April 1948, to be effective on and after the 1st day of May 1948.

[SEAL] N. E. DODD,  
Acting Secretary of Agriculture.

[F. R. Doc. 48-3809; Filed, Apr. 29, 1948;  
9:45 a. m.]

#### PART 974—MILK IN COLUMBUS, OHIO, MARKETING AREA

##### ORDER, AMENDING ORDER, REGULATING HANDLING

§ 974.0 *Findings and determinations*—(a) *Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure covering the formulation of marketing agreements and orders (7 CFR, Supps., 900.1 et seq., 12 F. R. 1159, 4904) a public hearing was held upon certain proposed amendments to the tentative marketing agreement heretofore approved by the Secretary of Agriculture and to the order, as amended, regulating the handling of milk in the Columbus, Ohio, milk marketing area; and a decision was made with respect to amendments by the Secretary on April 22, 1948. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

(2) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices specified in the order, as amended and as hereby further amended, are such

prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

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

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

(b) *Additional findings.* It is necessary to make effective promptly the present amendments to the said order, as amended, to reflect current marketing conditions, and to insure the production of an adequate future supply of milk. Any delay beyond May 1, 1948, in the effective date of this order, as amended, and as hereby further amended, will seriously threaten the supply of milk for the Columbus, Ohio, marketing area and will disrupt orderly marketing. The changes effected by this order, amending the order, as amended, do not require substantial or extensive preparation by persons affected prior to the effective date. The time intervening between the date of issuance of this order and its effective date affords persons affected a reasonable time to prepare for its effective date. In view of the foregoing, it is impracticable, unnecessary, and contrary to the public interest to delay the effective date of this order for 30 days after its publication (Sec. 4 (c), Administrative Procedure Act, Pub. Law 404, 79th Cong., 60 Stat. 237).

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

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

(2) The issuance of this order, further amending the said order, as amended, is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order further amending the said order, as amended, is approved or favored by at least two-thirds of the producers who, during February 1948 (said month having been determined to be a representative period)

were engaged in the production of milk for sale in the said marketing area.

*Order relative to handling.* It is therefore ordered, That on and after the first day of May 1948, the handling of milk in the Columbus, Ohio, milk marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended; and the aforesaid order, as amended, is hereby further amended as follows:

Delete from § 974.5 (b) the second and third provisos contained therein and substitute therefor the following: "And provided further That for the delivery periods of May, June, and July, 1948, the amounts to be added to the basic formula prices per hundredweight of skim milk and butterfat, respectively, shall be: for Class I milk, \$0.2798 and \$20.86; for Class II milk \$0.2098 and \$15.64; and for Class III milk \$0.1679 and \$12.52."

(48 Stat. 31, 670, 875, 49 Stat. 730, 50 Stat. 246; 7 U. S. C. 601 et seq., sec. 102 Reorg. Plan 1 of 1947, 12 F. R. 4534)

Issued at Washington, D. C., this 28th day of April 1948, to be effective on and after the 1st day of May 1948.

[SEAL] N. E. DODD,  
Acting Secretary of Agriculture.

[F. R. Doc. 48-3910; Filed, Apr. 29, 1948;  
9:45 a. m.]

PART 975—MILK IN CLEVELAND, OHIO,  
MARKETING AREA  
ORDER, AMENDING ORDER, REGULATING  
HANDLING

§ 975.0 *Findings and determinations*—(a) *Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73d Congress (May 12, 1933) as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act") and the rules of practice and procedure covering the formulation of marketing agreements and orders (7 CFR, Supps., 900.1 et seq., 12 F. R. 1159, 4904) a public hearing was held upon certain proposed amendments to the tentative marketing agreement heretofore approved by the Secretary of Agriculture and to the order, as amended, regulating the handling of milk in the Cleveland, Ohio, marketing area; and a decision (13 F. R. 2136) was made with respect to amendments by the Secretary on April 19, 1948. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

(2) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions

which affect market supplies of and demand for such milk, and the minimum prices specified in the order, as amended and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

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

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

(b) *Additional findings.* "In view of the emergency nature of the action being taken it is necessary to make effective promptly these amendments to the said order, as amended, to reflect current marketing conditions, and to insure the production of an adequate future supply of milk. Any delay beyond May 1, 1948, in the effective date of this order, as amended, and as hereby further amended, will seriously threaten the supply of milk for the Cleveland, Ohio, marketing area and will disrupt orderly marketing. The changes effected by this order, amending the order, as amended, do not require substantial or extensive preparation by persons affected prior to the effective date. The time intervening between the date of issuance of this order and its effective date affords persons affected a reasonable time to prepare for its effective date. In view of the foregoing, it is impracticable, unnecessary, and contrary to the public interest to delay the effective date of this order for 30 days after its publication (Sec. 4 (c), Administrative Procedure Act, Pub. Law 404, 79th Cong., 60 Stat. 237)

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the milk covered by this order, as amended) of more than 50 percent of the volume of milk covered by the aforesaid order, as amended, and as hereby further amended, which is marketed within the Cleveland, Ohio, marketing area, refused or failed to sign the marketing agreement regulating the handling of milk in the said marketing area which was heretofore approved (13 F. R. 2136) by the Secretary of Agriculture; and it is hereby further determined that:

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

(2) The issuance of this order, further amending the said order, as amended, is the only practical means, pursuant to the declared policy of the act, of ad-

vancing the interests of producers of milk which is produced for sale in the said marketing area, and

(3) The issuance of this order further amending the said order, as amended, is approved or favored by at least two-thirds of the producers who participated in a referendum on the question of approval of the order, and who during February, 1948 (determined to be a representative period) were engaged in the production of milk for sale in the said marketing area.

*Order relative to handling.* It is therefore ordered, that on and after the first day of May, 1948, the handling of milk in the Cleveland, Ohio, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended; and the aforesaid order, as amended, is hereby further amended as follows:

Delete from § 975.6 (b) (1) the first and second provisos contained therein and substitute therefor the following: "Provided, That for the delivery periods of May, June, July, and August, 1948, the amount added to the basic formula price shall be \$1.15."

(48 Stat. 31, 670, 875, 49 Stat. 730, 50 Stat. 246; 7 U. S. C. 601 et seq., sec. 102, Reorg. Plan 1 of 1947, 12 F. R. 4534)

Issued at Washington, D. C., this 28th day of April 1948, to be effective on and after the 1st day of May 1948.

[SEAL] N. E. DODD,  
Acting Secretary of Agriculture.

[F. R. Doc. 48-3912; Filed, Apr. 29, 1948;  
9:46 a. m.]

TITLE 8—ALIENS AND  
NATIONALITY

Chapter I—Immigration and Natural-  
ization Service, Department of Jus-  
tice

Subchapter B—Immigration Regulations

PART 107—MANIFESTS

PART 160—IMPOSITION AND COLLECTION  
OF FINES

MISCELLANEOUS AMENDMENTS

APRIL 5, 1948.

Reference is made to the notice of proposed rule making which was published in the FEDERAL REGISTER of February 21, 1948 (13 F. R. 803), pursuant to section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C., Sup., 1003) and in which there were stated in full the terms of proposed rules revising Parts 107 and 160, Chapter I, Title 8, Code of Federal Regulations, such parts being entitled "Manifests" and "Imposition and Collection of Fines," respectively.

All representations which were submitted concerning such proposed rules have been considered. Because of such representations, changes are being made in §§ 107.2 (a) (2), 107.8, 107.15 (a), 107-17 (b), and 107.22. Such sections or parts of sections are hereby adopted as they are stated in full below. The rest of the rules stated in the notice of proposed rule making are hereby adopted without

any change being made in their terms as stated in the notice of proposed rule making.

1. Part 107, Chapter I, Title 8, Code of Federal Regulations is amended to read as follows:

- Sec.  
107.1 Scope of this part.  
107.2 List of prescribed forms.  
107.3 Procurement of prescribed forms; penalty for failure to submit forms.  
107.4 Forms I-415, I-416, I-434, I-435; general specifications.  
107.5 Form I-415; contents of front of form.  
107.6 Form I-415; contents of back of form.  
107.7 Form I-416; contents of form.  
107.8 Forms I-415 and I-416; general directions for preparation.  
107.9 Form I-415; preparation.  
107.10 Form I-416; preparation.  
107.11 Forms I-415 and I-416; "landing cards"; affidavits; delivery.  
107.12 Form I-434; contents of form.  
107.13 Form I-435; contents of form.  
107.14 Forms I-434 and I-435; general directions for preparation.  
107.15 Form I-434; preparation.  
107.16 Form I-435; preparation.  
107.17 Forms I-434 and I-435; depositing.  
107.18 Form I-442; report by surgeon.  
107.19 Form I-94; how executed by transportation company.  
107.20 Form I-424; report of departure of alien.  
107.21 Foreign government officials and certain aliens connected with international organizations.  
107.22 Cruise passengers.  
107.23 Form I-448; manifest of aliens coming from foreign contiguous territory.

**AUTHORITY:** §§ 107.1 to 107.23, inclusive, issued under sec. 23, 39 Stat. 892, sec. 24, 43 Stat. 166, sec. 37 (a), 54 Stat. 675, sec. 1, 54 Stat. 1238; 8 U. S. C. 102, 222, 458; 61 Stat. 630, Pub. Law 274, 80th Cong.; 8 CFR 90.1. §§ 107.1 to 107.23, inclusive, interpret and apply sec. 3, 39 Stat. 875, sec. 12, 39 Stat. 882, 61 Stat. 630, Pub. Law 274, 80th Cong., secs. 13, 14, 39 Stat. 884, sec. 2 (e), 43 Stat. 154, sec. 328 (a), 54 Stat. 1151, sec. 7 (a), 59 Stat. 672; 8 U. S. C. 136 (r), 148, 149, 150, 202 (e), 728 (a), 22 U. S. C., Sup., 238d.

§ 107.1 *Scope of this part.* This part pertains to manifests required to be delivered by officials of transportation companies to United States immigration officers in the cases of persons traveling by vessel between the United States and countries overseas or between the mainland and insular parts of the United States, either directly or through designated seaports in Canada, except that § 107.23 pertains to persons arriving in the United States from contiguous territory.

**CROSS REFERENCES:** For air manifests, see Part 116 of this chapter. For recording of arrivals, departures, and registrations, by immigration officers, see Part 108 of this chapter.

§ 107.2 *List of prescribed forms.* (a) For the purpose of this part, the following forms are hereby prescribed:

- (1) As to arriving persons:  
(i) Form I-415, "Manifest of In-Bound Passengers (Aliens)"  
(ii) Form I-416, "List of In-Bound Passengers (United States Citizens and Nationals)"  
(iii) Form I-442, "Report on Diseases, Injuries, Births, and Deaths among Alien Passengers."

(2) As to departing persons:

(i) Form I-434, "Manifest of Outward-Bound Passengers (Aliens)."

(ii) Form I-435, "List of Outward-Bound Passengers (United States Citizens and Nationals)"

(iii) Form I-424, "Report of Departure of Alien."

(iv) Form I-132a, "Report of Departure of Alien with Reentry Permit."

(b) In addition to the forms prescribed above, the following forms shall be used as indicated in this part:

(1) Form I-94, "Record of Alien Admitted for Temporary Stay"; "Visitor's Permit."

(2) Form I-132, "Permit to Reenter the United States."

(3) Form I-448, "Manifest."

(4) Foreign Service Form 256, "Immigration Visa and Alien Registration."

(5) Foreign Service Form 257, which is used in the cases of aliens coming to the United States for temporary stay. Forms I-94 and I-448 and Foreign Service Forms 256 and 257 are prescribed by Part 108 of this chapter; and Form I-132, by Part 164 of this chapter.

(c) Form I-428, "List or Manifest of Outward-Bound Passengers (Aliens and Citizens)" is discontinued and shall not be used.

§ 107.3 *Procurement of prescribed forms; penalty for failure to submit forms.* Supplies of Forms I-415, I-416, I-442, I-94, I-434, I-435, and I-424 may be obtained, upon prepayment, from the Superintendent of Documents, Government Printing Office, Washington, D. C. A small quantity of such forms shall be set aside by immigration officers in charge for free distribution. Forms I-415, I-416, I-442, I-434, I-435, and I-424 may be printed or dittoed by private parties, provided the forms so printed or dittoed conform to the officially manufactured forms currently in use, with respect to size, wording, arrangement, and style and size of type, and are printed or dittoed on paper meeting the specifications in §§ 107.4, 107.18, and 107.20. Supplies of Forms I-415, I-416, I-442, I-94, I-434, I-435, and I-424, for general use, shall be obtained by transportation companies at their own expense, and any failure, neglect, or omission to submit such forms in accordance with this part and the statutes interpreted and applied by this part shall be deemed a violation of sections 12 and 14 of the Immigration Act of 1917 (39 Stat. 882, 884; 61 Stat. 630, Pub. Law 274, 80th Cong., 8 U. S. C. 148, 150) and where aliens are concerned shall be subject to penalty as provided in section 14. The term "dittoed" as used in this section and part includes duplicating by hectograph or any other appropriate duplicating process. Form I-94, because serially prenumbered at the time of printing, shall not be reproduced by private parties. Form I-448 shall not be used by transportation companies and may not be obtained by or reproduced by private parties.

§ 107.4 *Forms I-415, I-416, I-434, I-435, general specifications.* Forms I-415, I-416, I-434, and I-435 shall each be 9½" wide and 15" long. All of these forms shall be on white bond paper that

will not discolor or become brittle within 20 years. If these forms are dittoed or if the entries on them are to be dittoed, the paper must be substance 40, 17" x 22" 1,000-sheet basis; if printed or typewritten, at least 25% rag, substance 26, 17" x 22" 1,000-sheet basis. These forms shall be dittoed, typewritten, or printed, in the English language, with ink or dye that will not fade or "feather" within 20 years. On the front of each form there shall be a heading 1½" deep. The heading shall show the form number and title of the form and such other data as are prescribed in this part for the particular form. The heading shall also contain the numerical designation of the vertical columns comprising the body of the form. The body of each form shall contain 27 horizontal lines ½" apart. The space between the first and second lines shall not be numbered and shall contain the captions of the columns. The spaces between the rest of the lines shall be numbered 1 to 25 from top to bottom. The body of the form shall be divided vertically into such number of columns as are prescribed for the particular form. The space for each column shall be indicated by ruled lines. The left column shall not be numbered but shall on each of the four forms bear the caption "Line No." The remaining columns shall be numbered from left to right, beginning with "(1)". Each form shall have a ½" margin at the bottom of the form and a 1" margin at the left. Each form shall have three round holes, ⅝" diameter, in the left-hand margin. Each hole shall be located with center ⅓" from the left edge of the form. One hole shall be located with center 1⅝" from the top edge of the form; another a like distance from the bottom edge; and the third hole equidistant from the top and bottom. Where contents are prescribed for the back of a form, minimum margins shall be made of 1" on the right and ½" on the left, top, and bottom. Separate sections which follow contain details as to the contents of each of the Forms I-415, I-416, I-434, and I-435.

§ 107.5 *Form I-415; contents of front of form.* On the front of Form I-415, the heading shall show the manifest number, number or other designation of class, port and date of embarkation, name of vessel, and port and date of arrival. The heading for column 1 shall be "Family name—Given name Age (Years) Sex (F-M) Destination in United States"; for column 2, "Married or single"; for column 3, "Travel Doc. No. Nationality"; for column 4, "Number and description of pieces of baggage"; for column 5, "Head tax collected"; for column 6, "This column for use of master, surgeon, and U. S. officers."

§ 107.6 *Form I-415; contents of back of form.* On the back of Form I-415 there shall be three numbered affidavits as follows:

(1)

I, \_\_\_\_\_, of (State whether Master, or First or Second Officer) \_\_\_\_\_, from \_\_\_\_\_, do solemnly swear that I have caused the surgeon of the said vessel sailing therewith, or the surgeon employed by the owners thereof,

## RULES AND REGULATIONS

to make a physical and mental examination of each and all of the aliens named in the foregoing manifest sheets; that from the report of the said surgeon and from my own investigation I believe that no one of the said aliens is of any of the classes excluded from admission into the United States by the laws regulating immigration; and that also, according to the best of my knowledge and belief, the information contained in the said lists Nos. \_\_\_\_\_ to \_\_\_\_\_ of United States citizens and nationals and manifests Nos. \_\_\_\_\_ to \_\_\_\_\_ of aliens concerning each of the persons named therein is correct and true in every respect. I do further solemnly swear that, to the best of my knowledge and belief, the said vessel is owned by \_\_\_\_\_, whose address is \_\_\_\_\_, that the local agents for the said vessel for the trip reported in this manifest are \_\_\_\_\_, whose address is \_\_\_\_\_, and that any transactions concerning head tax for alien passengers shown by this manifest should be made with \_\_\_\_\_, whose address is \_\_\_\_\_.

\_\_\_\_\_  
Officer

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ at \_\_\_\_\_

\_\_\_\_\_  
Immigrant Inspector

(2)

I, \_\_\_\_\_, surgeon of the S. S. \_\_\_\_\_, do solemnly swear (State whether surgeon "sailing therewith" or "employed by owners thereof" as the case may be)

that I have had \_\_\_\_\_ years' experience as a physician and surgeon and am entitled to practice as such by and under the authority of \_\_\_\_\_, that I have made a personal examination of each of the aliens named herein; and that the information contained in the foregoing manifests Nos. \_\_\_\_\_ to \_\_\_\_\_, including Form I-442 attached thereto and made a part thereof, according to the best of my knowledge and belief, is full, correct, and true in all particulars, relative to the mental and physical condition of such aliens.

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ at \_\_\_\_\_

(Signature and title of immigrant inspector or other officer authorized to administer oaths)

NOTE: If a surgeon sails with the vessel, this affidavit of verification shall be executed before an immigrant inspector at port of arrival, and any changes that may have occurred en route in the condition of any of the aliens must be noted on the manifest before the affidavit is executed.

If no surgeon sails with the vessel, the affidavit of verification shall be executed at the port of departure before some officer authorized to administer oaths.

(3)

I, \_\_\_\_\_, Master of the S. S. \_\_\_\_\_, do solemnly swear that the foregoing lists Nos. \_\_\_\_\_ to \_\_\_\_\_, and manifests Nos. \_\_\_\_\_ to \_\_\_\_\_, subscribed by me, and now delivered by me to the Collector of Customs at the Port of \_\_\_\_\_, are full and perfect lists and manifests of all the passengers taken on board the said vessel at \_\_\_\_\_, from which port said vessel has now arrived; and that on the said documents are truly shown the name of each passenger, his age and sex, whether married or single, whether a cabin or steerage passenger and, if other than cabin, location of compartment or space occupied during the voyage, whether a citizen of the United States, and the number and description of the pieces of baggage, and the name

and age of each deceased passenger and the cause of his death.

\_\_\_\_\_, Master.  
Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_  
\_\_\_\_\_  
Deputy Collector.

§ 107.7 *Form I-416; contents of form.* On the front of Form I-416, the heading shall show the list number, number or other designation of class, port and date of embarkation, name of vessel, and port and date of arrival. The heading for column 1 shall be "Family name—Given name Age (Years) Sex (F—M) Destination in United States" for column 2, "Married or single" for column 3, "U. S. Passport No. Place of birth" for column 4, "Number and description of pieces of baggage" for column 5, "This column for use of master, surgeon, and U. S. officers." On the back of Form I-416 there shall be an affidavit which shall contain the same language as is prescribed by § 107.6 for affidavit No. 3 on the back of Form I-415.

§ 107.8 *Forms I-415 and I-416; general directions for preparation.* All entries of data on Form I-415 and I-416 shall be dittoed, typewritten, or printed, in the English language, with ink or dye that will not fade or "feather" within 20 years. All data called for by such forms shall be filled in as required by this part, except that it is immaterial whether the copies to be presented to immigration officers at the port of arrival contain entries in the column pertaining to baggage. A separate Form or Forms I-415 or I-416 shall be prepared for each port of embarkation abroad and each port of arrival in the United States. Such forms shall be numbered consecutively in the indicated space in the upper right-hand corner of the heading, commencing with No. 1 for each voyage. A separate form or forms shall be prepared for each class of alien and citizen passengers carried and the class shown in the heading of the form, except that any stow-aways aboard shall be listed on the last Form I-415 or I-416. The notation "Stowaway" shall be shown in the last column, opposite the name of each stowaway. Where third-class or steerage passengers are carried, they shall be grouped to show location of compartment or space occupied during the voyage and there shall be specified the deck and whether forward, amidship, or aft. Notwithstanding the other provisions of this section, the names of all passengers who are members of a family shall be shown on the same manifest sheet. If the members of a family travel in different classes, they shall all be shown under one class, or, if some are aliens and others United States citizens, they shall all be shown on the alien manifest and the notation "USC" entered after the names of the citizen members. Notwithstanding the other provisions of this section, where the number of alien passengers in all classes does not exceed 25, all classes may be shown on one Form I-415 with the names grouped according to class and the name of the class of the group noted in the body of the form. The same rule shall be applied with respect to the manifesting of United States citizens on Form I-416.

§ 107.9 *Form I-415; preparation.* Where the total number of alien passengers in all classes exceeds 25, separate Forms I-415 shall be used for those coming to the United States for permanent residence and for those coming for temporary stay. The names of those coming from the same locality shall be kept together so far as practicable. Column 1 of Form I-415 shall be completed to show the alien's family name and given name (in all cases the family name shall be shown first and shall be written in capital letters), age in years at last birthday, except that in the case of aliens under one year, age shall be shown in months, the abbreviation "mos." being used; sex by the abbreviation "F" for female or "M" for male; and the address to which the alien is destined in the United States, by showing street and number, city and State (the address shall be indented two spaces). The abbreviation "M" or "S" shall be used in filling out column 2. In column 3 shall be shown the serial number (red) of Foreign Service Form 257, the serial number (black) of Foreign Service Form 256, the serial number of Immigration Form I-94, or the reentry permit number (red) of Immigration Form I-132. (The Foreign Service forms are issued by American consuls abroad, and reentry permits are issued by the Immigration and Naturalization Service prior to an alien's departure from the United States.) All such documents are required to be surrendered by the passengers to the United States immigrant inspector at the United States port of arrival. In the case of every alien passenger who does not have a Foreign Service Form 257 or 256 or a reentry permit (Form I-132), the transportation company shall, as a part of the manifest Form I-415, execute an Immigration Form I-94 in triplicate in the manner prescribed by § 107.19, but shall deliver it to the passenger for surrender by him to the United States immigrant inspector at the United States port of arrival. In column 3 there shall also be shown the nationality of the passenger. In column 5 shall be shown "Yes" if the transportation company has collected head tax and "No" if it has not collected head tax. In column 6, the master or surgeon shall by use of the notation "I-442" indicate which passengers are being made the subject of the special report on Form I-442.

§ 107.10 *Form I-416; preparation.* Column 1 of Form I-416 shall be completed to show the passenger's family name and given name; age in years at last birthday, except that in the case of passengers under one year, age shall be shown in months, the abbreviation "mos." being used; sex by the abbreviation "F" for female or "M" for male; and the address to which the passenger is destined in the United States, by showing street and number, city, and state. The abbreviation "M" or "S" shall be used in filling out column 2. In column 3 shall be shown the serial number of any United States passport in the possession of the passenger. If the passenger has no United States passport and is a naturalized citizen of the United States, the number of his certificate of naturaliza-

tion shall be shown in column 3 or if such certificate is without number or the number is unavailable, then the date of naturalization, the name of the court, and the place of naturalization. In column 3, the passenger's place of birth shall also be shown by giving the state or territory if born in the United States, or country if born outside the United States.

§ 107.11 *Forms I-415 and I-416; "landing cards" affidavits; delivery.* For convenience of identification on arrival, there may be given to each person listed on Form I-415 or I-416 a ticket or "landing card" showing his name, the number of the manifest or list on which his name appears, and his number on said manifest or list. Immediately on the arrival of a vessel at a port in the United States, one legible copy of the manifest on Forms I-415 and of the list on Forms I-416, covering all of the passengers destined to such port, shall be delivered to the United States immigrant inspector at such port. The forms shall be assembled so that the Forms I-416 precede the Forms I-415; and of the printed affidavits on the back of the forms delivered to the immigrant inspector only affidavits Nos. 1 and 2 on the last Form I-415 need be executed. (Where all passengers are United States citizens and, therefore, only Forms I-416 are prepared, a Form I-415 with front voided shall be attached after the last Form I-416, and Affidavit No. 1 on the back of the Form I-415 executed as to the correctness of the lists on Form I-416.) A second legible copy of the Forms I-415 shall also be delivered simultaneously to such immigrant inspector for use in billing the transportation company for any head tax due, but the affidavits on the back of such second copy need not be executed. Where arriving vessels touch at more than one United States port, passengers shall, as prescribed by § 107.8, be manifested according to their final United States port of destination, but such manifests shall be presented at all intermediate United States ports and the immigrant inspector at such ports shall make a notation in the last column of Forms I-415 and I-416 showing the port or ports at which passengers were granted shore leave. Such notation shall consist of an abbreviation of the name of the port. When any passenger desires regularly to land at any port in the United States other than the one to which he is manifested, his name shall be stricken by the ship's officer from the manifest upon which it was originally recorded and transferred to the manifest intended for the port where he wishes to land. Such change on the manifest shall be made only with the prior knowledge of the immigrant inspector and shall be attested by his signature and title placed opposite each entry. On the manifest to which the name is transferred, he will note: "Transferred from manifest of passengers for \_\_\_\_\_, dated \_\_\_\_\_, Immigrant Inspector."

§ 107.12 *Form I-434; contents of form.* On the front of Form I-434, the heading shall show the manifest number, port and date of sailing from the United States, name of steamship, and foreign

port of destination. The heading for column 1 shall be "Family name—Given name"; for column 2, "Age (Years)"; for column 3, "Travel Document No." No heading for column 4 is prescribed. On the back of the form there shall be the following affidavit:

I, \_\_\_\_\_,  
(Name) (Title)  
of the S. S. \_\_\_\_\_,  
bound for \_\_\_\_\_,  
do solemnly swear that, according to the best of my knowledge and belief, all passengers who departed on the said vessel, numbering \_\_\_\_\_, are listed in the foregoing lists Nos. \_\_\_\_\_ to \_\_\_\_\_ and manifests Nos. \_\_\_\_\_ to \_\_\_\_\_, that concerning each the information recorded is correct, full, and complete in every respect; and that for each alien passenger listed there is, when required by regulations, attached to the said manifests and made a part thereof either a Foreign Service Form 257a or a Form I-94 or I-424.

\_\_\_\_\_  
(Name)  
\_\_\_\_\_  
(Title)

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ at \_\_\_\_\_

§ 107.13 *Form I-435; contents of form.* On the front of Form I-435, the heading shall show the list number, port and date of sailing from the United States, name of steamship, and foreign port of destination. The heading for column 1 shall be "Family name—Given name Age (Years) Sex (F-M) Address in United States" for column 2, "U. S. Passport No." for column 3, "Place of birth Date and place of naturalization"; for column 4, "Length of time passenger intends to remain abroad." On the back of Form I-435 there shall be the same affidavit as is prescribed in § 107.12 for the back of Form I-434.

§ 107.14 *Forms I-434 and I-435, general directions for preparation.* All entries of data on Form I-434 and I-435 shall be dittoed, typewritten, or printed, in the English language, with ink or dye that will not fade or "feather" within 20 years. All data called for by such forms shall be filled in as required by this part. A separate Form or Forms I-434 or I-435 shall be furnished for each port in the United States covering persons embarking at those ports. Separate Forms I-434 and I-435 shall be furnished for passengers destined to each port of foreign debarkation, except that, if the number for all of the different ports is 25 or less, passengers may be recorded on one Form I-434 or I-435, and grouped according to the particular port of debarkation, which shall be noted in the body of the form. Such forms shall be numbered consecutively in the indicated space in the upper right-hand corner of the heading, commencing with No. 1 for each voyage.

§ 107.15 *Form I-434; preparation.* (a) Column 1 of Form I-434 shall be completed to show the alien's family name and given name. Column 2 shall be completed to show age in years at last birthday, except that in the case of passengers under one year, age shall be shown in months, the abbreviation

"mos." being used. In column 3 there shall be shown the serial number of any Foreign Service Form 257a or Immigration Form I-94, "Visitor's Permit," presented by the alien passenger. Such forms shall be surrendered by alien passengers to a representative of the transportation company concerned and shall be attached to and made a part of Form I-434 by the company. If neither Form 257a nor Form I-94 is presented by the alien passenger, an Immigration Form I-424, "Report of Departure of Alien," must be prepared by the company, in which case the notation "I-424" shall be entered in column 3 opposite the name of the passenger and the Form I-424 attached to and made a part of Form I-434. Where a departing alien is in possession of that style of reentry permit having a detachable part identified as Form I-132a, "Report of Departure of Alien with Reentry Permit," such Form I-132a shall be detached by a representative of the transportation company and, in lieu of Form I-424, attached to and made a part of Form I-434. Where that is done, a representative of the transportation company shall fill in on Form I-132a, in accordance with the directions on that form, the name of the port of departure, the date of departure, and the means of transportation, including the name of the vessel. Such endorsement shall be printed in ink or made by rubber stamp or typewriter. Where Form I-132a, in lieu of Form I-424, is attached to Form I-434 there shall be shown in column 3 of Form I-434 the file number appearing in the upper right-hand corner of the Form I-132a and the term "or I-132a" added at the end of the executed affidavit on the back of the list or manifest of outward-bound passengers. The names of aliens who are arrested within the United States and deported and the names of those who are excluded and are being deported from the United States pursuant to such exclusion, shall be shown on Form I-434; and Forms I-424, conspicuously marked "Daportee," shall be made in their cases and attached to and made a part of Form I-434.

(b) A Form 257a which is a part of a full set of Forms 257 (i. e., 257a, 257b, and 257d) is not to be surrendered by an alien who obtained such set of forms to meet documentary requirements at the time of his intended future entry to the United States. Form I-424 shall be prepared in such a case and attached to and made a part of the Form I-434 if the alien does not surrender a Form 257a or a Form I-94 obtained in connection with his prior entry to the United States. The circumstances described in this paragraph may occur in the cases of aliens who reside in foreign contiguous countries and who pass through the United States for the purpose of boarding vessels departing from United States ports and who intend to pass through the United States on their return trip.

§ 107.16 *Form I-435; preparation.* Column 1 of Form I-435 shall be completed to show the passenger's family name and given name, age, sex, and address in the United States by showing street and number, city, and state. To

denote sex, the abbreviation "F" for female or "M" for male shall be used. Column 2 shall be completed to show the number of the passenger's United States passport, except that where the passenger has no United States passport and is a naturalized citizen the number, if any, of his certificate of naturalization shall be shown in this column, preceded by the letter "C". Column 3 shall be completed to show place of birth and also, in the case of naturalized citizens, the date and place of naturalization, except that if the number of the certificate of naturalization is shown in column 2 there may be omitted for such passenger the data called for by column 3. If the passenger states in response to inquiry from the transportation company representative that he intends to remain abroad permanently, the abbreviation "Perm.", followed by the name of the country of intended future residence, shall be entered in column 4. Any temporary period stated definitely or approximately by the passenger as being the intended length of time which he will remain abroad shall be entered in column 4. If the passenger is uncertain or indefinite in his statements as to the length of time he will remain abroad, the word "Indefinite" shall be entered in column 4.

§ 107.17 *Forms I-434 and I-435, depositing.* (a) Forms I-434 and I-435 fully executed in accordance with this part shall be deposited with immigration officials. Of the affidavits on the back of the forms deposited with immigration officials, only the affidavit on the last form shall be executed. Such lists (Forms I-434 and I-435) shall be deposited with the immigration officials before the departure of the vessel, except that in the case of vessels making regular trips to ports of the United States such lists may be delivered so as to reach the immigration officials at the port of departure within 30 days after departure of the vessel. Notwithstanding the exception contained in the preceding sentence, the immigration officer in charge at the port shall not grant clearance papers to the vessel until such lists are delivered if he knows or has reason to believe that the vessel will not return to a port of the United States within 30 days or that such lists will not be delivered so as to reach him within that time.

(b) The term "vessels making regular trips to ports of the United States" as used in the first proviso to section 12 of the Immigration Act of 1917 and in paragraph (a) of this section means vessels which arrive at a port or ports in the United States at regular or periodic intervals according to a published schedule of which there is sufficient notice to all concerned.

§ 107.18 *Form I-442; report by surgeon.* The ship's surgeon or, if no surgeon, the master shall furnish to the officials in charge at the port of arrival a full and complete report, with respect to all alien passengers, of all injuries, diseases, and illnesses—mental or physical—existing at time of embarkation, and of any such injuries, diseases, and illnesses, and births and deaths developing or occurring during the voyage. Such report

shall be made on Form I-442, which shall conform to the requirements stated in § 107.3. The entries on Form I-442 shall be typewritten, or printed in ink, in the English language. Form I-442 shall be 19" wide and 15" long. Form I-442 shall be on white bond paper that will not discolor or become brittle within 20 years, at least 25% rag, substance 26, 17" x 22" 1,000-sheet basis, and shall conform in every respect to the officially manufactured Form I-442 currently in use and approved by the Commissioner of Immigration and Naturalization.

§ 107.19 *Form I-94; how executed by transportation company.* When in accordance with this part the transportation company executes Form I-94, all data called for by such form shall be typewritten or printed in ink thereon in the English language, except the date and place of admission to the United States, the date to which admitted, and the signature of the United States immigrant inspector.

§ 107.20 *Form I-424; report of departure of alien.* (a) Form I-424 shall be 6" wide and 4" long and shall be on white bond paper that will not discolor or become brittle within 20 years, at least 25% rag, substance 48, 17" x 22" 1,000-sheet basis. The form shall contain the following information regarding the passenger: Name, occupation, last address in United States, date and place of birth, nationality, race, whether male or female, whether married, single, widowed, or divorced, destination abroad, purpose and length of intended stay abroad, date and place of last entry into United States, whether such entry was as a permanent resident or for temporary stay, date and port of departure from United States and name of departing vessel, the sheet and line number of the outgoing manifest on which his name appears, and any "V" or "T" number that may be shown in his passport or, if in possession of a reentry permit, the file number appearing in the upper right-hand corner thereof.

(b) When Form I-424 is required by § 107.15 to be executed by the transportation company, all data called for by such form shall be typewritten or printed in ink thereon in the English language and the form shall be considered as a part of the outgoing manifest on Form I-434.

§ 107.21 *Foreign government officials and certain aliens connected with international organizations.* Notwithstanding the other provisions of this part, the only information required to be shown on Form I-415, I-434, I-94, or I-424 by transportation companies in the case of an alien in possession of a nonimmigrant visa issued under subsection (1) or (7) of section 3 of the Immigration Act of 1924, as amended (43 Stat. 154, 54 Stat. 711, 59 Stat. 672; 8 U. S. C. and Sup. 203), which subsections relate respectively to foreign government officials and certain aliens connected with international organizations, shall be the name, official position, nationality, destination in the United States, purpose of coming to the United States, and the serial number of any Form 257a or I-94.

§ 107.22 *Cruise passengers.* For the purposes of this section, the term "cruise" means a voyage on which the passenger does not proceed outside the Western Hemisphere, as defined in § 176.101 (y) of this chapter, and whose journey originates and terminates at the same United States port on the same vessel and without stop-over at a foreign port beyond the time the vessel is in such port. The district director of the district in which is located the United States port of origin and termination of such a cruise, or the officer in charge of such port, may, in advance of the departure of a vessel on a cruise and on the written request of the transportation company concerned, waive the filing of Forms I-434 and I-435 for cruise passengers on the condition that for such passengers Forms I-415 and I-416 are immediately deposited with the appropriate United States immigration officer upon the return of the vessel to the United States port and prior to the debarkation of any passenger. Notwithstanding the other provisions of this part, Forms I-94, I-424, or I-132a shall not be required for cruise passengers and such passengers may retain any Forms 257a or I-94. Nothing in this section shall be construed as waiving the presentation by any alien of any passport, visa, or other document required by Executive order or regulations applicable to his case.

§ 107.23 *Form I-448; manifest of aliens coming from foreign contiguous territory.* (a) Upon the inspection of aliens seeking to enter continental United States directly from Canada or Mexico, the examining immigrant inspector shall prepare a manifest on Form I-448 in cases where the preparation of such a manifest is required by the provisions of this chapter, particularly Parts 108 and 114. The Form I-448 shall be filled out from information furnished by the alien in response to questions asked by the examining immigrant inspector. Data such as the following shall be included in the Form I-448: Port, date, full name, age, and sex; whether married or single; calling or occupation; personal description (including height, color of hair and eyes), nationality; race; place of birth; country of last permanent residence; name and address of nearest relative in the country from which the alien came; final destination; whether going to join a relative or friend and, if so, name and address of such relative or friend; whether ever before in the United States and, if so, when; purpose in coming to United States and length of time intending to remain. Immigration officials shall state whether the alien is an immigrant or a nonimmigrant, the character of head-tax assessment, and, if exempt from head tax, the reason therefor, and also the action taken as a result of such inspection. The immigration official making the inspection shall sign such manifest when completed.

(b) The term "continental United States" as used in paragraph (a) of this section means the territory of the forty-eight States, the District of Columbia, and Alaska.

(c) Notwithstanding the other provisions of this section, part, or chapter,

the only information required to be shown on Form I-94 or Form I-448 in the case of an alien admitted to the United States under the provisions of subsection (1) or (7) of section 3 of the Immigration Act of 1924 shall be the name, official position, nationality, destination in the United States, purpose of coming to the United States, and the serial number of any Form 257a or I-94.

2. Part .60, Chapter I, Title 8, Code of Federal Regulations, is amended in the following respects.

a. Section 160.6 is amended to read as follows:

§ 160.6 *Liability for failure to supply manifest.* Where the master or commanding officer of a vessel bringing aliens into or carrying aliens out of the United States refuses or fails, in violation of section 14 of the Immigration Act of 1917 (39 Stat. 884; 8 U. S. C. 150) to deliver the accurate and full manifests or statements or information, required by section 12 of the Immigration Act of 1917 (39 Stat. 882; 61 Stat. 630, Pub. Law 274, 80th Cong., 8 U. S. C. 143) and the regulations thereunder prescribed in Part 107 of this chapter, regarding aliens brought into or carried out of the United States, such masters or commanding officers shall pay to the collector of customs (under notice of intention to fine) \$10 for each alien concerning whom proper manifest or statement or information is not furnished at the time of arrival with respect to incoming aliens and before the time of the departure of the vessel with respect to outgoing aliens, except that with respect to outgoing aliens such fine shall not be imposed in cases where such manifest or statement or information is delivered after the departure of the vessel and within the time and under the conditions prescribed in § 107.17 of this chapter. The notice of intention to fine required by this section shall be served on the master or commanding officer or person authorized by the master or commanding officer to receive such notice.

b. A new § 160.20 is added as follows:

§ 160.20 *Data concerning cost of transportation.* Transportation companies shall furnish the officers in charge at ports of entry, within two days after request therefor, with the original transportation contracts of all rejected aliens whose cases are covered by the provisions of section 9 of the Immigration Act of 1917 (43 Stat. 166; 8 U. S. C. 145) or section 16 of the Immigration Act of 1924 (43 Stat. 163, 58 Stat. 817; 8 U. S. C. and Sup., 216) such contracts showing the exact amounts paid for transportation from the "initial point of departure," which point shall be stated, to the foreign port of embarkation, from the latter to the United States port of arrival, and from the port of arrival to inland point of destination, respectively, and also the amount paid for head tax.

The rules stated above shall become effective on July 1, 1948. Representatives of transportation companies have requested permission to commence as soon as possible the use of the forms prescribed by these rules. Permission is hereby granted for any transportation company that so desires to commence the use of

such forms as soon as they are available, on the condition that any company which commences the use of such forms before July 1, 1948, complies with the provisions of these rules in their entirety.

These rules are based on that amendment of section 12 of the Immigration Act of 1917 (Pub. Law 274, 80th Cong., 61 Stat. 630) which makes it possible to simplify steamship manifest forms, and the purpose of these rules is to prescribe such simplified forms and to specify the procedure to be followed in using them.

T. B. SHOEMAKER,  
Acting Commissioner of  
Immigration and Naturalization.

Approved: April 16, 1948.

TOM C. CLARK,  
Attorney General.

[F. R. Doc. 48-3833; Filed, Apr. 29, 1948;  
9:10 a. m.]

## TITLE 10—ARMY

### Chapter VIII—Supplies and Equipment

[Joint Procurement Regs.]

#### PART 805—CONTRACTS

#### PART 806—BONDS AND INSURANCE

#### PART 808—PATENTS AND COPYRIGHTS

#### MISCELLANEOUS AMENDMENTS

1. Sections 805.203-1 and 805.203-2 are rescinded and the following substituted therefor:

§ 805.203-1 *In general.* (a) U. S. Standard Form No. 1036 will be used to support all agreements, both formal and informal, except (1) negotiated purchases, and (2) utility contracts.

(b) In connection with negotiated purchases, either:

(1) The notation "Negotiated Contract," initialed by the officer negotiating the contract, should appear under or in close proximity to the contract symbol and number on the cover sheet of the contract; or

(2) The contract should show in the wording thereof that it was negotiated and the statutory authority under which it was negotiated.

(c) The requirements of § 804.206 are in addition to those set forth in paragraph (b) of this section.

§ 805.203-2 *Public exigency.* [Rescinded.]

2. In § 805.406-6, following paragraph (g) the references in Note 2 are changed to read "§ 806.401-1 and § 806.802."

3. In § 806.101-7, paragraph (c) is rescinded and the following substituted therefor:

§ 806.101-7 *Patent infringement bond.* \* \* \*

(c) On such bonds as are required, the penal sum will be the lowest which, in the exercise of sound judgment, is deemed adequate for the protection of the interests of the United States.

4. In § 808.102-2 (b), the words "formally manufactured" are changed to read "normally manufactured."

5. In § 808.102-3, the words "use of manufacture" appearing in the body of the article set forth, are changed to read "use or manufacture."

[Joint Procurement Regulations, Nov. 1, 1947, as amended by Proc. Cir. 8, Apr. 7, 1948] (Sec. 1 (a) (b) 54 Stat. 712, 55 Stat. 838; 41 U. S. C. prec. § 1 note, 50 U. S. C. App. Sup. 601-622; E. O. 9001, 27 Dec. 1941, 6 F. R. 6787)

[SEAL] EDWARD F. WITSELL,  
Major General,  
The Adjutant General.

[F. R. Doc. 48-3831; Filed, Apr. 29, 1948;  
8:59 a. m.]

## TITLE 14—CIVIL AVIATION

### Chapter I—Civil Aeronautics Board

[Regs., Serial No. ER-121]

#### PART 292—EXEMPTIONS AND CLASSIFICATIONS

#### EXEMPTION OF ALASKAN PILOT-OWNER CARRIERS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 2d day of April 1948.

The Civil Aeronautics Board, having conducted surveys and special studies in the Territory of Alaska, having circulated for comment a draft of a proposed regulation establishing a new classification of Alaskan air carriers and exempting such carriers from certain provisions of Title IV of the act, having considered written comment thereon, finds<sup>1</sup> as follows:

1. The climate and topographical features of Alaska are such as to render surface transportation often inadequate and to increase dependency on air transportation as a means for the carriage of goods and persons. A great many of the activities of the Territory are seasonal and transitory in nature requiring an irregular rather than a scheduled operation with a peak movement over short periods and with service being rendered through a variety of landing areas, both natural and prepared, most of which are unable to accommodate large aircraft or be used under all conditions. The dependency of the Territory upon air transportation and its great need for a variety of specialized air services justifies allowing a ready avenue for the inauguration and performance of such services. Since traditionally many of such specialized services have been conducted in small aircraft beneficially owned and operated by certificated argmen, the Board finds that it is in the interest of the public, at this time, to continue to allow such carriers a partial exemption from sections 401 (a) and 404 (a) of the act.

2. Increased competition has caused some of the air carriers in Alaska to adopt uneconomic and unfair competitive practices resulting in numerous complaints to the Board. Action thereon has been handicapped by the exemptions

<sup>1</sup>The findings made below should be considered as an addition to the findings made by the Board in promulgating the revision of § 292.2 on October 21, 1947.

which have been previously granted from sections 403, 405, and 407 of Title IV of the act and the absence of any economic regulations promulgated thereunder. In order that the public and the air carriers be protected from these abuses and to provide for the adequate regulation of air transportation within Alaska, it is necessary that these regulatory provisions of the act and the Economic Regulations issued thereunder be made applicable to Alaskan pilot-owners operating within the territory of Alaska. The regulatory provisions which can now be applied to such carriers are set forth in paragraph (d) of § 292.2.

3. In view of the foregoing considerations, the present enforcement of provisions of Title IV of the Civil Aeronautics Act of 1938, as amended, except to the extent required in § 292.2, as hereinafter amended, would be an undue burden on Alaskan pilot-owners, by reason of the limited extent of and the unusual circumstances affecting the operations of such carriers, and would not be in the public interest.

On the basis of the foregoing findings, and pursuant to the Civil Aeronautics Act of 1938, as amended, particularly sections 205 (a) and 416 thereof, and for the purpose of providing for the classification, exemption, and economic regulation of air carriers engaging in air transportation exclusively within the Territory of Alaska, the Civil Aeronautics Board amends § 292.2 of the Economic Regulations (12 F. R. 7069) as follows, effective May 28, 1948:

1. By amending § 292.2 (a) to read as follows:

§ 292.2 *Alaskan air carriers*—(a) *Classification of air carriers.* (1) There is hereby established, within the meaning of section 416 (a) of the Civil Aeronautics Act of 1938, a classification of air carriers which, except as otherwise authorized in paragraphs (b) (2) and (c) (1) (ii) of this section, engage solely in air transportation within the Territory of Alaska, said classification to be designated as "Alaskan air carriers." Such classification shall include both (1) certificated air carriers and (2) air carriers operating under the authority of paragraph (c)

(2) There is hereby established a further classification of air carriers operating in Alaska to be designated Alaskan pilot-owners. As used in this section an Alaskan pilot-owner carrier shall mean a certificated pilot with a commercial or airline transport rating who:

(i) Directly or indirectly engages as a principal in air transportation solely within the Territory of Alaska;

(ii) Utilizes in such air transportation only aircraft which have a certificated capacity of no more than four passengers; and which are beneficially owned and flown exclusively in air transportation by him alone;

(iii) Is not otherwise authorized by the Board to engage in air transportation.

2. By amending § 292.2 (c) thereof by adding subparagraph (3) to read as follows:

(3) Until September 30, 1949, or until such earlier date that the Board may

make effective further rules, regulations, or orders relative hereto, any Alaskan pilot-owner carrier shall be exempt, subject to the conditions and requirements hereinafter set forth, from sections 401 (a) and 404 (a) of the act, insofar as the enforcement thereof would prevent any such person from engaging in the air transportation of persons or property within the Territory of Alaska on a casual, occasional, or infrequent basis, and in such manner as will not result in the establishment of a regular or scheduled service.

3. By adding a new paragraph (h) to read as follows:

(h) *Alaskan-pilot owner conditions and requirements.* Persons seeking to engage in air transportation as an Alaskan pilot-owner carrier shall be subject to the following conditions and requirements:

(1) Such persons shall first file with the Board a proper application for, and shall hold a currently effective "Letter of Registration (Alaska)" before undertaking to engage in such air transportation, except that any person engaged in service on the effective date hereof and filing such application on or before such effective date may continue to engage in services of the nature and extent herein authorized until such Letter of Registration (Alaska) has been issued or he has been notified that no such letter will be issued;

(i) An application by an Alaskan pilot-owner for a Letter of Registration may be submitted to the Board in duplicate in letter form.<sup>2</sup> Such application shall be certified to be correct by the applicant, and shall set forth the following information:

(a) Date.

(b) Name, citizenship, address, principal operating base, airman certificate number and ratings held by applicant, and whether applicant operates as individual enterprise, partnership, or corporation.

(c) Number of aircraft units beneficially owned by applicant and utilized by him in air transportation, registration number, make, model of each aircraft and type of landing gear employed, and the name in which each aircraft is registered.

(d) Types of services and area in which services will be performed, and any seasonal variations in proposed services.

(ii) Letters of Registration (Alaska) shall be subject to immediate suspension when, in the opinion of the Board, such action is required in the public interest.

(iii) Letters of Registration (Alaska) shall be subject to revocation, after notice and hearing, for knowing and willful violation of any provision of the Civil Aeronautics Act of 1938, as amended, or of any order, rule, or regulation issued under any such provision, or of any term, condition, or limitation of any authority issued under said act or regulations.

<sup>1</sup> This exemption does not in any way affect the obligation of such carriers to provide safe service, equipment and facilities as required by applicable Civil Air Regulations issued under Title VI of the act.

<sup>2</sup> For the convenience of applicants, forms for the submission of applications are available on request at the Board's Alaska Office.

(2) An Alaska pilot-owner shall not engage in any air transportation between points on any route on which one or more carriers holding certificates of public convenience and necessity undertake, pursuant to schedules filed with the Board under section 405 (e) of the act, to provide service on an aggregate of three or more scheduled flights weekly;

(3) An Alaska pilot-owner shall be subject to the provisions of paragraphs (d), (e) (f) and (g) of this section, in the same manner and to the same extent as an Alaskan air carrier.

(Secs. 205 (a), 416, 52 Stat. 984, 1005; 40 U. S. C. 425 (a), 496)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,  
Secretary.

[F. R. Doc. 48-3827; Filed, Apr. 29, 1948; 8:53 a. m.]

## Chapter II—Administrator of Aeronautics, Department of Commerce

### PART 550—FEDERAL AID TO PUBLIC AGENCIES FOR DEVELOPMENT OF PUBLIC AIRPORTS

#### MISCELLANEOUS AMENDMENTS

Acting pursuant to the authority vested in me by the Federal Airport Act (60 Stat. 170; Pub. Law No. 377, 79th Cong.), I hereby supplement and amend the order adopting a new Part 550 of the regulations of the Administrator of Civil Aeronautics, as published in the FEDERAL REGISTER of March 18, 1948 (13 F. R. 1398) and amend such new Part 550, as follows:

1. The attached Appendices B, D, E, F, H, I, and L are hereby adopted as the Appendices so designated in the new Part 550 and made a part thereof.

2. It is hereby ordered that the Forms ACA 1628 (1-14-47), ACA 1629 (7-46), ACA 1625 (1-14-47), and ACA 1630 (9-46) which were adopted as part of the original Part 550 published in the FEDERAL REGISTER of January 9, 1947 (12 F. R. 135), as Appendices J, K, Y, and L, respectively, shall be used in lieu of the forms so designated in the new Part 550 and referred to therein<sup>1</sup> as Appendices G, K, M, and N, respectively, until such time as new Forms ACA 1628, ACA 1629, ACA 1625, and ACA 1630 are adopted as such appendices and published in the FEDERAL REGISTER.

3. Section 550.7 (d) (4) of the new Part 550 is hereby amended to read as follows:

(4) That the contractor comply with the so-called "Kick-back Statute," Public Law 324, 73d Congress (48 Stat. 948), and the regulations issued by the Secretary of Labor pursuant thereto, 29 C. F. R., Supps., Part 3, 13 F. R. 524 (Appendix J)

4. Section 550.7 (g) of the new Part 550 is hereby amended by deleting the last two sentences and substituting the following: "All payments made by a

<sup>1</sup> Form ACA 1628 is referred to in § 550.7 (b) (4) and § 550.7 (h) (4); Form ACA 1629 in § 550.7 (g), § 550.7 (h) (4), and § 550.9 (f); and Forms ACA 1625 and ACA 1630 in § 550.9 (f).

sponsor to a contractor shall be made on the basis of Periodic Cost Estimates on Form ACA 1629 (Appendix K) copies of which shall be submitted by the sponsor to the District Airport Engineer."

5. Section 550.7 (h) (4) of the new Part 550 is hereby amended by deleting the last sentence and substituting the following: "Whenever an application for grant payment involving sponsor's force account work is made by a sponsor pursuant to § 550.9, such application shall be accompanied by a Periodic Cost Esti-

mate for such work on Form ACA 1629 (Appendix K)."

6. Section 550.9 (f) of the new Part 550 is hereby amended to read as follows:

(f) All applications for grant payments shall be made on a Public Voucher, Standard Form No. 1034 (Appendix L) accompanied by (1) an Application for Grant Payment on Form ACA 1625 (Appendix M) (2) a Summary of Project Costs on Form ACA 1630 (Appendix N) and (3) a Periodic Cost Estimate on Form 1629 (Appendix K) for each contract or

force account representing costs for which payment is requested.

(60 Stat. 170)

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

NOTE: The reporting and record-keeping requirements contained in this order have been approved by the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

F. B. LEE,  
Acting Administrator of  
Civil Aeronautics.

APPENDIX B

CIVIL AERONAUTICS ADMINISTRATION BULLETIN "AIRPORT DESIGN," APRIL 1, 1944, TABLE 3

AIRPORT SIZE PLANNING STANDARDS

Recommended minimum standards	Class I	Class II	Class III	Class IV	Class V
Length of landing strips <sup>1</sup> .....	1,800 to 2,700 feet.....	2,700 to 3,700 feet.....	3,700 to 4,700 feet.....	4,700 to 6,500 feet.....	6,500 feet and over.
Width of usable landing strips.....	300 feet.....	500 feet.....	500 feet.....	500 feet.....	500 feet.
Length of runways.....	None.....	2,500 to 3,500 feet.....	3,500 to 4,500 feet.....	4,500 to 6,500 feet.....	6,500 feet and over.
Width of runways.....	None.....	150 feet (night operations)..... 100 feet (day operations only).	200 feet (instrument)..... 150 feet (night operations).....	200 feet (instrument)..... 150 feet (night operations).	300 feet (instrument), 150 feet (night operations).
Number of landing strips and runways <sup>2</sup> determined by percentage of winds including calms <sup>3</sup> covered by landing strip and runway alignment.	70 percent.....	75 percent.....	80 percent.....	80 percent.....	80 percent.
Facilities	Drainage; fencing; marking; wind direction indicator; hangar; basic lighting (optional).	Include class I facilities and lighting; hangar and shop; fueling; weather information; office space; parking.	Include class II facilities and Weather Bureau 2-way radio; visual traffic control; instrument approach system (when required); administration building; taxiways and aprons.	Same as class III.....	Same as class IV.

<sup>1</sup> All of the above landing strip and runway lengths are based on sea-level conditions; for higher altitudes increases are necessary. One surfaced runway of dimensions shown above is recommended for each landing strip for airports in classes II, III, IV, and V.  
<sup>2</sup> Landing strips and runways should be sufficient in number to permit take-offs and

landings to be made within 22½° of the true direction for the percentage shown above of winds 4 miles per hour and over, based on at least a 10-year Weather Bureau wind record where possible.  
<sup>3</sup> Calms: Negligible wind conditions of 3 miles per hour and under.

APPENDIX D

Form Approved  
Budget Bureau No. RQ-8541

Form ACA-1623  
(4-48)

DEPARTMENT OF COMMERCE  
CIVIL AERONAUTICS ADMINISTRATION  
FEDERAL-AID AIRPORT PROGRAM

REQUEST FOR FEDERAL AID

To be completed by CAA

Request No.	Site No.
Existing Class No.	Proposed Class No.
Site <input type="checkbox"/> Has <input type="checkbox"/> Has not been discussed with sponsor	
<input type="checkbox"/> New	<input type="checkbox"/> Revised
<input type="checkbox"/> Additional	

Submit in quadruplicate to the District Airport Engineer.

Request is hereby made for Federal aid in carrying out a project in the Federal-Aid Airport Program in accordance with the provisions of Public Law 377 (May 13, 1945) and the regulations prescribed thereunder by the Administrator of Civil Aeronautics.

Name and address of public agency sponsoring project

Name of airport

LOCATION OF AIRPORT OR AIRPORT SITE

No. of miles	Direction	From city of		County	State
Section		Township	Range	Latitude	Longitude

STATUS OF PROPOSED DEVELOPMENT

Sponsor funds on hand \$	Source of sponsor funds	No. days after notice of tentative allocation sponsor funds can be obtained
--------------------------	-------------------------	---

Description of work proposed



Sponsor, the Administrator on behalf of the United States may recover all grant payments made.

5. The Administrator reserves the right to amend or withdraw this Offer at any time prior to its acceptance by the Sponsor.

6. This Offer shall expire and the United States shall not be obligated to pay any of the allowable costs of the Project unless this Offer has been accepted by the Sponsor within 60 days from the above date of Offer or such longer time as may be prescribed by the Administrator in writing.

7. (Special terms and conditions) The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor as hereinafter provided, and said Offer and acceptance shall comprise a Grant Agreement, as provided by the Federal Airport Act, constituting the obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and the operation and maintenance of the Airport. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer and shall remain in full force and effect throughout the useful life of the facilities developed under the Project but in any event not to exceed twenty years from the date of said acceptance.

UNITED STATES OF AMERICA, THE ADMINISTRATOR OF CIVIL AERONAUTICS, By Regional Administrator, Region

Part II—Acceptance

The \_\_\_\_\_ does hereby ratify and adopt all statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer and does hereby accept said Offer and by such acceptance agrees to all of the terms and conditions thereof.

Executed this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_\_

[SEAL] \_\_\_\_\_ (Name of Sponsor) By \_\_\_\_\_ Title \_\_\_\_\_

Attest: \_\_\_\_\_ Title: \_\_\_\_\_

CERTIFICATE OF SPONSOR'S ATTORNEY

I, \_\_\_\_\_, acting as Attorney for \_\_\_\_\_, do hereby certify: That I have examined the foregoing Grant Agreement and the proceedings taken by said \_\_\_\_\_ relating thereto, and find that the Acceptance thereof by said \_\_\_\_\_ has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the State of \_\_\_\_\_, and further that, in my opinion, said Grant Agreement constitutes a legal and binding obligation of the \_\_\_\_\_ in accordance with the terms thereof.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_

Title \_\_\_\_\_

Form Approved Budget Bureau No. 41-11973

APPENDIX F

Form ACA-1631 DEPARTMENT OF COMMERCE (Rev. 3-48) CIVIL AERONAUTICS ADMINISTRATION FEDERAL-AID AIRPORT PROGRAM

Fer (pre/ed) Location Bids opened (date)

ABSTRACT OF BIDS AND RECOMMENDATION FOR AWARD

Table with 3 columns: Bidder, Amount of bid, Name of guaranty

Recommendation for award

APPENDIX H

Form ACA-1633A (4-48)

DEPARTMENT OF COMMERCE

CIVIL AERONAUTICS ADMINISTRATION FEDERAL AID AIRPORT PROGRAM

Performance Bond (Construction)

Know All Men By These Presents, That we, \_\_\_\_\_

as Principal, and \_\_\_\_\_

as Surety

are held and firmly bound unto the \_\_\_\_\_, hereinafter called the \_\_\_\_\_, in the penal sum of \_\_\_\_\_ dollars for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

The condition of this obligation is such, that whereas the principal entered into a certain contract, hereto attached and made a part hereof, with the \_\_\_\_\_, dated \_\_\_\_\_, 19\_\_\_\_, for \_\_\_\_\_

Now therefore, if the principal shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term of said contract and any extensions thereof that may be granted by the \_\_\_\_\_, with or without notice to the surety, and during the life of any guaranty required under the contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of any and all duly authorized modifications of said contract that may hereafter be made, notice of which modifications to the surety being hereby waived, then this obligation shall be void; otherwise it shall remain in full force and effect.

In witness whereof, the above-bounden parties have executed this instrument under their several seals this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

In presence of—

Witness (Individual principal) (Business address) Witness (Individual surety) (Business address) Witness (Individual surety) (Business address)

1 See Instructions 4, 5, and 7 attached. 2 See Instructions 2, 3, 4, and 7 attached.

RULES AND REGULATIONS

Attest: (Corporate principal) (Business address) By [AFFIX CORPORATE SEAL] Attest: (Corporate surety) (Business address) By [AFFIX CORPORATE SEAL] The rate of premium on this bond is per thousand. Total amount of premium charged, \$ (The above must be filled in by corporate surety.)

CERTIFICATE AS TO CORPORATE PRINCIPAL I, , certify that I am the secretary of the corporation named as principal in the within bond; that , who signed the said bond on behalf of the principal, was then of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond was duly signed, sealed, and attested for and in behalf of said corporation by authority of its governing body. [CORPORATE SEAL]

AFFIDAVIT BY INDIVIDUAL SURETY STATE OF } ss: County of }

I, , being duly sworn, depose and say that I am one of the sureties to the foregoing bond; that I am a citizen of the United States, and of full age and legally competent; that I am by occupation a , for business at last past doing in and residing at , that I am worth in real estate and personal property the sum of dollars over and above (1) all my debts and liabilities, owing and incurred, (2) any property exempt from execution, (3) any pecuniary interest I have in the business of the principal on said bond, and (4) any interest I have in any so-called community property; that I am the sole owner in fee simple of certain real estate described as follows, which is located at

(a) (Description of property) that the fair valuation of said real estate is (\$); that the assessed value of that property for taxation purposes is (\$); that said property is not exempt from seizure and sale under any homestead law, community, or marriage law, or upon attachment, execution, or judicial process; that the mortgages or other encumbrances against said real estate are the following:

(b) and that there are no encumbrances against said real estate other than as a above states; than my liabilities owing and incurred do not exceed \$, in addition to the real property above described, I am worth the sum of \$ over and above my just debts and liabilities in property subject to execution and sale, and that the additional personal property consists of the following:

(c) (Describe personal property fully) That I am not surety on any other bonds, except as follows:

(d) (State character and amount of each bond. If not on other bonds so state) That I am not a partner in the business of the principal on the bond or bonds on which I appear or may appear as surety. This affidavit is made to induce the to accept me as surety on the foregoing bond. (Signed) (Surety's signature) Subscribed and sworn to before me this day of 19, at [OFFICIAL SEAL] (Title of official administering oath)

AFFIDAVIT BY INDIVIDUAL SURETY

STATE OF } ss: County of } I, , being duly sworn, depose and say that I am one of the sureties to the foregoing bond; that I am a citizen of the United States, and of full age and legally competent; that I am by occupation a , for last past doing business at in and residing at in , that I am worth in real estate and personal property the sum of dollars over and above (1) all my debts and liabilities, owing and incurred, (2) any property exempt from execution, (3) any pecuniary interest I have in the business of the principal on said bond, and (4) any interest I have in any so-called community property; that I am the sole owner in fee simple of certain real estate described as follows, which is located at

(a) (Description of property) that the fair valuation of said real estate is (\$); that the assessed value of that property for taxation purposes is (\$); that said property is not exempt from seizure and sale under any homestead law, community, or marriage law, or upon attachment, execution, or judicial process; that the mortgages or other encumbrances against said real estate are the following:

(b) and that there are no encumbrances against said real estate other than as above stated; that my liabilities owing and incurred do not exceed \$, in addition to the real property above described, I am worth the sum of \$ over and above my just debts and liabilities in property subject to execution and sale, and that the additional personal property consists of the following:

(c) (Describe personal property fully) That I am not a partner in the business of the principal on the bond or bonds on which I appear or may appear as surety. This affidavit is made to induce the United States of America to accept me as surety on the foregoing bond. (Signed) (Surety's signature) Subscribed and sworn to before me this day of 19, at (Title of official administering oath)

NOTE: See Instruction No. 10 before executing the following certificates.

CERTIFICATE OF SUFFICIENCY

I hereby certify, That , one of the sureties named above, is personally known to me; that, in my judgment, said surety is responsible, and qualified to act as such; and that, to the best of my knowledge and belief, the facts stated by said surety in the foregoing affidavit are true. (Official title) (Address)

CERTIFICATE OF SUFFICIENCY

(Duplicate above certificate)

INSTRUCTIONS

- 1. This form shall be used for construction work whenever a performance bond is required. There shall be no deviation from this form. 2. The surety on the bond may be any corporation authorized by the (Insert name of ) to act as surety or two responsible individual sureties. Each such individual surety shall justify, under oath, before a person authorized by the to administer oaths, in an amount not less than the penalty of the bond, and shall obtain a certificate of sufficiency to act as surety executed by a bank or trust company, a judge or clerk of a court of record, or any officer of the acceptable to the . If the officer has an official seal it shall be affixed, otherwise the proper certificate as to his official character shall be furnished. Where citizenship is not required, as provided in paragraph 3 of these Instructions, the affidavit may be amended accordingly. Further certificates as to the financial qualification of the sureties may be required from time to time; which certificates must be based on the personal investigation of the certifying officers at the time of the making thereof, and not upon prior certificates. 3. A firm, as such, will not be accepted as a surety, nor a partner for copartners or for a firm of which he is a member. Stockholders of a corporate principal may be accepted as sureties provided their qualifications as such are independent of their stock holdings therein. Sureties, if individuals, shall be citizens of the United States, except that sureties on bonds executed in Puerto Rico, Hawaii, or Alaska, for the performance of contracts entered into in these places, need not be citizens of the United States, but if not citizens of the United States shall be domiciled in the place where the contract is to be performed. 4. The name, including full Christian name, and residence of each individual party to the bond shall be inserted in the body thereof, and each such party shall sign the bond with his usual signature on the line opposite the scroll seal, and if signed in Maine or New Hampshire, an adhesive seal shall be affixed opposite the signature. 5. If the principals are partners, their individual names shall appear in the body of the bond, with the recital that they are partners composing a firm, naming it, and all the members of the firm shall execute the bond as individuals. 6. The signature of a witness shall appear in the appropriate place, attesting the signature of each individual party to the bond. 7. If the principal or surety is a corporation, the name of the State in which incorporated shall be inserted in the appropriate place in the body of the bond, and said instrument shall be executed and attested under the corporate seal as indicated in the form. If the corporation has no corporate seal the fact shall be stated, in which case a scroll or adhesive seal shall appear following the corporate name.

8. The official character and authority of the person or persons executing the bond for the principal, if a corporation, shall be certified by the secretary or assistant secretary, in accordance with the certificate as to the corporate principal. In lieu of such certificate there may be attached to the bond copies of so much of the records of the corporation as will show the official character and authority of the officer signing, which records will be duly certified to as being true copies by the secretary or assistant secretary, under the corporate seal.

9. The date of the bond must not be prior to the date of the instrument for which it is given.

APPENDIX I

DEPARTMENT OF COMMERCE

CIVIL AERONAUTICS ADMINISTRATION  
FEDERAL AID AIRPORT PROGRAM

Payment Bond (Construction)

Know All Men By These Presents, That we, \_\_\_\_\_

as Principal,\* and \_\_\_\_\_

\_\_\_\_\_ as Surety,\*\* are held and firmly bound unto the \_\_\_\_\_, hereinafter called the \_\_\_\_\_, in the penal sum of \_\_\_\_\_

for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and severally, firmly by these presents.

The condition of this obligation is such, that whereas the principal entered into a certain contract, hereto attached and made a part hereof, with the \_\_\_\_\_ dated \_\_\_\_\_, 19\_\_\_\_, for \_\_\_\_\_

Now therefore, If the principal shall promptly make payment to all persons supplying labor and material in the prosecution of the work provided for in said contract, and any and all duly authorized modifications of said contract that may hereafter be made, notice of which modifications to the surety being hereby waived, then this obligation shall be void; otherwise it shall remain in full force and effect.

In witness whereof, the above-bounden parties have executed this instrument under their several seals this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

In presence of—

(Witness) (Individual principal) [SEAL]  
(Address) (Business address)  
(Witness) (Individual principal) [SEAL]  
(Address) (Business address)  
(Witness) (Individual principal) [SEAL]  
(Address) (Business address)  
(Witness) (Individual principal) [SEAL]  
(Address) (Business address)

\* See Instructions 4, 5, and 7 attached.

\*\* See Instructions 2, 3, 4, and 7 attached.

\_\_\_\_\_  
(Witness) (Individual surety) [SEAL]  
\_\_\_\_\_  
(Address) (Business address)  
\_\_\_\_\_  
(Witness) (Individual surety) [SEAL]  
\_\_\_\_\_  
(Address) (Business address)

Attest:

\_\_\_\_\_  
(Corporate principal)  
\_\_\_\_\_  
(Business address)  
By \_\_\_\_\_ [AFFIX CORPORATE SEAL]

Attest:

\_\_\_\_\_  
(Corporate surety)  
\_\_\_\_\_  
(Business address)  
By \_\_\_\_\_ [AFFIX CORPORATE SEAL]

The rate of premium on this bond is \_\_\_\_\_ per thousand.

Total amount of premium charged, \$\_\_\_\_\_  
(The above must be filled in by corporate surety.)

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, \_\_\_\_\_, certify that I am the secretary of the corporation named as principal in the within bond; that \_\_\_\_\_, who signed the said bond on behalf of the principal, was then \_\_\_\_\_ of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond was duly signed, sealed, and attested for and in behalf of said corporation by authority of its governing body.

AFFIDAVIT BY INDIVIDUAL SURETY

STATE OF \_\_\_\_\_ ss:  
County of \_\_\_\_\_

I, \_\_\_\_\_, being duly sworn, depose and say that I am one of the sureties to the foregoing bond; that I am a citizen of the United States, and of full age and legally competent; that I am by occupation a \_\_\_\_\_, for \_\_\_\_\_ last past doing at \_\_\_\_\_ and residing at \_\_\_\_\_ in \_\_\_\_\_, that I am worth in real estate and personal property the sum of \_\_\_\_\_ dollars over and above (1) all my debts and liabilities, owing and incurred, (2) any property exempt from execution, (3) any pecuniary interest I have in the business of the principal on said bond, and (4) any interest I have in any so-called community property; that I am the sole owner in fee simple of certain real estate described as follows, which is located at

(a) \_\_\_\_\_  
(Description of property)

that the fair valuation of said real estate is (\$\_\_\_\_); that the assessed value of that property for taxation purposes is (\$\_\_\_\_); that said property is not exempt from seizure and sale under any homestead law, community, or marriage law, or upon attachment, execution, or judicial process; that the mortgages or other encumbrances against said real estate are the following:

(b) \_\_\_\_\_

and that there are no encumbrances against said real estate other than as above stated; that my liabilities owing and incurred do not exceed \$\_\_\_\_, in addition to the real property above described, I am worth the sum of \$\_\_\_\_ over and above my just debts and liabilities in property above described, I am worth the sum of \$\_\_\_\_ over and above

my just debts and liabilities in property subject to execution and sale, and that the additional personal property consists of the following:

(c) \_\_\_\_\_  
(Describe personal property fully)

That I am not surety on any other bonds, except as follows:

(d) \_\_\_\_\_  
(State character and amount of each bond. If not on other bonds, so state)

That I am not a partner in the business of the principal on the bond or bonds on which I appear or may appear as surety. This affidavit is made to induce the \_\_\_\_\_ to accept me as surety on the foregoing bond.

(Signed) \_\_\_\_\_  
(Surety's signature)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_

[OFFICIAL SEAL] \_\_\_\_\_  
(Title of official administering oath)

AFFIDAVIT BY INDIVIDUAL SURETY

STATE OF \_\_\_\_\_ ss:  
County of \_\_\_\_\_

I, \_\_\_\_\_, being duly sworn, depose and say that I am one of the sureties to the foregoing bond; that I am a citizen of the United States, and of full age and legally competent; that I am by occupation a \_\_\_\_\_, for \_\_\_\_\_ last past doing business at \_\_\_\_\_ and residing at \_\_\_\_\_ in \_\_\_\_\_, that I am worth in real estate and personal property the sum of \_\_\_\_\_ dollars over and above (1) all my debts and liabilities, owing and incurred, (2) any property exempt from execution, (3) any pecuniary interest I have in the business of the principal on said bond, and (4) any interest I have in any so-called community property; that I am the sole owner in fee simple of certain real estate described as follows, which is located at

(a) \_\_\_\_\_  
(Description of property)

that the fair valuation of said real estate is (\$\_\_\_\_); that the assessed value of that property for taxation purposes is (\$\_\_\_\_); that said property is not exempt from seizure and sale under any homestead law, community, or marriage law, or upon attachment, execution, or judicial process; that the mortgages or other encumbrances against said real estate are the following:

(b) \_\_\_\_\_

and that there are no encumbrances against said real estate other than as above stated; that my liabilities owing and incurred do not exceed \$\_\_\_\_, in addition to the real property above described, I am worth the sum of \$\_\_\_\_ over and above my just debts and liabilities in property subject to execution and sale, and that the additional personal property consists of the following:

(c) \_\_\_\_\_  
(Describe personal property fully)

That I am not surety on any other bonds, except as follows:

(d) \_\_\_\_\_  
(State character and amount of each bond. If not on other bonds, so state)

That I am not a partner in the business of the principal on the bonds on which I appear or may appear as surety. This affidavit is made to induce the ----- to accept me as surety on the foregoing bond.

(Signed) -----

(Surety's signature)

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

(Title of official administering oath)

NOTE: See Instruction No. 10 before executing the following certificates:

#### CERTIFICATE OF SUFFICIENCY

I hereby certify, That -----, one of the sureties named above, is personally known to me; that, in my judgment, said surety is responsible, and qualified to act as such; and that, to the best of my knowledge and belief, the facts stated by said surety in the foregoing affidavit are true.

(Official title)

(Address)

#### CERTIFICATE OF SUFFICIENCY

(Duplicate above certificate)

#### INSTRUCTIONS

1. This form, for the protection of persons supplying labor and material, shall be used in connection with all contracts for the construction, alteration, or repair of any airport or any usable unit thereof ----- under the Federal Airport Act. There shall be no deviation from this form.

2. The surety on the bond may be any corporation authorized by the -----

(Insert name of

----- to act as surety, or two responsible sponsor)

individual sureties. Each such individual surety shall justify, under oath, before a person authorized by the ----- to administer oaths, in an amount not less than the penalty of the bond, and shall obtain a certificate of sufficiency to act as surety executed by a bank or trust company, a judge or clerk of a court of record, or any officer of the ----- acceptable to the ----- If the officer has an official seal it shall be affixed, otherwise the property certificate as to his official character shall be furnished. Where citizenship is not required, as provided in paragraph 3 of these instructions, the affidavit may be amended accordingly.

Further certificates as to the financial qualification of the sureties may be required from time to time; which certificates must be based on the personal investigation of the certifying officers at the time of the making thereof, and not upon prior certificates.

3. A firm, as such, will not be accepted as a surety, nor a partner for copartners or for a firm of which he is a member. Stockholders of a corporate principal may be accepted as sureties provided their qualifications as such are independent of their stock holdings therein. Sureties, if individuals, shall be citizens of the United States, except that sureties on bonds executed in Puerto Rico, Hawaii, or Alaska, for the performance of contracts entered into in these places, need not be citizens of the United States, but if not citizens of the United States shall be domiciled in the place where the contract is to be performed.

4. The name, including full Christian name, and residence of each individual party to the bond shall be inserted in the body thereof, and each such party shall sign the bond with his usual signature on the line opposite the scroll seal, and if signed in Maine or New Hampshire, an adhesive seal shall be affixed opposite the signature.

5. If the principals are partners, their individual names shall appear in the body of the bond, with the recital that they are partners composing a firm, naming it, and all the members of the firm shall execute the bond as individuals.

6. The signature of a witness shall appear in the appropriate place, attesting the signature of each individual party to the bond.

7. If the principal or surety is a corporation, the name of the State in which incorporated shall be inserted in the appropriate place in the body of the bond, and said instrument shall be executed and attested under the corporate seal as indicated in the form. If the corporation has no corporate seal the fact shall be stated, in which case a scroll or adhesive seal shall appear following the corporate name.

8. The official character and authority of the person or persons executing the bond for the principal, if a corporation, shall be certified by the secretary or assistant secretary, in accordance with the certificate as to corporate principal. In lieu of such certificate there may be attached to the bond copies of so much of the records of the corporation as will show the official character and authority of the officer signing, which records will be duly certified to as being true copies by the secretary or assistant secretary, under the corporate seal.

9. The date of the bond must not be prior to the date of the instrument for which it is given.

#### APPENDIX L

[Public Voucher for Purchases and Services Other Than Personal—Standard Form No. 1034—Rev., form approved by Comptroller General, U. S., May 26, 1938, amended August 15, 1941]

NOTE: Appendix L was filed with the Division of the Federal Register.

[F. R. Doc. 48-3907; Filed, Apr. 29, 1948; 10:18 a. m.]

## TITLE 16—COMMERCIAL PRACTICES

### Chapter I—Federal Trade Commission

[Docket No. 5188]

#### PART 3—DIGEST OF CEASE AND DESIST ORDERS

##### SUPERIOR PRODUCTS CO., ETC.

§ 3.6 (b) *Advertising falsely or misleadingly—Qualities or properties of products or service.* In connection with the offering for sale, sale, or distribution of respondent's "Trio 3-Purpose Cream," or any product of substantially similar properties, whether sold under the same name or any other name, disseminating, etc., any advertisements by means of the United States mails, or in commerce, or by any means to induce, etc., directly or indirectly, the purchase in commerce, etc., of said preparation, which advertisements represent, directly or through inference, that respondent's said preparation will nourish the tissues of the skin or will in any way improve the texture thereof; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U. S. C., sec. 45b) [Cease and desist order, Superior Products Company, etc., Docket 5188, March 4, 1948]

At a regular session of the Federal Trade Commission, held at its office in the city of Washington, D. C., on the 4th day of March A. D. 1948.

### In the Matter of Superior Products Company, a Corporation, Doing Business as S-P Laboratories

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before an examiner of the Commission theretofore duly designated by it, report of the trial examiner and exceptions thereto, and the briefs of counsel, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That respondent Superior Products Company, trading as S-P Laboratories or under any other name, its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of its "Trio 3-Purpose Cream," or any product of substantially similar composition or possessing substantially similar properties, whether sold under the same name or any other name, do forthwith cease and desist from:

1. Disseminating or causing to be disseminated, by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which represents, directly or through inference, that its said preparation will nourish the tissues of the skin or that it will in any way improve the texture of the skin.

2. Disseminating or causing to be disseminated, by any means, any advertisement for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said preparation, which advertisement contains any of the representations prohibited in paragraph 1 above.

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

By the Commission.

[SEAL] WM. P. GLENDENING, Jr.,  
Acting Secretary.

[F. R. Doc. 48-3828; Filed, Apr. 29, 1948; 8:50 a. m.]

## TITLE 19—CUSTOMS DUTIES

### Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 51901]

#### PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADE

##### PASSENGER LISTS; ADOPTION OF CUSTOMS AND IMMIGRATION FORMS<sup>1</sup>

1. Section 4.7 (c) of the Customs Regulations of 1943 (19 CFR, Cum. Supp., 4.7 (c)) as amended by T. D. 51547 is

<sup>1</sup> See F. R. Doc. 48-3833, Title 8, Chapter 1, supra.

further amended by deleting the words and figures "customs Form 1440" and by substituting in lieu thereof the words and figures "customs and immigration Forms I-415 and I-416."

CR. S. 161, sec. 2, 23 Stat. 118, secs. 431, 624, 46 Stat. 710, 759; 5 U. S. C. 22, 19 U. S. C. 1431, 1624, 46 U. S. C. 2. Sec. 102, Reorganization Plan No. 3 of 1946; 3 CFR, 1946 Supp., ch. IV)

2. Section 4.50 (a) of the Customs Regulations of 1943 (19 CFR, Cum. Supp., 4.50 (a)) as amended by T. Ds. 51107 and 51547, is further amended by deleting the words and figures "customs Form 1440" and by substituting in lieu thereof the words and figures "customs and immigration Forms I-415 and I-416."

CR. S. 161, sec. 9, 22 Stat. 189, sec. 2, 23 Stat. 118, sec. 1, 33 Stat. 711, secs. 431, 624, 46 Stat. 710, 759; 5 U. S. C. 22, 19 U. S. C. 1431, 1624, 46 U. S. C. 2, 153. Sec. 102, Reorganization Plan No. 3 of 1946; 3 CFR, 1946 Supp., ch. IV)

3. Section 4.51 of the Customs Regulations of 1943 (19 CFR, Cum. Supp., 4.51) is amended by deleting the words and figures "customs Form 1440" and by substituting in lieu thereof the words and figures "customs and immigration Forms I-415 and I-416."

CR. S. 161, sec. 11, 22 Stat. 190, sec. 2, 23 Stat. 118, sec. 10, 32 Stat. 829; 5 U. S. C. 22, 46 U. S. C. 2, 160. Sec. 102, Reorganization Plan No. 3 of 1946; 3 CFR, 1946 Supp., ch. IV)

The amendments stated above shall become effective on July 1, 1948; but customs and immigration Forms I-415 and I-416, when available, may be used before that date.

[SEAL] FRANK DOW,  
*Acting Commissioner of Customs.*

Approved: April 27, 1948.

A. L. M. WIGGINS,  
*Acting Secretary of the Treasury.*

[F. R. Doc. 48-3832; Filed, Apr. 29, 1948;  
9:10 a. m.]

[T. D. 51900]

PART 8—LIABILITY FOR DUTIES, ENTRY OF IMPORTED MERCHANDISE

INVOICES; CONVERSION OF CURRENCY

Section 8.13 (i) Customs Regulations of 1943 (19 CFR, Cum. Supp., 8.13 (i)) as amended, is hereby further amended by adding at the end thereof the following: "On customs invoices of merchandise imported from a country having a currency for which two or more rates of exchange have been certified by the Federal Reserve Bank of New York pursuant to section 522 of the Tariff Act of 1930, except merchandise unconditionally free of duty or subject only to a specific rate of duty not depending on value, there shall be shown the exchange rate or rates used in converting the United States dollars received for such merchandise into the foreign currency and the percentage of each rate if two or more rates are used. If a rate or combination of rates different from the rate or combination of rates used in payment for the merchandise

was used in payment of costs, charges, or expenses, the rate or combination of rates used in payment of such costs, charges, and expenses shall be stated separately. Where the dollars have not been converted at the time the invoice is prepared that fact shall be stated on the invoice, in which case the invoice shall also state the rate or combination of rates at which the dollars will be converted or shall state that it is not known what rate or rates will be used, as the case may be."

This requirement shall be effective as to invoices certified after 30 days after the publication of this document in the weekly Treasury Decisions.

(Secs. 481 (a) (10) 522, 46 Stat. 719, 739; 19 U. S. C. 1481 (a) (10), 31 U. S. C. 372)

FRANK DOW,  
*Acting Commissioner of Customs.*

Approved: April 26, 1948.

A. L. M. WIGGINS,  
*Acting Secretary of the Treasury.*

[F. R. Doc. 48-3835; Filed, Apr. 29, 1948;  
8:50 a. m.]

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Federal Security Agency

PART 155—SEA FOOD INSPECTION

INSPECTION OF CANNED SHRIMP

Under the authority of section 702A of the Federal Food, Drug, and Cosmetic Act, as amended (49 Stat. 871; 21 U. S. C. 372a) each of the sections hereinafter specified of the regulations for the inspection of canned shrimp published in the FEDERAL REGISTER of July 2, 1942 (7 F. R. 4945) as amended in the FEDERAL REGISTER of June 10, 1943 (8 F. R. 7751), June 15, 1944 (9 F. R. 6533) June 30, 1945 (10 F. R. 7971) October 13, 1945 (10 F. R. 12300) June 1, 1946 (11 F. R. 5304) May 23, 1947 (12 F. R. 3318-19) and November 1, 1947 (12 F. R. 7108) is amended as follows:

1. In § 155.12 (b) by adding at the end of the first sentence thereof the following: "except that the Commissioner of Food and Drugs may require the full amount of advance deposits prescribed for an initial inspection period by this paragraph to accompany the application of an applicant who has defaulted in payment of any advance deposit due in a prior packing season."

2. In § 155.12 (c) by changing this paragraph to read as follows:

(c) A separate fee shall be paid to cover all expenses, incurred in accordance with the regulations of the Government, for salary, travel, subsistence, and other purposes incident to inspection for the purpose of issuing a certificate or warehousing or export permit on canned shrimp stored or held at any place other than an establishment to which a sea-food inspector is then assigned.

These amendments shall become effective on May 31, 1948.

On March 4, 1948, notice of proposed rule-making embodying these amendments was published in the FEDERAL

REGISTER (13 F. R. 1171) The purpose of these amendments is to further promote the efficiency of the inspection service and to effect a more equitable distribution of the cost of the service among the participants thereon.

(Sec. 702A, 49 Stat. 871; 21 U. S. C. and Supp., 372a)

Dated: April 27, 1948.

[SEAL] OSCAR R. EWING,  
*Administrator.*

[F. R. Doc. 48-3830; Filed, Apr. 23, 1948;  
8:54 a. m.]

PART 155—SEA FOOD INSPECTION

INSPECTION OF CANNED OYSTERS

Under the authority of section 702A of the Federal Food, Drug, and Cosmetic Act, as amended (49 Stat. 871; 21 U. S. C. 372a) each of the sections hereinafter specified of the regulations for the inspection of canned oysters published in the FEDERAL REGISTER of January 4, 1944 (9 F. R. 56), as amended in the FEDERAL REGISTER of February 2, 1944 (9 F. R. 1203) June 15, 1944 (9 F. R. 6584) October 21, 1944 (9 F. R. 12675), June 30, 1945 (10 F. R. 7971) October 13, 1945 (10 F. R. 12300) October 23, 1946 (11 F. R. 12379) and May 23, 1947 (12 F. R. 3318) is amended as follows:

1. In § 155.42 (b) by adding at the end of the first sentence thereof the following: "except that the Commissioner of Food and Drugs may require the full amount of advance deposits prescribed for an initial inspection period by this paragraph to accompany the application of an applicant who has defaulted in payment of any advance deposit due in a prior packing season."

2. In § 155.42 (b) by inserting between the first and second sentences thereof the following: "Whenever it is determined, without hearing, by the Commissioner of Food and Drugs that an establishment having the inspection service has been damaged by wind, fire, flood, or other calamity, to such an extent that packing operations cannot be resumed before the end of the fiscal year then current, no advance monthly deposits falling due after such calamity will be required from the operator of such establishment for that fiscal year; but whenever it is determined, without hearing, by the Commissioner of Food and Drugs that an establishment having the inspection service has been so damaged by any such calamity that packing operations must be suspended temporarily, and can be resumed before the end of the fiscal year then current, payment of the advance monthly deposits falling due after such calamity and before the month of resumption of operations shall be postponed until operations are resumed and thereupon, shall be paid in equal monthly installments during the period between the time of resumption of operations and June 1 of the fiscal year then current: *Provided*, That in the event of a determination described in this sentence the total deposits made by the operator involved shall be charged with the cost of the service made available for the establishment, without regard to the

method provided hereinafter for computing charges against deposits, and the balance of the total deposits remaining after such charges shall be returned by the Administration to the operator of the establishment after the completion of the fiscal year."

3. In § 155.42 (c) by changing this paragraph to read as follows:

(c) A separate fee shall be paid to cover all expenses, incurred in accordance with the regulations of the government, for salary, travel, subsistence, and other purposes incident to inspection for the purpose of issuing a certificate or warehousing or export permit on canned oysters stored or held at any place other than an establishment to which a sea-food inspector is then assigned.

These amendments shall become effective on May 31, 1948.

On March 4, 1948, notice of proposed rule-making embodying these amendments was published in the FEDERAL REGISTER (13 F. R. 1171). The purpose of these amendments is to further promote the efficiency of the inspection service and to effect a more equitable distribution of the cost of the service among the participants therein.

(Sec. 702A, 49 Stat. 871, 21 U. S. C. and Sup., 372a)

Dated: April 27, 1948.

[SEAL] OSCAR R. EWING,  
Administrator

[F. R. Doc. 48-3829; Filed, Apr. 29, 1948; 8:53 a. m.]

## TITLE 29—LABOR

### Chapter V—Wage and Hour Division, Department of Labor

Subchapter B—Statements of General Policy or Interpretation Not Directly Related to Regulations

#### PART 782—EXEMPTION FROM MAXIMUM HOURS PROVISIONS FOR CERTAIN EMPLOYEES OF MOTOR CARRIERS

Sec.

- 782.0 Introductory statement.
- 782.1 Statutory provisions considered.
- 782.2 Requirements for exemption in general.
- 782.3 Drivers.
- 782.4 Drivers' helpers.
- 782.5 Loaders.
- 782.6 Mechanics.
- 782.7 Interstate commerce requirements of exemption.
- 782.8 Special classes of carriers.

AUTHORITY: §§ 782.0 to 782.8, inclusive, issued under 52 Stat. 1060; sec. 10, Pub. Law 49, 80th Cong., 29 U. S. C. 201.

§ 782.0 *Introductory statement.* (a) Since the enactment of the Fair Labor Standards Act of 1938, the views of the Administrator as to the scope and applicability of the exemption provided by section 13 (b) (1) of the act have been expressed in interpretations issued from time to time in various forms. These interpretations were always issued with the understanding that they were only advisory, so far as the rights and liabilities of employers and employees were concerned, because the courts alone had the authority to make legally binding interpreta-

tions. However, the Portal-to-Portal Act of 1947<sup>1</sup> contemplates that interpretations of the Administrator will now, under certain circumstances, be controlling in determining such rights and liabilities in the courts. Thus, together with recent decisions of the United States Supreme Court concerning this exemption, has made it necessary, for the protection of employees and employers who may seek to rely on the Administrator's interpretation, that interpretations previously issued concerning the scope and applicability of the exemption provided by section 13 (b) (1) of the Fair Labor Standards Act, be re-examined in order to determine whether they now correctly interpret the law in the light of developments subsequent to their issuance, and that the Administrator's position be clarified for the future. This part, as of the date of its publication in the FEDERAL REGISTER, supersedes and replaces such prior interpretations. Its purpose is to make available in one place general interpretations of the Administrator which will provide "a practical guide to employers and employees as to how the office representing the public interest in enforcement of the law will seek to apply it."<sup>2</sup> The interpretations contained in this part indicate, with respect to the scope and applicability of the exemption provided by section 13 (b) (1) of the Fair Labor Standards Act, the construction of the law which the Administrator believes to be correct in the light of the decisions of the courts and of the Interstate Commerce Commission, and which will guide him in the performance of his administrative duties under the act unless and until he is otherwise directed by authoritative decisions of the courts or concludes, upon re-examination of an interpretation, that it is incorrect.

(b) Effective on the date of publication of this part in the FEDERAL REGISTER, all prior general and specific interpretations contained in interpretative bulletins, releases, opinion letters and other statements issued with respect to the scope and applicability of the exemption provided by section 13 (b) (1) of the Fair Labor Standards Act are rescinded and withdrawn. An interpretation so rescinded and withdrawn shall not hereafter constitute an interpretation of the Administrator unless and until it is reissued as such. However, the action of the Administrator in rescinding or withdrawing such prior interpretation or his omission to discuss a particular problem in this bulletin or in interpretations supplementing it does not constitute an administrative interpretation or practice or enforcement policy.

§ 782.1 *Statutory provisions considered.* (a) Section 13 (b) (1) of the Fair Labor Standards Act provides an exemption from the maximum hours and overtime requirements of section 7 of the act, but not from the minimum wage requirements of section 6. The exemption is applicable to:

Any employee with respect to whom the Interstate Commerce Commission has power

<sup>1</sup>Pub. Law 49, 80th Cong., Chap. 52, 1st Sess.

<sup>2</sup>Skidmore v. Swift & Co., 324 U. S. 134.

to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935.<sup>3</sup>

The act confers no authority on the administrator to extend or restrict the scope of this exemption. It is settled by decisions of the United States Supreme Court that the applicability of the exemption to an employee otherwise entitled to the benefits of the Fair Labor Standards Act is determined exclusively by the existence of the power of the Interstate Commerce Commission under section 204 of the Motor Carrier Act, to establish qualifications and maximum hours of service with respect to him. It is not material whether such qualifications and maximum hours of service have actually been established by the Commission; the controlling consideration is whether the employee comes within the power of the Commission to do so. The exemption is not operative in the absence of such power, but an employee with respect to whom the Commission has such power is excluded, automatically, from the benefits of section 7 of the Fair Labor Standards Act.<sup>4</sup>

(b) Section 204 of the Motor Carrier Act, 1935,<sup>5</sup> provides that it shall be the duty of the Interstate Commerce Commission to regulate common and contract carriers by motor vehicle as provided in that act, and that "to that end the Commission may establish reasonable requirements with respect to \* \* \* qualifications and maximum hours of service of employees, and safety of operation and equipment."<sup>6</sup> Section 204 further provides that it shall be the duty of the Commission to "establish for private carriers of property by motor vehicle, if need therefor is found, reasonable requirements to promote safety of operation, and to that end prescribe qualifications and maximum hours of service of employees, and standards of equipment."<sup>7</sup>

(c) Other provisions of the Motor Carrier act which have a bearing on the scope of section 204 include those which define common and contract carriers by motor vehicle, motor carriers, private carriers of property by motor vehicle,<sup>8</sup>

<sup>3</sup>Part II of the Interstate Commerce Act, as amended. 49 Stat. 543, 546, c., 498, 49 U. S. C. sec. 304.

<sup>4</sup>Southland Gasoline Co. v. Bayley, 319 U. S. 44; Routell v. Walling, 327 U. S. 493; Levinson v. Spector Motor Service, 330 U. S. 649; Pyramid Motor Freight Corp., v. Inpass, 330 U. S. 695; Morris v. McComb, 332 U. S. 422.

<sup>5</sup>Motor Carrier Act, sec. 204 (1), (2), (b), 49 U. S. C. sec. 304 (a), (1), (2).

<sup>6</sup>Motor Carrier Act, sec. 204 (a) (3), 49 U. S. C. sec. 304 (a) (3).

<sup>7</sup>Motor Carrier Act, sec. 203 (a) (14), (15), (16), (17), 49 U. S. C. sec. 303 (a) (14), (15), (16), (17);

<sup>8</sup>(14) The term 'common carrier by motor vehicle' means any person which holds itself out to the general public to engage in the transportation by motor vehicle in interstate or foreign commerce of passengers or property of any class or classes thereof for compensation, whether over regular or irregular routes, except transportation by motor vehicle by an express company to the extent that such transportation has heretofore been subject to part I, to which extent such transportation shall continue to be con-

and motor vehicle;<sup>5</sup> those which confer regulatory powers on the Commission with respect to the transportation of passengers or property by motor carriers, engaged in interstate or foreign commerce<sup>9</sup> (as defined in the act)<sup>10</sup> and reserve to each State the exclusive exercise of the power of regulation of intrastate commerce by motor carriers on its highways;<sup>11</sup> and those which expressly

sidered to be and shall be regulated as transportation subject to Part I<sup>12</sup>

"(15) The term 'contract carrier by motor vehicle' means any person which, under individual contracts or agreements, engages in the transportation (other than transportation referred to in paragraph (14) and the exception therein) by motor vehicle of passengers or property in interstate or foreign commerce for compensation."

"(16) The term 'motor carrier' includes both a common carrier by motor vehicle and a contract carrier by motor vehicle."

"(17) The term 'private carrier of property by motor vehicle' means any person not included in the terms 'common carrier by motor vehicle' or 'contract carrier by motor vehicle' who or which transports in interstate or foreign commerce by motor vehicle property of which such person is the owner, lessee, or bailee, when such transportation is for the purpose of sale, lease, rent, or bailment, or in furtherance of any commercial enterprise."

<sup>5</sup> Motor Carrier Act, sec. 203 (a) (13), 49 U. S. C. sec. 303 (a) (13).

"(13) The term 'motor vehicle' means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof determined by the Commission, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passengers transportation similar to street-railway service."

<sup>9</sup> Motor Carrier Act, sec. 202 (a), 49 U. S. C. sec. 302 (a).

"The provisions of this part apply to the transportation of passengers or property by motor carriers engaged in interstate or foreign commerce and to the procurement of and the provisions of facilities for such transportation, and the regulation of such transportation, and of the procurement thereof, and the provision of facilities therefor, is hereby vested in the Interstate Commerce Commission.

<sup>10</sup> Motor Carrier Act, sec. 203 (a) (10), (11), 49 U. S. C. sec. 303 (a) (10), (11)

"(10) The term 'interstate commerce' means commerce between any place in a State and any place in another State or between places in the same State through another State, whether such commerce moves wholly by motor vehicle or partly by motor vehicle and partly by rail, express, or water."

"(11) The term 'foreign commerce' means commerce between any place in the United States and any place in a foreign country, or between places in the United States through any foreign country, whether such commerce moves wholly by motor vehicle or partly by motor vehicle and partly by rail, express, or water."

<sup>12</sup> Motor Carrier Act, Sec. 202 (b), 49 U. S. C. sec. 302 (b)

"Nothing in this part shall be construed to affect the powers of taxation of the several States or to authorize a motor carrier to do an intrastate business on the highways of any State, or to interfere with the exclusive exercise by each State of the power of regulation of intrastate commerce by motor carriers on the highways thereof."

make section 204 applicable to certain transportation in interstate or foreign commerce which is in other respects excluded from regulation under the act.<sup>13</sup>

§ 782.2 *Requirements for exemption in general.* (a) The exemption of an employee from the hours provisions of the Fair Labor Standards Act under section 13 (b) (1) depends both on the class to which his employer belongs and on the

<sup>13</sup> Motor Carrier Act, sec. 202 (c), 49 Stat. 543, as amended by 56 Stat. 303, 49 U. S. C. Supp. V, sec. 303 (c)

"Notwithstanding any provision of this section or of section 203, the provisions of this part, except the provisions of section 204 relative to qualifications and maximum hours of service of employees and safety of operation and equipment, shall not apply—

(1) To transportation by motor vehicle by a carrier by a railroad subject to part I, or by a water carrier subject to part III, or by a freight forwarder subject to part IV, incidental to transportation or service subject to such parts, in the performance within terminal areas of transfer, collection, or delivery services; but such transportation shall be considered to be and shall be regulated as transportation subject to part I when performed by such carrier by railroad, as transportation subject to part III when performed by such water carrier, and as transportation or service subject to part IV when performed by such freight forwarder;

(2) To transportation by motor vehicle by any person (whether as agent or under a contractual arrangement) for a common carrier by railroad subject to part I, an express company subject to part I, a motor carrier subject to this part, a water-carrier subject to part III, or a freight forwarder subject to part IV, in the performance within terminal areas of transfer, collection, or delivery service; but such transportation shall be considered to be performed by such carrier, express company, or freight forwarder as part of, and shall be regulated in the same manner as, the transportation by railroad, express, motor vehicle, or water, or the freight forwarder transportation or service, to which such services are incidental.

Motor Carrier Act, sec. 203 (b), 49 U. S. C. 303 (b)

"Nothing in this part, except the provisions of section 204 relative to qualifications and maximum hours of service of employees and safety of operation or standards of equipment shall be construed to include (1) motor vehicles employed solely in transporting school children and teachers to or from school; or (2) taxicabs, or other motor vehicles performing a bona fide taxicab service, having a capacity of not more than six passengers and operated on a regular route or between fixed termini; or (3) motor vehicles owned or operated by or on behalf of hotels and used exclusively for the transportation of hotel patrons between hotels and local railroad or other common carrier stations; or (4) motor vehicles operated, under authorization, regulation, and control of the Secretary of the Interior, principally for the purpose of transporting persons in and about the national parks and national monuments; or (4a) motor vehicles controlled and operated by any farmer when used in the transportation of his agricultural commodities and products thereof, or in the transportation of supplies to his farm; or (5) motor vehicles controlled and operated by a cooperative association as defined in sections 1141-1141j of Title 12, as amended, or by a federation of such cooperative associations, if such federation possesses no greater powers or purposes than cooperative associations so defined; or (6) motor vehicles used in carrying property consisting of ordinary livestock, fish (including shell

fish), or agricultural commodities (not including manufactured products thereof), if such motor vehicles are not used in carrying any other property, or passengers, for compensation; (7) motor vehicles used exclusively in the distribution of newspapers; or (7a) the transportation of persons or property by motor vehicle when incidental to transportation by aircraft nor, unless and to the extent that the Commission shall from time to time find that such application is necessary to carry out the national transportation policy declared in the Interstate Commerce Act, shall the provisions of this part, except the provisions of section 204 of this part relative to qualifications and maximum hours of service of employees and safety of operation or standards of equipment apply to; (8) the transportation of passengers or property in interstate or foreign commerce wholly within a municipality or between contiguous municipalities or within zone adjacent to and commercially a part of any such municipality or municipalities, except when such transportation is under a common control, management, or arrangement for a continuous carriage or shipment to or from a point without such municipality, municipalities, or zone, and provided that the motor carrier engaged in such transportation of passengers over regular route or routes in interstate commerce is also lawfully engaged in the intrastate transportation of passengers over the entire length of such interstate route or routes in accordance with the laws of each State having jurisdiction; or (9) the casual, occasional, or reciprocal transportation of passengers or property by motor vehicle in interstate or foreign commerce for compensation by any person not engaged in transportation by motor vehicle as a regular occupation or business, unless, in the case of transportation of passengers, such transportation is sold or offered for sale, or provided or procured or furnished or arranged for, by a broker, or by any other person who calls or offers for sale transportation furnished by a person lawfully engaged in the transportation of passengers by motor vehicle under a certificate or permit issued under this part or under a pending application for such a certificate or permit.

<sup>14</sup> *Boutell v. Walling*, 327 U. S. 463; *Walling v. Cacale*, 51 F. Supp. 520. And see *Ex parte Nos. MC-2 and MC-3*, in the *Matter of Maximum Hours of Service of Motor Carrier Employees*, 23 M. C. C. 125, 132.

The carriers whose transportation activities are subject to the Commission's jurisdiction are specified in the Motor Carrier Act itself. See § 782.1. As noted in that section, the Commission's jurisdiction over private carriers is limited by the statute to private carriers of property by motor vehicle, as defined therein, while its jurisdiction extends to common and contract carriers of both passengers and property. See also the discussion of special classes of carriers in § 782.3. And see paragraph (d) of this section.

state or foreign commerce within the meaning of the Motor Carrier Act.<sup>21</sup> The Commission has determined, and the United States Supreme Court has accepted its determination, that activities of this character are included in the kinds of work which the Commission has defined as the work of drivers, drivers' helpers, loaders, and mechanics<sup>22</sup> employed by such carriers, and that no other classes of employees employed by such carriers perform duties directly affecting such "safety of operation."<sup>23</sup>

(b) The exemption is applicable, under decisions of the United States Supreme Court, to those employees and those only whose work involves engagement in activities consisting wholly or in part of a class of work which is defined by the Interstate Commerce Commission (1) as that of a driver, driver's helper, loader, or mechanic, and (2) as directly affecting the safety of operation of motor vehicles on the public highways in transportation in interstate or foreign commerce within the meaning of the Motor Carrier Act.<sup>24</sup> In determining

<sup>21</sup> *United States v. American Trucking Assns.*, 310 U. S. 534; *Levinson v. Spector Motor Service*, 330 U. S. 649; *Pyramid Motor Freight Corp. v. Ispass*, 330 U. S. 695; *Ex parte No. MC-28*, 13 M. C. C. 481; *Ex parte Nos. MC-2 and MC-3*, 28 M. C. C. 125; *Walling v. Comet Carriers*, 151 F. (2d) 107 (C. C. A. 2); *Gordon's Transports v. Walling*, 162 F. (2d) 203 (C. C. A. 6), certiorari denied 68 S. Ct. 74, rehearing denied November 10, 1947.

The activities described in the text are frequently referred to herein, for purposes of brevity, as activities directly affecting "safety of operation," or as safety-affecting activities. What such activities are is explained in paragraph (d) of this section and in following sections. As to the meaning of "transportation in interstate or foreign commerce" under the Motor Carrier Act, see the statutory definitions in § 782.1, and see § 782.7.

<sup>22</sup> See §§ 782.3 to 782.6.

<sup>23</sup> *Ex parte No. MC-2*, 11 M. C. C. 203; *Ex parte No. MC-28*, 13 M. C. C. 481; *Ex parte No. MC-3*, 28 M. C. C. 1; *Ex parte Nos. MC-2 and MC-3*, 28 M. C. C. 125; *Levinson v. Spector Motor Service*, 330 U. S. 649; *Pyramid Motor Freight Corp. v. Ispass*, 330 U. S. 695; *Southland Gasoline Co. v. Bayley*, 319 U. S. 44. See also paragraph (d) of this section and §§ 782.3-782.8.

<sup>24</sup> *Pyramid Motor Freight Corp. v. Ispass*, 330 U. S. 695; *Levinson v. Spector Motor Service*, 330 U. S. 649; *Morris v. McComb*, 332 U. S. 422; *Overnight Motor Transp. Corp. v. Missel*, 316 U. S. 572; *Southland Gasoline Co. v. Bayley*, 319 U. S. 44; *Gordon's Transports v. Walling*, 162 F. (2d) 203 (C. C. A. 6), certiorari denied 332 U. S. 774, rehearing denied November 10, 1947.

Although the Supreme Court has recognized that the special knowledge and experience required to determine what classifications of work affect safety of operation of interstate motor carriers have been applied by the Commission, it has made it clear that the determination whether or not an individual employee is within any such classification is to be determined by judicial process. *Pyramid Motor Freight Corp. v. Ispass*, 330 U. S. 695; *Cf. Missel v. Overnight Motor Transp. Co.*, 40 F. Supp. 174 (D. Md.), reversed on other grounds 126 F. (2d) 98 (C. C. A. 4), affirmed 316 U. S. 572; *West v. Smoky Mountains Stages*, 40 F. Supp. 742 (N. D. Ga.); *Magann v. Long's Baggage Transfer Co.*, 39 F. Supp. 742 (W. D. Va.); *Walling v. Burlington Transp. Co. (D. Nebr.)*, 5 W. H. Cases 172, 9 Labor Cases par. 62,576; *Hager v. Brinks, Inc.*, 6 W. H. Cases 262 (N. D. Ill.).

whether an employee falls within such an exempt category, neither the name given to his position nor that given to the work that he does is controlling;<sup>25</sup> what is controlling is the character of the activities involved in the performance of his job. If the bona fide duties of the job performed by the employee are in fact such that he is (or, in the case of a member of a group of drivers, drivers' helpers, loaders or mechanics engaged in safety-affecting occupations, that he is likely to be) called upon in the ordinary course of his work to perform, either regularly or from time to time, safety-affecting activities of the character described above, he comes within the exemption in all work-week when he is employed at such job. This is true regardless of the proportion of his time or of his activities actually devoted to such safety-affecting work during his employment in the particular job, and even though in particular workweeks he may not actually engage in any activities directly affecting "safety of operation."<sup>26</sup>

(c) The application of these principles may be illustrated by a situation recently considered by the United States Supreme Court, in which approximately 4 percent of the total trips made by drivers employed by a common carrier by motor vehicle involved the hauling of interstate freight. Since it appeared that the employer, as a common carrier, was obligated to take such business, and that any driver might be called upon at any time to perform such work, which was indiscriminately distributed among the drivers, the Court considered that such trips were a natural, integral and apparently inseparable part of the common carrier service performed by the employer and the driver employees. Under these circumstances, the Court concluded that such work, which directly affected the safety of operation of the vehicles in interstate commerce, brought the entire classification of drivers employed by the carrier under the power of the Interstate Commerce Commission to establish qualifications and maximum hours of service, so that all were exempt even though the interstate driving of particular employees was sporadic and occasional, and in practice some drivers would not be called upon for long periods to perform any such work.<sup>27</sup>

(d) The limitations, mentioned in paragraph (a) on the regulatory power of the Interstate Commerce Commission under section 204 of the Motor Carrier Act are also limitations on the scope of the exemption. Thus, the exemption does not apply to employees of carriers who are not carriers subject to the Commission's jurisdiction, or to employees of noncarriers such as commercial garages,

<sup>25</sup> *Pyramid Motor Freight Corp. v. Ispass*, 330 U. S. 695; *Porter v. Poindexter*, 158 F. (2d) 759 (C. C. A. 10); *Keeling v. Huber & Huber Motor Express*, 57 F. Supp. 617 (W. D. Ky.); *Crean v. Moran Transp. Lines (W. D. N. Y.)*, 9 Labor Cases, par. 62,416 (see also earlier opinion in 54 F. Supp. 765).

<sup>26</sup> *Pyramid Motor Freight Corp. v. Ispass*, 330 U. S. 695; *Morris v. McComb*, 332 U. S. 422; *Levinson v. Spector Motor Service*, 330 U. S. 649; *Rogers Cartage Co. v. Reynolds*, 7 W. H. Cases 694 (C. C. A. 6).

<sup>27</sup> *Morris v. McComb*, 332 U. S. 422.

firms engaged in the business of maintaining and repairing motor vehicles owned and operated by carriers, or firms engaged in the leasing and renting of motor vehicles to carriers and in keeping such vehicles in condition for service pursuant to the lease or rental agreements.<sup>28</sup> Similarly, the exemption does not apply to an employee whose job does not involve engagement in any activities which the Commission has defined as those of drivers, drivers' helpers, loaders, or mechanics, and as directly affecting the "safety of operation" of motor vehicles.<sup>29</sup> Except in so far as the Commission has found that the activities of drivers, drivers' helpers, loaders, and mechanics, as defined by it, directly affect such "safety of operation," it has disclaimed its power to establish qualifications or maximum hours of service under section 204 of the Motor Carrier Act.<sup>30</sup> The Commission has defined "safety of operation" as used in that section to mean "the safety of operation of motor vehicles in the transportation of passengers or property in interstate or foreign commerce, and that alone."<sup>31</sup> Thus, the activities of drivers, drivers' helpers, loaders, or mechanics in connection with transportation which is not in interstate or foreign commerce within the meaning of the Motor Carrier Act provide no basis for exemption under section 13 (b) (1) of the Fair Labor Standards Act.<sup>32</sup> The Commission has also specifically stated that its jurisdiction under section 204 of the Motor Carrier Act relates to safety of operation of motor vehicles only, and to the safety of operation of such vehicles "on the highways of the country, and that alone."<sup>33</sup> Accordingly, the exemption does not extend to employees merely because they engage in activities affecting the safety of operation of motor vehicles operated on private premises. Nor does it extend to employees engaged solely in such activities as operating freight and passen-

<sup>28</sup> *Boutell v. Walling*, 327 U. S. 463; *Walling v. Casale*, 51 F. Supp. 520.

<sup>29</sup> *Pyramid Motor Freight Corp. v. Ispass*, 330 U. S. 695; *Levinson v. Spector Motor Service*, 330 U. S. 649; *United States v. American Trucking Assns.*, 310 U. S. 534; *Gordon's Transports v. Walling*, 162 F. (2d) 203 (C. C. A. 6); *Porter v. Poindexter*, 158 F. (2d) 759 (C. C. A. 10).

<sup>30</sup> *Pyramid Motor Freight Corp. v. Ispass*, 330 U. S. 695.

<sup>31</sup> *Ex parte Nos. MC-2 and MC-3 (Conclusions of Law No. 1)*, 28 M. C. C. 125, 130.

<sup>32</sup> *Walling v. Comet Carriers*, 151 F. (2d) 107 (C. C. A. 2); *Hansen v. Salinas Valley Ico Co. (Cal. App.)* 144 P. (2d) 898; *Reynolds v. Rogers Cartage Co.*, 71 F. Supp. 870 (W. D. Ky.), reversed on other grounds 7 W. H. Cases 694 (C. C. A. 6); *Earle v. Brinks, Inc.*, 54 F. Supp. 676 (S. D. N. Y.), 7 Labor Cases, par. 61,733; *Walling v. Villalume Box & Lumber Co.*, 58 F. Supp. 150 (D. Minn.); *Hager v. Brinks, Inc.*, 11 Labor Cases, par. 63,296 (N. D. Ill.), 6 W. H. Cases 262; *Walling v. DeSoto Creamery & Produce Co.*, 51 F. Supp. 938 (D. Minn.); *Dallum v. Farmers Cooperative Trucking Assn.*, 46 F. Supp. 785 (D. Minn.); *McLendon v. Bewley Mills (N. D. Tex.)*, 3 Labor Cases, par. 60,247, 1 W. H. Cases 934; *Gibson v. Glasgow (Tenn. Sup. Ct.)*, 157 S. W. (2d) 814; *cf. Morris v. McComb*, 332 U. S. 422. See also § 782.1, footnotes 9-11, and §§ 782.7-782.8.

<sup>33</sup> *Ex parte Nos. MC-2 and MC-3*, 28 M. C. C. 125, 129. See also *United States v. American Trucking Assns.*, 310 U. S. 534, 548.

ger elevators in the carriers' terminals or moving freight or baggage therein or on the docks or streets by hand trucks, which activities have no connection with the actual operation of motor vehicles.<sup>27</sup> Certain classes of employees who are not within the Commission's definitions of drivers, drivers' helpers, loaders, and mechanics are mentioned in §§ 782.3 to 782.6, inclusive. Others who do not come within these definitions include the following, whose duties are considered by the Commission to affect safety of operation, if at all, only indirectly; stenographers (including those who write letters relating to safety or prepare accident reports) clerks of all classes (including rate clerks, billing clerks, clerks engaged in preparing schedules, and filing clerks in charge of filing accident reports, hours-of-service records, inspection reports and similar documents) foremen, warehousemen, superintendents, salesmen, and employees acting in an executive capacity.<sup>28</sup> Such employees are not within the section 13 (b) (1) exemption.<sup>29</sup>

§ 782.3 *Drivers.* (a) A "driver," as defined by the Interstate Commerce Commission,<sup>30</sup> is an individual who drives a motor vehicle in transportation which is, within the meaning of the Motor Carrier Act, in interstate or foreign commerce.<sup>31</sup> This definition does not require that the individual be engaged in such work at all times; the Commission has recognized that even full-duty drivers devote some of their working time to activities other than such driving. "Drivers," as defined by the Commission, include, for example, such partial-duty drivers as the following, who drive in interstate or foreign commerce as part of a job in which they are required also to engage in other types of driving or non-driving work. Individuals whose driving duties are concerned with transportation some of which is in intrastate commerce and some of which is in interstate or

foreign commerce within the meaning of the Motor Carrier Act; individuals who ride on motor vehicles engaged in transportation in interstate or foreign commerce and act as assistant or relief drivers of the vehicles in addition to helping with loading, unloading, and similar work; drivers of chartered buses or of farm trucks who have many duties unrelated to driving or safety of operation of their vehicles in interstate transportation on the highways; and so-called "driver-salesmen" who devote much of their time to selling goods rather than to activities affecting such safety of operation.<sup>32</sup>

(b) The work of an employee who is a full-duty or partial-duty "driver," as the term "driver" has been defined by the Commission, directly affects "safety of operation" within the meaning of section 204 of the Motor Carrier Act whenever he drives a motor vehicle in interstate or foreign commerce within the meaning of the act.<sup>33</sup> The Commission has power to establish, and has established, qualifications and maximum hours of service for such drivers employed by common and contract carriers of passengers or property and by private carriers of property pursuant to section 204 of the Motor Carrier Act.<sup>34</sup> In accordance with principles previously stated,<sup>35</sup> such drivers to whom this regulatory power extends are, accordingly, employees exempted from the overtime requirements of the Fair Labor Standards Act by section 13 (b) (1).<sup>36</sup> This does not mean that an employee of a carrier who drives a motor vehicle is exempted as a "driver" by virtue of that fact alone.

<sup>27</sup> *Levinson v. Spector Motor Service*, 330 U. S. 649; *Morris v. McComb*, 332 U. S. 422; *Richardson v. James Gibbons Co.*, 132 F. (2d) 627 (C. C. A. 4), affirmed 319 U. S. 44; *Gavril v. Kraft Cheese Co.*, 42 F. Supp. 762 (D. Ill.); *Walling v. Craig*, 53 F. Supp. 479 (D. Minn.); *Vannoy v. Swift & Co. (Trs. S. Ct.)*, 201 S. W. (2d) 350; *Ex parte No. MC-2*, 3 M. C. C. 665; *Ex parte Nos. MC-3*, 23 M. C. C. 1; *Ex parte Nos. MC-2* and *MC-3*, 28 M. C. C. 125; *Ex parte No. MC-4*, 1 M. C. C. 1. Cf. *Colbeck v. Dairyland Creamery Co. (S. D. Sup. Ct.)*, 17 N. W. (2d) 262, in which the court held that the exemption did not apply to a refrigeration mechanic by reason solely of the fact that he crossed State lines in a truck in which he transported himself to and from the various places at which he serviced equipment belonging to his employer.

<sup>28</sup> *Levinson v. Spector Motor Service*, 330 U. S. 649, citing *Richardson v. James Gibbons Co.*, 132 F. (2d) 627 (C. C. A. 4), affirmed 319 U. S. 44; *Morris v. McComb*, 332 U. S. 422; *Ex parte No. MC-2*, 13 M. C. C. 481, 482, 483; *Ex parte Nos. MC-2* and *MC-3*, 28 M. C. C. 125, 139 (Conclusion of Law No. 2). See also *Ex parte No. MC-2*, 3 M. C. C. 665; *Ex parte No. MC-3*, 23 M. C. C. 1; *Ex parte No. MC-4*, 1 M. C. C. 1.

<sup>29</sup> See *Ex parte No. MC-4*, 1 M. C. C. 1; *Ex parte No. MC-2*, 3 M. C. C. 665; *Ex parte No. MC-3*, 23 M. C. C. 1; *Ex parte No. MC-28*, 13 M. C. C. 481; *Levinson v. Spector Motor Service*, 330 U. S. 649; *Southland Gasoline Co. v. Bayley*, 319 U. S. 44; *Morris v. McComb*, 332 U. S. 422; *Safety Regulations (Carriers by Motor Vehicle)*, 49 CFR Cum. Supp. Parts 190-193.

<sup>30</sup> See § 782.2.

<sup>31</sup> *Southland Gasoline Co. v. Bayley*, 319 U. S. 44; *Levinson v. Spector Motor Service*, 330 U. S. 649; *Morris v. McComb*, 332 U. S. 422; *Rogers Cartage Co. v. Reynolds*, 7 W. H. Cases 694 (C. C. A. 6).

He is not exempt if his job never involves transportation in interstate or foreign commerce within the meaning of the Motor Carrier Act,<sup>37</sup> or if he is employed by a private carrier and the only such transportation called for by his job is not transportation of property.<sup>38</sup> It has been held that so-called "hostlers" who "spot" trucks and trailers at a terminal dock for loading and unloading are not exempt as drivers merely because as an incident of such duties they drive the trucks and tractors in and about the premises of the trucking terminal.<sup>39</sup>

§ 782.4 *Drivers' helpers.* (a) A driver's "helper," as defined by the Interstate Commerce Commission,<sup>40</sup> is an employee other than a driver, who is required to ride on a motor vehicle when it is being operated in interstate or foreign commerce within the meaning of the Motor Carrier Act.<sup>41</sup> The Commission has classified all such employees (including armed guards on armored trucks and conductorettes on buses) as "helpers" with respect to whom it has power to establish qualifications and maximum hours of service because of their engagement in some or all of the following activities which, in the Commission's opinion, directly affect the safety of operation of such motor vehicles in interstate or foreign commerce:<sup>42</sup> assist in loading the vehicle;<sup>43</sup> dismount when the vehicle approaches a

<sup>37</sup> See footnote 25, above, and §§ 782.7, 782.8.

<sup>38</sup> See § 782.2. See also *Ex parte No. MC-23* 18 M. C. C. 481. Cf. *Colbeck v. Dairyland Creamery Co. (U. S. Sup. Ct.)*, 17 N. W. (2d) 223 (driver of truck used only to transport himself to job sites, as an incident of his work in servicing his employer's refrigeration equipment, held nonexempt).

<sup>39</sup> *Walling v. Gordon's Transports (W. D. Tenn.)*, 10 Labor Cases, par. 62,934, affirmed 162 F. (2d) 203, certiorari denied 63 S. Ct. 74; *Keegan v. Ruppert (S. D. N. Y.)*, 7 Labor Cases, par. 61,723, 6 Wage Hour Rept. 675. In the *Gordon's Transports* case, the "hostlers" were held exempt even though they coupled tractors and trailers together by a simple, largely automatic operation for the sole purpose of enabling the hostlers to move them about the carrier's premises. As to safety-affecting character of mechanical "hook-up" work for over-the-road operations, see § 782.6 (a).

In *Walling v. Silver Fleet Motor Express*, 67 F. Supp. 246, it was held that the exemption was applicable to a "yard driver" whose work included not only the "spotting" of trucks and trailers about the terminal, but also proper closing and sealing of the rear doors and driving the loaded vehicles over city streets to the safety lane for inspection, such driving over city streets occupying about 50 percent of his time. It was also his duty to notice, during such trips, whether anything appeared radically wrong with the loading of the vehicles.

<sup>40</sup> *Ex parte Nos. MC-2* and *MC-3*, 28 M. C. C. 125, 135-136, 133-139.

<sup>41</sup> The term does not include employees who ride on the vehicle and act as assistant or relief drivers. *Ex parte Nos. MC-2* and *MC-3*, *supra*. See § 782.3.

<sup>42</sup> *Ex parte Nos. MC-2* and *MC-3*, 28 M. C. C. 125, 135-136.

<sup>43</sup> They may also assist in unloading (*Ex parte Nos. MC-2* and *MC-3*, *supra*), an activity which has been held not to affect "safety of operation" (see § 782.5 (c)). As to what is meant by "loading" which directly affects "safety of operation," see § 782.5 (a), below.

<sup>32</sup> *Gordon's Transports v. Walling*, 162 F. (2d) 203 (C. C. A. 6), cert. denied 322 U. S. 774; *Walling v. Comet Carriers*, 57 F. Supp. 1018, affirmed 151 F. (2d) 107 (C. C. A. 2), certiorari dismissed 323 U. S. 819; *Gibson v. Glasgow (Tenn. Sup. Ct.)*, 157 S. W. (2d) 814; *Ex parte Nos. MC-2* and *MC-3*, 28 M. C. C. 125, 128. See also *Pyramid Motor Freight Corp. v. Ispass*, 330 U. S. 695; *Levinson v. Spector Motor Serv.* 330 U. S. 649.

<sup>33</sup> *Ex parte Nos. MC-2* and *MC-3*, 28 M. C. C. 125; *Ex parte No. MC-28*, 13 M. C. C. 481. But see §§ 782.5 (b) and 782.6 (b) as to certain foremen and superintendents.

<sup>34</sup> *Overnight Motor Transp. Co. v. Missel* 316 U. S. 572 (rate clerk who performed incidental duties as cashier and dispatcher); *Levinson v. Spector Motor Service*, 330 U. S. 649; *Porter v. Poindexter*, 158 F. (2d) 759 (C. C. A. 10) (checker of freight and bill collector); *Potashnik Local Truck System v. Archer (Ark. Sup. Ct.)*, 179 S. W. (2d) 696 (night manager who did clerical work on way bills; filed day's accumulation of bills and records, bills out local accumulation of shipments, checked mileage on trucks and made written reports, acted as night dispatcher, answered telephone calls, etc.).

<sup>35</sup> 49 C. F. R. Cum. Supp. Part 191, § 191.1 (b); *Ex parte No. MC-2*, 3 M. C. C. 665; *Ex parte No. MC-3*, 23 M. C. C. 1; *Ex parte No. MC-4*, 1 M. C. C. 1.

<sup>36</sup> As to what is considered transportation in interstate or foreign commerce within the meaning of the Motor Carrier Act, see § 782.7.

railroad crossing and flag the driver across the tracks, and perform a similar duty when the vehicle is being turned around on a busy highway or when it is entering or emerging from a driveway in case of a breakdown, (1) place the flags, flares, and fuses as required by the safety regulations, (2) go for assistance while the driver protects the vehicle on the highway, or vice versa, or (3) assist the driver in changing tires or making minor repairs; and assist in putting on or removing chains.<sup>44</sup> In accordance with principles previously stated,<sup>45</sup> the section 13 (b) (1) exemption applies to employees who are, under the Commission's definitions, engaged in such activities as full-duty or partial-duty "helpers" on motor vehicles being operated in transportation in interstate or foreign commerce within the meaning of the Motor Carrier Act.<sup>46</sup> The exemption has been held inapplicable to so-called helpers who ride on motor vehicles but do not engage in any of the activities of "helpers" which the Commission has found to affect directly the safety of operation of such vehicles in interstate or foreign commerce.<sup>47</sup> It should be noted also that an employee, to be exempted as a driver's "helper" under the Commission's definitions, must be "required" as part of his job to ride on a motor vehicle when it is being operated in interstate or foreign commerce; an employee of a motor carrier is not exempted as a "helper" when he rides on such a vehicle, not as a matter of fixed duty, but merely as a convenient means of getting himself to, from, or between places where he performs his assigned work.<sup>48</sup>

<sup>44</sup> An employee may be a "helper" under the Commission's definition even though such safety-affecting activities constitute but a minor part of his job. Thus, although the primary duty of armed guards on armored trucks is to protect the valuables in the case of attempted robberies, the Commission has determined that they should be classified as "helpers" where they ride on such trucks being operated in interstate or foreign commerce, because, in the case of an accident or other emergency, and in other respects, they act in a capacity somewhat similar to that of the helpers described in the text. Similarly, conductorettes on buses whose primary duties are to see to the comfort of the passengers are classified by the Commission as "helpers" where such buses are being operated in interstate or foreign commerce, because in instances when accidents occur, they help the driver in obtaining aid and protect the vehicle from oncoming traffic.

<sup>45</sup> See § 782.2.

<sup>46</sup> *Ispass v. Pyramid Motor Freight Corp.*, 152 F. (2d) 619 (C. C. A. 2); *Walling v. McGinley Co.* (W. D. Tenn.), 12 Labor Cases, par. 63,731, 6 W. H. Cases 916. See also *Levinson v. Spector Motor Service*, 330 U. S. 649; *Pyramid Motor Freight Corp. v. Ispass*, 330 U. S. 695; *Dalfum v. Farmers Coop. Trucking Assn.*, 46 F. Supp. 785 (D. Minn.).

<sup>47</sup> *Walling v. Gordon's Transports* (W. D. Tenn.), 10 Labor Cases, par. 62,934, 6 W. H. Cases 831, affirmed 162 F. (2d) 203 (C. C. A. 6), certiorari denied 68 S. Ct. 74, 332 U. S. 774 (helpers on city "pick-up and delivery trucks" where it was not shown that the loading in any manner affected safety of operation and the helpers' activities were "in no manner similar" to those of a driver's helper in over-the-road operation).

<sup>48</sup> See *Pyramid Motor Freight Corp. v. Ispass*, 330 U. S. 695, modifying, on other grounds, 152 F. (2d) 619, (C. C. A. 2).

§ 782.5 *Loaders.* (a) A "loader," as defined by the Interstate Commerce Commission,<sup>49</sup> is an employee of a carrier subject to section 204 of the Motor Carrier Act (other than a driver or driver's helper as defined in §§ 782.3 and 782.4) whose duties include, among other things, the proper loading of his employer's motor vehicles so that they may be safely operated on the highways of the country. A "loader" may be called by another name, such as "dockman," "stacker," or "helper," and his duties will usually also include unloading and the transfer of freight between the vehicles and the warehouse, but he engages, as a "loader," in work directly affecting "safety of operation" so long as he has responsibility when such motor vehicles are being loaded, for exercising judgment and discretion in planning and building a balanced load or in placing, distributing, or securing the pieces of freight in such a manner that the safe operation of the vehicles on the highways in interstate or foreign commerce will not be jeopardized.<sup>50</sup>

(b) The section 13 (b) (1) exemption applies, in accordance with principles previously stated,<sup>51</sup> to an employee whose job involves activities consisting wholly or in part of doing, or immediately directing, a class of work thus defined by the Commission (1) as that of a loader and (2) as directly affecting the safety of operation of motor vehicles in interstate or foreign commerce within the meaning of the Motor Carrier Act, since such an employee is an employee with respect to whom the Commission has power to establish qualifications and maximum hours of service.<sup>52</sup> Where a checker, foreman, or other supervisor plans and immediately directs the proper loading of a motor vehicle as described above, he may come within the exemption as a partial-duty loader.<sup>53</sup>

(c) An employee is not exempt as a loader where his activities in connection

<sup>49</sup> *Ex parte Nos. MC-2 and MC-3*, 28 M. C. C. 125, 133, 134, 139.

<sup>50</sup> *Levinson v. Spector Motor Service*, 330 U. S. 649; *Pyramid Motor Freight Corp. v. Ispass*, 330 U. S. 695; *Walling v. Gordon's Transports* (W. D. Tenn.), 10 Labor Cases, par. 62,934, affirmed 162 F. (2d) 203 (C. C. A. 6), cert. denied 332 U. S. 774; *Walling v. Huber & Huber Motor Express*, 67 F. Supp. 855; *Ex parte Nos. MC-2 and MC-3*, 28 M. C. C. 125, 133, 134.

<sup>51</sup> See § 782.2.

<sup>52</sup> *Levinson v. Spector Motor Service*, 330 U. S. 649; *Pyramid Motor Freight Corp. v. Ispass*, 330 U. S. 695; *Walling v. Silver Fleet Motor Express*, 67 F. Supp. 846; *Walling v. Huber & Huber Motor Express*, 67 F. Supp. 855; *Walling v. Gordon's Transports* (W. D. Tenn.), 10 Labor Cases, par. 62,934, affirmed 162 F. (2d) 203 (C. C. A. 6), cert. denied 68 S. Ct. 74; *Tinerella v. Des Moines Transp. Co.*, 41 F. Supp. 798.

<sup>53</sup> *Levinson v. Spector Motor Service*, 330 U. S. 649; *Walling v. Gordon's Transports* (W. D. Tenn.), 10 Labor Cases, par. 62,934, affirmed 162 F. (2d) 203 (C. C. A. 6), cert. denied 332 U. S. 774; *Walling v. Huber & Huber Motor Express*, 67 F. Supp. 855; *Walling v. Silver Fleet Motor Express*, 67 F. Supp. 846; *Crean v. Moran Transportation Lines*, 57 F. Supp. 212 (see also (W. D. N. Y.), 9 Labor Cases, par. 62,416); *Walling v. Commercial Motor Freight* (S. D. Ind.), 11 Labor Cases, par. 63,451 — *W. H. Cases* — *Hogla v. Porter* (E. D. Okla.), 11 Labor Cases, par. 63,389, 6 W. H. Cases 608.

with the loading of motor vehicles are confined to classes of work other than the kind of loading described above, which the Commission has determined directly affects "safety of operation."<sup>54</sup> The mere handling of freight at a terminal, before or after loading, or even the placing of certain articles of freight on a motor carrier truck may form so trivial, casual, or occasional a part of an employee's activities, or his activities may relate only to such articles or to such limited handling of them, that his activities will not come within the kind of "loading" which is described by the Commission and which, in its opinion, directly affects "safety of operation." Thus, the following activities have been held to provide no basis for exemption: unloading; placing freight in convenient places in the terminal, checking bills of lading; wheeling or calling freight being loaded or unloaded; loading vehicles for trips which will not involve transportation in interstate or foreign commerce within the meaning of the Motor Carrier Act; and activities relating to the preservation of the freight as distinguished from the safety of operation of the motor vehicles carrying such freight on the highways.<sup>55</sup> As is apparent from the Commission's opinion in *Ex parte Nos. MC-2 and MC-3*, 28 M. C. C. 125, red caps of bus companies engaged in loading baggage on buses are not loaders engaged in work directly affecting safety of operation of the vehicles. In the same opinion, the Commission expressly recognized that there is a class of freight which, because it is light in weight, probably could not be loaded in a manner which would adversely affect "safety of operation." In the case of coal trucks which are loaded from stock piles by the use of an electric bridge crane and a mechanical conveyor, it has been held that employees operating such a crane or conveyor in the loading process are not exempt as "loaders" under section 13 (b) (1).<sup>56</sup> It seems apparent from the foregoing discussion that an employee who has no responsibility for the proper loading of a motor vehicle is not within the exemption as a "loader" merely because he furnishes physical assistance when necessary in loading heavy pieces of freight, or because he deposits pieces of freight in the vehicle for someone else to distribute and secure in place, or even because he does the physical work of ar-

<sup>54</sup> *Pyramid Motor Freight Corp. v. Ispass*, 330 U. S. 695; *Levinson v. Spector Motor Service*, 330 U. S. 649.

<sup>55</sup> *Pyramid Motor Freight Corp. v. Ispass*, 330 U. S. 695; *Levinson v. Spector Motor Service*, 330 U. S. 649; *Porter v. Poindexter*, 158 F. (2d) 758 (C. C. A. 10); *McKoon v. Southern Calif. Freight Forwarders*, 49 F. Supp. 543; *Walling v. Gordon's Transports* (W. D. Tenn.), 10 Labor Cases par. 62,934 F. Supp. affirmed 162 F. (2d) 203 (C. C. A. 6), cert. denied 332 U. S. 774; *Walling v. Huber & Huber Motor Express*, 67 F. Supp. 855; *Walling v. Silver Fleet Motor Express*, 67 F. Supp. 846; *Crean v. Moran Transp. Lines*, 50 F. Supp. 107, 54 F. Supp. 765 (cf. 57 F. Supp. 212); par. 62,049; *Gibson v. Glasgow* (Tenn. Sup. Ct.), 157 S. W. (2d) 814. See also *Keoling v. Huber & Huber Motor Express*, 57 F. Supp. 617.

<sup>56</sup> *Barrick v. South Chicago Coal & Dock Co.* (N. D. Ill.), 8 Labor Cases par. 62,242, affirmed 149 F. (2d) 960 (C. C. A. 7).

ranging pieces of freight in the vehicle where another employee tells him exactly what to do in each instance and he is given no share in the exercise of discretion as to the manner in which the loading is done.<sup>57</sup> Such activities would not seem to constitute the kind of "loading" which directly affects the safety of operation of the loaded vehicle on the public highways, under the Commission's definitions.<sup>58</sup>

§ 782.6 *Mechanics.* (a) A "mechanic," as defined by the Interstate Commerce Commission,<sup>59</sup> is an employee who is employed by a carrier subject to the Commission's jurisdiction under section 204 of the Motor Carrier Act and whose duty it is to keep motor vehicles operated in interstate or foreign commerce by his employer in a good and safe working condition. The Commission has determined that the safety of operation of such motor vehicles on the highways is directly affected by those activities of mechanics, such as keeping the lights and brakes in a good and safe working condition, which prevent the vehicles from becoming potential hazards to highway safety and thus aid in the prevention of accidents.<sup>60</sup> The courts have held that mechanics perform work of this character where they actually do inspection, adjustment, repair or maintenance work on the motor vehicles themselves (including trucks, tractors and trailers, and busses) and are, when so engaged, directly responsible for creating or maintaining physical conditions essential to the safety of the vehicles on the highways through the correction or prevention of defects which have a direct causal connection with the safe operation of the unit as a whole.<sup>61</sup> The following activities performed by mechanics on motor vehicles operated in interstate or foreign commerce are illustrative of the specific kinds of activities which the courts, in applying the foregoing principles, have regarded as directly affecting

"safety of operation": The inspection, repair, adjustment, and maintenance for safe operation of steering apparatus, lights, brakes, horns, windshield wipers, wheels and axles, bushings, transmissions, differentials, motors, starters and ignition carburetors, fifth wheels, springs and spring hangers, frames, and gasoline tanks.<sup>62</sup> Inspecting and checking air pressure in tires, changing tires, and repairing and rebuilding tires for immediate replacement on the vehicles from which they were removed have also been held to affect safety of operation directly.<sup>63</sup> The same is true of hooking up tractors and trailers, including light and brake connections, and the inspection of such hookups.<sup>64</sup>

(b) The section 13 (b) (1) exemption applies, in accordance with principles previously stated,<sup>65</sup> to an employee whose job involves activities consisting wholly or in part of doing, or immediately directing, a class of work which, under the Commission's definitions referred to above, is that of a "mechanic" and directly affects the safety of operation of motor vehicles on the public highways in interstate or foreign commerce within the meaning of the Motor Carrier Act. The Commission's power to establish qualifications and maximum hours of service for such an employee has been sustained by the courts.<sup>66</sup> A supervisory employee who plans and immediately directs and checks the proper performance of this class of work may come within the exemption as a partial-duty mechanic.<sup>67</sup>

(c) An employee of a carrier by motor vehicle is not exempted as a "mechanic" from the overtime provisions of the Fair Labor Standards Act under section 13 (b) (1) merely because he works in the carrier's garage, or because he is called a "mechanic," or because he is a mechanic by trade and does mechanical work. The exemption applies only if he is doing a class of work defined by the Commission as that of a "mechanic," including activities which, under the Commission's definitions, directly affect the safety of operation of motor vehicles in transportation on the public highways in interstate or foreign commerce.<sup>68</sup> Activities which, according to the Commission, do not directly affect such safety of operation include those performed by employees whose jobs are confined to such work as that of dispatchers, carpenters, tarpaulin tailors, vehicle painters, or service men who do nothing but oil, gas, grease, or wash the motor vehicles.<sup>69</sup> To these may be added activities such as filling radiators, checking batteries, and the usual work of such employees as stockroom personnel, watchmen, porters, and garage employees performing menial nondiscretionary tasks of dissembling work. Employees whose work is confined to such "nonsafety" activities are not within the exemption,<sup>70</sup> even though the proper performance of their work may have an indirect effect on the safety of operation

<sup>57</sup> *Morris v. McComb*, 332 U. S. 422; *Keeling v. Huber & Huber Motor Express*, 57 F. Supp. 617; *Walling v. Huber & Huber Motor Express*, 67 F. Supp. 855; *Walling v. Silver Fleet Motor Express*, 67 F. Supp. 846; *McDuffie v. Hayes Freight Lines*, 71 F. Supp. 755; *Anuchick v. Transamerican Freight Lines*, 45 F. Supp. 851; *Walling v. Burlington Transp. Co.* (D. Nebr.), 9 Labor Cases par. 62,570; *Colbeck v. Dairyland Creamery Co.* (S. D. S. Ct.), 17 N. W. (2d) 252. See also *Pyramid Motor Freight Corp. v. Ispass*, 330 U. S. 635.

<sup>58</sup> *Ex parte Nos. MC-2 and MC-3*, 23 M. C. C. 125, 132, 133, 135.

<sup>59</sup> *Morris v. McComb*, 332 U. S. 422; *Campbell v. Rice & Co.* (D. Mo.), 5 Labor Cases par. 61,032 (dispatcher); *McDuffie v. Hayes Freight Lines*, 71 F. Supp. 755 (work of janitor and caretaker, carpentry work, body building, removing paint, preparing for repainting, and painting); *Walling v. Silver Fleet Motor Express*, 67 F. Supp. 846 (body building, construction work, painting and lettering); *Hutchinson v. Barry*, 50 F. Supp. 232 (washing vehicles); *Walling v. Palmer*, 67 F. Supp. 12 (putting water in radiators and batteries, oil and gas in vehicles, and washing vehicles); *Anuchick v. Transamerican Freight Lines*, 45 F. Supp. 851 (body builders, tarpaulin worker, stockroom boy, night watchman, porter); *Bumpus v. Continental Baking Co.* (W. D. Tenn.), 1 Wage Hour Cases 929 (painter), reversed on other grounds 124 F. (2d) 549; *Green v. Ems & Co.*, 45 F. Supp. 648 (night watchmen and gas pump attendant); *Walling v. Burlington Transp. Co.* (D. Nebr.), 9 Labor Cases par. 62,570 (body builders); *Keegan v. Ruppert* (S. D. N. Y.), 7 Labor Cases par. 61,725 (greasing and washing); *Walling v. East Texas Freight Lines* (N. D. Tex.), 8 Labor Cases par. 62,369 (menial tasks); *Collier v. Acme Freight Lines*, unreported (S. D. Fla., Oct. 1943) (same); *Potashnik Local Truck System v. Archer* (Ark. Sup. Ct.), 179 S. W. (2d) 636 (checking trucks in and out and acting as night dispatcher, among other duties); *Overnight Motor Corp. v. Mizel*, 316 U. S. 572 (rate clerk with part-time duties as dispatcher).

<sup>60</sup> *McDuffie v. Hayes Freight Lines*, 71 F. Supp. 755; *Walling v. Silver Fleet Motor Express*, 67 F. Supp. 846; *Keeling v. Huber & Huber Motor Express*, 57 F. Supp. 617; *Wolfe v. Union Transfer & Storage Co.*, 48 F. Supp. 855; *Mason & Dixon Lines v. Ligon* (Tenn. Ct. App.), 7 Labor Cases par. 61,962; *Walling v. Palmer*, 67 F. Supp. 12; *Kentucky Transport Co. v. Drake* (Ky. Ct. App.), 182 S. W. (2d) 960.

<sup>61</sup> *Walling v. Silver Fleet Motor Express*, 67 F. Supp. 846; *Walling v. Palmer*, 67 F. Supp. 12. See also *McDuffie v. Hayes Freight Lines*, 71 F. Supp. 755.

<sup>62</sup> *Walling v. Silver Fleet Motor Express*, 67 F. Supp. 846; *Walling v. Palmer*, 67 F. Supp. 12. See also *Walling v. Gordon's Transports* (W. D. Tenn.), 10 Labor Cases par. 62,934, affirmed 162 F. (2d) 203 (C. C. A. 6), certiorari denied 68 S. Ct. 74. Cf. footnote 39, above.

<sup>63</sup> See § 782.2.

<sup>64</sup> *Morris v. McComb*, 332 U. S. 422 (see also *Pyramid Motor Freight Corp. v. Ispass*, 330 U. S. 635; *Levinson v. Spector Motor Service*, 330 U. S. 649); *Walling v. Silver Bros.*, 136 F. (2d) 168 (C. C. A. 1); *McDuffie v. Hayes Freight Lines*, 71 F. Supp. 755; *Walling v. Silver Fleet Motor Express*, 67 F. Supp. 846; *Walling v. McGinley Co.* (E. D. Tenn.), 12 Labor Cases par. 63,731; *Wolfe v. Union Transfer & Storage Co.*, 48 F. Supp. 855; *Tinerella v. Des Moines Transp. Co.*, 41 F. Supp. 798; *Robbins v. Zabarsky*, 44 F. Supp. 867; *Estbill v. Marshall* (D. C. N. J.), 10 Labor Cases par. 61,256; *Keegan v. Ruppert* (S. D. N. Y.), 7 Labor Cases par. 61,725; *Baker v. Sharpless-Hendler Ice Cream Co.* (E. D. Pa.), 10 Labor Cases par. 62,956; *Mason & Dixon Lines v. Ligon* (Tenn. Ct. App.), 7 Labor Cases par. 61,962; *Kentucky Transport Co. v. Drake* (Ky. Ct. App.), 182 S. W. (2d) 960.

<sup>65</sup> *Robbins v. Zabarsky*, 44 F. Supp. 867; *Mason & Dixon Lines v. Ligon* (Tenn. Ct. App.), 7 Labor Cases par. 61,962; cf. *Morris v. McComb*, 332 U. S. 422 and *Levinson v. Spector Motor Service*, 330 U. S. 649.

<sup>66</sup> See *Pyramid Motor Freight Corp. v. Ispass*, 330 U. S. 635; *McKeown v. Southern Calif. Freight Forwarders*, 49 F. Supp. 543; *Walling v. Gordon's Transports* (W. D. Tenn.), 10 Labor Cases par. 62,934, affirmed 162 F. (2d) 203 (C. C. A. 6), cert. denied 332 U. S. 774; *Crean v. Moran Transportation Lines*, 50 F. Supp. 107. (See also further opinion in 54 F. Supp. 765, and cf. the court's holding in 57 F. Supp. 212 with *Walling v. Gordon's Transports*, cited above.) See also *Levinson v. Spector Motor Service*, 330 U. S. 649.

<sup>67</sup> See *Ex parte Nos. MC-2 and MC-3*, 23 M. C. C. 125, 133, 134.

<sup>68</sup> *Ex parte Nos. MC-2 and MC-3*, 23 M. C. C. 125, 132, 133. See also *Morris v. McComb*, 332 U. S. 422.

<sup>69</sup> *Walling v. Silver Bros.*, 136 F. (2d) 168 (C. C. A. 1); *McDuffie v. Hayes Freight Lines*, 71 F. Supp. 755; *Walling v. Silver Fleet Motor Express*, 67 F. Supp. 846; *Keeling v. Huber & Huber Motor Express*, 57 F. Supp. 617; *Walling v. Huber & Huber Motor Express*, 67 F. Supp. 855; *Tinerella v. Des Moines Transp. Co.*, 41 F. Supp. 798; *Robbins v. Zabarsky*, 44 F. Supp. 867; *West v. Smoky Mt. Stages*, 40 F. Supp. 296; *Walling v. Cumberland & Liberty Mills Co.* (S. D. Fla.), 6 Labor Cases, par. 61,184; *Estbill v. Marshall* (D. C. N. J.), 6 Labor Cases par. 61,256; *Keegan v. Ruppert* (S. D. N. Y.), 7 Labor Cases par. 61,726; *Baker v. Sharpless-Hendler Ice Cream Co.* (E. D. Pa.), 10 Labor Cases par. 62,956; *Kentucky Transport Co. v. Drake* (Ky. Ct. App.) 182 S. W. (2d) 960.

of the motor vehicles on the highways.<sup>70</sup> The same has been held true of employees whose activities are confined to construction work, manufacture or rebuilding of trucks, bus, or trailer bodies, repair of refrigeration equipment on the vehicles, and other duties which are concerned with the safe carriage of the contents of the vehicle rather than directly with the safety of operation on the public highways of the motor vehicle itself.<sup>71</sup>

Similarly, the exemption has been held inapplicable to mechanics repairing and rebuilding parts, batteries, and tires removed from vehicles where a direct causal connection between their work and the safe operation of motor vehicles on the highways is lacking because they do no actual work on the vehicles themselves and entirely different employees have the exclusive responsibility for determining whether the products of their work are suitable for use, and for the correct installation of such parts, on the vehicles.<sup>72</sup> Mechanical work on motor vehicles of a carrier which is performed in order to make the vehicles conform to technical legal requirements rather than to prevent accidents on the highways has not been regarded by the courts as work directly affecting "safety of operation."<sup>73</sup> And it is clear that no mechanical work on motor vehicles can be considered to affect safety of operation of such vehicles in interstate or foreign commerce if the vehicles are never in fact used in transportation in such commerce on the public highways.<sup>74</sup>

§ 782.7 *Interstate commerce requirements of exemption.* (a) As explained in preceding sections of this part, section 13 (b) (1) of the Fair Labor Standards Act does not exempt an employee of a carrier from the act's overtime provisions unless it appears, among other things, that his activities as a driver, driver's helper, loader, or mechanic directly affect the safety of operation of motor vehicles in transportation in interstate or foreign commerce within the meaning of the Motor Carrier Act. What constitutes such transportation in interstate or foreign commerce, sufficient to bring such an employee within the regulatory power of the Interstate Commerce Commission under section 204 of that act, is determined by definitions contained in the Motor Carrier Act itself. These definitions are, however, not identical with the definitions in the Fair Labor Standards Act which determine whether an employee is within the general coverage of the wage and hours provisions as an employee "engaged in (interstate or foreign) commerce."<sup>75</sup> For this reason, the interstate commerce requirements of the section 13 (b) (1) exemption are not necessarily met by establishing that an employee is "engaged in commerce" within the meaning of the Fair Labor Standards Act when performing activities as a driver, driver's helper, loader, or mechanic, where these activities are sufficient in other respects to bring him within the exemption.<sup>76</sup> To illustrate, employees of construction contractors are, within the meaning of the Fair Labor Standards Act, engaged in commerce where they operate or repair motor vehicles used in the maintenance, repair, or reconstruction of instrumentalities of interstate commerce (for example, highways over which goods and persons regularly move in interstate commerce)<sup>77</sup> Employees so engaged are not, however, brought within the exemption merely by reason of that fact. In order for the exemption to apply, their activities, so far as interstate commerce is concerned, must relate directly to the transportation of materials moving in inter-

state or foreign commerce within the meaning of the Motor Carrier Act.<sup>78</sup>

(b) Highway transportation by motor vehicle from one State to another, in the course of which the vehicles cross the State line, clearly constitutes interstate commerce under both acts. Employees of a carrier so engaged, whose duties directly affect the safety of operation of such vehicles, are within the exemption in accordance with principles previously stated.<sup>79</sup> The result is no different where the vehicles do not actually cross State lines but operate solely within a single State, if what is being transported is actually moving in interstate commerce within the meaning of both acts; the fact that other carriers transport it out of or into the State is not material.<sup>80</sup> Transportation within a single State is in interstate commerce within the meaning of the Fair Labor Standards Act where it forms a part of a "practical continuity of movement" across State lines from a point of origin in any State to the point of destination.<sup>81</sup> Since the interstate commerce regulated under the two acts is not identical,<sup>82</sup> such transportation may or may not be considered also a movement in interstate commerce within the meaning of the Motor Carrier Act. Decisions of the Interstate Commerce Commission seemingly have limited the scope of the Motor Carrier Act more narrowly than the courts have construed the Fair Labor Standards Act.<sup>83</sup> It is deemed necessary, however, as an enforcement policy only and with-

<sup>70</sup> *Walling v. Silver Fleet Motor Express*, 67 F. Supp. 846 (painter not exempt even though he used colors and safety markings designed to make it see vehicles at great distances); *Anuchick v. Transamerican Freight Lines*, 46 F. Supp. 861; *McDuffie v. Hayes Freight Lines*, 71 F. Supp. 755. See also *Morris v. McComb*, 332 U. S. 422.

The distinction between direct and indirect effects on safety of operation is exemplified by the Commission's comments in rejecting the contention, in *Ex parte Nos. MC-2 and MC-3*, 28 M. C. C. 125, 135, that the activities of dispatchers directly affect safety of operation. The Commission stated: "It is contended that if a dispatcher by an error in judgment assigns a vehicle of insufficient size and weight-carrying capacity to transport the load, or calls a driver to duty who is sick, fatigued, or otherwise not in condition to operate the vehicle, or requires or permits the vehicle to depart when the roads are icy and the country to be traversed is hilly, an accident may result. While this may be true, it is clear that such errors in judgment are not the proximate causes of such accidents, and that the dispatchers engage in no activities which directly affect the safety of operation of motor vehicles in interstate or foreign commerce." (Emphasis supplied.)

<sup>71</sup> *Anuchick v. Transamerican Freight Lines*, 46 F. Supp. 861; *Walling v. Silver Fleet Motor Express*, 67 F. Supp. 846; *McDuffie v. Hayes Freight Lines*, 71 F. Supp. 755; *Walling v. Burlington Transp. Co.* (D. Nebr.), 9 Labor Cases par. 62,570; *Colbeck v. Dairyland Creamery Co.* (S. D. Sup. Ct.), 17 N. W. (2d) 262.

<sup>72</sup> *Keeling v. Huber & Huber Motor Express*, 57 F. Supp. 617; *Walling v. Huber & Huber Motor Express*, 67 F. Supp. 855.

<sup>73</sup> *Kentucky Transport Co. v. Drake* (Ky. Ct. App.), 182 S. W. (2d) 960; *Anuchick v. Transamerican Freight Lines*, 46 F. Supp. 861.

<sup>74</sup> *Baker v. Sharpless-Hendler Ice Cream Co.* (E. D. Pa.), 10 Labor Cases par. 62,956.

<sup>75</sup> Compare the definitions from the Motor Carrier Act, quoted in footnotes 7-10, with the following definitions from section 3 of the Fair Labor Standards Act:

"(b) 'Commerce' means trade, commerce, transportation, transmission, or communication among the several States or from any State to any place outside thereof.

"(c) 'State' means any State of the United States or the District of Columbia or any Territory or possession of the United States."

<sup>76</sup> *Hager v. Brinks, Inc.*, (N. D. Ill.), 11 Labor Cases par. (3,296, 6 W. H. Cases 262; *Earle v. Brinks, Inc.*, 54 F. Supp. 676 (S. D. N. Y.); *Thompson v. Daugherty*, 40 F. Supp. 279 (D. Md.). See also *Walling v. Villaume Box & Lbr. Co.*, 58 F. Supp. 150 (D. Minn.). And see in this connection paragraph (b) of this section and § 782.8.

<sup>77</sup> *Walling v. Craig*, 53 F. Supp. 479 (D. Minn.). See also *Engbretson v. E. J. Albrecht Co.*, 150 F. (2d) 602 (C. C. A. 7); *Overstreet v. North Short Corp.*, 318 U. S. 125; *Pedersen v. J. F. Fitzgerald Constr. Co.*, 318 U. S. 740, 742.

<sup>78</sup> Asphalt distributor-operators, although not exempt by reason of their work in applying the asphalt to the highways, are within the exemption where they transport to the road site asphalt moving in interstate commerce. See *Richardson v. James Gibbons Co.*, 132 F. (2d) 627 (C. C. A. 4), affirmed 319 U. S. 44 (and see reference to this case in footnote 18 of *Levinson v. Spector Motor Service*, 330 U. S. 649); *Walling v. Craig*, 53 F. Supp. 479 (D. Minn.).

<sup>79</sup> *Southland Gasoline Co. v. Bayley*, 319 U. S. 44; *Plunkett v. Abraham Bros.*, 120 F. (2d) 419 (C. C. A. 6); *Vannoy v. Swift & Co.* (Mo. Sup. Ct.), 201 S. W. (2d) 350; *Nelson v. Allison & Co.* (E. D. Tenn.), 13 Labor Cases par. 64,021; *Reynolds v. Rogers Cartage Co.* (W. D. Ky.), 13 Labor Cases par. 63, 078, reversed on other grounds F. (2d) (C. C. A. 6); *Walling v. McGinley Co.* (E. D. Tenn.), 12 Labor Cases par. 63,731; *Walling v. A. H. Phillips, Inc.*, 50 F. Supp. 749, affirmed (C. C. A. 1), 144 F. (2d) 102, 324 U. S. 490. See §§ 782.2-782.8.

<sup>80</sup> *Morris v. McComb*, 68 S. Ct. 131; *Pyramid Motor Freight Corp. v. Ispass*, 330 U. S. 695; *Walling v. Silver Bros. Co.*, 136 F. (2d) 168 (C. C. A. 1); *Walling v. Mutual Wholesale Food & Supply Co.*, 141 F. (2d) 331 (C. C. A. 8); *Dallum v. Farmers Cooperative Trucking Assn.*, 46 F. Supp. 785 (D. Minn.); *Gavril v. Kraft Cheese Co.*, 42 F. Supp. 702 (N. D. Ill.); *Keegan v. Ruppert* (S. D. N. Y.), 7 Labor Cases par. 61,726, 3 W. H. Cases 412; *Baker v. Sharpless-Hendler Ice Cream Co.* (E. D. Pa.), 10 Labor Cases par. 62,956, 5 WH Cases 926.

<sup>81</sup> *Walling v. Jacksonville Paper Co.*, 317 U. S. 564; *Walling v. Mutual Wholesale Food & Supply Co.*, 141 F. (2d) 331 (C. C. A. 8); *Walling v. American Stores Co.*, 133 F. (2d) 840 (C. C. A. 3); *Baker v. Sharpless-Hendler Ice Cream Co.* (E. D. Pa.), 10 Labor Cases par. 62,956, 5 WH Cases 926.

<sup>82</sup> See paragraph (a) of this section.

<sup>83</sup> See footnote 84 and § 782.8.

out prejudice to any rights of employees under section 16 (b) of the act, to assume that such a movement in interstate commerce under the Fair Labor Standards Act is also a movement in interstate commerce under the Motor Carrier Act, except in those situations where the Interstate Commerce Commission or the courts hold otherwise.<sup>54</sup> Under this enforcement policy it will ordinarily be assumed by the Division that the interstate commerce requirements of the section 13 (b) (1) exemption are satisfied where it appears that a motor carrier employee is engaged as a driver, driver's helper, loader, or mechanic in transportation by motor vehicle which, although confined to a single State, is a part of an interstate movement of the goods or persons being thus transported so as to constitute interstate commerce within the meaning of the Fair Labor Standards Act.<sup>55</sup> Of course, engagement in local transportation which is entirely in intrastate commerce provides no basis for exempting a motor carrier employee.<sup>55</sup>

(b) The wage and hours provisions of the Fair Labor Standards Act are applicable not only to employees engaged in commerce, as defined in the act, but also to employees engaged in the production of goods for such commerce. Employees engaged in the "production" of goods are defined by the act as including those engaged in handling, transporting, or in any other manner working on such goods, or in any process or occupation necessary to the production thereof, in any State.<sup>56</sup> Where transportation of persons or property by motor vehicle between places within a State falls within this definition, and is not transportation

in interstate or foreign commerce within the meaning of the Motor Carrier Act, because movement from points out of the State has ended or because movement to points out of the State has not yet begun, the employees engaged in connection with such transportation<sup>57</sup> are covered by the wage and hours provisions of the Fair Labor Standards Act and are not subject to the jurisdiction of the Interstate Commerce Commission. Examples are: (1) Drivers transporting goods in and about a plant producing goods for commerce; (2) chauffeurs or drivers of company cars or busses transporting officers or employees from place to place in the course of their employment in an establishment which produces goods for commerce; (3) drivers who transport goods from a producer's plant to the plant of a processor, who, in turn, sells goods in interstate commerce, the first producer's goods being a part or ingredient of the second producer's goods; (4) drivers transporting goods between a factory and the plant of an independent contractor who performs operations on the goods, after which they are returned to the factory which further processes the goods for commerce; and (5) drivers transporting goods to be used or consumed in the production of other goods for commerce. These and other employees engaged in connection with the transportation within a State of persons or property by motor vehicle who are subject to the Fair Labor Standards Act because engaged in the production of goods for commerce and who are not subject to the Motor Carrier Act because not engaged in interstate or foreign commerce within the meaning of that act, are not within the exemption provided by section 13 (b) (1).<sup>58</sup>

§ 782.8 *Special classes of carriers. (a)* The Interstate Commerce Commission has consistently maintained that transportation within a State of consumable goods (such as food, coal and ice) to railroads, docks, etc., for use on trains and steamships is not such transportation as is subject to its jurisdiction.<sup>59</sup> The intrastate delivery of chandleries, including cordage, canvas, repair parts, wire rope,

etc., to ocean-going vessels for use and consumption aboard such vessels which move in interstate or foreign commerce falls within this category. Employees of carriers so engaged are considered to be engaged in commerce,<sup>60</sup> as that term is used in the Fair Labor Standards Act. Since the Commission has disclaimed jurisdiction over this type of operation,<sup>61</sup> it is the Divisions' opinion that drivers, drivers' helpers, loaders, and mechanics employed by companies engaged in such activities are covered by the wage and hours provisions of the Fair Labor Standards Act, and are not within the exemption contained in section 13 (b) (1).<sup>62</sup>

(b) The Interstate Commerce Commission has disclaimed jurisdiction under the Motor Carrier Act of employees engaged in the transportation of mail under contract with the Post Office Department in vehicles used exclusively for that purpose.<sup>64</sup> It would thus appear that such employees of mail contractors are not within the exemption provided by section 13 (b) (1) of the Fair Labor Standards Act. Employees of mail contractors are not employees of the United States within the meaning of section 3 (d) of the Fair Labor Standards Act.<sup>63</sup> Since they are considered "engaged in commerce" within the meaning of the act, it is the position of the Divisions that they are entitled to overtime compensation under section 7 of the Fair Labor Standards Act.<sup>65</sup>

(c) Section 202 (c) (2) of the Motor Carrier Act, as amended on May 16, 1942, makes section 204 of that act "relative to qualifications and maximum hours of service of employees and safety of operations and equipment," applicable "to transportation by motor vehicle by any person (whether as agent or under a contractual arrangement) for a \* \* \* railroad \* \* \* express company \* \* \* motor carrier \* \* \* water carrier \* \* \* or a freight forwarder \* \* \* in the performance within terminal areas of transfer, collection, or delivery service." Thus, drivers, drivers' helpers, loaders, and mechanics of a motor carrier performing pick-up and delivery service for a railroad, express company, or water carrier are to be regarded as within the 13 (b) (1) exemption.<sup>67</sup> The same is true of drivers, drivers' helpers,

<sup>54</sup> For example, the Commission has held that transportation confined to points in a single State over highways located entirely within that State performed by a motor carrier on shipments destined to Puerto Rico, Hawaii or Alaska is not in interstate or foreign commerce within the meaning of Part II of the Interstate Commerce Act, since Hawaii, Puerto Rico and Alaska are neither "States" nor "foreign countries" within the meaning of sections 203 (2) (8), (10) and (11) of the act, 27 M. C. C. 463; 33 M. C. C. 660; 42 M. C. C. 451. The Fair Labor Standards Act is broader in its definition of interstate commerce in that section 3 (e) defines "State" to mean "any State of the United States or the District of Columbia or any territory or possession of the United States." Employees engaged in connection with transportation of the type described above are engaged in interstate commerce within the meaning of the Fair Labor Standards Act. Since they are not subject to the Motor Carrier Act, 1935, because not engaged in interstate or foreign commerce within the meaning of that act, they are not within the exemption provided by section 13 (b) (1).

<sup>55</sup> See, in this connection, the cases cited in footnote 80.

This policy does not extend to drivers, drivers' helpers, loaders, or mechanics whose transportation activities are "in commerce" or "in the production of goods for commerce" within the meaning of the act but are not a part of an interstate movement of the goods or persons carried.

<sup>56</sup> See cases cited in footnote 25. See also paragraph (b) of this section.

<sup>57</sup> Fair Labor Standards Act, section 3 (j), 29 U. S. C. Sec. 203 (j). See also Part 776 of this chapter.

<sup>58</sup> This applies to employees of common, contract, and private carriers.

<sup>59</sup> *Walling v. Comet Carriers*, 151 F. (2d) 107 (C. C. A. 2); *Griffin Cartage Co. v. Walling*, 153 F. (2d) 587 (C. C. A. 6); *Walling v. Morris*, 155 F. (2d) 832 (C. C. A. 6), reversed on other grounds in *Morris v. McCamb*, 68 S. Ct. 131; *West Kentucky Coal Co. v. Walling*, 153 F. (2d) 582 (C. C. A. 6); *Hamlet Ice Co. v. Fleming*, 127 F. (2d) 165 (C. C. A. 4); *Atlantic Co. v. Walling*, 131 F. (2d) 514 (C. C. A. 5); *Chapman v. Home Ice Co.*, 136 F. (2d) 353 (C. C. A. 6); *Walling v. Griffin Cartage Co.*, 62 F. Supp. 398 (E. D. Mich.), affirmed 153 F. (2d) 587 (C. C. A. 6); *Dallum v. Farmers Coop. Trucking Assn.*, 16 F. Supp. 784 (D. Minn.); *Walling v. Villaume Box & Lbr. Co.*, 58 F. Supp. 150 (D. Minn.); *Walling v. DeSoto Creamery & Produce Co.*, 51 F. Supp. 938 (D. Minn.); *Reynolds v. Rogers Cartage Co.*, 71 F. Supp. 870 (W. Va. Ky.), reversed on other grounds F. (2d) (C. C. A. 6); *Hancan v. Salinas Valley Ice Co. (Cal. App.)*, 144 F. (2d) 696.

<sup>60</sup> *New Pittsburgh Coal Co. v. Hocking Valley Ry. Co.*, 24 L. C. C. 244; *Corona Coal Co. v. Secretary of War*, 69 L. C. C. 389; *Bunker Coal from Alabama to Gulf Ports*, 227 L. C. C. 485.

<sup>61</sup> These employees may also be engaged in the "production of goods for commerce" within the meaning of section 3 (j) of the Fair Labor Standards Act. See cases cited in footnotes 63 and 63, and see Part 776 of this chapter.

<sup>62</sup> See, in this connection, paragraph (a) of this section.

<sup>63</sup> See *Hancan v. Salinas Valley Ice Co. (Cal. App.)*, 144 F. (2d) 696.

<sup>64</sup> See 3 M. C. C. 634, 637.

<sup>65</sup> *Repoher v. Streepy (E. D. Pa.)*, 7 Wage Hour Cases 763, 14 Labor Cases par. 64,364; *Fleming v. Gregory*, 36 F. Supp. 776; *Thompson v. Daugherty*, 40 F. Supp. 279; *Magann v. Long's Baggage Transfer Co.*, 33 F. Supp. 742.

<sup>66</sup> *Repoher v. Streepy (E. D. Pa.)*, 7 Wage Hour Cases 763, 14 Labor Cases par. 64,364; *Thompson v. Daugherty*, 40 F. Supp. 279. But see *Magann v. Long's Baggage Transfer Co.*, 33 F. Supp. 742, contra.

<sup>67</sup> See *Levinson v. Spector Motor Service*, 330 U. S. 649 (footnote 10); cf. *Cedarblade v. Parmelee Transp. Co. (C. C. A. 7)*, 7 Wage Hour Cases 751, 14 Labor Cases par. 64,349.

RULES AND REGULATIONS

loaders and mechanics employed directly by a railroad, a water carrier or a freight forwarder in pick-up and delivery service. Section 202 (c) (1) of the Motor Carrier Act, as amended on May 16, 1942, includes employees employed by railroads, water carriers, and freight forwarders, in transfer, collection and delivery service in terminal areas by motor vehicles within the Interstate Commerce Commission's regulatory power under section 204 of the same act.<sup>23</sup> Both before and after the amendments referred to, it has been the Divisions' position that the 13 (b) (1) exemption is applicable to drivers, drivers' helpers, loaders and mechanics employed in pick-up and delivery service to line haul motor carrier depots or under contract with forwarding companies, since the Interstate Commerce Commission had determined that its regulatory power under section 204 of the Motor Carrier Act extended to such employees.

Signed at Washington, D. C., this 22d day of April 1948.

WM. R. McCOMB,  
Administrator Wage and Hour  
and Public Contracts Divisions.

[F. R. Doc. 48-3807; Filed, Apr. 29, 1948;  
8:46 a. m.]

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 127—INTERNATIONAL POSTAL SERVICE:  
POSTAGE RATES, SERVICE AVAILABLE, AND  
INSTRUCTIONS FOR MAILING

SPECIAL DELIVERY SERVICE TO THE  
NETHERLANDS

In § 127.19 *Special delivery (Express) service* (13 F. R. 900) of subpart D, make the following change:

Amend paragraph (a) by inserting, in the list of countries therein contained, between "Morocco (Spanish Zone)" and "Newfoundland (including Labrador)" a new country, "Netherlands"

In § 127.307 *Netherlands* (13 F. R. 1011) of subpart D, make the following change:

Amend paragraph (a) (2) to read as follows:

(2) *Special delivery.* Fee, 20 cents. Articles sent from this country for spe-

<sup>23</sup> See *Morris v. McComb*, 68 S. Ct. 131 (foot-note 14).

Such employees of a carrier subject to Part I of the Interstate Commerce Act may come within the exemption from the overtime requirements provided by section 13 (b) (2). Cf. *Cedarblade v. Parmelee Transp. Co.* (C. C. A. 7), 7 Wage Hour Cases 751, 14 Labor Cases par. 64,340. Thus, only employees of a railroad, water carrier, or freight forwarder outside of the scope of Part I of the Interstate Commerce Act and of the 13 (b) (2) exemption are affected by the above on and after the date of the amendment.

cial delivery in the Netherlands, at a distance beyond the limits of local distribution at the post office of address, are subject to a collection from the addressee of a fee of 40 cents for each delivery. (See § 127.19 for further information.)

(R. S. 161, 396, 398, secs. 304, 309, 42 Stat. 24, 25, 48 Stat. 943; 5 U. S. C. 22, 369, 372)

[SEAL] J. M. DONALDSON,  
Postmaster General.

[F. R. Doc. 48-3824; Filed, Apr. 29, 1948;  
8:49 a. m.]

PART 127—INTERNATIONAL POSTAL SERVICE:  
POSTAGE RATES, SERVICE AVAILABLE,  
AND INSTRUCTIONS FOR MAILING

PAKISTAN; MAIL SERVICE INITIATED

Part 127, Title 39, Code of Federal Regulations (13 F. R. 892) of Subpart D, is amended by the insertion of a new § 127.320a, reading as follows:

§ 127.320a *Pakistan* — (a) *Regular mails.* See Table No. 1, § 127.200, for classifications, rates, weight limits and dimensions. Small packets not accepted.

(1) *Indemnity.* See § 127.105.  
(2) *Special delivery.* No service.  
(3) *Money-order service.* See § 17.55 (c) of this chapter.

(4) *Air mail service.* Postage rate 25 cents one half ounce. (See § 127.20.)

(5) *Dutiable articles (merchandise) prepaid at the letter rate.* (i) Accepted. (See § 127.3.)

(ii) Dutiable letter packages received unaccompanied by the green label, Form 2976 (C 1) or paper customs declaration, Form 2976-A, are subject to a heavy fine in addition to the customs duty.

(iii) Postmasters will instruct all concerned at their offices that articles which are prepaid at the letter rate and are known or thought to contain merchandise will be returned to the senders if the necessary green labels are not affixed to the covers. On return the articles should be appropriately indorsed as to the reason for this return.

(6) *Prohibitions.* No list.  
(b) *Parcel post.* (Pakistan)  
(i) *Table of rates.*

WESTERN PAKISTAN

[Rates include surcharges]

Pounds:	Rate	Pounds:	Rate
1.....	\$0.39	12.....	\$2.17
2.....	.53	13.....	2.31
3.....	.73	14.....	2.45
4.....	.87	15.....	2.59
5.....	1.01	16.....	2.73
6.....	1.15	17.....	2.87
7.....	1.29	18.....	3.01
8.....	1.37	19.....	3.15
9.....	1.51	20.....	3.29
10.....	1.65	21.....	3.43
11.....	1.79	22.....	3.57

EASTERN PAKISTAN

[Rates include surcharges and transit charges]

Pounds:	Rate	Pounds:	Rate
1.....	\$0.48	12.....	\$3.60
2.....	.62	13.....	2.64
3.....	.89	14.....	2.78
4.....	1.03	15.....	2.92
5.....	1.17	16.....	3.06
6.....	1.31	17.....	3.20
7.....	1.45	18.....	3.34
8.....	1.53	19.....	3.48
9.....	1.67	20.....	3.62
10.....	1.81	21.....	3.76
11.....	1.95	22.....	3.90

Weight limit: 22 pounds.  
Customs declarations: 2 Form 2960.  
Dispatch note: 1 Form 2972.  
Parcel-post sticker: 1 Form 2922.  
Sealing: Optional.  
Group shipments: No.  
Registration: No.  
Insurance: No.  
C. o. d. No.  
Exchange office: New York.

(2) *Indemnity.* No provision.  
(3) *Dimensions.* Greatest length 3½ feet. Greatest length and girth combined 6 feet.

(4) *Observations.* (i) The territories comprising the Dominion of Pakistan are as follows:

Western Part

1. The entire Province of Sind;
2. The entire Province of Baluchistan;
3. The entire Province called "North West Frontier Province"
4. The following districts of the Province of Punjab:

Gujranwala.	Sheikhupura.
Lahore.	Attock.
Sialkot.	Mianwali.
Jhelum.	Shahpur.
Hawalpindi.	Jhang.
Dera Ghazi Khan.	Montgomery.
Lyallpur.	Muzaffargarh.
Multan.	

Eastern Part

1. The district of Sylhet in Assam;
2. The following districts of the Province of Bengal:

Chittagong.	Noakhali.
Tipperah.	Backergunge.
Dacca.	Faridpur.
Mymensingh.	Jessore.
Bogra.	Dinajpur.
Rajshahi.	Pabna.
Khulna.	Rangpur.

(ii) Whenever practicable, the address of mail matter should include the name of the province or district in which the post office of destination is located.

(5) *Prohibitions.* No list.

(R. S. 161, 396, 398, 4027, 4028, sec. 1, 25 Stat. 654, secs. 304, 309, 42 Stat. 24, 25, 48 Stat. 943; 5 U. S. C. 22, 369, 372, 39 U. S. C. 711, 712)

[SEAL] J. M. DONALDSON,  
Postmaster General.

[F. R. Doc. 48-3823; Filed, Apr. 20, 1948;  
8:49 a. m.]

# PROPOSED RULE MAKING

## DEPARTMENT OF AGRICULTURE

Bureau of Entomology and Plant Quarantine

17 CFR, Part 3011

PINK BOLLWORM QUARANTINE

NOTICE OF PROPOSED REIMPOSITION OF REQUIREMENTS

Notice is hereby given, pursuant to section 4 (a) of the Administrative Procedure Act (60 Stat. 238) that the Chief of the Bureau of Entomology and Plant Quarantine is considering the revocation of the administrative instructions (B. E. P. Q. 493, 5th Revision; 7 CFR 1945 Supp. 301.52-4b) which presently relieve the requirements of § 301.52-4 of the regulations supplemental to the pink bollworm quarantine (7 CFR 1947 Supp. 301.52-4) by authorizing the issuance of certificates for the interstate movement of baled cotton lint without treatment, from certain designated counties in New Mexico and Texas, when the lint has been produced in an authorized gin and subsequently protected from contamination.

Recently there has been an intensification of pink bollworm infestation in those designated counties. This year, therefore, the pest risk involved in the movement of baled cotton lint makes it unsafe to leave in effect the administrative instructions modifying the requirements of § 301.52-4. It is believed that this justifies reimposition of the requirements of § 301.52-4 that baled cotton lint from the designated counties be given one of the treatments prescribed in § 301.52-4 as a condition of certification.

All persons who desire to submit written data, views, or arguments in connection with this matter should file the same with the Chief of the Bureau of Entomology and Plant Quarantine, Agricultural Research Administration, United States Department of Agriculture, Washington 25, D. C., within 15 days after the date of the publication of this notice in the FEDERAL REGISTER.

(Sec. 8, 37 Stat. 318, as amended; 7 U. S. C. 161, 7 CFR 1947 Supp. 301.52)

Done at Washington, D. C., this 19th day of April 1948.

[SEAL] P. N. ANNAND,  
Chief, Bureau of Entomology and Plant Quarantine.

[F. R. Doc. 48-3846; Filed, Apr. 29, 1948; 8:51 a. m.]

### Production and Marketing Administration

[P. & S. Docket No. 435]

MARKET AGENCIES AT UNION STOCK YARDS, DENVER, COLO.

PETITION FOR MODIFICATION OF TEMPORARY RATES

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended

(7 U. S. C., 181 et seq.), the Judicial Officer issued an order on August 22, 1947 (6 A. D. 771) prescribing certain temporary rates and charges for the furnishing of services by the respondents.

By a petition filed on April 13, 1948, the respondents have requested permission to file and establish the schedule of rates and charges attached to and made a part of their petition and set out in full below:

#### ARTICLE 1—DEFINITIONS

Cattle, are animals of the bovine species weighed in drafts, the average weight of the animals in which is over 400 pounds.

Calves, are animals of the bovine species weighed in drafts, the average weight of the animals in which is 400 pounds or under.

Bulls, are animals of the bovine species sold for slaughter or as feeders weighed in drafts, the average weight of the animals in which is 800 pounds or over.

Hogs, are all swine, irrespective of weight. Sheep, are all animals of the ovine species and, for purposes of assessing charges in this tariff, include goats.

A consignment, for the purpose of assessing selling charges is all the livestock of one species belonging to one owner and delivered to one market agency to be offered for sale during the trading hours of one day.

A purchase order, for the purpose of assessing buying charges is all the livestock of one species bought at any time but shipped to or delivered to one person on one market day.

A draft, is all the animals in one consignment weighed as a single sales classification.

A person, is an individual, a partnership, a corporation and/or an association of any such acting as a unit.

Note: For the purpose of assessing charges under this tariff, cattle, calves and bulls are to be considered as belonging to different species.

#### ARTICLE 2—SELLING CHARGES

##### SECTION A

Straight cars—single ownership:	Per car
Cattle—single deck.....	\$23.00
Calves—single deck.....	23.00
Calves—double deck.....	26.50
Bulls—single deck.....	26.50
Mixed cars—single ownership:	
Cattle, calves or bulls—single deck.....	24.50
Straight cars—single ownership:	
Sheep:	
Single deck.....	16.00
Double deck.....	22.00
Hogs:	
Single deck.....	17.00
Double deck.....	25.00

##### SECTION B

Other modes of arrival:	Per head
Cattle:	
Consignments of one head and one head only.....	\$1.00
Consignments of more than one head:	
First 15 head in each consignment.....	.90
Each head over 15 in each consignment.....	.80
Calves:	
Consignments of one head and one head only.....	.55
Consignments of more than one head:	
First 15 head in each consignment.....	.45
Each head over 15 in each consignment.....	.35

#### ARTICLE 2—SELLING CHARGES—Continued

##### SECTION C—CONTINUED

Other modes of arrival—Con.	Per head
Bulls: Sold for slaughter or as feeders.....	\$1.40
Hogs:	
Consignments of one head and one head only.....	.50
Consignments of more than one head:	
First 10 head in each consignment.....	.40
Next 15 head in each consignment.....	.30
Each head over 25 in each consignment.....	.20
Sheep:	
Consignments of one head and one head only.....	.45
Consignments of more than one head:	
First 10 head in each 250 head in each consignment.....	.30
Next 50 head in each 250 head in each consignment.....	.17
Next 60 head in each 250 head in each consignment.....	.09
Next 130 head in each 250 head in each consignment.....	.05
Milk cows with or without calf at side.....	1.00
Purebred or registered cows, heifers and bulls.....	5.00
Rams for breeding purposes.....	1.00

Note to Section B. The commission charged for colling the animals arriving in a consignment of one straight or one mixed car of single ownership shall not exceed what they would have been had the animals arrived in any other manner. On consignments of two or more straight or two or more mixed cars of single ownership charges shall be assessed as provided in Section A.

(a) When two or more 36-foot cars are furnished in lieu of longer cars ordered, the basis for such commission charges shall be that provided in Section B not to exceed the charges applicable under Section A, based on the number of cars containing the animals when they arrived at the market.

(b) When a consignment consists of a trailer car in addition to any number of revenue cars the entire consignment shall be assessed on the basis of Section B, not to exceed the rates applicable under Section A, to the number of cars in the consignment.

(c) When single-deck cars are furnished in lieu of a double-deck car or cars ordered each two single-deck cars shall be considered to be a double-deck-car and charges thereon assessed under Section A.

(d) Where not to exceed two animals of different ownership are contained in a single owner consignment, the consignment shall be considered to be a single owner consignment and charges shall be assessed on that basis, and in addition thereto the rates under Section B shall be assessed against the other ownership animals.

##### SECTION C

The sale of "plants" or livestock, which have been previously weighed and on which a commission has been charged for regularly established and registered traders at the Denver Union Stock Yards, will be charged for according to the regular rate of commission.

##### SECTION D

On all carloads of livestock that are put through the auction sales ring during Stock Show Week, one and only one regular selling commission shall be charged by the market agency, provided the carload is of the same ownership and same identity.

## ARTICLE 3—EXTRA SERVICE CHARGES

The following Extra Service Charges are applicable to all species:

## SECTION A

When a buyer who has purchased livestock from a commission firm requests any service and/or assistance, and/or elects to have the firm place billing order or orders and service is actually rendered, one-fourth of the regular buying commission shall be charged for such service. This service charge shall not be assessed to purchasers of registered or purebred cattle bought for breeding purposes during the week of the Stock Show, or when regular buying commission is charged.

## SECTION B

For each additional weight draft over 3, on account of sales classification.... \$0.15  
For each additional check, each additional account of sales, each proceeds deposited or bank credit, over 2..... 05

## ARTICLE 4—BUYING CHARGES

## SECTION A

The rates for buying livestock of the various species shall be the same as those for selling like species, except, (1) that no draft charge shall be made; and (2) when buys are made to complete a Purchase Order from more than two agencies and/or dealers, a charge of 50¢ shall be made for each additional agency and/or dealer in excess of two.

## SECTION B

When livestock bought from other firms by the purchaser himself is paid for and/or picked up and/or billed out or any other assistance is rendered in the purchase of the stock, the regular buying commission shall be charged to the buyer.

## SECTION C

No person doing a livestock commission business is to act in the dual capacity of buyer and seller on any shipment of livestock consigned to him, with the exception of fat sheep and fat lambs.

*Deductions made by selling agencies at Denver for the account of others.* The charges set forth below are for the accommodation of the shippers and their organizations and are not collected at the direction of the Denver Livestock Exchange or at the behest of or by the Government.

(a) For the Colorado-Nebraska Lamb Feeders Association, for the Colorado Wool

Growers Association and for the Colorado Stockgrowers and Feeders Association, such assessments on livestock consignments of their members may be levied by the respective bodies from time to time, the names of said members to be filed with the respective firms. Such collections, however, to be optional with each of said member shippers.

(b) For the Colorado Board of Livestock Inspection Commissioners, 5 cents per head on all cattle originating in said state when such inspection fee has not been paid at loading point, for the purpose of providing proper brand inspection on such shipments.

(c) For the National Live Stock and Meat Board, 25 cents per straight cars (single ownership on all consignments) of cattle and hogs, and 75 cents on all consignments of sheep to be sold on this market. Such collection, however, to be optional with shippers. Commensurate charges for all other modes of arrival.

(d) For Yard insurance coverage on fire and mixing caused by fire on all livestock while in the yards, 10 cents per carload, commensurate charges on all other modes of arrival.

(e) For the building fund of the National Western Stock Show Association, in compliance with its rules and regulations, subscription to the fund shall be made on the basis of a schedule as set forth below:

1. 1½% on all registered cattle sold at auction or at private sale. This will include all Hereford, Shorthorn and Angus breeding cattle entered in competition or exhibited on the hill property or in the yard.

2. \$10.00 per carload on feeder or fat cattle sold. This charge will apply on all feeder and fat cattle sold through the show auction, except ordinary commercial cattle not entered in the show.

3. \$10.00 per carload on all carloads sheep (110) head, and \$5.00 per truckload sheep (25) head exhibited and sold.

4. \$1.00 per head on junior show cattle; 50 cents per head on junior sheep and hogs.

5. The above subscriptions, however, shall be subject to refund within a reasonable time, not more than sixty (60) days, in the event such request is made by the subscriber in writing.

(f) For fire insurance coverage on livestock exhibited at the National Western Stock Show during the week of Stock Show the following charges shall be made and deducted, if directed in writing by the Denver Union Stock Yards Company:

	Per head
Breeding cattle and fat steers.....	\$0.50
Nurse cows.....	.50
Breeding sheep.....	.20
Junior show sheep and hogs.....	.20

(g) There shall be collected in addition to the regular selling commission on all livestock passing through the sales ring of the Denver Union Stock Yards, an auctioneer fee as hereinafter provided:

## DURING STOCK SHOW WEEK

Cattle or calves: \$1.00 for each individual head.

Cattle or calves: \$3.00 for each carload. Lots of three head or more sold together to be assessed at the carload rate.

Fat wethers and barrows: \$0.50 per head. More than six head of either hogs or sheep to be assessed at the carload rate of \$3.00 provided they are sold as a group.

## 4-H CLUB SALES AND FUTURE FARMERS OF AMERICA SALES AT AUCTION

## OTHER THAN DURING STOCK SHOW WEEK

Cattle or calves: \$0.50 for each individual head.

Cattle or calves: \$2.50 when sold in groups of five or more.

Authorization to file the proposed schedule would increase the charges paid by the public and produce additional revenue for the respondents. Accordingly, it appears that public notice of the filing of the petition should be given in order that all interested persons may have opportunity to be heard in the matter.

Therefore, notice is given to the public of the filing of this petition for modification of rates and charges.

All interested persons who desire to be heard upon the matter shall notify the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., within 15 days from the date of publication of this notice.

Done at Washington, D. C., this 26th day of April, 1948.

[SEAL]

H. E. REED,  
Director, Livestock Branch, Production and Marketing Administration.

[F. R. Doc. 48-3845; Filed, Apr. 29, 1948; 8:51 a. m.]

## NOTICES

## DEPARTMENT OF THE TREASURY

## Bureau of Customs

[T. D. 51899]

## ISLAND OF ELEUTHERA, BAHAMAS

## ADDITION TO "NO CONSUL" LIST

APRIL 23, 1948.

In accordance with a recommendation from the Department of State, the island of Eleuthera, Bahamas, is hereby added to the "No consul" list (1947) T. D. 51797, as amended.

Consular invoices covering merchandise from the above-named place will be accepted if certified under the provisions of section 482 (f) Tariff Act of 1930.

[SEAL]

W. R. JOHNSON,  
Deputy Commissioner

[F. R. Doc. 48-3834; Filed, Apr. 29, 1948; 8:50 a. m.]

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

[Misc. 2140948]

## ARIZONA

## ORDER OPENING LANDS TO MINING LOCATION, ENTRY AND PATENTING

Under authority and pursuant to the provisions of the act of April 23, 1932 (47 Stat. 136, 43 U. S. C. sec. 154) and the regulations thereunder, and subject to (1) valid existing rights and (2) the terms of the following quoted stipulations, it is hereby ordered that the unsurveyed public lands, which, when surveyed, probably will be the E½NE¼ sec. 10 and the W½NW¼ sec. 11, T. 8 S., R. 21 W., G. & S. R. M., Arizona, excepting those portions lying within and northerly of the Southern Pacific Railroad Company's right-of-way approved on Janu-

ary 21, 1928 and shown on a map filed in Phoenix 061622, be and the same are hereby opened to location, entry and patenting under the United States mining laws, the quoted stipulations to be executed and acknowledged in favor of the United States by the locators, for their heirs, successors and assigns, and recorded in the county records and in the United States District Land Office at Phoenix, Arizona, before locations are made:

In carrying on mining, processing, or stock piling of mineral-bearing sand, gravel or rock, or any other operations in any manner related to the exploitation of his mineral deposits on the above-described lands, Locator, his heirs, successors and assigns shall not pile, dump, or in any manner use or dispose of any rock, tailings, sludge, acids or chemicals, waste materials, rubbish or debris of any kind whatsoever, in such manner that any of such things will or in any manner

could, be carried or introduced into the Gila River, the proposed Wellton-Mohawk Canal or any canal constructed later in connection with the Colorado River Storage Project or obstruct the natural flow from any wash channel. Locator, his heirs, successors and assigns shall not use or conduct mining or any other operations on the above-described lands in such manner as will impede or hinder the uses and purposes of the United States in connection with the possible use of the lands for the Colorado River Storage Project or as will interfere in any degree with the operations of the United States or its agents, contractors, successors or assigns or as will be to the detriment of the general public.

There is reserved to the United States, its agents and employees, at all times free ingress to, passage over and egress from all of the above-described lands for the purpose of inspection; and there is further reserved to the United States, its successors and assigns the prior right to use any of the lands hereinabove-described, to construct, operate, and maintain canals, dikes, wasteways, ditches, telephone and telegraph lines, electric transmission lines, roadways and appurtenant works, without any payment made by the United States, or its successor for such right. The Locator further agrees that the United States, its officers, agents and employees, and its successors and assigns, shall not be held liable for any damage to the improvements or workings of the Locator resulting from the construction, operation, and maintenance of any works of the United States.

This order shall not become effective to change the status of the lands until 10:00 a. m., on June 23, 1948, at which time the lands shall, subject to valid existing rights and the provisions of existing withdrawals and of this order, become subject to disposition under the United States mining laws only, as above provided.

C. GIRARD DAVIDSON,  
Assistant Secretary of the Interior  
APRIL 21, 1948.

[F. R. Doc. 48-3819; Filed, Apr. 29, 1948;  
8:53 a. m.]

### Geological Survey

CHAKACHATNA RIVER; ALASKA

POWER SITE CLASSIFICATION NO. 395

APRIL 22, 1948.

Pursuant to authority vested in me by the act of March 3, 1879 (20 Stat. 394; 43 U. S. C. 31) and by Departmental Order No. 2333 of June 10, 1947 (43 CFR 4.623; 12 F. R. 4025) the following described land is hereby classified as power sites insofar as title thereto remains in the United States and subject to valid existing rights; and this classification shall have full force and effect under the provisions of section 24 of the act of June 10, 1920, as amended by section 211 of the act of August 26, 1935 (16 U. S. C., Supp. V 818)

All public lands lying within one-fourth ( $\frac{1}{4}$ ) mile of Chakachamna Lake, Kenibuna Lake, and Chakachatna River from the outlet of Chakachamna Lake to the mouth of Straight Creek.

The area described aggregates roughly 13,000 acres.

W. H. BRADLEY,  
Acting Director

[F. R. Doc. 48-3759; Filed, Apr. 29, 1948;  
8:52 a. m.]

PUTAH CREEK; CALIFORNIA

POWER SITE CLASSIFICATION NO. 391

APRIL 22, 1948.

Pursuant to authority vested in me by the act of March 3, 1879 (20 Stat. 394; 43 U. S. C. 31) and by Departmental Order No. 2333 of June 10, 1947 (43 CFR 4.623; 12 F. R. 4025), the following described land is hereby classified as power sites insofar as title thereto remains in the United States and subject to valid existing rights; and this classification shall have full force and effect under the provisions of section 24 of the act of June 10, 1920, as amended by section 211 of the act of August 26, 1935 (16 U. S. C., Supp. V, 818)

MOUNT DIABLO MERRIDIAN

T. 8 N., R. 2 W.,

Sec. 29, SE $\frac{1}{4}$ SW $\frac{1}{4}$ .

T. 7 N., R. 3 W.,

Sec. 2, lot 3, SE $\frac{1}{4}$ NW $\frac{1}{4}$ .

T. 8 N., R. 3 W.,

Sec. 26, SE $\frac{1}{4}$ NE $\frac{1}{4}$ ,

Sec. 31, NW $\frac{1}{4}$ NE $\frac{1}{4}$ ,

Sec. 35, NE $\frac{1}{4}$ NE $\frac{1}{4}$ .

T. 9 N., R. 4 W.,

Sec. 4, SW $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ ,

and SE $\frac{1}{4}$ SE $\frac{1}{4}$ .

Sec. 5, lots 1, and 2, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ ,

W $\frac{1}{2}$ SE $\frac{1}{4}$ , and SE $\frac{1}{4}$ SE $\frac{1}{4}$ .

Sec. 21, NW $\frac{1}{4}$ SW $\frac{1}{4}$ .

T. 10 N., R. 4 W.,

Sec. 30, NE $\frac{1}{4}$ SW $\frac{1}{4}$  (or N $\frac{1}{2}$  lot 8);

Sec. 31, NW $\frac{1}{4}$ SE $\frac{1}{4}$ , and SE $\frac{1}{4}$ SE $\frac{1}{4}$ .

T. 10 N., R. 5 W.,

Sec. 23, SW $\frac{1}{4}$ NE, and S $\frac{1}{2}$ NW $\frac{1}{4}$ .

The above described area aggregates 1,077.77 acres.

W. H. BRADLEY,  
Acting Director.

[F. R. Doc. 48-3818; Filed, Apr. 23, 1948;  
8:53 a. m.]

### FEDERAL POWER COMMISSION

[Docket No. G-429]

CONSOLIDATED GAS UTILITIES CORP.

NOTICE OF AMENDED APPLICATION

APRIL 26, 1948.

Notice is hereby given that on March 29, 1948, Consolidated Gas Utilities Corporation (Applicant) a corporation organized under the laws of the State of Delaware, with its principal place of business at Oklahoma City, Oklahoma, filed an amended application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing Applicant to continue the operation and maintenance of approximately 17 $\frac{1}{2}$  miles of 6-inch gas transmission pipe line commencing at Applicant's 14-inch pipe line at or near the northeast corner of section 23, Township 13 North, Range 19 West, Custer County, Oklahoma, and extending in a southerly direction to a point at or near the southwest corner of section 11, Township 10 North, Range 19 West, Washita County, Oklahoma.

Authorization to construct the facilities hereinabove described and to operate the same temporarily was issued to Applicant on December 5, 1942, for a period of five years or for the duration of the national emergency, whichever is longer. The said facilities have been continually operated since February 17, 1943.

The total over-all capital cost of the facilities is stated as being \$110,606.97 which was financed out of corporate funds.

Applicant states that the gas supplies from fifty-seven wells owned and operated by it in Wheeler County, Texas, are sufficient to furnish ample supplies for its operations for at least five years.

Any interested State Commission is requested to notify the Federal Power Commission whether the application should be considered under the cooperative provisions of Rule 37 of the Commission's rules of practice and procedure (18 CFR 1.37) and, if so, to advise the Federal Power Commission as to the nature of its interest in the matter and whether it desires a conference, the creation of a board, or a joint or concurrent hearing, together with reasons for such request.

The application of Consolidated Gas Utilities Corporation is on file with the Commission and is open to public inspection. Any person desiring to be heard or to make any protest with reference to the application shall file with the Federal Power Commission, Washington 25, D. C., not later than 15 days from date of publication of this notice in the FEDERAL REGISTER, a petition to intervene or protest. Such petition or protest shall conform to the requirements of Rule 8 or 10, whichever is applicable, of the rules of practice and procedure (as amended on June 16, 1947) (18 CFR 1.8 or 1.10)

[SEAL]

J. H. GUTRIDE,  
Acting Secretary.

[F. R. Doc. 48-3320; Filed, Apr. 29, 1948;  
8:48 a. m.]

[Docket No. G-1034]

NORTHERN NATURAL GAS CO.

NOTICE OF APPLICATION

APRIL 26, 1948.

Notice is hereby given that on April 14, 1948, Northern Natural Gas Company (Applicant) a Delaware corporation having its principal place of business at Omaha, Nebraska, filed an application (a) for a certificate of public convenience and necessity authorizing Applicant to construct and operate certain facilities hereinafter described, and (b) for approval of abandonment and removal of a certain portion of Applicant's facilities, also hereinafter described, both pursuant to section 7 of the Natural Gas act, as amended.

Applicant seeks authorization and approval to:

(1) Construct and operate approximately 11.39 miles of 24-inch O. D. solid welded steel loop line beginning at the Clifton, Kansas, compressor station and extending in a northeasterly direction to a point in the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 24, Township 4 South, Range 2 East, Washington County, Kansas.

(2) Construct and operate approximately 1.14 miles of 24-inch solid welded pipeline beginning at the Mullinville, Kansas, compressor station and extending in a northerly direction to the northern terminus of Applicant's 20-inch pipe-

line in the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 17, Township 28 South, Range 19 West, in Kiowa County, Kansas. This pipeline is to replace items (3) and (4) below.

(3) Abandon and remove approximately 980 feet of 24-inch pipeline (not solid welded) beginning at the Mullinville, Kansas, compressor station and extending in a northerly direction in the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 20, Township 28 South, Range 19 West, in Kiowa County, Kansas.

(4) Abandon and remove approximately 5,028 feet of 20-inch pipeline (not solid welded) beginning at the northern terminus of Applicant's 24-inch pipeline described in item (3) above, and extending in a northerly direction to the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 17, Township 28 South, Range 19 West, in Kiowa County, Kansas.

The application recites that the proposed replacement of the old 20-inch and 24-inch not solid welded pipe with the new solid welded 24-inch pipe, together with the installation of compressor units not yet constructed but authorized at Docket No. G-763, and the proposed construction of two additional 1,400 horsepower compressor units authorization for which was applied for at Docket No. G-998, will enable Applicant to increase deliverability of its present capacity of approximately 390,000 Mcf per day north of Clifton, Kansas, to 425,000 Mcf per day.

The application states that the 20-inch and 24-inch, not solid welded, pipe proposed to be salvaged will be used in gathering lines in Texas, operating at lower pressures than existing in the present use of such pipe.

The estimated total over-all capital cost of the proposed facilities is \$500,300, which will be financed out of the general funds of the Applicant.

Any interested State commission is requested to notify the Federal Power Commission whether the application should be considered under the cooperative provisions of Rule 37 of the Commission's rules of practice and procedure (18 CFR 1.37) and, if so, to advise the Federal Power Commission as to the nature of its interest in the matter and whether it desires a conference, the creation of a board, or a joint or concurrent hearing, together with reasons for such request.

The application of Northern Natural Gas Company is on file with the Commission and is open to public inspection. Any person desiring to be heard or to make any protest with reference to the application shall file with the Federal Power Commission, Washington 25, D. C., not later than 15 days from the date of publication of this notice in the FEDERAL REGISTER, a petition to intervene or protest. Such petition or protest shall conform to the requirements of Rules 8 and 10, whichever is applicable of the rules of practice and procedure (as amended on June 16, 1947) (18 CFR 1.8 and 1.10)

[SEAL] J. H. GUTRIDE,  
Acting Secretary.

[F. R. Doc. 48-3821; Filed, Apr. 29, 1948;  
8:48 a. m.]

[Docket No. G-915]

UNITED GAS PIPE LINE CO.

NOTICE OF FINDINGS AND ORDER MODIFYING  
ORDER ISSUING CERTIFICATE OF PUBLIC  
CONVENIENCE AND NECESSITY

APRIL 26, 1948.

Notice is hereby given that, on April 23, 1948, the Federal Power Commission issued its findings and order entered April 22, 1948, modifying its order of November 20, 1947, issuing a certificate of public convenience and necessity in the above designated matter.

[SEAL]

J. H. GUTRIDE,  
Acting Secretary.

[F. R. Doc. 48-3822; Filed, Apr. 29, 1948;  
8:48 a. m.]

SECURITIES AND EXCHANGE  
COMMISSION

[File No. 70-1794]

NEW YORK STATE ELECTRIC & GAS CORP.

ORDER GRANTING APPLICATION

- At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 26th day of April 1948.

New York State Electric & Gas Corporation ("NYSEG") a subsidiary of General Public Utilities Corporation, a registered holding company, having filed an application, and amendments thereto, pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935 ("act") and Rule U-50 promulgated thereunder, wherein NYSEG proposes to issue and sell \$5,500,000 principal amount of First Mortgage Bonds, --% Series, due April 1, 1978, and 35,000 shares of \$100 par value --% Cumulative Preferred Stock, the gross proceeds to be realized from the sale thereof to be applied toward meeting the cost of construction and improvement of facilities of the company; and

NYSEG having been authorized by the Public Service Commission of the State of New York to invite proposals for the purchase of its new bonds and, subsequent thereto, to invite proposals for the preferred stock; and

A public hearing having been held after appropriate notice, and the Commission having considered the record in this matter, and having made and filed its Findings and Opinion herein:

It is hereby ordered, Pursuant to section 6 (b) of the act and Rule U-50 promulgated thereunder, that the aforesaid application, as amended, be, and hereby is, granted, subject to the terms and conditions prescribed in Rule U-24 of the general rules and regulations under the act and subject to the following additional conditions:

1. That New York State Electric & Gas Corporation obtain from the Public Service Commission of the State of New York a final order expressly authorizing the issue and sale of said bonds and preferred stock.

2. That the proposed issue and sale of said bonds and preferred stock shall not be consummated until the results of the competitive bidding pursuant to Rule

U-50 have been made a matter of record in this proceeding and a further order shall have been entered by this Commission in the light of the record so completed, which order may contain further terms and conditions as may then be deemed appropriate, jurisdiction being reserved with respect to the imposition thereof in connection with the proposed transaction.

3. That so long as any shares of the ----% Cumulative Preferred Stock (the series permitted to be issued pursuant to this order) are outstanding, New York State Electric & Gas Corporation shall not, without the consent (given in writing or by vote at a meeting called for that purpose) of the holders of two-thirds of the total number of shares of the ----% Cumulative Preferred Stock (the series permitted to be issued pursuant to this order) then outstanding, issue, sell, or otherwise dispose of any shares of the Cumulative Preferred Stock, in addition to the 150,000 shares of Cumulative Preferred Stock now outstanding and the 35,000 shares of Cumulative Preferred Stock permitted to be issued pursuant to this order, or of any other class of stock ranking prior to, or on a parity with, the series of Cumulative Preferred Stock permitted to be issued pursuant to this order, as to dividends or distributions, unless the Common Stock Equity of the Company shall be not less than the aggregate amount payable on the involuntary dissolution, liquidation or winding up of the Company, in respect of all shares of the Cumulative Preferred Stock and all shares of stock, if any, ranking prior thereto, or on a parity therewith, as to dividends or distributions, which will be outstanding after the issue of the shares proposed to be issued; provided that if, for the purposes of meeting the requirements of this condition, it becomes necessary to take into consideration any surplus of the Company, the Company shall not thereafter pay any dividends on shares of the Common stock which would result in reducing the Company's Common Stock Equity to an amount less than the aggregate amount payable, on involuntary dissolution, liquidation or winding up of the Company, on all shares of the Cumulative Preferred Stock and of any stock ranking prior to, or on a parity with, the Cumulative Preferred Stock, as to dividends or other distributions, at the time outstanding. The term "Common Stock Equity" shall mean the sum of the par or stated value of the issued and outstanding shares of Common Stock and the surplus (including capital or paid-in surplus and surplus of any kind however designated) and premium on Common Stock of the Company less the amount known, or estimated if not known, to represent the excess, if any, of recorded cost over original cost of used and useful utility plant and other property and less the amount of any items set forth on the asset side of the balance sheet as a result of accounting convention such as unamortized debt discount and expense, capital stock discount and expense, and the excess, if any, of the aggregate amount payable on involuntary dissolu-

tion, liquidation or winding up of the Company upon all outstanding shares of Cumulative Preferred Stock of all series over the aggregate par or stated value of such shares; *Provided, however* That in the determination of the Common Stock Equity no deduction shall be required to be made for any such amounts being amortized or depreciated, or which are provided for, or are being provided for, by reserves.

4. That so long as any shares of the \_\_\_% Cumulative Preferred Stock (the series permitted to be issued pursuant to this order) are outstanding;

(A) If and so long as the Common Stock Equity, as hereinafter defined, at the end of the calendar month immediately preceding the date on which a dividend on Common Stock is proposed to be declared is, or as a result of such dividend would become, less than twenty per centum (20%) of Total Capitalization, as hereinafter defined, the Company shall not declare dividends on the Common Stock in an amount which, together with all other dividends on Common Stock declared within the year ending with (and including) the date of such dividend declaration, exceeds fifty per centum (50%) of the Net Income of the Company Available for Dividends on the Common Stock, as hereinafter defined, for the twelve full calendar months immediately preceding the month in which such dividend is declared; and

(B) If and so long as the Common Stock Equity at the end of the calendar month immediately preceding the date on which a dividend on Common Stock is proposed to be declared is, or as a result of such dividend would become, less than twenty-five per centum (25%) but not less than twenty per centum (20%) of Total Capitalization, the Company shall not declare dividends on the Common Stock in an amount which, together with all other dividends on Common Stock declared within the year ending with (and including) the date of such dividend declaration, exceeds seventy-five per centum (75%) of Net Income of the Company Available for Dividends on the Common Stock for the twelve full calendar months immediately preceding the month in which such dividend is declared; and

(C) At any time when the Common Stock Equity at the end of the calendar month immediately preceding the date on which a dividend on Common Stock is declared is twenty-five per centum (25%) or more of Total Capitalization, the Company shall not declare dividends on the Common Stock in an amount which would reduce the Common Stock Equity below 25% of Total Capitalization unless the dividends so declared shall meet the requirements set forth in paragraphs (A) and (B) above, whichever may be applicable.

For the purpose of this condition:

(a) The words "dividend" and "dividends" when used with reference to the Common Stock shall include dividends or other distributions on or the purchase or other acquisition for value of shares of Common Stock, but shall not include any portion of dividends payable in shares of the Common Stock;

(b) The term "Common Stock Equity" shall mean the sum of the par or stated value of the issued and outstanding shares of Common Stock and the surplus (including capital or paid-in surplus and surplus of any kind however designated) and premium on Common Stock of the Company less the amount known, or estimated if not known, to represent the excess, if any, of recorded cost over original cost of used and useful utility plant and other property and less the amount of any items set forth on the asset side of the balance sheet as a result of accounting convention such as unamortized debt discount and expense, capital stock discount and expense, and the excess, if any, of the aggregate amount payable on involuntary dissolution, liquidation or winding up of the Company upon all outstanding shares of Cumulative Preferred Stock of all series over the aggregate par or stated value of such shares; *Provided, however* That in the determination of the Common Stock Equity no deduction shall be required to be made for any such amounts being amortized or depreciated, or which are provided for, or are being provided for, by reserves;

(c) The term "Total Capitalization" shall mean the aggregate of the par value or stated value of the issued and outstanding shares of stock of all classes of the Company and the surplus (including capital or paid-in surplus and surplus of any kind however designated) and premium on capital stock of the Company, plus the principal amount of all outstanding debt maturing more than twelve months from the date of the determination of Total Capitalization;

(d) The term "Net Income of the Company Available for Dividends on the Common Stock" shall mean for any twelve months period an amount equal to the sum of the operating revenues and income from investments and other miscellaneous income for such period, less all deductions (including accruals) for operating expenses for such period, including maintenance and provision for reserves for retirements, renewals, replacements, and for any depreciation (which, with reference to any period of time, shall mean an amount equal to the provisions for depreciation as recorded on the books of the Company, but not less than an amount equal to (i) fifteen per centum (15%) of the gross operating revenues of the Company during such period after deducting from such revenues an amount equal to the aggregate cost of electric energy and manufactured or natural gas or steam purchased during such period for the purpose of resale in connection with the operation of the Company's property, less (ii) an amount equal to the aggregate of the charges to operating expense during such period for current repairs and maintenance of the property of the Company) and depletion, income and excess profits and other taxes, interest charges, other amortization charges and other income deductions, all as shall be determined in accordance with sound accounting practice, and less also current and accrued dividends on all outstanding shares of stock of the Company rank-

ing prior to the Common Stock as to dividends or assets;

(e) If, at the time when any calculation of Common Stock Equity, Total Capitalization or Net Income of the Company Available for Dividends on the Common Stock is required to be made, the Company shall have one or more subsidiaries whose accounts may, in accordance with sound accounting practice, properly be consolidated with the accounts of the Company, such calculation shall, in accordance with sound accounting practice, be made for the Company with such subsidiaries on a consolidated basis.

*It is further ordered*, That the ten-day period for inviting bids on the new bonds as provided by Rule U-50, be, and the same hereby is, shortened so as to permit the opening of bids on the new bonds on May 3, 1948.

*It is further ordered*, That jurisdiction be, and hereby is, reserved over the payment of the fee and expenses of independent counsel for prospective underwriters.

By the Commission.

[SEAL] ORVAL L. DUBOIS,  
Secretary.

[F. R. Doc. 48-3825; Filed, Apr. 23, 1948;  
8:49 a. m.]

[File No. 70-1811]

NASSAU & SUFFOLK LIGHTING CO.

ORDER PERMITTING DECLARATION TO BECOME  
EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 22d day of April 1948.

Nassau & Suffolk Lighting Company ("Nassau & Suffolk") an indirect subsidiary of Long Island Lighting Company, a registered holding company, having filed a declaration, as amended, pursuant to sections 6 and 7 of the Public Utility Holding Company Act of 1935 ("act") with respect to the following transaction:

Declarant proposes to issue and sell for cash at principal amount to two commercial banks an aggregate of \$500,000 principal amount of unsecured notes each of which will bear interest at the rate of 2½% per annum, and will mature on January 26, 1949. The proceeds of the sale of the notes are to be used to pay an outstanding note in the principal amount of \$300,000 which matures April 26, 1948, and a second outstanding note in the principal amount of \$200,000 which matures on May 24, 1948.

Such declaration, as amended, having been duly filed, and notice of said filing having been duly given in the form and manner prescribed by Rule U-23 promulgated pursuant to said act, and the Commission not having received a request for hearing with respect to said declaration, as amended, within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding that no adverse findings are necessary with respect to the declaration, as amended, and deeming it appropriate in the public in-

terest and in the interests of investors and consumers that said declaration, as amended, be permitted to become effective, and deeming it appropriate to grant a request of declarant that the order become effective at the earliest date possible:

*It is hereby ordered,* Pursuant to Rule U-23 and the applicable provisions of the act, and subject to the terms and conditions prescribed in Rule U-24, that the declaration, as amended, be, and the same hereby is, permitted to become effective forthwith.

By the Commission.

[SEAL] ORVAL L. DUBOIS,  
*Secretary.*

[F. R. Doc. 48-3826; Filed, Apr. 29, 1948;  
8:49 a. m.]

## DEPARTMENT OF JUSTICE

### Office of Alien Property

**AUTHORITY:** 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616, E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981

[Vesting Order 10072, Amdt.]

MATILDE M. ZIEGLER

In re: Stock, certificate of deposit, bonds and bank account owned by Matilde M. Ziegler.

Vesting Order 10072, dated October 20, 1947, is hereby amended as follows and not otherwise:

By deleting subparagraph 2 (c) of said Vesting Order and substituting therefor the following:

c. 53,333/100,000 share of 100 Chilean pesos par value capital stock of Compania Salitrera Anglo-Chilena, Santiago, Chile, a corporation organized under the laws of Chile, evidenced by certificate number 2972 issued in the name of bearer, presently in the custody of The National City Bank of New York, 55 Wall Street, New York, New York, together with all declared and unpaid dividends thereon.

All other provisions of said Vesting Order 10072 and all actions taken by or on behalf of the Attorney General of the United States in reliance thereon, pursuant thereto and under the authority thereof are hereby ratified and confirmed.

Executed at Washington, D. C., on April 15, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
*Assistant Attorney General,  
Director Office of Alien Property.*

[F. R. Doc. 48-3844; Filed, Apr. 29, 1948;  
8:47 a. m.]

[Vesting Order 11041]

HANS PHILIPP

In re: Stock owned by Hans Philipp. F-28-463-D-1, F-28-463-D-2.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Execu-

tive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Hans Philipp, whose last known address is Berlin, Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the property described as follows:

a. One hundred eighty-three (183) shares of \$1.00 par value common capital stock of Commonwealths Distribution Inc., 90 Broad Street, New York 15, New York, a corporation organized under the laws of the State of Delaware, evidenced by certificates numbered C353 for one hundred (100) shares and C04455 for eighty-three (83) shares, registered in the name of Hans Philipp, together with all declared and unpaid dividends thereon, and all rights under a plan of liquidation thereof, dated May 1941,

b. Thirty-six (36) shares of common capital stock of National Gas & Electric Corporation, 70 Pine Street, New York, New York, a corporation organized under the laws of the State of Delaware, evidenced by a certificate numbered C09888, registered in the name of Hans Philipp, together with all declared and unpaid dividends thereon,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany)

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 5, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
*Assistant Attorney General,  
Director Office of Alien Property.*

[F. R. Doc. 48-3836; Filed, Apr. 29, 1948;  
8:46 a. m.]

[Vesting Order 11062]

FRIDA BOIE ET AL.

In re: Bank accounts and bond owned by Frida Boie, Ilse Kretzschmar, Dora Kretzschmar, Elisabeth Kretzschmar and Bernhard Kretzschmar. F-28-28711-A-1, F-28-28711-E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Frida Boie, Ilse Kretzschmar, Dora Kretzschmar, Elisabeth Kretzschmar and Bernhard Kretzschmar, whose last known addresses are Germany, are residents of Germany and nationals of a designated enemy country (Germany),

2. That the property described as follows:

a. That certain debt or other obligation of East Wisconsin Trustee Co., 926 South 8th Street, Manitowoc, Wisconsin, arising out of a Trust Account, numbered PT 1515, entitled Edwin Schuette, Trustee for Sarah Sibree Bornemann, and any and all rights to demand, enforce and collect the same,

b. That certain debt or other obligation of Manitowoc Savings Bank, Manitowoc, Wisconsin, arising out of a Savings Account, account number 3793, entitled Sara Bornemann Trust, East Wisconsin Trustee Company, Agent for Edwin Schuette, and any and all rights to demand, enforce and collect the same, and

c. One (1) United States Treasury 2% Bond of \$1,000.00 face value, bearing the number J8099K, presently in the custody of East Wisconsin Trustee Co., 926 South 8th Street, Manitowoc, Wisconsin, together with any and all rights thereunder and thereto,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Frida Boie, Ilse Kretzschmar, Dora Kretzschmar, Elisabeth Kretzschmar and Bernhard Kretzschmar, the aforesaid nationals of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 9, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
*Assistant Attorney General,  
Director Office of Alien Property.*

[F. R. Doc. 48-3837; Filed, Apr. 29, 1948;  
8:46 a. m.]

[Vesting Order 11080]

YASU FUJISHIRO

In re: Rights of Yasu Fujishiro under Insurance Contract. File No. F 39-358-H-2.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Yasu Fujishiro, whose last known address is Japan, is a resident of Japan and a national of a designated enemy country (Japan)

2. That the net proceeds due or to become due under a contract of insurance evidenced by policy No. 15185273, issued by the New York Life Insurance Company, New York, New York, to Shinji Fujishiro, together with the right to demand, receive and collect said net proceeds,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Japan)

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 15, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director Office of Alien Property.

[F. R. Doc. 48-3838; Filed, Apr. 29, 1948; 8:46 a. m.]

[Vesting Order 11085]

LINA REICHARDT

In re: Trust under the will of Lina Reichardt, deceased. File No. D-28-7640-G-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Ludwig Reichardt, Theodore Reichardt (nephew) Ernst Reichardt (nephew) Freda Reichardt, Ernst Rei-

chardt (grand-nephew), and Theodore Reichardt (grand-nephew) whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany),

2. That the issue, names unknown, of Ludwig Reichardt, of Theodore Reichardt (nephew) of Ernst Reichardt (nephew) of Freda Reichardt, of Ernst Reichardt (grand-nephew) and of Theodore Reichardt (grand-nephew) who there is reasonable cause to believe are residents of Germany, are nationals of a designated, enemy country (Germany)

3. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraphs 1 and 2 hereof, and each of them, in and to the trust created under the will of Lina Reichardt, deceased, presently being administered by the Continental Illinois National Bank and Trust Company of Chicago, 231 South LaSalle Street, Chicago, Illinois, as trustees,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany),

and it is hereby determined:

4. That to the extent that the persons identified in subparagraph 1 hereof and the issue, names unknown, of Ludwig Reichardt; of Theodore Reichardt (nephew), of Ernst Reichardt (nephew) of Freda Reichardt; Ernst Reichardt (grand-nephew) and of Theodore Reichardt (grand-nephew) are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 15, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director Office of Alien Property.

[F. R. Doc. 48-3839; Filed, Apr. 29, 1948; 8:46 a. m.]

[Vesting Order 11087]

ELIZABETH SOMMERFELD

In re: Rights of Elizabeth Sommerfeld under insurance contract. File No. F-28-28739-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Elizabeth Sommerfeld, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the net proceeds due or to become due under a contract of insurance evidenced by policy No. 710,776, issued by the New York Life Insurance Company, New York, New York, to Paul H. Sommerfeld, together with the right to demand, receive and collect said net proceeds,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany)

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 15, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director, Office of Alien Property.

[F. R. Doc. 48-3840; Filed, Apr. 23, 1948; 8:48 a. m.]

[Vesting Order 11083]

KIMIYE TAKANO

In re: Rights of Kimiye Takano under insurance contract. File No. D-39-16939-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Kimiye Takano, whose last known address is Japan, is a resident of Japan and a national of a designated enemy country (Japan)

2. That the net proceeds due or to become due under a contract of insurance evidenced by policy No. 7,801,206, issued by the New York Life Insurance Company, 51 Madison Avenue, New York 10, New York, to Kikutaro Takano a/k/a

George R. Takano, together with the right to demand, receive and collect said net proceeds,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by the aforesaid national of a designated enemy country (Japan)

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 15, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director Office of Alien Property.

[F. R. Doc. 48-3841; Filed, Apr. 29, 1948; 8:47 a. m.]

[Vesting Order 11089]

EVA THERESE ADAM

In re: Bonds owned by and debt owing to Miss Eva Therese Adam. F-28-22014-A-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Miss Eva Therese Adam, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the property described as follows:

a. Those certain bonds described in Exhibit A, attached hereto and by reference made a part hereof, in bearer form, and presently in the custody of City Bank Farmers Trust Company, 22 William Street, New York, New York, together with any and all rights thereunder and thereto, and

b. That certain debt or other obligation owing to Miss Eva Therese Adam by

the City Bank Farmers Trust Company, 22 William Street, New York, New York, arising out of a Custodian cash balance maintained with the aforesaid company, together with any and all rights to demand, enforce and collect the aforesaid debt or other obligation, and any and all accruals thereto,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Miss Eva Therese Adam, the aforesaid national of a designated enemy country (Germany), and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 15, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director Office of Alien Property.

EXHIBIT A

Description of issue	Face value	Certificate No.
U. S. of Brazil external sinking fund, 6½%, Oct. 1, 1957-----	\$1,000	31263
	1,000	39828
	1,000	42038
	1,000	17794
	1,000	40305
	1,000	23765
	1,000	1724
	1,000	49158
	1,000	45128
	1,000	45129
	1,000	45130
	1,000	45131
	1,000	35367
	1,000	51204
	1,000	51205
	1,000	51271
	1,000	6897
	500	1256
	500	6569
	500	1644
	500	1257
	500	2904
	500	6036
City of Milan, external loan sinking fund, 6½%, Apr. 1, 1952-----	1,000	26424
	1,000	22031
	1,000	16568
	1,000	14139
	1,000	13772
	1,000	11004

EXHIBIT A—Continued

Description of Issue	Face value	Certificate No.
City of Milan, external loan sinking fund, 6½%, Apr. 1, 1952-----	\$1,000	16371
	1,000	7432
	1,000	6084
	1,000	9781
Mortgage Bank of Chile guaranteed sinking fund, 6%, Apr. 30, 1961-----	1,000	13825
	1,000	13829
	1,000	13827
	1,000	13823
	1,000	16531
	1,000	16535
	1,000	16739
	1,000	16537
	1,000	16539
	1,000	16540
	1,000	16521
	1,000	16530
	1,000	16531
	1,000	16532
	1,000	2762
Mortgage Bank of Chile guaranteed sinking fund, 6%, May 1, 1962-----	500	453
	500	459
	500	603
	500	607
	500	1139
	500	1197
	1,000	13014
	1,000	13792
	1,000	70
	1,000	1463
	1,000	16003
	1,000	16001
	1,000	16005
General Development Co. external debenture sinking fund, 6%, Mar. 15, 1933-----	1,000	2939
	1,000	8023
	1,000	9003
	1,000	9194
	1,000	9312
	1,000	11007
	1,000	11323
	1,000	11324
	1,000	11326
	1,000	11657
City of Rome, external loan of 1927, sinking fund, 6½%, Apr. 1, 1952-----	1,000	27097
State of San Paulo, 40-year sinking fund external 6% dollar loan of 1928, due July 1, 1968-----	1,000	3683
	1,000	3684
	1,000	3685
	1,000	3686
	1,000	3687
	1,000	12134
	1,000	12135
	1,000	12136
	1,000	2223
	1,000	2221
	1,000	1210
	1,000	1241
	1,000	1242
	1,000	1243
	1,000	7030
	1,000	7970
	1,000	7977
	1,000	3795
	1,000	7979
	1,000	7978
	1,000	9767
	1,000	9769
	1,000	10233
	1,000	3790
	1,000	3791
City of Tokio, external loan sinking fund, 6½%, Oct. 1, 1961-----	1,000	1346
	1,000	1340
	1,000	3603
	1,000	7841
	1,000	14127
	1,000	14710
	1,000	17937
	1,000	16009
	1,000	16003
	1,000	16001
	1,000	16000
	1,000	18238
	1,000	18263
	1,000	18284
	1,000	19509

[F. R. Doc. 48-3842; Filed, Apr. 29, 1948; 8:47 a. m.]