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TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

DEPARTMENT OF THE INTERIOR

Effective upon publication in the FEDERAL REGISTER, paragraph (a) (17) is added to § 6.310 as set out below.

§ 6.310 *Department of the Interior—(a) Office of the Secretary.*
(17) Director, Office of Oil and Gas.

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

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 58-869; Filed, Feb. 4, 1958; 8:50 a. m.]

TITLE 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

Subchapter D—Regulations Under the Poultry Products Inspection Act

PART 81—INSPECTION OF POULTRY AND POULTRY PRODUCTS

Notice of the proposed issuance of regulations governing the inspection of poultry and poultry products (7 CFR Part 81) was published in the FEDERAL REGISTER on November 22, 1957 (22 F. R. 9351). The regulations hereinafter promulgated are issued pursuant to authority contained in the Poultry Products Inspection Act (71 Stat. 441; 21 U. S. C. 451 et seq.).

A new Subchapter D is added to Chapter I, Title 7, as designated above, containing Part 81—Inspection of Poultry and Poultry Products.

The regulations will apply to the inspection of poultry and poultry products in interstate or foreign commerce and in designated major consuming areas. The inspection of poultry and poultry products pursuant to these regulations will become mandatory on January 1, 1959,

but inspection may be provided after May 1, 1958, to those qualified applicants voluntarily applying for it.

The regulations set forth herein contain the provisions necessary to implement the program during 1958 when applicants may voluntarily apply for and receive inspection service pursuant to the Poultry Products Inspection Act. Additional provisions relating to other phases of the program such as exemptions, importations, and the keeping of records will be published prior to January 1, 1959.

After consideration of all relevant material presented during the period granted for submission of data, views and arguments, the regulations hereinafter set forth are promulgated to become effective May 1, 1958.

The proposed regulations set forth in the FEDERAL REGISTER of November 22, 1957 (22 F. R. 9351), are hereby adopted and incorporated with the following changes:

1. Change paragraph (a) of § 81.33.
2. Change § 81.37.
3. Add the word "file" immediately preceding the word "cabinets" in the last sentence of paragraph (f) in § 81.33.
4. Change paragraph (a) of § 81.41.
5. Change the word "or" to read "and" in § 81.47.
6. Change paragraph (l) of § 81.49.
7. Change paragraphs (b) (1) and (h) of § 81.100.
8. Change the centerheading immediately preceding § 81.110 and the title of § 81.110, and add paragraph headings to paragraphs (a), (b) and (c).
9. Add the following sentence to paragraph (b) of § 81.118: "The inspector issuing an export certificate is authorized to furnish additional copies of such certificate upon the request of an interested party."
10. Add the following sentence to paragraph (b) of § 81.121: "The inspector who issues any poultry inspection certificate is authorized to furnish additional copies of such certificate upon the request of an interested party."
11. Change paragraph (a) (3) of § 81.130.
12. Add the following sentence to paragraph (a) (6) of § 81.130: "In the case of transparent wrappers the plant number may be shown on an insert label and

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CFR SUPPLEMENTS
(As of January 1, 1958)

The following Supplement is now available:
Title 18 (\$0.50).

Order from Superintendent of Documents,
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so placed under the transparent covering that it will be clearly visible and legible."

13. Change paragraph (b) (1) of § 81.131.

14. Delete paragraph (c) of § 81.131 and redesignate the subsequent paragraphs of the section as paragraphs (c) and (d).

15. Change redesignated paragraph (d) (1) and (2) of § 81.131.

16. Add the following sentence to subparagraph (8) of newly redesignated paragraph (d) of § 81.131: "Skin shall be substantially intact."

17. Change the designation "Figure 3" in § 81.136 to read "Figure 2."

18. Section 81.152 is designated "[Reserved]".

19. Change § 81.169.

20. Delete "\$4.80" and "\$3.40" wherever they appear in §§ 81.170 and 81.171 and insert in lieu thereof "\$5.00."

21. Change the section number "81.174" to read "81.173."

22. Add a new § 81.174.

NOTE: The reporting and record-keeping requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Issued at Washington, D. C., this 31st day of January 1958.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Agricultural Marketing Service.

The regulations as adopted are as follows:

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- AUTHORITY: §§ 81.1 to 81.174 issued under sec. 14, 71 Stat. 447; 21 U. S. C. 463.

DEFINITIONS

§ 81.1 *Definitions.* Unless the context otherwise requires, the following terms shall have the following meanings:

Acceptable. "Acceptable" means suitable for the purpose intended and acceptable to the Administrator.

Act. "Act" means the Poultry Products Inspection Act (71 Stat. 441.).

Administrator. "Administrator" means the Administrator of the Agricultural Marketing Service of the Department or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated the authority to act in his stead.

Adulterated. "Adulterated" shall apply to poultry and poultry products under one or more of the following circumstances:

(1) If they bear or contain any poisonous or deleterious substance which may render them injurious to health, but, in case the substance is not an added substance, such poultry and poultry products shall not be considered adulterated under this clause if the quantity of such substance in such poultry and poultry products does not ordinarily render them injurious to health.

(2) If they bear or contain any added poisonous or added deleterious substance, unless such substance is permitted in their production or unavoidable under good manufacturing practices as may be determined by the regulations in this part or other provisions of Federal law limiting or tolerating the quantity of such added substance on or in such poultry and poultry products: *Provided,* That any quantity of such added substance exceeding the limits so fixed shall also be deemed to constitute adulteration.

(3) If any substance has been substituted, wholly or in part, therefor.

(4) If damage or inferiority has been concealed in any manner.

(5) If any valuable constituent has been in whole or in part omitted or abstracted therefrom.

(6) If any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

Applicant. "Applicant" means any person who requests any inspection service.

Commerce. "Commerce" means commerce between any State, Territory, or possession or the District of Columbia,

and any place outside thereof; or between points within the same State, or the District of Columbia, but through any place outside thereof; or within the District of Columbia, or between a designated major consuming area and any point outside thereof; or within a designated major consuming area.

Consumer package. "Consumer package" means any container in which a poultry product is enclosed for the purpose of display and sale to household consumers.

Container or package. "Container or package" includes any box, can, tin, cloth, plastic, or any other receptacle, wrapper, or cover.

Department. "Department" means the United States Department of Agriculture.

Dressed poultry. "Dressed poultry" means poultry which has been slaughtered for human food with head, feet, and viscera intact and from which the blood and feathers have been removed.

Dressed poultry identification mark. "Dressed poultry identification mark" means the symbol formulated pursuant to the regulations in this part stating that the dressed poultry is eligible for further processing in official establishments under USDA inspection.

Food product containing poultry product. "Food product containing poultry product" means any article of food for human consumption which is prepared in part from ready-to-cook poultry, but which has been exempted by the Administrator from the category of a poultry food product.

Giblets. "Giblets" means the liver from which the bile sac has been removed, the heart from which the pericardial sac has been removed, and the gizzard from which the lining and contents have been removed: *Provided*, That each such organ has been properly trimmed and washed.

Immediate container. The term "immediate container" includes any consumer package; or any other container in which poultry carcasses or poultry products, not consumer packaged, are packed.

Inspected for wholesomeness. "Inspected for wholesomeness" means, with respect to any poultry product, that it has undergone an inspection and was found at the time of such inspection to be wholesome and not adulterated.

Inspection. "Inspection" means any ante mortem examination of poultry or any post-mortem inspection of dressed poultry at the time of evisceration or any inspection by an inspector to determine in accordance with the regulations in this part (1) the wholesomeness of any poultry product at any stage of the preparation or packaging thereof in the official establishment where inspected for wholesomeness, or (2) the wholesomeness of any previously inspected poultry product if such poultry product has not lost its identity as an inspected product.

Inspection service. "Inspection service" means the official service within the Department having the responsibility for carrying out the provisions of the Poultry Products Inspection Act. Inspection service also means the activities per-

formed, including official reporting, by such official service.

Inspector. "Inspector" means (1) an employee or official of the United States Government, authorized by the Administrator to inspect poultry and poultry products, pursuant to the regulations in this part, or (2) an employee or official of any State government, authorized by the Administrator to inspect poultry and poultry products, pursuant to the regulations in this part, under an agreement entered into between the Agricultural Marketing Service and the appropriate State agency.

Label. "Label" means any written, printed, or graphic material upon the shipping container, if any, or upon the immediate container, including but not limited to an individual consumer package of the poultry product, or accompanying such product.

Official establishment. "Official establishment" means any establishment as determined by the Administrator at which inspection of the slaughter of poultry, or the processing of poultry products, is maintained pursuant to the regulations in this part.

Official identification. "Official identification" means the official inspection mark or the dressed poultry identification mark.

Official inspection mark. "Official inspection mark" means the symbol, formulated pursuant to the regulations in this part, stating that the poultry product was inspected.

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

Potable water. "Potable water" means water that has been approved by the State health authority or agency or laboratory acceptable to the Administrator as safe for drinking, and suitable for food processing.

Poultry. "Poultry" means any live or slaughtered domesticated bird (chickens, turkeys, ducks, geese or guineas).

Poultry food product. "Poultry food product" means any human food product consisting of any edible part or parts of poultry in combination with other ingredients unless such human food product is exempted by the Administrator.

Poultry product. "Poultry product" means any ready-to-cook poultry or any poultry food product.

Product. "Product" means dressed poultry or poultry product or both.

Ready-to-cook poultry. "Ready-to-cook poultry" means any dressed poultry from which the protruding pinfeathers, vestigial feathers (hair or down as the case may be), head, shanks, crop, oil gland, trachea, esophagus, entrails, kidneys, reproductive organs and lungs have been removed, and with or without the giblets, is ready to cook without need of further processing. Ready-to-cook poultry also means any cut-up or disjointed portion of poultry or any edible part thereof, as described in this paragraph.

Regulations. "Regulations" means the provisions of this entire part.

Secretary. "Secretary" means the Secretary of the Department, or any other officer or employee of the Depart-

ment to whom there has heretofore been delegated or to whom there may hereafter be delegated, the authority to act in his stead.

Shipping container. "Shipping container" means any container used or intended for use in packaging the product packed in an immediate container.

Slaughter. "Slaughter" means the act of killing poultry for human food in accordance with good commercial practices in a manner which will result in thorough bleeding of the carcasses.

Unwholesome. "Unwholesome" means:

(1) Unsound, injurious to health, or otherwise rendered unfit for human food.

(2) Consisting in whole or in part of any filthy, putrid, or decomposed substance.

(3) Processed, prepared, packed, or held under unsanitary conditions whereby a poultry carcass or parts thereof or any poultry product may have become contaminated with filth or whereby a poultry product may have been rendered injurious to health.

(4) Produced in whole or in part from poultry which has died otherwise than by slaughter.

(5) Packaged in a container composed of any poisonous or deleterious substance which may render the contents injurious to health.

Wholesome. "Wholesome" means sound, healthful, clean, and otherwise fit for human food.

GENERAL REGULATIONS

POULTRY PRODUCTS INSPECTION ACT

§ 81.2 *Effective date.* The Poultry Products Inspection Act became effective on August 28, 1957. However, no person is subject to the provisions of this act prior to January 1, 1959, unless such person, after January 1, 1958, applies for and receives inspection for poultry or poultry products pursuant to the act and the regulations in this part. Any person who voluntarily applies for and receives such inspection after January 1, 1958, shall be subject, on and after the date he commences to receive such inspection, to all of the provisions and penalties provided for in the Poultry Products Inspection Act with respect to all poultry or poultry products handled in the establishment for which said application for inspection is made.

ADMINISTRATION

§ 81.3 *Administration.* The Administrator shall perform, for and under the supervision of the Secretary, such duties as are prescribed in the regulations in this part and as the Secretary may require in the administration of the regulations in this part. The Administrator is authorized to waive for limited periods any particular provisions of the regulations to permit experimentation so that new procedures, equipment and processing techniques may be tested to facilitate definite improvements: *Provided*, That such variations from the provisions of the regulations are not in conflict with the purposes of the act. The Administrator is authorized to grant exemptions

in accordance with the provisions of the act.

§ 81.4 *Inspection in accordance with methods prescribed or approved.* Inspection of poultry products shall be rendered pursuant to the regulations in this part and under such conditions and in accordance with such methods as may be prescribed or approved by the Administrator.

SCOPE OF INSPECTION

§ 81.5 *Inspection services available.* The regulations in this part provide for inspection service pursuant to the provisions of the Poultry Products Inspection Act.

§ 81.6 *Establishments requiring inspection.* (a) Every establishment in which poultry is slaughtered for transportation or sale in commerce, or for transportation from an official establishment to another official establishment, and every establishment in which poultry products are prepared for transportation or sale in commerce shall have inspection under the regulations in this part, except as expressly exempted in this part.

(b) The term "prepared" as used in this section means any operation or combination of operations, whereby poultry is eviscerated, cut up, heat treated, canned, packed, labeled, or changed in size, shape or form, and includes the combining of poultry products with other edible ingredients. It does not refer to freezing of poultry or poultry products after they have been shipped from an official establishment, except when freezing is a part of the processing operations of such establishment in which case the provisions of §§ 81.50 and 81.104 shall apply.

§ 81.7 *Poultry and poultry products entering or prepared in official establishments.* All poultry and poultry products processed in an official establishment shall be inspected, handled, prepared, marked and labeled as required by the regulations in this part, and all dressed poultry and poultry products entering an official establishment shall have been inspected as required by the regulations in this part.

APPLICATION FOR SERVICE

§ 81.11 *How application shall be made.* The proprietor or operator of each establishment of the kind specified in § 81.6 shall make application to the Administrator for inspection service. Every application under this section shall be made on a form furnished by the Inspection Service. In cases of change of name or ownership or change of location, a new application shall be made.

§ 81.12 *Filing of application.* An application for inspection service shall be regarded as filed only when it has been filled in completely and signed by the applicant and has been received in the office of the Administrator.

§ 81.13 *Authority of applicant.* Proof of authority of any person applying for inspection service may be required at the discretion of the Administrator.

§ 81.14 *Approval of application for inspection.* An application for inspection service to be rendered in an official establishment shall be approved according to the following procedure:

(a) *Drawings and specifications to be furnished.* (1) Applicants for inspection service may request and obtain information or assistance from the Inspection Service with respect to the requirements before submitting drawings and specifications.

(2) Four copies of drawings or blueprints showing the features specified herein shall be submitted to the Administrator. The drawings or blueprints shall be legible, made with sharp, clear lines, be properly drawn to scale, and shall consist of floor plans, elevations of various buildings, and a plot plan.

(3) The plot plan shall show such features as the limits of the plant's premises, locations in outline of buildings on the premises, one point of the compass, and roadways and railroads serving the plant.

(4) The floor plan shall show all space to be included in the official establishment. If rooms or compartments shown on the drawings are not to be included as part of the official establishment, this shall be clearly indicated thereon.

(5) The sheets of paper on which drawings or blueprints are made shall not exceed a size of 34" x 44". The drawings other than of the plot plan shall be made to a scale of 1/8" per foot, except that additional plans for some areas showing detail may be drawn to a scale of 1/4" per foot. The plot plan may be drawn to a scale of not less than 1/32" per foot. The drawings shall indicate the scale used and shall also indicate the floor shown (i. e., basement, first, or second).

(b) *Features required to be shown on floor plan.* The following features shall be shown on the floor plan:

(1) The principal pieces of equipment drawn to scale in the proper locations.

(2) The name of the firm and the address of the plant by street and street number, or by other means properly identifying the location of the plant.

(3) One point of the compass.

(4) The doors and openings for passageways, designating those which are self-closing or permanently closed.

(5) All floor drain openings and gutter drains.

(6) Lavatories in toilet and processing rooms (lavatories which are other than hand-operated shall be so designated on the blueprints).

(7) All steam, hot and cold water outlets for clean-up purposes.

(8) Ice making and storage facilities.

(9) The point at which live poultry is hung on the conveyor line, the point where dressed poultry is removed, and the point of transfer to the eviscerating line.

(10) The routes of the edible and inedible products.

(11) The location of fresh air inlets, exhaust fans and hoods.

(c) *Specifications.* Specifications covering the following notations shall accompany the drawings:

(1) Height of ceilings.

(2) Type of ceilings—open or closed.

(3) Finish of ceilings; for example—cement plaster, metal, marine plywood, cement, asbestos board, etc.

(4) Finish of walls; for example—cement plaster, glazed tile, glazed brick, glass blocks, etc.

(5) Screens—indicate whether all outside openings are screened or provided with other suitable devices against entrance of flies or other insects.

(6) Finish of floors—concrete, brick, mastic material, etc.

(7) Drainage—indicate amount of slope of floors to the drains in processing rooms, coolers, toilets, and refuse rooms, and give description of trapping and venting of drainage lines, and of floor drain openings. Indicate size of drainage lines and whether house drainage lines and toilet soil lines are separate to a point outside of buildings.

(8) Heating—indicate type.

(9) Water supply—indicate whether public or private water supply, or both, and specify in terms of gallons per minute of water available for the processing needs of the plant. Also indicate whether or not a nonpotable water supply is used for any purpose in the plant and, if so, specify such uses.

(10) Hot water facilities—specify facilities such as boilers, storage tanks, mixing valves, etc., and indicate the size and number of boilers and storage tanks.

(11) Specify number of men and number of women who will use each toilet room.

(12) Sewage disposal—indicate whether city sewer, cesspool, sedimentation tank, etc.

(13) Approximate rate of production—indicate hourly rate of slaughter and evisceration for each class of poultry.

(d) *Rooms and compartments which must be included in the official establishment.* The official establishment shall include employees' toilet and dressing rooms, office space for the inspectors, storerooms for supplies, refuse rooms, and all rooms, compartments or passageways where poultry or poultry products, or any ingredients to be used in the preparation of products under inspection will be handled or kept. It also may include other rooms or compartments located in the buildings comprising the official establishment.

(e) *Changes in drawings or blueprints.* When changes are proposed in areas for which drawings have been previously approved, one of the following types of revised drawings shall be submitted for review and consideration:

(1) A completely revised sheet or sheets, showing proposed alterations or additions, or

(2) Approved pasters of the proposed changes which may be affixed to the affected areas on the previously approved blueprints in a manner not obscuring essential data. Paster drawings shall be prepared to the same scale and presented on a background similar to that of the originally approved drawing.

(f) *Use of information on file for plants operating under voluntary inspection service.* Applicants whose plants have been surveyed and are operating under voluntary inspection service pursuant to regulations (Part 70 of this

chapter) in effect on the date service is made available under the Poultry Products Inspection Act will be exempt from the requirements of this section to the extent that the Administrator may determine that information and materials required by the provisions of this section are already available in official files of the Inspection Service.

(g) *Survey and plant approval.* Prior to the inauguration of the inspection service, a survey of the plant and premises shall be made by a representative of the Inspection Service to determine if the plant is constructed and facilities are installed in accordance with the approved drawings, specifications and the regulations in this part. The application for inspection service may be granted and the plant may be approved by the Administrator only when these requirements have been met.

(h) *Order of service.* On the date when service is inaugurated under this act all establishments that are approved pursuant to the regulations in this part will be granted inspection service simultaneously subject to the availability of funds and qualified inspectors. Thereafter, during 1958, applications will be considered in the order received and service will be installed in the order of approval of establishments subject to the availability of inspectors and funds to provide service.

§ 81.15 *Rejection of application for inspection.* Any application for inspection service may be rejected by the Administrator whenever the applicant fails to meet the requirements of the regulations prescribing the conditions under which inspection service is made available, or if he determines that any false statement was made in such application.

OFFICIAL PLANT NUMBERS, INAUGURATION, SUSPENSION AND WITHDRAWAL OF INSPECTION SERVICE

§ 81.21 *Official plant numbers.* An official plant number shall be assigned to each establishment granted inspection service. Such plant number shall be used to identify all containers of inspected products prepared in the establishment. An establishment shall not have more than one plant number.

§ 81.22 *Subsidiary establishments.* When inspection service has been granted to a person at an establishment, it shall not be granted to any other person at the same establishment, except that a subsidiary of the grantee, doing any of the business described in § 81.6 may apply for and receive inspection at such establishment.

§ 81.23 *Separation of official from unofficial establishments.* Each official establishment shall be separate and distinct from any other official establishment and from any unofficial establishment. Doorways, or other openings, may be permitted between establishments only at the discretion of the Administrator and under such conditions as he may prescribe.

§ 81.24 *Inauguration of service.* The inspector in charge or his supervisor shall, upon or prior to the inauguration of service, inform the proprietor or

operator of the establishment of the requirements of the regulations in this part. If the establishment at the time service is inaugurated contains any product which has not been inspected and marked in compliance with the regulations, its identity shall be maintained, and it shall not be represented or dealt with as a product which has been inspected. Such products may be shipped in commerce as provided in § 81.154.

§ 81.25 *Suspension of plant approval and withdrawal of service.* (a) Any establishment approval given pursuant to the regulations may be suspended by the Administrator for (1) failure to maintain premises, facilities, and equipment in a satisfactory state of repair; (2) the use of operating procedures or practices which are not in accordance with the regulations; or (3) alterations of buildings, facilities, or equipment which have not been approved in accordance with the regulations.

(b) During such period of suspension, no processing of poultry or poultry products shall be carried on in the official establishment. If the plant facilities or methods of operation are not brought into compliance within a reasonable period of time, to be specified by the Administration, inspection service shall be withdrawn from the establishment. Upon withdrawal of inspection service in an official establishment, the plant approval shall also become terminated.

PUBLICATIONS

§ 81.28 *Publications.* Publications under the act and the regulations in this part shall be made in the FEDERAL REGISTER, and in the Service and Regulatory Announcements of the Department or in such other media as the Administrator may designate. Such publications will be available to applicants for inspection service.

SANITARY REQUIREMENTS

GENERAL

§ 81.31 *Minimum standards for sanitation, facilities and operating procedures in official establishments.* The provisions of §§ 81.32 to 81.53, inclusive, shall apply with respect to inspection service in all official establishments.

BUILDINGS AND PLANT FACILITIES

§ 81.32 *Buildings.* The buildings shall be of sound construction and kept in good repair.

(a) *Outside openings.* (1) The doors, windows, skylights and other outside openings of the plant, except in receiving rooms and feeding rooms, shall be protected by properly fitted screens or other suitable devices, against the entrance of flies and other insects.

(2) Outside doors, except in receiving rooms and feeding rooms, shall be so hung as to be close fitting when closed. Doors shall be provided with self-closing devices where necessary to prevent the entry of vermin into processing and storage rooms.

§ 81.33 *Rooms and compartments.* Rooms or compartments used for edible products shall be separate and distinct from inedible products departments and

from rooms where live poultry is held or slaughtered. Separate rooms shall be provided when required for conducting processing operations in a sanitary manner; and all rooms shall be of sufficient size to permit the installation of the necessary equipment for processing operations and the conduct of such operations in a sanitary manner.

(a) *Refuse rooms.* A separate refuse room, or other equally adequate facilities, shall be required in official establishments where accumulations of refuse occur. Refuse rooms shall be entirely separate from other rooms in the establishment, shall have tight fitting doors, be properly ventilated, have adequate drainage, and the floors and walls to a height of six feet above the floor shall be impervious to moisture, and walls above that height and ceilings shall be moisture resistant.

(b) *Rooms for holding carcasses for further inspection.* Rooms or other acceptable facilities in which carcasses or parts thereof are held for further inspection shall be in such numbers and such locations as the needs of the inspection in the establishment may require. These rooms or facilities shall be equipped with hasps for locking.

(c) *Coolers and freezers.* Coolers and freezers shall be of such size and capacity as are required for compliance with the provisions set forth in § 81.50. Freezing rooms, other than those for plate freezers or liquid freezing, shall have forced air circulation and freezers and coolers shall be equipped with floor racks or pallets unless other means are used which will assure that products will be maintained in a wholesome condition.

(d) *Storage and supply rooms.* The storage and supply rooms shall be kept in good repair, dry, and sanitary.

(e) *Boiler room.* The boiler room shall be a separate room where necessary to prevent dirt and objectionable odors entering from it into any room where dressed poultry or poultry products are prepared, handled, or stored.

(f) *Inspector's office.* Office space, including, but not being limited to furnishings, light, heat and janitor service, shall be provided rent free in the official establishment, for the use of Government personnel for official purposes. The room or space set apart for this purpose must meet the approval of the Inspection Service and be conveniently located, properly ventilated, and provided with lockers or file cabinets suitable for the protection and storage of supplies and with facilities suitable for inspectors to change clothing.

(g) *Toilet rooms.* Toilet rooms, opening directly into rooms where poultry products are exposed shall have self-closing doors and shall be ventilated to the outside of the building.

(h) *Lunch rooms.* Lunches and snacks shall not be eaten in processing, packing, or supply rooms. If needed, separate rooms or areas shall be provided in establishments where employees eat their lunches.

§ 81.34 *Floors, walls, ceilings, etc.—*

(a) *Floors.* All floors in rooms where exposed products are prepared or handled shall be constructed of, or finished

with materials impervious to moisture, so they can be readily and thoroughly cleaned. The floors in killing, ice cooling, ice packing, eviscerating, cooking, boning and cannery rooms shall be graded for complete runoff with no standing water.

(b) *Walls, posts, partitions, doors.* All walls, posts, partitions, and doors in rooms where exposed products are prepared or handled shall be smooth and constructed of materials impervious to moisture to a height of six feet above the floor to enable thorough cleaning. All surfaces above this height must be smooth and finished with moisture-resistant material.

(c) *Ceilings.* Ceilings must be moisture-resistant in rooms where exposed products are prepared or handled, finished and sealed to prevent collection of dirt or dust that might sift through floor above or fall from collecting surfaces on equipment or exposed product.

§ 81.35 *Draining and plumbing.* There shall be an efficient draining and plumbing system for the plant and premises.

(a) *Drains and gutters.* All drains and gutters shall be properly installed with approved traps and vents. The drainage and plumbing system must permit the quick runoff of all water from plant buildings, and of surface water around the plant and on the premises; and all such water shall be disposed of in such a manner as to prevent a nuisance or health hazard.

(b) *Sewage and plant wastes.* (1) The sewage system shall have adequate slope and capacity to remove readily all waste from the various processing operations and to minimize and, if possible, prevent stoppage and surcharging of the system; (2) grease traps which are connected with the sewage system shall be suitably located, but not near any edible products department or in any area where products are unloaded from, or loaded into vehicles. To facilitate cleaning, such traps shall have inclined bottoms and be provided with suitable covers; (3) all floor drains shall be equipped with traps, constructed so as to minimize clogging; and the plumbing shall be installed so as to prevent sewage from backing up and flooding the floor; (4) toilet soil lines shall be separate from house drainage lines to a point outside the buildings unless they are positively trapped to prevent backing up. Drainage from toilet bowls and urinals shall not be discharged into a grease catch basin.

§ 81.36 *Water supply.* Except as provided in paragraph (d) of this section, the water supply shall be ample, clean, and potable with adequate pressure and facilities for its distribution in the plant, and its protection against contamination and pollution. A water report, issued under the authority of the State health agency, certifying to the potability of the water supply, shall be obtained by the applicant and furnished to the Administrator whenever such report is required by the Administrator.

(a) An adequate supply of hot water to enable proper cleaning shall be available.

(b) Hose connections with steam and water mixing valves or hot water hose connections shall be provided at convenient locations throughout the plant for cleaning purposes.

(c) The refuse rooms shall be provided with adequate facilities for washing refuse cans and other equipment in the rooms.

(d) Nonpotable water is permitted only in those parts of official plants where no product is handled or prepared, and then only for limited purposes such as on condensers not connected with the potable water supply, in vapor lines serving inedible product rendering tanks, and in sewer lines for moving heavy solids in the sewage. Nonpotable water is not permitted for washing floors, areas, or equipment, nor is it permitted in boilers, scalders, chill vats or ice making machines. In all cases, nonpotable water lines shall be clearly identified and shall not be cross connected with the potable water supply unless this is necessary for fire protection. Any such connection must have an adequate break to assure against accidental contamination, and must be approved by local authorities and by the Administrator. Any untested water supply in an official establishment shall be treated as a nonpotable supply.

§ 81.37 *Lavatories, toilets, and other sanitary facilities.* Modern lavatory and toilet accommodations and properly located facilities for cleaning utensils and hands shall be provided.

(a) Adequate lavatory and toilet accommodations, including but not being limited to, running hot and cold water, soap or other acceptable agents (in sanitary dispensers), toilet tissue, and towels or other acceptable facilities for drying hands, shall be provided. Lavatories shall be in or near toilet and locker rooms and also at other places in the plant as may be essential to the cleanliness of all personnel handling products.

(b) Adequate lockers or other facilities, shall be provided for employees' wearing apparel, and for the storing and changing of clothing. Wearing apparel shall not be stored in rooms where processing operations are conducted.

(c) Suitable containers shall be provided for the temporary storage of soiled linen, coats, aprons, and other items of employees' uniforms or work clothing.

(d) Sufficient metal containers shall be provided for used towels and other wastes.

(e) An adequate number of hand washing facilities serving areas where dressed poultry and poultry products are prepared shall be operated by other than hand-operated controls, or shall be of a continuous flow type which provides an adequate flow of water for washing hands.

(f) Durable signs shall be posted conspicuously in each toilet room and locker room directing employees to wash their hands before returning to work.

(g) Adequate toilet facilities shall be provided and the following formula shall serve as a basis for determining the number of toilet bowls required:

Persons of same sex:	Toilet bowls required
1 to 15, inclusive.....	1
16 to 35, inclusive.....	2
36 to 55, inclusive.....	3
56 to 80, inclusive.....	4
For each additional 30 persons in excess of 80.....	1

¹ Urinals may be substituted for toilet bowls but only to the extent of one-third of the total number of bowls stated.

(h) Suitable sanitary drinking water facilities shall be provided.

(i) All toilets, lavatories, and other sanitary facilities shall be kept clean and in good repair.

§ 81.38 *Lighting and ventilation.* There shall be ample light, either natural or artificial or both, of good quality and well distributed, and sufficient ventilation for all rooms and compartments to insure sanitary conditions.

(a) All rooms in which poultry is killed, eviscerated, or otherwise processed shall have at least 30 foot candles of light intensity on all working surfaces, except that at the inspection stations such light intensity shall be of 50 foot candles. In all other rooms there shall be provided at least 5 foot candles of light intensity when measured at a distance of 30 inches from the floor.

(b) All rooms shall be adequately ventilated to eliminate objectionable odors and minimize moisture condensation.

EQUIPMENT AND UTENSILS

§ 81.41 *Equipment and utensils.* Equipment and utensils used for preparing, processing, or otherwise handling any product in the plant shall be suitable for the purpose intended and shall be of such material and construction as will facilitate their thorough cleaning and insure cleanliness in the preparation and handling of products. Trucks and receptacles used for handling inedible products shall be of similar construction, shall be conspicuously and distinctly marked, and shall not be used for handling any poultry products.

(a) *Refuse containers.* Leak-proof refuse containers with covers shall be provided except that perforated containers may be used for the temporary collection of feathers and such containers need not be covered.

(b) *Scalding equipment.* (1) Scalding tanks shall be constructed and installed so as to prevent contamination of potable water lines and to permit water to enter continuously at a rate which will result in a satisfactory scalding operation. The rate of flow necessary to maintain a sanitary scalding operation will be determined on such factors as the class of poultry and the number of birds per minute going into the scalding tank. It shall be the responsibility of the Station Supervisor to establish a minimum rate of flow for each scalding tank in each official establishment.

(2) The overflow outlets in scalding equipment shall be of sufficient size to permit feathers and water to be carried off.

(3) The overflow, draw-off valves, and sediment basin drain shall discharge into a floor or valley drain, or onto the floor

in close proximity to a floor or valley drain.

(c) *Wax finishing.* When wax dipping is used, metal troughs shall be provided to catch the wax removed from the dipped poultry. Acceptable facilities and methods shall be employed in reclaiming the wax.

(d) *Ice shovels.* Ice shovels shall be smooth surfaced and entirely constructed of rust proof impervious material.

(e) *Conveyors.* (1) Conveyors used in the preparation of ready-to-cook poultry shall be of metal or other acceptable material and of such construction as to permit easy identification of viscera with its carcass and so designed as will present each carcass or all parts thereof in a way that will permit adequate and efficient inspection.

(2) Overhead conveyors shall be so constructed and maintained that they will not allow grease, oil, or dirt to accumulate on the drop chain or shackle which shall be of noncorrosive metal.

(3) Nonmetallic belt-type conveyors used in moving poultry products shall be of water-proof composition.

(4) When individual trays are not used during eviscerating operations, each carcass shall be suspended and a metal trough or a trough constructed of other acceptable impervious material shall be provided beneath the conveyor to extend from the point where the carcass is opened to the point where the viscera has been completely removed, and such troughs shall be flushed continuously by a water spray.

(f) *Chilling and defrosting tanks.* Chilling and defrosting tanks shall be constructed of metal or other suitable material impervious to moisture and shall be of seamless construction with edges rolled outward. Where mechanical devices are not used for removing carcasses from the chilling or defrosting tanks, the tanks shall be of a size that will enable employees to remove poultry without getting inside the tanks.

(g) *Tables.* Inspection, eviscerating, and cutting tables shall be made of metal or other acceptable material, have coved corners, and be constructed and placed so as to permit thorough cleaning.

(h) *Plants lacking conveyors.* In plants where no conveyors are used, each carcass shall be eviscerated in an individual metal tray of seamless construction or in a tray of other acceptable material and construction.

(i) *Water spray washing equipment.* Water spray washing equipment with sufficient water pressure to thoroughly and efficiently wash carcasses shall be used for washing carcasses inside and out.

(j) *Offal receptacles.* Watertight metal receptacles shall be used for entrails and other waste resulting from preparation of eviscerated poultry.

(k) *Trucks and receptacles for diseased carcasses.* Watertight trucks and receptacles for holding or handling diseased parts of carcasses shall be so constructed as to be readily and thoroughly cleaned; such trucks and receptacles shall be marked in a conspicuous manner with the word "con-

demned" in letters not less than 2 inches high and when required by the inspector in charge, shall be equipped with facilities for locking and sealing.

§ 81.42 *Accessibility.* All equipment shall be placed so as to be readily accessible for all processing and cleaning operations.

(a) *Mechanical pickers.* When mechanical pickers are used they shall be installed so as to be accessible for thorough cleaning and removal of the accumulation of feathers.

§ 81.43 *Restrictions on use.* Equipment and utensils used in the official establishment shall not be used outside the official establishment, except under such conditions as may be prescribed or approved by the Administrator. Equipment used in the preparation of any article (including, but not limited to, animal food), from inedible material shall not be used outside of the inedible products department except under such conditions as may be prescribed or approved by the Administrator.

MAINTENANCE OF SANITARY CONDITIONS AND PRECAUTIONS AGAINST CONTAMINATION OF PRODUCTS

§ 81.46 *General.* The premises shall be kept free from refuse, waste materials and all other sources of objectionable odors and conditions.

§ 81.47 *Cleaning of rooms and compartments.* Rooms, compartments, and other parts of the official establishment, shall be kept clean and in sanitary condition.

§ 81.48 *Cleaning of equipment and utensils.* Equipment and utensils used for preparing or otherwise handling any poultry or poultry product shall be kept clean, sanitary, and in good repair.

(a) Batteries and dropping pans shall be cleaned regularly and the manure removed from the plant daily.

(b) Scalding tanks shall be completely emptied and thoroughly cleaned as often as may be necessary, but not less frequently than once a day when in use.

(c) All equipment and utensils used in the killing, roughing, and pinning rooms shall be thoroughly washed and cleaned at least once daily when in use.

(d) The chilling and packing room and equipment and utensils used therein shall be maintained in a clean and sanitary condition.

(e) Chilling or defrosting tanks shall be emptied and rinsed after each use. They shall be thoroughly cleaned at least once daily when in use.

(f) Conveyor trays or belts which come in contact with raw products shall be completely washed and sanitized after each use.

(g) Tables, shelves, bins, trays, pans, knives, and all other tools and equipment used in the preparation of ready-to-cook poultry shall, after cleaning, be drained on racks and shall not be nested.

§ 81.49 *Operations and procedures.* Operations and procedures involving the preparation, storing, or handling of any product shall be strictly in accord with clean and sanitary methods, and shall be conducted in such a manner as will re-

sult in sanitary processing, proper inspection, and the production of wholesome poultry and poultry products.

(a) Materials which create an objectionable condition shall not be handled or stored in rooms, compartments, or other places in the establishment where any product is prepared, stored, or otherwise handled.

(b) Blood from the killing operation shall be confined to a relatively small area.

(c) The pinning and finishing of dressed poultry shall be performed in a part of the room that is located sufficiently away from the killing and roughing operations to prevent contamination of the product.

(d) In finishing and cleaning dressed poultry, the vestigial feathers (hair or down as the case may be) shall be removed by singeing or other means, feed shall be removed from the crop without incising the tissues, and the fecal material in the cloaca shall be removed by venting. These operations shall be completed prior to, or during the final washing, but prior to chilling and packaging of such dressed poultry. Notwithstanding the foregoing, dressed poultry which is to be warm eviscerated is not required to be vented, and dressed poultry which is to be eviscerated in an official establishment within 72 hours from time of slaughter may, when approved by the Inspection Service be transferred by conveyor or operational type container or other approved means to such official establishment prior to removal of the feed in the crop.

(e) If dressed poultry is not to be immediately warm eviscerated, the head of each carcass shall be washed thoroughly either by automatic washer or manually to remove feed from the mouth and blood from the head and mouth.

(f) In the final washing of dressed poultry, the carcass shall be passed through a system of sprays providing an abundant supply of fresh clean water either under pressure or scrubbing action.

(g) When frozen ready-to-cook poultry is to be defrosted in water, it shall be thawed in continuous running tap water of sufficient volume to thaw such poultry. If ready-to-cook poultry is to be defrosted in water which is heated, the water shall not be heated above 70° F. except when such poultry is defrosted in cooking kettles and the temperature of the water will be raised to cooking temperature immediately after the poultry has become defrosted. Frozen dressed poultry shall not be defrosted in tanks with continuously running water or residual water, but shall be defrosted on metal racks or in perforated metal containers under a continuous water spray at a temperature not in excess of 70° F.

(h) All offal resulting from the eviscerating operation shall be removed as often as necessary to prevent the development of a nuisance.

(i) Paper and other material used for lining barrels or other containers in which products are packaged shall be of such kinds as do not tear readily during use, but remain intact when moistened by the product. Wooden containers to be used for packaging poultry shall be

fully lined except when the individual birds to be packaged therein are fully wrapped.

(j) Protective coverings shall be used for the product in the plant and as it is distributed from the plant, as will afford adequate protection for the product against contamination by any foreign substance (including, but not being limited to, dust, dirt, and insects), considering the means intended to be employed in transporting the product from the plant.

(k) Containers to be used for packaging dressed poultry and ready-to-cook poultry shall be clean, free from objectionable substances or odors and of sufficient strength and durability to protect the product adequately during normal distribution. Dressed and ready-to-cook poultry, other than that which is to be ice packed, shall be adequately drained to remove ice and free water prior to packing and packaging.

(l) Cleanliness and hygiene of personnel:

(1) All persons coming in contact with exposed poultry products, or poultry products handling equipment shall wear clean garments and suitable head coverings to prevent hair from falling into poultry products; and shall keep their hands and fingernails clean at all times while thus engaged.

(2) All persons with infected cuts, boils, or open sores on their hands shall not handle dressed poultry or poultry products, or poultry products handling equipment.

(3) Every person shall wash his hands thoroughly after each use of toilet or change of garments before returning to duties that require the handling of dressed poultry or poultry products or containers thereof, or poultry products handling equipment.

(4) The use of tobacco in any form, the eating of food, or any other objectionable personal habit which may result in a nuisance or an unsanitary condition, shall not be permitted in any room where exposed dressed poultry or poultry products are being prepared, processed, or otherwise handled.

§ 81.50 *Temperatures and cooling and freezing procedures.* Temperatures and procedures which are necessary for cooling and freezing dressed and ready-to-cook poultry, including all edible portions thereof, shall be in accordance with operating practices which insure the prompt removal of the animal heat and will preserve the condition and wholesomeness of the poultry.

(a) *General cooling requirements.* All poultry that is prepared or processed in the official establishment shall be cooled immediately after processing so that the internal temperature is reduced to 40° F. or less, unless such poultry is to be further processed immediately at the official establishment. Poultry to be shipped from the plant in packaged form shall be maintained at 40° F. or less, except that during further processing and packaging operations, the internal temperature may rise to a maximum of 55° F.: *Provided*, That immediately after packaging, the poultry is placed under refrigeration at a temperature that will

promptly lower the product to 40° F. or less, or placed in a freezer promptly. Poultry which is to be held at the plant in packaged form in excess of 24 hours shall be held in a room at a temperature of 36° F. or less.

(b) *Ice and water chilling.* (1) Only ice manufactured or produced from potable water may be used for ice-water chilling. The ice shall be handled and stored in a sanitary manner. If of block type, the ice shall be washed by spraying all surfaces with clean water before crushing.

(2) Poultry carcasses shall be chilled to 40° F. or lower within the times specified below:

Weight of carcass:	Time (hours)
Under 4 pounds.....	4
4 to 8 pounds.....	6
Over 8 pounds.....	8

Such chilled poultry shall be maintained constantly at 40° F. or below until removed from the vats or tanks for immediate packaging. Poultry may be removed from the vats or tanks prior to being cooled to 40° F. or lower for freezing or for further processing in the official establishment. Poultry shall not be packed until after it has been chilled to 40° F. or below except when the packaging will be followed immediately by freezing at the official establishment.

(3) In order to facilitate continuous processing operations, poultry may be held overnight in chilling tanks containing water-saturated ice, refrigerated water, or other approved cooling media that will maintain all poultry in the tanks at a temperature of 40° F., or lower. Practices (such as re-icing, recirculation of the chilling medium, or holding product in refrigerated rooms, or use of increased amounts of ice) shall be employed that will result in all of the poultry in the chilling tanks being maintained at a temperature of 40° F. or lower throughout the holding period.

(i) Should it be necessary to hold dressed poultry in excess of 24 hours in chilling tanks, the poultry shall be removed from the tanks, repacked in clean ice in clean tanks which are continually drained.

(ii) If it is necessary to hold ready-to-cook poultry in chilling tanks for longer periods than 24 hours, the tanks shall be drained and the chilling medium renewed to uniformly maintain the temperature of the ready-to-cook poultry at, or below, 40° F. The additional holding period shall not exceed 24 hours unless the poultry is maintained in continuously drained tanks which are adequately iced.

(4) Notwithstanding the foregoing cooling requirements, the Administrator is authorized to specify, under special circumstances, such additional cooling and handling methods as may be necessary to assure wholesome poultry and poultry products.

(c) *Air chilling.* In air chilling, dressed poultry shall be placed in a refrigerated room with moderate air movement at a temperature which will reduce the internal temperature of the carcasses to 40° F. or less within 24 hours. In air chilling ready-to-cook poultry, the internal temperature of the

carcasses shall be reduced to 40° F. or less within 16 hours.

(d) *Cooling giblets.* Giblets shall be chilled to 40° F. or lower within two hours from the time they are removed from the inedible viscera, except when they are cooled with the carcass the requirements of paragraphs (b) (2) and (f) (5) of this section shall apply. Any of the acceptable methods of chilling the poultry carcass may be followed in cooling giblets, except that unwrapped livers shall not be cooled in agitated ice and water chilling media, but may be cooled in perforated containers which are immersed in noncirculated ice and water chilling media: *Provided*, That the livers are removed from the chilling containers when their temperature has been lowered to 40° F. When ready-to-cook birds are to be consumer packaged, the giblets shall be handled in a manner that will prevent free water from being included in the giblet package. Giblet wrappers shall be made of reasonably nonabsorbent materials and shall be no larger than necessary to properly wrap the giblets.

(e) *Other chilling procedures.* Any other chilling procedure which will effect chilling in a manner equal to that obtained by the procedures herein set forth may be permitted when approved by the Administrator.

(f) *Freezing.* (1) Dressed and ready-to-cook poultry which has been chilled to 40° F. or below prior to packaging and which is to be frozen and so labeled shall be placed into a freezer within 48 hours from time of packaging. If such poultry cannot be immediately placed into the freezer after packaging, it shall be held at 36° F. or lower.

(2) The freezing operation for dressed poultry shall be accomplished in such a manner as to bring the internal temperature of the birds in the center of the package to 0° F. or below within 96 hours from the time of entering the freezer; whereas, ready-to-cook poultry shall be frozen in a manner so as to bring the internal temperature of the birds at the center of the package to 0° F. or below within 72 hours from the time of entering the freezer.

(3) Upon written request, and under such conditions as may be prescribed by the Administrator, dressed and ready-to-cook poultry which is to be frozen immediately may be moved from the official establishment prior to freezing: *Provided*, That the plant and freezer are so located and the necessary arrangements are made so that the Inspection Service will have access to the freezing room and adequate opportunity to determine compliance with the time and temperature requirements specified in subparagraph (2) of this paragraph.

(4) Warm packaged ready-to-cook poultry which is to be chilled by immediate entry into a freezer within the official establishment shall within 2 hours from time of slaughter be placed in a plate freezer or a freezer with a functioning circulating air system where a temperature of -10° F. or lower is maintained.

(5) Frozen poultry shall be held under conditions which will maintain the product in a solidly frozen state with tem-

perature maintained as constant as possible.

(6) Immersion or spray freezing equipment shall be constructed of non-corrosive metal or other acceptable material. Compounds used in immersion or spray freezing procedures shall be approved by the Administrator prior to use.

(7) Except as otherwise provided in § 81.104, freezing facilities shall be provided within the official establishment for frozen poultry products other than ready-to-cook poultry.

(g) *Ice-pack containers.* When poultry is ice packed in barrels or other containers, the barrels and containers shall be covered and shall have an adequate number of drain holes to permit the water to drain out.

§ 81.51 *Vermin.* Every practicable precaution shall be taken to exclude flies, rats, mice, and other vermin from the official establishment. Dogs, cats, and other pets shall be excluded from rooms where poultry products and dressed poultry are processed, handled and stored.

§ 81.52 *Use of compounds.* Only germicides, insecticides, rodenticides, detergents, or wetting agents or other similar materials which will not contaminate or deleteriously affect the poultry and poultry products and which have been approved by the Administrator may be used in an official establishment. The use of such compounds shall be in a manner satisfactory to the Administrator.

§ 81.53 *Exclusion of diseased persons.* No person affected with any communicable disease (including, but not being limited to, tuberculosis) in a transmissible stage shall be permitted in any room or compartment where exposed or unpacked dressed poultry or poultry products are prepared, processed, or otherwise handled.

INSPECTION PROCEDURES

ANTE MORTEM INSPECTION

§ 81.61 *Ante mortem inspection.* An ante mortem inspection of poultry shall, where and to the extent considered necessary by the Administrator and under such instructions as he may issue from time to time, be made of poultry on the day of slaughter in any official establishment processing poultry for commerce.

§ 81.62 *Facilities for ante mortem inspection.* Batteries, coops, or other facilities in which live poultry is presented for ante mortem inspection shall be of such arrangement, construction, and shall be so placed with sufficient light provided so that the inspector can clearly see the birds to the extent needed to carry out an adequate inspection.

§ 81.63 *Condemnation on ante mortem inspection.* Birds plainly showing on ante mortem inspection any disease or condition, that under §§ 81.79 to 81.91, inclusive, would cause condemnation of their carcasses on post-mortem inspection, shall be condemned. Birds which on ante mortem inspection are condemned shall not be dressed, nor shall they be conveyed into any department of the plant where poultry products are pre-

pared or held. Poultry which has been condemned on ante mortem inspection and has been killed shall, under the supervision of an inspector of the Inspection Service, receive such treatment as that provided in § 81.92.

§ 81.64 *Segregation of suspects on antemortem inspection.* All birds which on antemortem inspection do not plainly show, but are suspected of being affected with any disease or condition that under §§ 81.79 to 81.91, inclusive, may cause condemnation in whole or in part on post-mortem inspection, shall be segregated from the other poultry and held for separate slaughter, evisceration, and post-mortem inspection. The inspector shall be notified when such segregated lots are presented for post-mortem inspection and inspection of such birds shall be conducted separately. Such procedure for the correlation of antemortem and post-mortem findings by the inspector, as may be prescribed or approved by the Administrator, shall be carried out.

§ 81.65 *Quarantine of diseased poultry.* If live poultry, which is affected by any contagious disease which is transmissible to man, is brought into an official establishment, such poultry shall be segregated. The slaughtering of such poultry shall be deferred and the poultry shall be dealt with in one of the following ways:

(a) If it is determined by a veterinary inspector that further handling of the poultry will not create a health hazard, the lot shall be subject to antemortem and post-mortem inspection pursuant to the regulations in this part.

(b) If it is determined by a veterinary inspector that further handling of the poultry will create a health hazard, such poultry may be released for treatment under the control of an appropriate State or Federal agency. If the circumstances are such that release for treatment is impracticable, a careful bird-by-bird ante mortem inspection shall be made, and all birds found to be, or which are suspected of being, affected with the contagious disease transmissible to man shall be condemned.

POST-MORTEM INSPECTION

§ 81.71 *Evisceration.* No viscera or any part thereof shall be removed from any dressed poultry which is to be processed under inspection in any official establishment, except at the time of evisceration and inspection. Each carcass to be eviscerated shall be opened so as to expose the organs and the body cavity for proper examination by the inspector and shall be prepared immediately after inspection as ready-to-cook poultry. If a carcass is frozen, it shall be thoroughly thawed before being opened for examination by the inspector. Each carcass, or all parts comprising such carcass, shall be examined by the inspector.

§ 81.72 *Carcasses held for further examination.* Each carcass, including all parts thereof, in which there is any lesion of disease, or other condition which might render such carcass or any part thereof unfit for human food, and

with respect to which a final decision cannot be made on first examination by the inspector, shall be held for further examination. The identity of each such carcass, including all parts thereof, shall be maintained until a final examination has been completed.

§ 81.73 *Condemnation of carcasses.* At the time of evisceration under inspection service each carcass, or any part thereof, which is found to be unsound, unwholesome, or otherwise unfit for human food, shall be condemned.

§ 81.74 *Passing of carcasses.* Each carcass and all parts and organs thereof which are found to be sound, wholesome, unadulterated, and fit for human food, shall be passed.

DISPOSITION OF DISEASED POULTRY CARCASSES AND PARTS

§ 81.79 *General.* The carcasses or parts of carcasses of all poultry inspected at an official establishment and found at the time of post-mortem inspection, or at any subsequent inspection, to be affected with any of the diseases or conditions named in other sections in this part, shall be disposed of in accordance with the section pertaining to the disease or condition. Owing to the fact that it is impracticable to formulate rules for each specific disease or condition and to designate at just what stage a disease process results in an unwholesome product, the decision as to the disposal of all carcasses, parts, or organs not specifically covered by the regulations, or by instructions of the Administrator issued pursuant thereto, shall be left to the inspector in charge, and if the inspector in charge is in doubt concerning the disposition to be made, specimens from such carcasses shall be forwarded to the laboratory for diagnosis.

§ 81.80 *Tuberculosis.* Carcasses of poultry affected with tuberculosis shall be condemned.

§ 81.81 *Diseases of the leukosis complex.* Carcasses of poultry affected with any one or more of the several forms of the avian leukosis complex shall be condemned, except that carcasses affected with the ocular form only may be passed.

§ 81.82 *Septicemia or toxemia.* Carcasses of poultry showing evidence of any septicemic or toxemic disease, or showing evidence of an abnormal physiologic state, shall be condemned.

§ 81.83 *Special diseases.* Carcasses of poultry showing evidence of any disease which is characterized by the presence, in the meat, of organisms or toxins dangerous to the consumer, shall be condemned.

§ 81.84 *Inflammatory processes.* Any organ or part of a carcass which is affected by an inflammatory process shall be condemned and, if there is evidence of general systemic disturbance, the whole carcass shall be condemned.

§ 81.85 *Tumors.* Any organ or part of a carcass which is affected by a tumor shall be condemned and when there is evidence of metastasis or that the general condition of the bird has been affected by the size, position, or nature of

the tumor, the whole carcass shall be condemned.

§ 81.86 *Parasites.* Edible organs or parts of carcasses which are found to be infested with parasites, or which show lesions of such infestation shall be condemned and, if the whole carcass is affected, the whole carcass shall be condemned.

§ 81.87 *Bruises.* Any part of a carcass which is badly bruised shall be condemned and, if the whole carcass is affected as a result of the bruise, the whole carcass shall be condemned. Parts of a carcass, which show only slight reddening from a bruise, may be passed for food.

§ 81.88 *Cadavers.* Carcasses of poultry showing evidence of having died from causes other than slaughter shall be condemned.

§ 81.89 *Contamination.* Carcasses of poultry contaminated by volatile oils, paints, poisons, gases, or other substances which affect the wholesomeness of the carcasses, shall be condemned. Any organ or part of a carcass which has been contaminated following mutilation shall be condemned, and if the whole carcass is affected, the whole carcass shall be condemned.

§ 81.90 *Overscald.* Carcasses of poultry which have been overscalded resulting in a cooked appearance of the flesh shall be condemned.

§ 81.91 *Decomposition.* Carcasses of poultry deleteriously affected by post-mortem changes shall be disposed of as follows:

(a) Carcasses which have reached a state of putrefaction or stinking fermentation shall be condemned.

(b) Any part of a carcass which is green struck shall be condemned and, if the carcass is so extensively affected that removal of affected parts is impracticable, the whole carcass shall be condemned.

(c) Carcasses affected by types of post-mortem change which are superficial in nature may be certified for food after removal and condemnation of affected parts.

§ 81.92 *Disposal of condemned carcasses and parts.* All condemned carcasses, or parts of carcasses, shall be disposed of by one of the following methods, under the supervision of an inspector of the Inspection Service: (Facilities and materials for carrying out the requirements in this section shall be furnished by the official establishment.)

(a) Steam sterilization which shall be accomplished by processing the condemned product in a pressure tank under at least 40 pounds of steam pressure maintained for a sufficient time to effectively destroy it for human food purposes and preclude dissemination of disease through consumption by animals. Tanks and equipment used for this purpose or for rendering or preparing inedible products shall be in rooms or compartments separate from those used for the preparation of edible products. There shall be no connection, by means of pipes, or otherwise, between tanks, rooms, or com-

partments containing inedible products and those containing edible products.

(b) Incineration or complete destruction by burning.

(c) Chemical denaturing, which shall be accomplished by the liberal application to all carcasses and parts thereof, of:

- (1) Crude carbolic acid
- (2) Kerosene or fuel oil, or
- (3) Any phenolic disinfectant conforming to commercial standards CS 70-41 or CS 71-41 which shall be used in at least 2 percent emulsion or solution.
- (4) Any other substance that the Administrator approves which will decharacterize the carcasses or parts to the extent necessary to accomplish the purposes of this section.

REINSPECTION

§ 81.95 *Reinspection of poultry products.* (a) Any inspected and passed poultry product may be brought into an official establishment only if the container of such product is marked for identification in the manner prescribed in § 81.130 and the product is reinspected by an inspector at the time it is brought into such plant. Upon reinspection, if any such product or portion thereof is found to be unsound, unwholesome, adulterated or otherwise unfit for human food, such product, or portion thereof, shall be condemned and shall receive such treatment as that provided in § 81.92.

(b) Any product which is prepared under inspection in an official establishment shall be inspected in such establishment as often as the inspector deems it necessary in order to ascertain whether the product is sound, wholesome, and fit for human food at the time it leaves the establishment. Upon any such inspection, if any product or portion thereof is found to be unsound, unwholesome, or otherwise unfit for human food, such product or portion thereof shall be condemned and shall receive such treatment as that provided in § 81.92.

(c) All substances and ingredients used in the manufacture or preparation of any poultry product shall be clean, sound, wholesome, and fit for human food.

§ 81.96 *Retention tags.* An inspector may use such retention tags or other devices and methods as may be approved by the Administrator, for the identification of (a) products which are held for further examination, and (b) any equipment, utensils, rooms, or compartments which are found to be unclean and in violation of any of the regulations. No poultry product, equipment, utensil, room, or compartment so identified shall be released for use until it has been made acceptable. Such identification shall not be removed by anyone other than an inspector.

APPEALS

§ 81.98 *Appeal inspections; how made.* Any person receiving inspection service may, if dissatisfied with any decision of an inspector relating to any inspection, file an appeal from such decision: *Pro-*

vided, That such appeal is filed within 48 hours from the time the decision was made. Any such appeal from a decision of an inspector shall be made to his immediate superior having jurisdiction over the subject matter of the appeal. Review of such appeal findings, when requested, shall be made by the immediate superior of the employee of the Department making the appeal inspection. The cost of any such appeal shall be borne by the appellant if the Administrator determines that the appeal is frivolous.

CANNING REQUIREMENTS

§ 81.100 *Manner in which canned products shall be processed and handled.* Canned poultry products which are heat treated after closing or sealing shall be processed and handled in accordance with the following requirements:

(a) Immediate containers (whether of metal, glass, or other material) shall be cleaned thoroughly by washing in an inverted position with running water of a temperature of at least 180° F., or by other means acceptable to the Administrator, immediately prior to filling with poultry products; and precautions shall be taken to avoid any subsequent soiling of the inner surfaces of such containers.

(b) Only perfect closure is acceptable for hermetically sealed containers; and heat processing of the products in such containers shall follow immediately after closing.

(1) Except as provided in paragraph (e) of this section, such products shall be so processed at such temperature and for such period of time as will insure preservation of the products under usual conditions of storage and transportation.

(2) Immediately after closing, and again after the containers have cooled sufficiently for handling after heat processing, careful examination shall be made by competent plant employees to ascertain whether the containers are perfectly sealed. The poultry products in such containers as are defectively closed or sealed shall, as promptly as practicable, be filled into other containers, hermetically sealed, and heat processed unless the containers are promptly placed in a cooler at a temperature not exceeding 36° F. under conditions that will promptly and effectively chill them. Such chilled containers of products shall be opened and the contents removed and reprocessed immediately after removal from the cooler: *Provided,* That if such containers remained in the cooler for a period of 24 hours or longer, the contents shall be inspected by an inspector prior to the reprocessing thereof. Failure to comply with the provisions of this paragraph shall subject the poultry products to condemnation.

(c) After heat processing, and after the containers have cooled sufficiently for handling, the containers shall be examined by competent plant employees and shall not be passed unless showing the external characteristics of sound containers.

(d) After heat processing, any containers of poultry products showing characteristics of short vacuum or over-

stuffed containers shall, when an inspector deems it necessary in order to determine whether spoilage of the product has taken place, be incubated under the supervision of an inspector, after which the containers shall be opened and sound products passed for food and spoiled products condemned.

(e) Poultry products may, when authorized by the Administrator, and under such conditions as he may prescribe and approve, be canned without steam-pressure cooking, and such products, if frozen, shall be labeled "keep frozen," and if they are not frozen, they shall be labeled "perishable, keep under refrigeration."

(f) Each lot of canned poultry products shall be identified, during the handling preparatory to heat processing, by tagging the baskets, cases, or containers with a tag which will change color on going through the heat processing or by other effective means which will positively prevent failure to heat process.

(g) Facilities shall be provided to incubate at least representative samples of fully processed canned poultry products. The incubation shall consist of holding the samples for at least 10 days at about 98° F. The extent to which incubation tests shall be required will depend on conditions such as the efficiency of the plant in conducting canning operations, the kind of equipment used, and the degree of efficiency at which such equipment is maintained.

(1) In the event the official establishment fails to provide suitable facilities for incubation of test samples of any lot of fully processed canned poultry products, the inspector in charge may require holding of the entire lot under such conditions and for such period of time as will, in his discretion, be necessary to ascertain the stability of the product.

(2) The inspector in charge may, prior to completion of any required incubation of a representative sample, permit lots of fully processed canned poultry products to be shipped from the official plant when he has no reason to suspect unsoundness of such products; however, such shipments shall be made under circumstances which will assure the return of the products to the plant for reinspection should such action be indicated by the incubation results.

(h) All canned products shall be plainly and permanently marked, by code or otherwise, on the containers, with the identity of the contents and date of canning, except that canned products packed in glass containers are not required to be marked with the date of canning if such information appears on the shipping container. If the marking is by code, its meaning shall be furnished to the inspector in charge.

FROZEN FOODS

§ 81.104 *Processing requirements.* Processing procedures with respect to frozen ready-to-heat-and-eat poultry products or stuffed ready-to-roast poultry shall be in accordance with sound operating practices and carried out in a manner which will assure wholesomeness of the products. Products to be frozen shall be moved into the freezer promptly

under such supervision as will assure preservation of the products by prompt and efficient freezing. Adequate freezing facilities shall be provided within the official establishment where products to be frozen are prepared, except that, upon written request, and under such conditions as may be prescribed by the Administrator, such products may be moved from the official establishment prior to freezing: *Provided*, That the official establishment and freezer are so located and the necessary arrangements are made so that the Inspection Service will have access to the freezing room and adequate opportunity to determine that the products are being properly handled and frozen.

POULTRY PRODUCTS CONTAMINATED BY POLLUTED WATER

§ 81.107 *Procedure for handling.* (a) In the event there is polluted water (including, but not being limited to, flood water) in an official establishment, all poultry and poultry products and ingredients used in the preparation of such products that have been or may have been contaminated by the water shall be condemned.

(b) After the polluted water has receded, all walls, ceilings, posts and floors of the rooms and compartments involved, including the equipment therein, shall, under the supervision of an inspector, be cleaned thoroughly. An adequate supply of hot water, under pressure, is essential for effective cleaning. After cleansing, a solution of sodium hypochlorite containing approximately ½ of 1 per cent of available chlorine (5,000 parts per million), or other disinfectant approved by the Administrator, shall be applied; and all metal surfaces shall be rinsed thoroughly with water to prevent corrosion. Any equipment that will afterwards be used in connection with any poultry product shall be rinsed thoroughly with clean water before being used.

(c) Hermetically sealed containers of poultry products which have been submerged in, or otherwise contaminated by, the polluted water shall be rehandled promptly under supervision of an inspector as follows:

(1) Such containers as are swollen or leaky or otherwise do not show the external characteristics of sound containers shall be segregated and the contents thereof condemned.

(2) Any labels, attached or affixed to the remaining containers shall be removed and the containers washed in warm soapy water; and, if necessary to remove rust and other foreign material, a brush shall be used.

(3) Thereafter, such containers shall be immersed in a solution of sodium hypochlorite containing not less than 100 parts per million of available chlorine, or other disinfectant approved specifically for this purpose by the Administrator and rinsed in clean fresh water and dried thoroughly. Any such containers which show extensive rusting or corrosion, such as might materially weaken the container, shall be opened under the supervision of an inspector. The poultry products from such con-

tainers that are found by the inspector to be sound and wholesome shall be passed for human food.

(4) The remaining containers may be relacquered, if necessary, and then relabeled with approved labels applicable to the poultry products therein.

(5) The identity of the canned poultry products shall be maintained throughout all stages of the rehandling operation to insure correct labeling of the containers.

PREPARATION OF ARTICLES OTHER THAN FOR HUMAN FOOD

§ 81.110 *Preparation of animal food or other articles in an official establishment—(a) Requirements applicable when prepared in an edible products department.* When an article (including, but not being limited to, animal food) that is not for use as human food is prepared in any room or compartment in an official establishment where poultry products are prepared or handled (such room or compartment being herein referred to as "edible products departments"), sufficient space and equipment shall be provided to assure that the preparation of the article in no way interferes with the preparation or handling of the poultry products. Where necessary, separate equipment shall be provided for the preparation of the article. To assure the maintenance of the requisite sanitary conditions in the edible products department, the operations incident to the preparation of the article shall be subject to the same sanitary requirements as apply to the edible products department. Preparation of the article shall be limited to those hours during which the official establishment operates under the supervision of an inspector. The ingredients used in the preparation of the article shall, unless otherwise approved by the Administrator, be such as may be used in the preparation of a poultry product. The article may be stored in, and distributed from, the edible products department if the article is properly identified.

(b) *Requirements applicable when prepared in an inedible products department.* When any article (including, but not being limited to, animal food) that is not for use as human food, is prepared in any part of an official establishment other than an edible products department (such part of the establishment being herein referred to as "inedible products department"), the area in which such article is prepared shall be distinctly separated from all edible products departments. Poultry products and inedible products may be brought from any edible products department into any inedible products department, but no poultry product or inedible product from an inedible products department may be brought into an edible products department except under such conditions as may be prescribed or approved by the Administrator. Any such articles as are in sealed containers or are handled in the manner prescribed or approved by the Administrator may be brought into an edible products department. Diseased carcasses or diseased parts of any carcass shall not be used in the preparation of any animal food unless it has been

treated in the manner prescribed in § 81.92 (a). Trucks or containers used for the transportation of poultry products or inedible products into an inedible products department shall be cleaned before being returned to or brought into an edible products department. Sufficient space shall be allotted and adequate equipment and facilities provided so that the preparation of the article does not interfere with the preparation of poultry products in the plant or the maintenance of the requisite sanitary conditions in the official establishment. The preparation of any article shall be subject to supervision by an inspector.

(c) *Containers to be labeled.* The immediate container of any such article that is prepared in an official establishment shall be conspicuously labeled so as to distinguish it from human food.

REPORTS

§ 81.113 *Report of inspection work.* Reports of the inspection work carried on within official establishments shall be forwarded to the Administrator by the inspector in such a manner as may be specified by the Administrator.

§ 81.114 *Information to be furnished to inspectors.* When inspection service is performed within an official establishment, the applicant for such inspection service shall furnish the inspector rendering such service such information and assistance as may be required for the purpose of preparing certificates, reports, and the performance of other official duties.

§ 81.115 *Reports of violations.* Each inspector, agent, representative, or employee of the Inspection Service shall report, in the manner prescribed by the Administrator, all violations of the Poultry Products Inspection Act and non-compliance with the regulations in this part of which he has knowledge.

CERTIFICATES

§ 81.118 *Export certificates; issuance and disposition.* (a) Upon the request of an exporter, any inspector is authorized to issue an export certificate with respect to the shipment to any foreign country of any inspected and passed poultry product, or of any poultry slaughtered in an official establishment, after suitable examination of the product has been made by the inspector.

(b) Each export certificate shall be issued in quintuplicate; the original and duplicate shall be delivered to the shipper who requested such certificate and the duplicate copy shall be delivered by him to the agent of the railroad or other carrier transporting such products from the United States otherwise than by water, or to the Chief Officer of the vessel on which the export shipment is made. The triplicate copy of such export certificate shall be forwarded to the Area Supervisor and by him to the Administrator; the quadruplicate copy shall be filed in the office of the Area Supervisor serving the area in which such export certificate was issued; and the memorandum copy shall be retained by the inspector for filing. The inspector issuing an export certificate is authorized to furnish additional

copies of such certificate upon the request of an interested party.

§ 81.119 *Form of export certificates.* Each export certificate issued pursuant to the regulations in this part shall be approved by the Administrator as to form and shall show the respective names of the exporter and the consignee, the destination, the shipping marks, the names of such products, the total net weight thereof, and such other information as the Administrator may prescribe or approve.

§ 81.120 *Special procedure or requirements as to certification of poultry products for export to certain countries.* When export certificates are required by any foreign country for poultry products exported to such country, the Administrator shall prescribe or approve the form of export certificate to be used and the methods and procedures as he deems appropriate with respect to the preparation and transportation of such poultry products, in order to comply with requirements specified by the foreign country regarding the exported products.

§ 81.121 *Poultry inspection certificates; issuance and disposition.* (a) Upon the request of an interested party, any veterinary inspector is authorized to issue a poultry inspection certificate with respect to any lot of dressed poultry inspected by him. Each certificate shall be signed by the inspector who made the inspection covered by the certificate, and if more than one inspector participated in the inspection of the lot of poultry, each such inspector shall sign the certificate with respect to such lot. If the inspection of a lot covered by a certificate was made by a lay inspector, such certificate shall also be signed by the station supervisor or by the inspector in charge of the substitution when such inspection was made.

(b) The original and one copy of each poultry inspection certificate shall be issued to the applicant who requested such certificate, and two copies shall be forwarded to the Area Supervisor, one of which will be forwarded by him to the Administrator. One copy shall be retained by the inspector for filing. The inspector who issues any poultry inspection certificate is authorized to furnish additional copies of such certificate upon the request of an interested party.

§ 81.122 *Form of poultry inspection certificate.* Each poultry inspection certificate issued pursuant to the regulations in this part shall be approved by the Administrator as to form, and shall show the names of the poultry products covered by such certificate, the quantity of each such product, such shipping marks as are necessary to identify such products, and all pertinent information concerning the wholesomeness thereof.

§ 81.123 *No erasures or alterations to be made on certificates.* No erasures or alterations shall be permitted on a certificate. All certificates rendered useless through clerical error or otherwise and all certificates cancelled for whatever cause shall be voided, initialed, and one copy shall be retained in the inspector's

file; and the original and balance of the copies shall be forwarded to the Area Supervisor.

§ 81.124 *Data to be entered in proper spaces.* All certificates shall be so executed that the data entered thereon will appear in the proper spaces on each copy of the certificate.

LABELING

§ 81.125 *Containers of poultry required to be labeled.* Except as provided in § 81.154, each shipping container and each immediate container of any product shall at the time it leaves the official establishment bear approved labels containing information in accordance with the provisions set forth in §§ 81.126 to 81.146, inclusive, and the act.

§ 81.126 *Preparation of marking devices bearing the official inspection mark without advance approval prohibited; exception.* Except for the purposes of preparing and submitting a sample or samples of marking devices, or imprints prepared therefrom, to the Administrator for approval, no person shall procure, make, or prepare, or cause to be procured, made, or prepared, any stencil, or other marking device bearing official identification or any abbreviation, copy or representation thereof, for use on any product without the written authority therefor of the Administrator. However, when any sample stencil, or other marking device or an imprint prepared therefrom is approved by the Administrator for a particular applicant, additional supplies of such stencil, or other marking device of a character identical to such approved sample may be procured, made, or prepared by such applicant, for use in accordance with the regulations, without further approval by the Administrator.

§ 81.127 *Labels to be approved by the Administrator.* No label, except printer's proofs bearing official identification shall be printed until the printer's proof or a photostatic copy has been found by the Administrator to be acceptable; and no label or imprint bearing official identification shall be used until finished copies or samples thereof have been approved by the Administrator, except that approval may be given to printer's final proofs or photostatic copies of labels or samples of stenciled and rubber stamped imprints for shipping containers or containers for institutional packs, and no such labels or imprints shall be used until such proofs or copies have been approved by the Administrator.

§ 81.128 *Unauthorized use or disposition of approved labels.* Labels or imprints approved for use pursuant to §§ 81.126 and 81.127 shall be used only for the purpose for which approved, and shall not be disposed of from the plant for which approved except with written approval of the Administrator. Any unauthorized use or disposition of approved labels or labels bearing official identification may result in cancellation of the approval.

§ 81.129 *Wording and form of the inspection mark.* Except as otherwise

authorized, the inspection mark required to be used with respect to inspected poultry products shall include wording as follows: "Inspected for wholesomeness by U. S. Department of Agriculture." This wording shall be contained within a circle. The form and arrangement of such wording shall be exactly as indicated in the example in Figure 1, except that the appropriate plant number shall be shown, and if the plant number appears elsewhere on the same label in the manner prescribed in § 81.130 (a) (6), it may be omitted from the inspection mark. The Administrator may approve the use of abbreviations of such inspection mark; and such approved abbreviations shall have the same force and effect as the inspection mark. The inspection mark, or the approved abbreviation thereof, shall be printed on consumer packages, or on a label to be securely affixed to such pack-

(3) The net weight or other appropriate measure of the contents, except that the Administrator is authorized to approve the use of labels for certain types of immediate containers which do not bear the net weight; *Provided*, That the distributor of such labeled product agrees in writing to the Administrator, to mark the true net weight on the product prior to display and sale thereof: *And provided further*, That the shipping container bears a statement "Net weight to be marked on consumer packages prior to display and sale": *And provided further*, That the total net weight of the contents of the shipping container shall be marked on such container.

(4) The name and address of the packer or distributor and when the name of the distributor is shown, it shall be qualified by such term as "packed for," "distributed by," or "distributors."

(5) The official inspection mark.

(6) The plant number of the official establishment in which the product was inspected, either within the official inspection mark or clearly visible and in close proximity elsewhere on the exterior of the container, or in the case of canned products the establishment number may be embossed on the lid of each can. In the case of nontransparent consumer packages, such as cartons, the plant number may be shown on an insert label placed on top of the product within the package. In the case of transparent wrappers the plant number may be shown on an insert label and so placed under the transparent covering that it will be clearly visible and legible.

(b) Each label approved for use on a shipping container shall bear in distinctly legible form the following information:

(1) The official inspection mark.

(2) The plant number of the official establishment in which the product was inspected, either within the official inspection mark, or elsewhere on the container clearly visible and in close proximity to the official inspection mark.

(c) Any label which bears the official inspection mark or any written, printed or graphic matter upon or accompanying any poultry product inspected or required to be inspected pursuant to the provisions of the regulations shall not bear any statement that is false or misleading. If the Administrator has reason to believe that any label in use or prepared for use is false or misleading in any particular, he may direct that the use of the label be withheld unless it is modified in such manner as the Administrator may prescribe so that it will not be false or misleading. If the person using or proposing to use the label does not accept the determination of the Administrator, he may request a hearing, but the use of the label shall, if the Administrator so directs, be withheld pending hearing and final determination by the Administrator. Any person so denied the approval of any label shall be notified promptly of the reasons for the denial. A written application for a hearing with respect to the denial may be filed by said person with the Adminis-

trator within 10 days after notice of the denial. Such petition shall state specifically the errors alleged to have been made by the Administrator in denying approval of the label. After consideration of the facts adduced at the hearing, any determination with respect to the matter by the Administrator shall be conclusive unless, within 30 days after the receipt of notice of such final determination, the person adversely affected thereby appeals to the United States Court of Appeals for the Circuit in which he has his principal place of business, or to the United States Court of Appeals for the District of Columbia Circuit. The provisions of section 204 of the Packers and Stockyards Act of 1921, as amended, shall be applicable to appeals taken under this section.

§ 81.131 *False or deceptive terms or devices; and other labeling requirements.*

(a) No product, and no container thereof, shall be labeled with any false or deceptive name, but established trade names which are usual to such articles and are not false or deceptive and which have been approved by the Administrator may be used.

(b) No statement, word, picture, design, or device, which is false or misleading in any particular or conveys any false impression or gives any false indication of origin, identity, or quality, shall appear on any label. For example:

(1) Official grade designations such as the letter grades A, B, and C may be used in labeling individual carcasses of poultry and consumer packages of poultry and poultry products only if such poultry has been graded by a licensed grader of the Federal or Federal-State poultry grading service.

(2) Terms having geographical significance with reference to a particular locality may be used only when the product was produced in that locality.

(3) Terms, such as "baby," may be used to indicate immaturity of poultry which is marketed earlier than the usual marketing age: *Provided*, That such terms are printed in a style and size of type no larger than is used to indicate the name of the product.

(c) Poultry products which have been treated with compounds to retard spoilage shall be labeled to indicate such treatment.

(d) The terminology specified in subparagraphs (1) through (10) of this paragraph are applicable to parts of poultry cut in the manner described therein.

(1) "Breasts" shall be separated from the back at the shoulder joint and by a cut running backward and downward from that point along the junction of the vertebral and sternal ribs. The ribs may be removed from the breasts, and the breasts may be cut along the breast bone to make two approximately equal halves; or the wishbone portion, as described in subparagraph (3) of this paragraph, may be removed before cutting the remainder along the breast bone to make three parts. Pieces cut in this manner may be substituted for lighter or heavier pieces for exact weight-making purposes and the package may contain



FIGURE 1.

ages. The inspection mark, or approved abbreviation thereof, shall be applied to shipping containers and may be printed or stenciled thereon, but shall not be applied by rubber stamping.

§ 81.130 *Wording on labels.* (a) Each label approved for use on an immediate container for poultry products shall bear in distinctly legible form the following information:

(1) The common or usual name of the poultry product.

(2) A statement of ingredients if fabricated from two or more ingredients, including a declaration as to artificial flavors, colors, or preservatives, if any. Such ingredients shall be listed by their common or usual names in the order of their descending proportions. For the purpose of this paragraph, the term "chicken meat," unless modified by an appropriate adjective, is construed to mean deboned white and dark meat; whereas, the term "chicken" may include other edible parts such as skin and fat not in excess of their natural proportions, in addition to the chicken meat. If the term "chicken meat" is listed and the product also contains skin, giblets, or fat, it is necessary to list each such ingredient. This terminology shall apply to poultry products prepared from other kinds of poultry where applicable.

two or more of such parts without affecting the appropriateness of the labeling as "chicken breasts." Neck skin shall not be included with the breasts.

(2) *Breasts with ribs* shall be separated from the back at the junction of the vertebral ribs and back. Breasts with ribs may be cut along the breast bone to make two approximately equal halves; or the wishbone portion, as described in subparagraph (3) of this paragraph, may be removed before cutting the remainder along the breast bone to make three parts. Pieces cut in this manner may be substituted for lighter or heavier pieces for exact weight-making purposes and the package may contain two or more of such parts without affecting the appropriateness of the labeling as "breasts with ribs." Neck skin shall not be included.

(3) "Wishbones" (Pulley Bones), with covering muscle and skin tissue, shall be severed from the breast approximately halfway between the end of the wishbone (hypocleidium) and front point of the breast bone (cranial process of the sternal crest) to a point where the wishbone joins the shoulder. Neck skin shall not be included with the wishbone.

(4) "Drumsticks" shall be separated from the thigh by a cut through the knee joint (femorotibial and patellar joint) and from the hock joint (tarsal joint).

(5) "Thighs" shall be disjointed at the hip joint and may include the pelvic meat, but shall not include the pelvic bones. Back skin shall not be included.

(6) "Legs" shall include the whole leg, i. e., the thigh and the drumstick, whether jointed or disjointed. Back skin shall not be included.

(7) "Wings" shall include the entire wing with all muscle and skin tissue intact, except that the wing tip may be removed.

(8) "Backs" shall include the pelvic bones and all the vertebrae posterior to the shoulder joint. The meat shall not be peeled from the pelvic bones. The vertebral ribs and/or scapula may be removed or included without affecting the appropriateness of the title. Skin shall be substantially intact.

(9) "Stripped backs" shall include the vertebrae from the shoulder joint to the tail, and include the pelvic bones. The meat may be stripped off of the pelvic bones.

(10) "Necks", with or without neck skin, shall be separated from the carcass at the shoulder joint.

(11) Parts of poultry may be cut in any manner the processor desires as long as the labeling appropriately reflects the contents of the container of such poultry.

§ 81.132 *Formulas required.* Copies of each label submitted for approval shall, when the Administrator requires, be accompanied by a statement showing the kinds and percentages of the ingredients by their common or usual names comprising the poultry product and by a statement indicating the method of preparation of the product with respect to which the label is to be used. Approximate percentages may be given in cases where the percentages of

ingredients may vary from time to time, if the limits of variation are stated.

§ 81.133 *Wording permitted on food products containing poultry products.* Any label which is to be affixed to a container of any food product containing poultry product which is packed under the supervision of an inspector in any official establishment may bear the phrase: "The poultry product contained herein has been inspected at an establishment where Federal inspection is maintained." Each such trade label shall also be subject to the applicable provisions of §§ 81.126 and 81.127. Such food products containing poultry products or any container thereof shall not bear the official inspection mark, or any abbreviation or representation thereof.

§ 81.134 *Product specifications for labeling purposes.* The Administrator is authorized to establish specifications covering the principal constituents of any poultry food product with respect to which a specified name of the product or other labeling terminology may be used.

(a) *Meat content of poultry pies.* Poultry pies, or pot pies, which are prepared from cooked meat shall contain a minimum of 14 percent (1½ ounces per 8-ounce pie) of cooked deboned poultry meat. Poultry pies, or pot pies, prepared with raw meat shall contain a minimum of 25 percent (2 ounces per 8-ounce pie) of raw deboned poultry meat. Both percentages shall be exclusive of any skin, giblets, or fat which may be included in the product.

(b) *Canned boned chicken or turkey.* Canned boned chicken or turkey which is prepared from cooked deboned meat shall not contain more than 10 percent added moisture. The product shall consist of deboned white and dark meat in natural proportions and may contain skin and fat not in excess of natural proportions.

(1) Canned boned poultry meat which is prepared from raw boned meat in combination with cooked boned meat may have moisture added not to exceed 10 percent of the weight of cooked meat used in the product.

(2) Boned chicken or turkey prepared from raw boned meat shall have no moisture added during the preparation and canning processes.

(3) If moisture is added in excess of amounts specified in this paragraph, the ingredient statement on the label shall contain a statement indicating the addition of moisture, and the name of the product shall be qualified to indicate the added moisture.

§ 81.135 *Labels in foreign languages.* Any label to be affixed to a container of any dressed poultry or poultry product for foreign commerce may be printed in a foreign language. However, the official identification shall appear on the label in English, but in addition, may be literally translated into such foreign language. Each such label shall be subject to the applicable provisions of §§ 81.126 to 81.130, inclusive. Deviations from the form of labeling required under the regulations in this part may be

approved by the Administrator: *Provided,* (a) That the proposed labeling accords to the specifications of the foreign purchaser, (b) that it is not in conflict with the laws of the country to which it is intended for export, and (c) that the outside of the shipping container is labeled to show that it is intended for export; but if such product is sold or offered for sale in domestic commerce, all the requirements of the regulations in this part shall apply.

§ 81.136 *Wording and form of the dressed poultry identification mark.* The dressed poultry identification mark required by § 81.137 (a) to be used with respect to dressed poultry which is shipped from an official establishment shall include wording as follows: "Dressed Poultry—Eligible for Further Processing in Official Establishments under USDA Inspection." Such labels shall also set forth the applicable plant number and shall be marked with a lot number which shall be the number of the day of the year the poultry was slaughtered or a coded number, the meaning of which shall be made known to the Inspection Service. This wording shall be contained within a rectangle not less than 1½" x 3" in size. The form and arrangement of such wording shall be as indicated in the example in Figure 2.

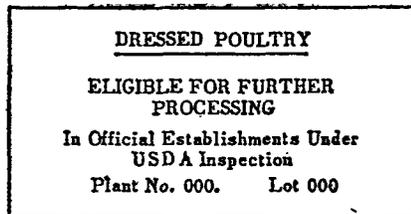


FIGURE 2.

§ 81.137 *Labeling of dressed poultry—(a) Wording on labels for dressed poultry.* The provisions of § 81.127 shall apply to labels for dressed poultry to be shipped in commerce or to another official establishment, except that the dressed poultry identification mark shall be shown, but the official inspection mark shall not be shown on such labels.

(b) *Approval of labels for dressed poultry.* Any label which bears the dressed poultry identification mark shall be subject to the provisions of §§ 81.126 to 81.128. Only labels which have been approved by the Administrator may be used on containers for dressed poultry which is to be shipped in foreign commerce or to another official establishment.

§ 81.138 *Evidence of label approval.* No inspector shall authorize the use of official identification for any inspected product unless he has on file evidence that such official identification or packaging material bearing such official identification has been approved in accordance with the provisions of § 81.127.

§ 81.139 *Modifications of approved labels.* (a) The inspector in charge may permit the use of approved labels or other markings which have been modified as follows: *Provided,* That the label-

ing or marking as modified is so used as not to be false or deceptive:

(1) All features of the label or marking are proportionately enlarged with the color scheme remaining the same.

(2) Changes in the figures denoting the quantity of contents or when there is substitution of such abbreviations as "lb." for "pound," "oz." for "ounce," or the "pound" or "ounce" is substituted for the abbreviation.

(3) The name and address of the distributor have been included in the blank space following the words "prepared for" or a similar statement, on a master or stock label which was approved with the understanding that such information would be added later.

(4) Addition during Christmas and other holiday seasons of wrappers or overprints in floral or foliage designs, or illustrations of rabbits, chicks, fire works, or other emblematic holiday designs to approved labels or markings. The use of such designs shall not obscure any mandatory information.

(5) A slight change in arrangement of directions pertaining to the opening of cans or the serving of the product.

(6) The appropriate name or class of the poultry has been added to a master or stock label which was approved without this information appearing on the label.

(b) The inspector in charge shall send a copy of all such modified labels to the Chief of the Inspection Branch.

§ 81.140 *Approvals made by inspectors in charge.* The inspector in charge may approve labels for containers of product sold under a contract specification to governmental agencies when such product is not offered for resale to the general public: *Provided*, That the contract specifications include complete specific requirements with respect to labeling, and are made available to the inspector in charge.

§ 81.141 *Affixing of official identification.* No official identification or any abbreviation, copy or representation thereof may be affixed to or placed on or caused to be affixed to or placed on any product or container thereof except by an inspector or under the supervision of an inspector or other person authorized by the Administrator. All such products shall have been inspected as required by the regulations in this part.

§ 81.142 *Removal of official identification.* Official establishments which receive dressed poultry or ready-to-cook poultry in containers which bear official identification shall remove or deface such identification upon removal of such poultry from the containers.

§ 81.143 *Packaging.* No container which bears or may bear an inspection mark or any abbreviation or copy or representation thereof may be filled in whole or in part except with poultry products which were inspected and passed and are, at the time of such filling, sound, wholesome and fit for human food. All such filling of containers shall be under the supervision of an inspector.

§ 81.144 *Relabeling product.* When it is claimed by an official establishment that some of its labeled poultry product, which has been transported to a location other than an official establishment, is in need of relabeling on account of the labels having become mutilated or damaged, or for some other reason needs relabeling, the requests for relabeling the poultry product shall be sent to the Administrator and accompanied with a statement of the reasons therefor and the number of labels required. Labeling material intended for relabeling inspected and passed product shall not be transported from an official establishment until permission has been received from the Administrator. The relabeling of inspected and passed product with official labels shall be done under the supervision of an inspector. The establishment shall reimburse the Inspection Service for any cost involved in supervising the relabeling of such product.

§ 81.145 *Rescindment of label approvals.* Once a year, or more often if necessary, each official establishment shall submit to the Administrator a list in triplicate of approved labels that have become obsolete, accompanied with a statement that such labels are no longer desired. The labels shall be identified by the date of approval, and the name of product or other designation showing the class of material.

§ 81.146 *Use of previously approved labels.* Any supply of labels on hand at the time of inauguration of service under the regulations in this part, which were approved under the regulations issued pursuant to the Agricultural Marketing Act of 1946, as amended, may be used until the supply is exhausted: *Provided, however*, That such labels are not in conflict with the act. Such previously approved labels shall not be used after July 1, 1960. At the time of inauguration of service under the act an inventory of such previously approved labels shall be furnished to the Inspection Service.

SHIPMENT OF PRODUCTS IN COMMERCE

§ 81.151 *Violation of the Poultry Products Inspection Act.* It is a misdemeanor, punishable by fine and imprisonment, for any person to violate the provisions of sections 9, 10, 11 or 17 of the Poultry Products Inspection Act. Poultry Law Investigators shall be appointed and assigned to the Inspection Service to investigate complaints, irregularities, and apparent and alleged violations of the Poultry Products Inspection Act, and of the regulations, and to report their findings in the manner prescribed or approved by the Administrator.

§ 81.152 *Records of interstate shipments.* [Reserved].

§ 81.153 *Shipment of dressed poultry in commerce.* During 1958, dressed poultry prepared in official establishments may be transported and sold in commerce. Effective January 1, 1959, dressed poultry or any poultry slaughtered for human food or any part thereof, separately or in combination with other ingredients (other than poultry products),

may not be transported or sold in commerce except as provided in the regulations in this part: *Provided*, That such poultry may be transported from one official establishment to another official establishment or between an official establishment and a foreign country: *And provided further*, That upon application by a processor of dressed poultry to the Administrator accompanied by evidence showing that there has been insufficient time between the passage of the Poultry Products Inspection Act and the aforementioned effective date to permit the change-over of his plant and operations to the processing of poultry products, the Administrator may authorize the shipment of dressed poultry in commerce under such conditions as he may prescribe or approve, but in no event shall such authorization be extended beyond July 1, 1959.

§ 81.154 *Inventories of dressed poultry and poultry products on hand January 1, 1959.* Unless expressly exempted by regulations of the Secretary, an inventory of all noninspected dressed poultry and poultry products which were processed prior to January 1, 1959, and which are intended for transportation or sale in commerce shall be made by the owner of such products. Such products shall not be transported or sold in commerce unless they have been identified by an inspector or other authorized representative of the Inspection Service and the containers marked in a manner prescribed by the Administrator prior to that time. Application to have such products so identified and marked shall be made to the Administrator on a form furnished by the Inspection Service for that purpose. Any noninspected products which have been identified as prescribed in this section prior to January 1, 1959, may thereafter be transported or sold in commerce.

§ 81.155 *Products inspected pursuant to Agricultural Marketing Act.* Poultry and poultry products which, prior to January 1, 1959, have been inspected pursuant to the Agricultural Marketing Act of 1946, as amended, may move in commerce and into official establishments receiving inspection under the regulations in this part.

§ 81.156 *Distribution of inspected products to small lot buyers.* For the purpose of effecting the distribution in commerce of inspected poultry products to small lot buyers, such as small restaurants, distributors or jobbers may remove inspected poultry products from immediate containers, other than consumer packages, and place them into other shipping containers which do not bear the inspection mark: *Provided*, That the individual carcasses of the poultry product bear the inspection mark and the plant number of the establishment that processed such products.

INSPECTION PERSONNEL AND ADMINISTRATION

PERFORMANCE OF SERVICES

§ 81.161 *Licensed inspectors.* (a) Any person who is a Federal or State employee possessing proper qualifications

may be authorized by the Secretary to inspect poultry and poultry products pursuant to the regulations in this part. A license shall be issued to each such authorized Federal or State employee who is not an employee of the Poultry Inspection Service.

(b) All licenses issued by the Secretary shall be countersigned by the officer in charge of the poultry inspection service of the Agricultural Marketing Service or any other designated officer of such service.

§ 81.162 *Suspension of license; revocation.* Pending final action by the Secretary, the officer in charge of the inspection service may, whenever he deems such action necessary, suspend any license effective pursuant to the regulations in this part, by giving notice of such suspension to the respective individual involved, accompanied by a statement of the reasons therefor. Within seven days after the receipt of the aforesaid notice and statement of reasons by such individual, he may file an appeal, in writing, with the Secretary, supported by any argument or evidence that he may wish to offer as to why his license or authority should not be suspended or revoked. After the expiration of the aforesaid seven-day period and consideration of such argument and evidence, the Secretary will take such action as he deems appropriate with respect to such suspension or revocation. When no appeal is filed within the prescribed seven days the license is revoked.

§ 81.163 *Surrender of license.* Each license which is suspended, or revoked, or has expired shall promptly be surrendered by the licensee to his immediate superior. Upon termination of the services of a licensed inspector the licensee shall promptly surrender his license to his immediate superior.

§ 81.164 *Identification.* Each inspector shall have in his possession at all times, and present upon request while on duty, the means of identification furnished by the Department to such person.

§ 81.165 *Access to establishments.* Any duly authorized representative of the Secretary shall have access at all reasonable times, by day or night, whether the establishment is in operation or not, to the premises or any part thereof of an establishment engaged in processing poultry or poultry products for commerce, or in or for marketing in a designated major consuming area, upon presentation of appropriate credentials.

§ 81.166 *Financial interest of inspectors.* No inspector shall inspect any product in which he is financially interested.

§ 81.167 *Political activity.* All inspectors who are employees of the Department are forbidden during the period of their respective appointments, to take an active part in political management or in political campaigns. Political activity in city, county, state, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, is pro-

hibited. This applies to all appointees, including, but not being limited to, temporary and cooperative employees and employees on leave of absence with or without pay. Willful violation of §§ 81.166 and 81.167 will constitute grounds for dismissal in the case of appointees and revocation of licenses in the case of licensees.

§ 81.168 *Time of inspection.* The inspector who is to perform the inspection in an official establishment shall be informed, in advance, of the hours when such inspection will be required.

§ 81.169 *Schedule of operation of official establishment.* All hours of operation of an official establishment shall be subject to approval of the Administrator, and for the purpose of this regulation the normal operating schedule shall consist of a continuous 8 hour period per day (excluding not to exceed 1 hour for lunch), 5 days per week within the period of Monday through Saturday, for each full shift required. Any variation from such schedule of operation must be fully justified and approved in advance.

§ 81.170 *Overtime inspection service.* When official establishments require inspection service beyond the established normal operating schedule, such service is considered as overtime work. The official establishment shall give reasonable advance notice to the inspector in charge for any overtime service necessary and shall pay the Secretary for such overtime at a rate of \$5.00 per hour to cover the cost thereof.

§ 81.171 *Holiday inspection service.* When an official establishment requires inspection service on a holiday, falling within the established normal operating schedule, such service is considered holiday work. The official establishment shall, in advance of such holiday work, request the inspector in charge to furnish inspection service during such period and shall pay the Secretary therefor at the rate of \$5.00 per hour to cover the cost of such holiday service. Service in excess of the 8 hours for that day is considered overtime and shall be paid for at the rate of \$5.00 per hour. Holidays shall be the 1st day of January, 22d day of February, 30th day of May, 4th day of July, 1st Monday of September, 11th day of November, 4th Thursday of November, 25th day of December, or any other calendar day designated as a holiday by Federal statute or executive order.

§ 81.172 *Supervisor overtime or holiday service.* When, because an establishment requires overtime service as provided in § 81.170 or requires holiday service as provided in § 81.171 or because of the type of operation of an establishment, a station supervisor (veterinarian) is required to work overtime or on a holiday, in the establishment in order to supervise the service or to make final condemnation, the establishment shall pay the Secretary for such overtime or holiday work at the established hourly rate.

§ 81.173 *Basis of billing establishments.* Overtime and/or holiday services shall be billed to the official estab-

lishments on the basis of each 15 minutes of overtime and/or holiday service performed by each inspector including supervisor providing such service to the establishment, except that when an official establishment requires the services of an inspector after he has completed his day's assignment and left the establishment or when he is called back to duty on a day outside of the established normal operating schedule or on a holiday, the official establishment shall pay for a minimum of two hours' service at the applicable established rate.

§ 81.174 *Application for inspection under the Poultry Products Inspection Act.*

Application is hereby made for poultry inspection, in accordance with the applicable provisions of the Regulations Governing the Inspection of Poultry and Poultry Products (7 CFR Part 81), at the following-designated plant:

 (Name of plant)

 (Street Address) (City and State)

 Type of Poultry Processing Operations
 Eviscerating Canning
 Dressing Other (Explain)
 In making this application the applicant agrees to comply with the terms and conditions of the aforesaid regulations (including but not being limited to such instructions governing inspection of products as may be issued, from time to time, by the Administrator).

 (Date)

 (Applicant)
 By -----
 (Signature)

 (Title)

 (Street Address)

 (City) (State)

Application granted:
 AGRICULTURAL MARKETING SERVICE,
 By -----
 (Signature)

 (Title)

 (Date)

[F. R. Doc. 58-875; Filed, Feb. 4, 1958; 8:51 a. m.]

TITLE 14—CIVIL AVIATION
Chapter II—Civil Aeronautics Administration, Department of Commerce
 [Amdt. 216]
PART 608—RESTRICTED AREAS
ALTERATIONS

The restricted area alterations appearing hereinafter have been coordinated with the civil operators involved, the Army, the Navy and the Air Force, through the Air Coordinating Committee, Airspace Panel, and are adopted to become effective when indicated in order to promote safety of the flying public. Since a military function of the United States is involved, compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act is not required.

Part 608 is amended as follows:

1. Section 608.32, the Pearl River Mississippi, area (R-138) amended October 31, 1955 in 16 F. R. 11066 is further amended by changing the "Designated Altitudes" column to read: "to 20,000 feet", and the "Time of Designation" column to read: "0800-1630".

2. Section 608.39, the Melrose, New Mexico, area (R-185) amended May 25, 1956 in 21 F. R. 3497 is further amended by changing the "Controlling Agency" column to read: "Cannon AFB, New Mexico".

3. Section 608.51, the Camp Bowie, Texas, area (R-480) amended November 10, 1954 in 19 F. R. 7285 is further amended by changing the "Designated Altitudes" column to read: "Surface to 20,000 feet".

4. Section 608.51, the Corpus Christi, Texas, area (R-227) amended October 31, 1951 in 16 F. R. 11066 is further amended by changing the "Designated Altitudes" column to read: "to 45,000 feet".

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or apply sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

This amendment shall become effective on February 21, 1958.

[SEAL] WILLIAM B. DAVIS,
Acting Administrator
of Civil Aeronautics.

JANUARY 29, 1958.

[F. R. Doc. 58-847; Filed, Feb. 4, 1958;
8:46 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 6638]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

EXPOSITION PRESS, INC., ET AL.

Subpart—*Advertising falsely or misleadingly*: § 13.15 *Business status, advantages, or connections*: Cooperative nature; organization and operation; service; size and extent; § 13.20 *Comparative data or merits*; § 13.55 *Demand, business, or other opportunities*; § 13.110 *Indorsements, approval, or awards*; § 13.190 *Results*; § 13.205 *Scientific or other relevant facts*; § 13.225 *Services*; § 13.250 *Success, use or standing*. Subpart—*Claiming or using indorsements or testimonials falsely or misleadingly*: § 13.330 *Claiming or using indorsements or testimonials falsely or misleadingly*.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, Exposition Press, Inc., et al., New York, N. Y., Docket 6638, January 7, 1958]

In the Matter of Exposition Press, Inc., a Corporation, and Edward Uhlan and Mildred Langer, Individually and as Officers of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a publisher in New

York City with making in advertising a variety of false claims as to the size and extent of its organization, the amount of its business, the number and quality of services rendered authors, etc., to induce authors to sign contracts for publication of their books under its "Cooperative Publishing Plan", and including such false representations as that authors paid a "minimal subsidy" when they actually paid the entire cost.

Following approval of an agreement between the parties containing a consent-order, the hearing examiner made his initial decision and order to cease and desist which became on January 7 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondent Exposition Press, Inc., a corporation, and its officers, and respondent Edward Uhlan, individually and as an officer of said corporate respondent, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with solicitation of contracts for the printing, promotion, sale and distribution of books, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or indirectly:

1. That they publish a new titled book each day of the year or a number in excess of those actually published for any specific period;

2. That none of the books published by them have resulted in failures;

3. That their plan of publication and promotional efforts will result in the sale of at least 650 copies or will sell out the first edition or will usually result in the author making a profit on the publication subsidy paid by him;

4. That their sales promotion includes paid space advertisements of their authors' books in the New York Times Book Review or any other newspaper or magazine, without additional charge, unless such is the fact;

5. That their subsidy charge to an author is based only on the literary merit, sales appeal, typographical and production problems of each particular book;

6. That theirs is a "cooperative" publishing plan unless they contribute a sum equal to the author's subsidy;

7. That the sales will warrant more than one edition of any book published by them or that their past sales have been such as to require more than one edition of their books in the majority of cases;

8. That their plan of publication, promotion, sales and distribution of books is endorsed or recommended by established authors, literary agents, publishers' or writers' groups who are acquainted with their method of operation, unless such is the fact;

9. That the cost of publication, promotion, sales and distribution of books by them compares favorably with the lowest cost of trade-publishers, unless such is the fact;

10. That the majority editorial opinion of their staff of a submitted manu-

script is laudatory, when such is not the fact;

11. That they will consider for their imprint and will only recommend for publication those manuscripts with the requisite literary merit and sales appeal;

12. That any person has read a given manuscript, when such is not the fact;

13. That they supply their authors with the same promotion services that the largest trade book publishers give their big name best selling authors;

14. That they have salaried travelling salesmen who devote all their time in direct selling of only their books, unless such is the fact;

15. That their books are generally purchased in large numbers as a common practice by leading public, institutional and private libraries throughout the United States;

16. That their promotion will always result in placement of their books in book stores in the vicinity of the author's home or residence;

17. That they will always provide copies of the promoted book in time for local purchase at the time of an interview and guest appearances on TV and radio programs;

18. That they arrange for displays of their author's books at conventions without-charge to the author, unless such is the fact;

19. That they will always arrange speaking appearances, autograph parties, TV and radio interviews or guest appearances;

20. That their books have been selected for distribution by book club groups in excess of the titled books actually selected;

21. That they have sold motion picture rights, unless such is a fact, and sold reprint rights to newspapers and magazines of their author's book in excess of the number actually sold;

22. That they publish and also bind all the copies of the titled book they agree to publish, when such is not the fact;

23. That they have sold serial rights for magazine publication of a subsidized manuscript after the author executes a contract with them, unless such is the fact.

B. Overstating, directly or indirectly:

1. The number of titled books they have published which have sold sufficient copies to repay the author the subsidy paid by him;

2. The number of authors who are satisfied with their publishing and promotional service or the number of authors who ask them to publish subsequent books.

It is further ordered, That this proceeding be and the same hereby is dismissed as to respondent Mildred Langer.

It is further ordered, That the charges in the complaint found in paragraphs numbered six and seven of the complaint in regard to use of the word "Press" in the corporate name of respondent, on letterheads, in circulars and in advertisements and in newspapers and magazines be and the same hereby are dismissed.

It is further ordered, That all other charges in the complaint in regard to unfair methods of competition and

¹New.

unfair and deceptive acts and practices, except those covered by the order to cease and desist set forth above, be and the same hereby are dismissed.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That the respondents Exposition Press, Inc., and Edward Uhan shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: January 9, 1958.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 58-878; Filed, Feb. 4, 1958; 8:52 a. m.]

[Docket 5721]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

STANDARD MOTOR PRODUCTS, INC.

Subpart—*Discriminating in price under section 2, Clayton Act, as amended*—Price discrimination under 2 (a): § 13.725 *Cumulative quantity discounts and schedules*; § 13.755 *Pooling orders of chain stores and buying groups*.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 2, 38 Stat. 730, as amended; 15 U. S. C. 13) [Cease and desist order, Standard Motor Products, Inc., Long Island City, N. Y., Docket 5721, Dec. 27, 1957]

This case was heard by a hearing examiner on the complaint of the Commission charging a seller in Long Island City, N. Y., of automotive replacement parts to jobbers who resold to garages, service stations, fleet owners, and other jobbers, with discriminating in price in violation of section 2 (a) of the Clayton Act, by means of a retroactive volume rebate plan under which large volume purchasers and members of group buying organizations were granted rebates on their total annual purchases in addition to the customary two percent cash discount, with result that they were charged lower prices than their smaller competitors.

Following the usual proceedings, the hearing examiner made his initial decision and order to cease and desist from which respondent filed an appeal. The Commission having heard the matter on briefs and oral arguments of counsel, denied the appeal and on December 27 adopted as its own the findings, conclusions, and order contained in the initial decision.

The order to cease and desist is as follows:

It is ordered, That respondent Standard Motor Products, Inc., a corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device, in or in connection with the sale, for replacement purposes, of automotive products and supplies in commerce, as "commerce" is

defined in the Clayton Act, do forthwith cease and desist from:

Discriminating, directly or indirectly, in the price of such products and supplies of like grade and quality:

1. By selling to any one purchaser at net prices higher than the net prices charged to any other purchaser who, in fact, competes with the purchaser paying the higher price in the resale and distribution of respondent's products.

By "Final Order", report of compliance was required as follows:

Is is ordered, That respondent Standard Motor Products, Inc., 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 the order contained in said initial decision.

Issued: December 27, 1957.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 58-879; Filed, Feb. 4, 1958; 8:52 a. m.]

[Docket 6713]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

GLICKMAN BROS.

Subpart—*Invoicing products falsely*: § 13.1108 *Invoicing products falsely*: Fur Products Labeling Act. Subpart—*Misbranding or mislabeling*: § 13.1212 *Formal regulatory and statutory requirements*: Fur Products Labeling Act. Subpart—*Neglecting, unfairly or deceptively, to make material disclosure*: § 13.1852 *Formal regulatory and statutory requirements*: Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U. S. C. 45, 69f) [Cease and desist order, Benjamin Glickman and Isaac Glickman trading as Glickman Brothers, New York, N. Y., Docket 6713, December 27, 1957]

In the Matter of Benjamin Glickman and Isaac Glickman, Individually and as Copartners Trading as Glickman Brothers

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a manufacturing furrier in New York City with misbranding and false invoicing of fur products in violation of the Fur Products Labeling Act.

Following trial, during which there was no disagreement as to the facts, the hearing examiner made his initial decision including findings of fact, conclusions, and order to cease and desist. Respondent filed appeal therefrom objecting to the scope of the order. The Commission, however, having heard the matter, denied the appeal and on December 27 adopted the initial decision as its own.

The order to cease and desist is as follows:

It is ordered, That respondents, Benjamin Glickman and Isaac Glickman, individually and as copartners trading as Glickman Brothers, or under any other name, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the sale or offering for sale in commerce, or the transportation or distribution in commerce, of fur products, or in connection with the manufacture for sale, sale, offering for sale, transportation, or distribution of fur products which have been made in whole or in part of furs which have been shipped and received in commerce, as "commerce", "fur", and "fur products" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

1. Failing to affix labels to fur products showing:

(A) The name or names of the animal or animals that produced the fur, as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

(B) That the fur product contains or is composed of used fur, when such is the fact;

(C) That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur, when such is the fact;

(D) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

(E) The name or other identification issued and registered by the Commission, of one or more persons who manufactured such fur product for introduction into commerce, introduced it into commerce, sold it in commerce, advertised or offered it for sale in commerce, or transported or distributed it in commerce;

(F) The name of the country of origin of any imported furs used in the fur product; and

(G) The item number of such fur product as required by Rule 40 (a) of the regulations under the Fur Products Labeling Act (§ 301.40 (a)).

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices to purchasers of fur products showing:

(A) The name or names of the animal or animals that produced the fur as set forth in the Fur Products Name Guide and as prescribed by the rules and regulations;

(B) That the fur product contains or is composed of used fur, when such is the fact;

(C) That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur, when such is the fact;

(D) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

(E) The name and address of the person issuing such invoice;

(F) The name of the country of origin of any imported furs contained in the fur product; and

(G) The item number of such fur product as required by Rule 40 (a) of the regulations under the Fur Products Labeling Act (§ 301.40 (a)).

By "Final Order", report of compliance was required as follows:

It is ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: December 27, 1957.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 58-877; Filed, Feb. 4, 1958;
8:51 a. m.]

[Docket 6783]

PART 13—DIGEST OF CEASE AND DESIST
ORDERS

BELVEDERE WOOL CO.

Subpart—*Invoicing products falsely*: § 13.1108 *Invoicing products falsely*: Wool Products Labeling Act. Subpart—*Misbranding or mislabeling*: § 13.1212 *Formal regulatory and statutory requirements*: Wool Products Labeling Act. Subpart—*Neglecting, unfairly or deceptively, to make material disclosure*: § 13.1852 *Formal regulatory and statutory requirements*: Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2-5, 54 Stat. 1128-1130; 15 U. S. C. 45, 68-68 (c)) [Cease and desist order, Shay Auerbach trading as Belvedere Wool Company, New York, N. Y., Docket 6783, January 16, 1958]

In the Matter of Shay Auerbach, an Individual Trading as Belvedere Wool Company

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a manufacturer of wool products in Brooklyn, N. Y., with violating the Wool Products Labeling Act by failing to comply with the labeling requirements and by invoicing products falsely.

Following approval of an agreement between the parties containing consent order, the hearing examiner made his initial decision and order to cease and desist which became on January 16 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That the Respondent, Shay Auerbach, an individual trading as Belvedere Wool Company, or trading under any other name, and Respondent's representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction in commerce, or the offering for

sale, sale, transportation or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, of wool fibers or other wool products, as such products are defined in and subject to said Wool Products Labeling Act of 1939, which products contain, purport to contain, or in any way are represented as containing "wool", "reprocessed wool", or "reused wool" as those terms are defined in said Act, do forthwith cease and desist from misbranding such products by:

1. Failing to securely affix to or place on each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner:

(a) The percentage of the total fiber weight of such wool product, exclusive of ornamentation not exceeding five per centum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber is five per centum or more, and (5) the aggregate of all other fibers;

(b) The maximum percentage of the total weight of such wool product or of any non-fibrous loading, filling, or adulterating matter;

(c) The name or the registered identification number of the manufacturer of such wool product or of one or more persons engaged in introducing such wool product into commerce, or in the offering for sale, sale, transportation, distribution or delivery for shipment thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939.

It is further ordered, That the Respondent, Shay Auerbach, an individual trading as Belvedere Wool Company, or trading under any other name; and Respondent's representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of wool fibers or other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from, directly or indirectly: Misrepresenting in sales invoices, shipping memoranda, or in any other manner the fiber content of said products.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That respondent Shay Auerbach, an individual trading as Belvedere Wool Company, shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with the order to cease and desist.

Issued: January 16, 1958.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 58-880; Filed, Feb. 4, 1958;
8:52 a. m.]

TITLE 24—HOUSING AND HOUSING CREDIT

Subtitle A—Office of the Administrator, Housing and Home Finance Agency

PART 3—SLUM CLEARANCE AND URBAN RENEWAL

SUBPART B—RELOCATION PAYMENTS UNDER SECTION 106 (f) OF THE HOUSING ACT OF 1949, AS AMENDED

LIMITATIONS ON RELOCATON PAYMENTS

The rules and regulations governing the making of relocation payments under section 106 (f) of the Housing Act of 1949, as amended, 42 U. S. C. 1456, to individuals, families, and business concerns displaced by an urban renewal project, prescribed on behalf of the Housing and Home Finance Administrator by the Acting Urban Renewal Commissioner as of October 8, 1956 (21 F. R. 9991, 12-15-56), as amended (22 F. R. 1980, 3-26-57, and 22 F. R. 9937, 12-12-57), are hereby further amended in the following respect:

In § 3.106 (a), by deleting before the period at the end thereof "December 12th, 1957" and substituting "July 12, 1957".

(Sec. 502, 62 Stat. 1283, as amended, sec. 106, 63 Stat. 417, as amended, sec. 305, 70 Stat. 1100; 12 U. S. C. 1701c, 42 U. S. C. 1456)

Issued as of the 5th day of February 1958.

[SEAL] R. L. STEINER,
Urban Renewal Commissioner.

[F. R. Doc. 58-858; Filed, Feb. 4, 1958;
8:48 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Reclamation, Department of the Interior

PART 409—MUNICIPAL AFFAIRS, PAGE, ARIZONA

LEASING AND UTILIZATION OF LANDS

A notice of intention to issue regulations pertaining to the leasing and utilization of lands at Page, Arizona, was published in the FEDERAL REGISTER of December 28, 1957 (22 F. R. 10962). Interested persons were invited to submit, within 30 days of that date, comments, suggestions or objections with respect to the proposed regulation, the text of which appeared with the notice. No comments, suggestions or objections have been received, and the regulations as published are adopted without change and are set forth below.

Since there is a very urgent need for the construction of buildings and the establishment of businesses on leased lands at Page, Arizona, which are dependent upon the proposed regulations, the regulations will become effective upon publication in the FEDERAL REGISTER.

FRED A. SEATON,
Secretary of the Interior.

JANUARY 30, 1958.

A new part is added to Title 43, Chapter II, reading as follows:

Sec.
409.1 Scope of part.
409.2 Filing applications.
409.3 References.

Subpart A—Leases of Land

409.4 Term of leases.
409.5 Qualifications of lessees.
409.6 Renewals.
409.7 Rates.

Subpart B—Commercial and Service Permits

409.8 Definition.
409.9 Applicability.
409.10 Filing fee.
409.11 Qualifications of applicants.
409.12 Classification of permits.
409.13 Traffic in alcoholic beverages prohibited.
409.14 Duration and cancellation.

Subpart C—Building Permits

409.15 Definition.
409.16 Requirements.

AUTHORITY: §§ 409.1 to 409.16 issued under sec. 15, 53 Stat. 1198; 43 U. S. C. 485i. Interpret or apply sec. 10, 53 Stat. 1196, as amended, sec. 1, 53 Stat. 1187, 70 Stat. 105; 43 U. S. C. 387, 485.

§ 409.1 *Scope of part.* The regulations in this part are applicable to lands being administered by the Bureau of Reclamation within the exterior boundaries of Page, Arizona, as such boundaries are established from time to time under authority of the Commissioner of Reclamation. Such lands may be leased, utilized for the conduct of commercial enterprise and the rendition of services, and structures may be placed thereon only under and pursuant to the terms of requisite leases, licenses, and permits issued in accordance with the applicable subparts of the regulations of this part.

§ 409.2 *Filing applications.* Applications for leases, licenses or permits, governed by regulations of this part, will be filed with the official of the Bureau of Reclamation in charge of the administration of Page, Arizona, now located at Kanab, Utah, until such time as such official is stationed at Page, Arizona. When used hereafter in this part, the term "Bureau of Reclamation" shall refer to such official.

§ 409.3 *References.* Upon written request by the Bureau of Reclamation, each applicant will furnish a letter, or letters, signed by the applicant, addressed to and authorizing financial institutions and others to supply to the Bureau of Reclamation any information it may require in regard to financial responsibility and other relevant matters as to warrant the belief that, if granted the license, lease, or permit, such applicant will be able to meet the conditions of such license, lease, or permit. Refusal of the applicant to furnish such authority, or his failure to do so within a period of two weeks from the date of receipt of the written notice shall be a sufficient ground for the rejection of the application.

SUBPART A—LEASES OF LAND

§ 409.4 *Term of leases.* Leases shall be for periods of not to exceed fifty (50) years, and unless otherwise provided by

the Commissioner of Reclamation they shall be in accordance with terms and conditions and in the form approved by the Commissioner on October 14, 1957, and shall be subject to the terms of the regulations of this part.

§ 409.5 *Qualifications of lessees.* No application for a lease hereunder shall be approved until the applicant has satisfied the Bureau of Reclamation that (a) he is a citizen of the United States or has declared his intention to become such; (b) he is a person of good moral character; (c) he does not intend to hold the area for which the lease is requested for speculative purposes; (d) he is financially responsible so as to warrant the belief that, if granted a lease, he will be able to meet all of the conditions and obligations of such a lease.

§ 409.6 *Renewals.* No lease shall be renewed or extended if the lessee has failed or refused to make such reasonable improvements, alterations, or repairs on the building or buildings on the leased premises as have been requested in writing by the Bureau of Reclamation.

§ 409.7 *Rates.* All leases shall be made at the fair market value, as determined by the Bureau of Reclamation.

SUBPART B—COMMERCIAL AND SERVICE PERMITS

§ 409.8 *Definition.* The term "permit" as used in this subpart shall mean the privilege conferred by the Bureau of Reclamation upon individuals, partnerships, corporations, or other entities to utilize leased premises for the purpose of engaging in any form of commercial enterprise or the rendition of services.

§ 409.9 *Applicability.* Leased land may be utilized for the conduct of commercial enterprise or the rendition of services only if a permit is issued in accordance with the provisions of this subpart.

§ 409.10 *Filing fee.* Each application for a permit must be accompanied by a filing fee of twenty-five (\$25.00) dollars. If a permit is not granted the filing fee will be returned.

§ 409.11 *Qualifications of applicants.* Applicants for permits must establish to the satisfaction of the Bureau of Reclamation both the adequacy of their financial resources and the appropriateness of their training and experience. The requirement of training and experience will be satisfied in the case of an applicant who is the holder of a valid license or permit issued upon proof of qualification by the State of Arizona pursuant to the statutes of Arizona.

§ 409.12 *Classification of permits.* Permits shall be of three types: (a) Exclusive, (b) personal, (c) general business. Exclusive permits shall be limited to public utilities or to such other entities whose operations in the opinion of the Bureau of Reclamation are necessary to promote the public interest. While in the issuance of permits the promotion of free competition will be the objective, the number of other permits may be restricted temporarily if in the opinion of the Bureau of Reclamation such restric-

tion is required as a means of assisting in the maintenance of conditions conducive to the establishment of services and enterprises adequate to meet community needs. But, if any restrictions are imposed, they confer no right in existing permittees to the continuation of such restrictions.

§ 409.13 *Traffic in alcoholic beverages prohibited.* The privilege conferred by a permit shall not include trading in, selling, distributing, storing for any of the foregoing purposes, or manufacturing any alcoholic beverages, but this limitation shall not be applicable in the case of permits issued to duly licensed physicians, dentists, and pharmacists who prescribe or dispense beverage alcohol or preparations containing beverage alcohol for medicinal purposes as part of the practice of their professions.

§ 409.14 *Duration and cancellation.* Permits shall be granted to applicants meeting the requirements of this subpart for a period of not to exceed three years and shall be renewable for like periods upon application filed therefor, if the applicant then meets the requirements of the regulations of this part. Each permit shall be subject to cancellation upon violation by the holder thereof of applicable Federal or State laws, pertinent regulations duly promulgated, terms and conditions of the permit, or by breach of the terms of the lease of property used in connection with the commercial enterprise or service undertaken pursuant to the authority of the permit.

SUBPART C—BUILDING PERMITS

§ 409.15 *Definition.* The term "building permit" as used in this part shall mean permission granted in writing by the Bureau of Reclamation for erection of structures, or the alteration, or improvement of existing structures on leased land.

§ 409.16 *Requirements.* A building permit will be issued only after plans for a structure, together with the location on a particular tract or tracts of land involved, have been approved. All residential construction shall conform to the standards of the Federal Housing and Home Finance Agency and all commercial construction shall conform to the Uniform Building Code of the Pacific Coast Building Officials Conference. All plumbing systems in all buildings shall be in accordance with applicable provisions of the American Standard National Plumbing Code and all electrical installations shall be in accordance with applicable provisions of the latest edition of the "National Electrical Code," standard of the National Board of Fire Underwriters for Electrical Wiring and Apparatus. Further, the residential and commercial building construction shall conform to the requirements of applicable Coconino County and Arizona State codes. Buildings in residential areas may not be used for commercial or industrial purposes. All structures and the use thereof shall conform to the zoning plan of Page, Arizona.

[F. R. Doc. 58-850; Filed, Feb. 4, 1958; 8:46 a.m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 988 I

[Docket No. AO-195-A9]

MILK IN KNOXVILLE, TENN., MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND TO ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Knoxville, Tennessee, marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D. C., not later than the close of business the 3d day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order, were formulated, was conducted at Knoxville, Tennessee, on August 13-15, 1957, pursuant to notice thereof which was issued August 2, 1957 (22 F. R. 6301).

Material issues. The material issues of record relate to:

1. The Class I milk price, including the supply-demand adjustment and the basic formula price.
2. The Class II milk price.
3. Diversion of producer milk by a cooperative association.
4. Accounting for shrinkage.
5. Classification of dumped milk.
6. Miscellaneous and conforming changes.

Findings and conclusions. The following findings and conclusions are based on the evidence presented at the hearing and the record thereof:

1. **Class I price.** No change should be made in the Class I differential. The supply-demand price adjustment should be modified.

A Class I price differential of \$1.75 per hundredweight over the basic formula price was proposed by the producer association. Testimony was given to support this proposal on the basis of increased costs of milk production, the higher level of prices in neighboring markets, and an upward trend in Class I sales. It was indicated that the supply in recent years

was affected considerably by the shift into this market of a plant from another market. On this basis it was argued that the increase in supply was not solely a producer response to price.

For the years 1950 through 1955, the supply of producer milk in the market was not adequate for year around Class I milk requirements. In September 1955, for instance, producer milk was 87.8 percent of Class I milk sales by Knoxville handlers. Beginning with December 1955, in each month producer milk has exceeded the volume of Class I milk. In September and October 1956, producer milk was about 111 percent of Class I milk sales, and in April 1957, was 142 percent of Class I milk.

Producer deliveries in the year mentioned, on a per farm basis, have been as follows:

Pounds daily		Pounds daily	
1950-----	380	1954-----	410
1951-----	378	1955-----	408
1952-----	390	1956-----	434
1953-----	410		

In the first six months of 1957, daily deliveries per farm averaged 485 pounds, and in the same months of 1956 were 439 pounds.

Official notice is taken of data on receipts and utilization published by the market administrator subsequent to the hearing. These data show that in November and December of 1957, the relationship of producer milk supply to Class I disposition was about the same as a year earlier.

Currently and prospectively, the supply of milk for this market is adequate. It is concluded that there is no need to increase the Class I price differential above the present figure of \$1.50, and the proposal to do so is denied.

Handlers proposed that there should be seasonal changes in the Class I differential. They proposed that the differential be \$1.30 for February through July, and \$1.70 for August through January, so as to reduce price differences between Knoxville and neighboring markets, and also so as to encourage more level production.

Producers indicated that seasonal pricing would not be acceptable unless the differentials were 20 cents higher than proposed by handlers.

The order now includes a base plan designed to encourage producers to achieve more even production. In terms of ratio of the seasonal high level of production in the spring to the seasonal low level in the fall, the seasonal range has lessened during the past seven years. In view of the observed trend of improvement, it is doubtful if seasonal price changes are needed. Further, the present pricing system has resulted in an adequate supply in all months of the year. This proposal is denied.

In view of the pronounced changes in recent years in the supply-sales relationship, this factor is particularly important in establishing the level of price for the Knoxville market. This relationship is used as a price factor in the

order. The supply-demand adjustment in the order provides for price adjustments in each month based on the ratio of producer milk in the first and second preceding months to the Class I utilization of all pool plants in the same months. A schedule of "base utilization" percentages for each two-month period is provided, and the difference of the actual market utilization from these "base utilization" percentages, multiplied by the appropriate rate, gives the price adjustment. The base utilization percentages make allowance for some seasonal variation, and the schedule also provides, in the case of each percentage, a range within which there would be no price adjustment.

The rate of price adjustment is 2 cents per one percent difference between the base utilization percentage and the actual utilization percentage. Prior to suspension action effective for September 1957 and subsequent periods, the rate of adjustment varied seasonally from 1 cent to 4 cents per one percent difference between base and actual utilization percentages.

The supply-demand adjustment now in the order was based on data for periods when producer milk supplies were not sufficient year around for Class I sales. In view of the change in the supply situation, a new seasonal schedule of normal supply should be constructed, and an appropriate rate of price adjustment should be applied when the supply-sales relationship varies from such normal.

Some reserve milk is needed in the market to cover short-time variations in sales and production. The present schedule in the supply-demand adjustment recognizes reserve requirements in that the base utilization range for the shortest-supply months is 110-112 percent of Class I sales volume. Higher base utilization percentages are used in the other months because of the normal seasonal changes in milk production.

With respect to the spring season, the present supply-demand schedule, developed on the basis of data when the market was short, does not reflect relationships to be expected under conditions when supply is sufficient on a year around basis. An adequate supply for all months has now been achieved. Accordingly, the schedule of supply-sales ratios for spring months should be modified in recognition of the new pattern of production and sales relationships. It is noted that part of the seasonal changes in the supply-sales relation are due to the normal seasonal changes in production per cow, and that there is also a noticeable characteristic drop in sales from March through June, and an increase in sales in late summer and early fall.

For the months of April, May, and June, which regularly include the period of highest production, a supply-sales ratio somewhat higher than in 1956, but lower than in 1957, is best suited as a price adjustment basis in this market.

This is in line with the fact that in 1956, a satisfactory reserve over sales was maintained in the fall period, and allows some tolerance for short-time changes in production conditions.

On this basis, a schedule of base utilization percentages for each two-month period is arrived at as follows:

	Actual ratio of producer milk to Class I sales (percent)		Base utilization percentage	Pricing month
	1956	1957		
January-February	104	119	114-118	March.
February-March	108	122	115-119	April.
March-April	117	133	124-128	May.
April-May	128	142	131-135	June.
May-June	126	139	130-134	July.
June-July	117	131	124-128	August.
July-August	117	121	116-120	September.
August-September	115	114	112-116	October.
September-October	111	119	110-114	November.
October-November	115	122	114-118	December.
November-December	121		114-118	January.
December-January	104	121	114-118	February.

¹ December 1955 and January 1956.
² December 1956 and January 1957.

The new schedule of base utilization percentages would use a range of 4 percent within which there would be no price adjustment. Such a range will reduce the likelihood of erratic reversals of the direction of price adjustment.

The two-cent rate of price adjustment now effective should be continued. Under conditions of adequate supply as exist in this market, it is unnecessary to have a higher rate of adjustment in fall months than in other seasons. A rate of adjustment less than 2 cents would not adequately reflect changing supply-demand conditions.

If supply-sales relationships continue at about the same level as in 1957, it is estimated that the new supply-demand schedule will provide about the same average amount of price adjustment. Such a price adjustment is appropriate in view of the continued adequacy of supply.

Prior to the suspension action effective September 1957, the supply-demand provisions allowed a 48-cent maximum addition to or subtraction from the Class I price in the short production months, and smaller amounts in other seasons. The new supply-demand adjustment should have a uniform limit of 50 cents per hundredweight for additions or subtractions to prevent undue price adjustments which might occur in unusual circumstances.

No contra-seasonal provision should apply to the Class I price. Producers proposed that the Class I price, in August, should not be lower than in July; that in September, October, and November, it should not be lower than in August; that in December, January and February, it should not be lower than in July; and that in March, April, May, and June, it should not be higher than in February.

Under such a provision, the Class I price in July would determine the lowest possible price through the following February, and the Class I price in February would determine the highest level

through the following June. Such a provision would interfere with the proper functioning of the supply-demand price adjustment and other price adjustment factors which reflect current supply and demand conditions.

Handlers proposed that if a farmer's milk is temporarily removed from the market, it should continue to be included in the supply-demand adjustment computation.

The supply-demand computation includes all producer milk. Producer milk, as defined, is received at pool plants, and includes milk diverted to nonpool plants for the account of the operator of a pool plant or for the account of a cooperative association. The definitions of "pool plant", "producer", and "producer milk" (including diverted dairy) are designed to include the milk of dairy farmers who have a substantial association with the market. It is concluded that no modification of the supply-demand adjustment should be based on this proposal.

Producers proposed that the butter-powder part of the basic formula price computation be simplified by multiplying by 7.5 the amount by which the average nonfat dry milk price exceeds 5 cents, rather than by continuing the present procedure of multiplying by 3.75 the number of full half cents in the difference between the nonfat dry milk price and 5 cents.

The change in calculations as proposed would give a current reflection in the basic formula price of all changes in the market price for nonfat dry milk. There is no reason why such price changes should be registered in the price computation only when the changes amount to a full half cent per pound of powder. It is noted that the change could result in a small price increase, over long periods tending to average about 1.9 cents per hundredweight of milk. The proposed modification of the computation is adopted.

2. *Class II price.* The Class II price should be the local manufacturing plant price plus 25 cents during the months of September through January, and the local plant price plus 10 cents during the months of February through August.

The order provides that the Class II price in the months of December through August shall be the average of paying prices reported for certain manufacturing plants, and in the months of September through November, such average of plant prices plus 25 cents per hundredweight. The Class II price may not exceed the basic formula price.

Producers proposed that the Class II price should be the average of the manufacturing plant paying prices plus 25 cents, or should be equal to the basic formula price, whichever is higher. Producers complained that the present level of Class II price is too low and thus encourages handlers to burden the pool with excess milk to an extent that it depresses the uniform price and the Class I price supply-demand adjustment.

This proposed price increase was supported by producers on the basis that it would more truly represent the value of Grade A milk for manufacturing purposes. It was pointed out that, for Grade

A milk, manufacturing plants pay premiums over reported prices for milk produced for manufacturing. The greater value of Grade A milk was testified to be due to better cooling and other factors affecting quality, and the volume of milk per farm. Manufacturing plants in the Knoxville supply area pay premiums based on volume. Grade A milk producers generally have a larger volume of deliveries than manufacturing milk producers.

Additional manufacturing facilities have been established recently to which producer milk can be diverted or transferred, and this has improved the competitive market for manufacturing milk. One new plant has been paying about 4 cents more than the Class II price, with a 20-cent allowance on hauling through July, and a 10-cent hauling allowance in August.

Handlers proposed that the Class II price should be, in all months, equal to the average of reported paying prices of the named manufacturing plants; and that for milk transferred or diverted to manufacturing plants during the months of March through July, there should be deductions allowed to handlers of 20 cents per hundredweight for handling and 0.187 cents per hundredweight per mile for transportation, but not more than 35 cents. Handlers contended that the order does not otherwise make specific allowance for these costs of handling.

One handler testified that he had moved milk for several months to a manufacturing plant in the Nashville area where the price for manufacturing milk was somewhat higher than in the Knoxville area, but had incurred a net loss on such movement. Further testimony indicated that the possibility of disposing of this milk closer to Knoxville had not been fully explored.

Another part of the handler proposal would price milk used for butter, livestock feed, or dumped at four times 115 percent of the price for 90-score butter, less 35 cents.

The level of the Class II price under the order has some bearing on the volume of milk handlers carry as producer milk. If the price for Class II milk is set too low, the handling of milk by pool handlers for manufacturing will be an attractive business such that handlers will develop supplies solely for manufacturing. Furthermore, with a market-wide pool the extent of a handler's utilization in Class II milk does not reduce his uniform producer price relative to other handlers, and so does not interfere in this respect with his attracting additional producers or retaining his supply. Also, plant operators primarily interested in manufacturing may enter the market merely to take advantage of the pooling arrangement. Inasmuch as the order prices are intended to attract an adequate but not excessive supply of milk for the fluid market, a level of Class II price that encourages excessive supplies is not in accord with this purpose.

A review of the number of producers on the market in each month shows substantial increases in certain fall months, such as in December 1954, November

1955, and the fall months of 1956. These increases occurred either at times when the market supply was short, or, as in the case of November 1956, just following a period of barely adequate supply. On the basis of this information, it appears that at most there may have been individual handlers who had more than adequate supply when such producers were added. Testimony of one handler indicated he expected to take on some new producers this year, and that this was part of a supply development program he had begun a year earlier.

It is noted, however, that handlers are carrying a considerably larger proportion of milk in Class II than in periods prior to 1956, and considerations previously described show that the order Class II formula does not represent in some months the full value of producer milk for manufacturing uses. It is concluded, therefore, that the Class II price should be increased 10 cents per hundredweight in each of the months of February through August, and that the price the order now provides for the months of September through November should be extended through the months of December and January. Such a higher price level during the short supply season is in accordance with the need to encourage shifting of supplies to handlers who need it for their fluid business.

On an annual average basis, this new Class II price formula will result in an increase of 10 cents per hundredweight. The resulting level of price may be expected to continue to be considerably under the level of the basic formula price. If this new formula had been in effect in 1955, the average Class II price for the year would have been \$3.22, compared to the average basic formula price of \$3.46. In 1956, the new formula would have given an average of \$3.31, and the basic formula averaged \$3.53. In the first seven months of 1957, the new formula would have averaged \$3.29 as compared to \$3.55 for the basic formula.

The price for Class II milk should not exceed the basic formula price which represents the highest alternative value for manufacturing milk on a national scale.

No special price allowance should be made for certain uses of Class II milk, inasmuch as adequate outlets exist for milk at the level of prices in the new formula.

The producer proposal to adjust the Class II price automatically on the basis of the volume of Class II milk in the market was not presented in sufficient detail to allow conclusions as to the value of such a device.

Producers proposed that the list of manufacturing plants whose paying prices are used as a basis for the Class II price and the basic formula price should be changed by adding the Kraft Foods Company plant at Greeneville, Tennessee, and by deleting the Pet Milk Company plant at Mayfield, Kentucky. Handlers supported adding the Greeneville plant but opposed deleting the Mayfield, Kentucky, plant.

The Kraft plant at Greeneville has been an outlet for some Class II milk

of Knoxville handlers, and is about 71 miles from Knoxville. The Pet plant at Mayfield, Kentucky, is about 300 miles from Knoxville, and is the most distant of the four Pet plants in the list.

If the Kraft plant at Greeneville were substituted for the Mayfield, Kentucky, plant, the list would then contain three plants of the Pet Milk Company, three plants of the Carnation Company, two plants of the Borden Company, and one plant of Kraft Foods Company. It is concluded that such a revised list would give a better representation of the paying prices of manufacturing plants in the Knoxville supply area, and should be adopted.

3. Unlimited diversion by cooperative associations. No change should be made in the provision for the diversion of producer milk.

The present order provides that proprietary handlers and cooperative associations may divert a producer's milk to nonpool plants on any day of the month during the months of March through August, and on not more than 10 days during the months of September through February.

Producers proposed at the hearing that cooperative associations be allowed to divert a producer's milk in any month for the entire month. This was a modification of the proposal in the hearing notice which would have extended such unlimited diversion privilege similarly to handlers.

Neither cooperative associations nor proprietary handlers have had difficulty with the present diversion provision. During the months of September through February, the relation of volume of producer milk to Class I sales has been close enough so that there has been little need for diversion. Thus, there is no apparent need to enlarge the diversion privilege. The proposal is denied.

4. Shrinkage. No change should be made in the shrinkage provisions.

In the classification of shrinkage, the order now provides for a proration between Class I and Class II utilization in the handler's plants. The amount of shrinkage to be so prorated is limited to 2½ percent of the skim milk and butterfat, respectively, contained in receipts of producer milk (excluding that diverted) and other source milk. The volume of skim milk and butterfat thus classified as Class II milk is then prorated between producer and other source milk.

Handlers proposed that the shrinkage provision be revised so as to allow classification of shrinkage up to 2½ percent of receipts as Class II without regard to the proportion of receipts used in Class II.

Producers objected to such a change in the shrinkage provisions, but did advocate a reduction in the maximum percentage prorated from 2½ percent to a smaller figure. This position was based on market experience in recent periods of total shrinkage of 2.1 percent in 1955, 1.9 percent in 1956, and 1.5 percent in the first six months of 1957.

The shrinkage provision serves to limit the amount of milk which may be assigned to Class II in the case of milk

not accounted for as to specific use. This limitation is accomplished by a primary limit of 2½ percent of receipts, and further, by the proportion of the handler's accounted-for utilization in Class II. This arrangement appears to adequately limit the amount of milk a handler might assign to Class II without accounting for specific use, and encourages the handler to maintain accurate records and make careful reports on his operations. It is concluded that proper accounting for a handler's milk receipts does not require a reduction of the percentage limitation as proposed by producers. On the other hand, it is unnecessary to relax the requirements with respect to accounting for milk. The primary effect of the handler proposal would be to reduce the cost of milk to handlers. There was no showing that it would improve the efficiency of marketing of milk. It is concluded that the handler proposal should not be adopted.

5. Classification of dumped skim milk. Skim milk dumped subject to verification by the market administrator should be classified as Class II.

Handlers requested that Class II classification be specified for milk dumped. Dumping, it was indicated, is sometimes necessary because of spoilage or failure of normal processing.

Butterfat is generally salvageable, and should not be accounted for as dumped milk. In the case of skim milk, however, there may at times be no other practical disposition, and specific provision to account for such disposition in the lowest-priced class is appropriate.

Such accounting for skim milk should depend on adequate provision for verification. The order should provide that the handler notify the market administrator prior to dumping skim milk, and give him opportunity to verify the operation.

In view of this conclusion, fluid disposition in the form of dumped skim milk should be excepted from Class I classification.

6. Miscellaneous and conforming changes. From time to time, price quotations specified in the order as factors in establishing order prices may become unavailable. This may happen without notice, and at a time when it is not possible to remedy the matter by amendment action. The order should provide that when a price quotation specified in the order is not available, the Secretary may determine an equivalent price to be used.

A handler proposal to reduce the marketing service payments was made.

The rate of marketing service payments to the market administrator is specified in the order as 6 cents per hundredweight or such lesser amount as the Secretary may prescribe. The rate is subject to continuous administrative review and would be reduced if found at any time to be excessive.

Three proposals contained in the notice of hearing were not supported at the hearing. These proposals were: (1) to establish individual handler pooling; (2) to change pool qualification of supply plants by assigning receipts from supply plants first to any Class II milk

in the distributing plant receiving such milk; and (3) to qualify plants for pooling on a system basis. In view of absence of evidence in support thereof, these proposals are denied.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

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

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be 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

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended marketing agreement and order amending the order. The following order amending the order regulating the handling of milk in the Knoxville, Tennessee, marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended:

1. Delete § 988.41 (a) and substitute therefor the following:

No. 25—4

(a) **Class I milk.** Class I milk shall be all skim milk and butterfat (1) disposed of in fluid form (except that which is disposed of pursuant to paragraph (b) (2) of this section) as milk, skim milk, buttermilk, flavored milk, flavored milk drinks, cream, and any cream product, except frozen cream and ice cream mix; (2) in inventory of products designated as Class I milk pursuant to subparagraph (1) of this paragraph; and (3) not specifically accounted for as Class II milk.

2. Delete § 988.41 (b) (2) and substitute therefor the following:

(2) Disposed of and used for livestock feed or skim milk dumped after prior notification to, and opportunity for verification by, the market administrator;

3. In § 988.50, delete paragraph (c) and substitute the following:

(c) The price per hundredweight computed as follows: Multiply by 4.0 the arithmetical average of daily wholesale prices per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the month, add 20 percent thereof, and add to such sum 7.5 times the amount by which the arithmetical average of carlot prices per pound of nonfat dry milk solids, spray and roller process, for human consumption, f. o. b. Chicago area manufacturing plants, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department of Agriculture, exceeds 5 cents.

4. Delete § 988.51 (a) and substitute therefor the following:

(a) **Class I milk price.** The price per hundredweight for Class I milk for the month shall be the basic formula price for the preceding month, subject to the adjustments provided in subparagraphs (1) and (2) of this paragraph:

(1) Add \$1.50;

(2) Add if the utilization percentage calculated pursuant to subparagraph (3) of this paragraph is less than, or subtract if it is more than the base utilization range, an amount determined by multiplying the net utilization percentage calculated pursuant to subparagraph (4) of this paragraph by two cents; *Provided*, That any addition or subtraction shall be limited to 50 cents per hundredweight;

(3) Calculate a utilization percentage for each month by dividing the net hundredweight of Class I milk disposed of from all pool plants for the first and second preceding months into the total hundredweight of producer milk for the same months, multiplying by 100, and rounding the resultant figure to the nearest whole number;

(4) Calculate a "net utilization percentage" by determining the amount by which the utilization percentage calculated pursuant to subparagraph (3) of this paragraph exceeds the higher figure or is less than the lower figure of the base utilization range in the following table:

Pricing month	First and second preceding months	Base utilization range
January.....	November-December.....	114-118.
February.....	December-January.....	114-118.
March.....	January-February.....	114-118.
April.....	February-March.....	115-119.
May.....	March-April.....	124-128.
June.....	April-May.....	131-135.
July.....	May-June.....	139-134.
August.....	June-July.....	124-128.
September.....	July-August.....	116-120.
October.....	August-September.....	112-116.
November.....	September-October.....	110-114.
December.....	October-November.....	114-118.

5. Delete § 988.51 (b) and substitute therefor the following:

(b) **Class II milk price.** The price for Class II milk shall be the price determined pursuant to subparagraph (1) of this paragraph rounded to the nearest cent plus 10 cents in the months of February through August and plus 25 cents in all other months: *Provided*, That the Class II price shall not be higher than the basic formula price determined pursuant to § 988.50:

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

Company and Location

Pet Milk Company, Bowling Green, Ky.
 Pet Milk Company, Greeneville, Tenn.
 Pet Milk Company, Abingdon, Va.
 Carnation Company, Murfreesboro, Tenn.
 Carnation Company, Statesville, N. Carolina.
 Carnation Company, Galax, Va.
 Borden Company, Lewisburg, Tenn.
 Borden Company, Chester, S. Carolina.
 Kraft Foods Company, Greeneville, Tenn.

6. Insert § 988.54 as follows:

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

Issued at Washington, D. C., this 31st day of January 1958.

[SEAL] ROY W. LENNARTSON,
 Deputy Administrator.

[F. R. Doc. 58-881; Filed, Feb. 4, 1958; 8:53 a. m.]

[7 CFR Part 1000]

[Docket No. AO-266-A1]

MILK IN CHATTANOOGA, TENN., MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND TO ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of

1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Chattanooga, Tennessee, marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D. C., not later than the close of business the 3d day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order were formulated, was conducted at Chattanooga, Tennessee, on December 3 and 4, pursuant to notice thereof which was issued October 24, 1957 (22 F. R. 8539).

The material issues on the record of the hearing relate to:

1. Class I price, including supply-demand adjustment and announcement.
2. Butterfat differentials for Class I, Class II, and producer uniform prices.
3. Transfer of bases, bases for producers at new plants, and notification of bases.
4. Pricing of other source milk from inventory.
5. Definitions of "other source milk", "producer milk", "producer", and "handler".
6. Marketing area.
7. Classification of sour cream.
8. Classification of transfers between pool plants, and transfers of packaged fluid milk products from a plant subject to another order.
9. Rate of compensatory payments.
10. Conforming and miscellaneous changes.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. **Class I price.** The price for Class I milk should be subject to adjustment based on the relationship of the supply of producer milk to the volume of Class I disposition.

Producers proposed that the Class I price differential should be \$2.00 per hundredweight over the basic formula price. Witnesses for producers based their support of the 25-cent price increase which would result from such a differential on considerations including increased cost of production, higher than order prices paid by handlers in some months, and appropriate alignment with other markets. It was indicated by witnesses that the supply of milk is not excessive on a year-round basis. In support of the proposal it was stated that the \$2.00 differential would be more in

line than is the present differential with the price in the Appalachian market, and considering transportation costs, would not be out of line with Knoxville prices. A charge of 44 cents per hundredweight was cited as representing cost of moving milk from Knoxville to Chattanooga. Producer representatives also claimed that the higher level of price would not be as high as received by dairy farmers supplying the Atlanta and Birmingham markets.

Handler representatives testified that the price relationship of the Chattanooga price to Knoxville price is important, and that the difference should not be more than 25 cents. They maintained that milk could be moved between the markets for 25 cents or less. A handler stated that a supply of producer milk equal to 110 percent of Class I sales in the shortest supply months is sufficient, and that a higher level of supply would be excessive. One handler testified that there are more than 800 ungraded dairy farmers in the production area, some of whom could be persuaded to convert to Grade A milk production.

Since prices under the Chattanooga order became effective, September 1, 1956, the order Class I price in each month has been \$1.75 over the basic formula price. This fixed differential over the basic formula was made effective only for an introductory period of 18 months. In the Secretary's decision issued June 26, 1956, with respect to issuance of the Chattanooga order, consideration was given to the relation of market supply to needs, and to the relation of the price to other markets, including Knoxville and Nashville. With respect to the relation to the Knoxville market, a conclusion was made that the Chattanooga price should be about 25 cents higher on an annual basis under normal supply-demand relationships in each market. This relationship has not been maintained, however, because the Knoxville Class I price has been subject to a supply-demand adjustment, but the Chattanooga price has not. Prior to the establishment of the Chattanooga order, the effect of the Knoxville supply-demand adjustment had been to add to the price, but in more recent periods the adjustment has reduced the Knoxville price and widened the differential between the two markets.

The importance of maintaining a specific price differential between two markets is affected by interrelationships of supplies and distribution systems of both markets, as well as cost of transportation between the markets. Alternate sources of supply would also be a factor in arriving at the proper price level. If a market were dependent on the supply system of another market for a large part of its needs, a price differential between the markets based on transportation cost might be appropriate. The supply of producer milk available to the Chattanooga market, however, is sufficient to meet market needs without dependence on the supply system of other markets. Under these circumstances, the cost of transportation of milk from Knoxville is not the only factor

to be considered in judging the appropriateness of the intermarket price differential.

The supply of producer milk is currently more ample in relation to local market needs than at the time the order was made effective. In September 1956, receipts of producer milk at pool plants were 113.9 percent of Class I disposition by such plants, and in October 1956, were 112.8 percent of Class I disposition. From this period of seasonally low supply, the relationship of producer milk to Class I disposition increased to about 150 percent for the month of May 1957. The lowest level of supply for 1957 was 116.4 percent of Class I milk, in the month of August. In October 1957, producer milk in pool plants was about 130 percent of Class I disposition; and in November, except for an unusually large Class I disposition in the form of bulk movement to outside the market, the relation of supply to Class I sales would have been nearly as high. In this connection, official notice is taken of data on receipts and disposition published by the market administrator for periods following the hearing.

The average rate of production per producer in October and November 1957 was about 11 percent higher than in the same months a year earlier. Data on producer numbers and total volume of producer milk are not readily comparable on the same basis, because one plant has withdrawn its business from the market.

In view of the currently higher level of supply of producer milk in relation to market needs as compared to the relationship existing at the time the order became effective, it is concluded that assurance of an adequate supply does not require the proposed increase in the Class I price differential.

Under the authority given by the Agricultural Marketing Agreement Act, prices established by milk marketing orders are required to reflect supply and demand conditions in the market. As these supply and demand conditions change from time to time, they should be appropriately reflected in order prices. One method commonly used to reflect such conditions which generally affect the dairy industry is to determine the Class I price by adding a differential to a representative value for milk used in manufacturing dairy products. This type of pricing system is used in the Chattanooga order. The basic formula price reflects the national market for dairy products, and thus reflects changes in production costs and market demands that follow national trends. The differential added to the basic formula represents the higher cost of obtaining a supply of Grade A milk, and the amount of such differential should be related to conditions peculiar to the market.

Inasmuch as conditions in the market change from time to time, the level of price should be adjusted to reflect such changes. Changes in relationship of producer milk received at pool plants and Class I disposition by such plants reflect changes in supply and demand conditions. A persistent upward trend

in the relation of production to sales would indicate that the price level is at least sufficient to attract an adequate supply, and if the continuation of the upward trend in production would result in burdensome surplus, the price is higher than needed to attract adequate supply. On the other hand, a declining trend in production in relation to sales which threatens to bring market supplies below an adequate level would be a strong indication that the Class I price level is too low. In such a situation, however, it would be necessary to consider whether a higher price would result in a cost of Class I milk higher than alternate sources, transportation considered.

In view of the competitive relationship of Knoxville and Chattanooga handlers, evidenced by route distribution of Knoxville handlers within the Chattanooga marketing area, as well as overlapping of distribution between the markets, the relationship of the supply situations in the two markets is important in arriving at a price level for the Chattanooga market. Four Knoxville pool plants have route distribution in the Chattanooga marketing area. This situation does not show a necessary dependence of Chattanooga upon the Knoxville supply system, since the available supply of Chattanooga producer milk is sufficient for market needs, but it does indicate a close relationship of the two markets.

The distance between Knoxville and Chattanooga is approximately 115 miles. An additional consideration in intermarket relationships is that the Nashville market is about 135 miles from Chattanooga. This slightly greater mileage than the distance to Knoxville does not eliminate the Nashville market as an important consideration in establishing appropriate prices for the Chattanooga market. In this connection, official notice is taken of data published by the market administrator for the Nashville and Knoxville markets on prices, milk receipts and utilization for periods following the hearing. It must be concluded from these data (and those presented at the hearing) that the Nashville and Knoxville markets are adequately supplied. Negative supply-demand adjustments have generally applied in these markets during 1957.

The basic formula prices used in the Chattanooga, Knoxville, and Nashville markets are similar, and consequently the principal differences in the levels of the Class I prices are due to the Class I price differentials and the effect of the supply-demand adjusters in Knoxville and Nashville. In Knoxville, the Class I price differential is \$1.50 per hundredweight in each month, which is 25 cents less than the Chattanooga differential. In Nashville, the Class I price differential is \$1.10 for the months of March through August, and \$1.40 in other months, or an average of \$1.25. During 1957, the supply-demand adjuster in Knoxville reduced the price approximately 11 cents per hundredweight and the Nashville price was similarly reduced about 18 cents.

Consideration was given by interested parties at the hearing to use of an auto-

matic price adjustment factor based on the relationship of supply and sales volumes. Although producers and handlers did not favor use of such a pricing factor, some recommendations were made as to the levels of utilization to be used as standards if such type of adjustment were used in the order. The standards arrived at, in the case of both producers and handlers, were based upon data which included sales in the marketing area by nonpool plants, principally Knoxville order plants. Receipts and Class I sales by only Chattanooga order pool plants reflect a higher ratio of producer milk to Class I use. Receipts and disposition of only pool plants would give a better reflection of changing supply and demand conditions affecting Chattanooga producer milk than combined receipts and disposition of pool and nonpool plants.

Under the conditions of close relationship to the Knoxville market, it is not possible to justify substantially more liberal standards in a supply-demand adjustment for this market than in the case of Knoxville. In this connection, official notice is taken of the recommended decision of the Deputy Administrator based upon the record of the hearing held on proposals to amend the order regulating the handling of milk in the Knoxville, Tennessee, market, held August 13-15, 1957.

Producer and handler representatives testified that in the shortest production months a supply of producer milk equal to 110 percent of Class I disposition would be adequate. The schedule of standard utilization percentages which has been developed as a basis for future price adjustments uses a minimum percentage range of 110-114 percent. Such a minimum recognizes the need for some reserve supplies to cover short-time variations in production and sales. The standard percentages used in other months vary seasonally in recognition of the natural tendency for milk production to increase in spring months and decrease thereafter to a lower level in late summer or fall. In arriving at the standard utilization percentages, it also is necessary to give consideration to the increase in rate of production which has occurred during the period since the establishment of the order, and the concurrent increase in the ratio of supplies to local market needs. As indicated in previous discussion, intermarket relations also are a consideration in arriving at the appropriate level of price which should result from the entire pricing mechanism. Such considerations require standard utilization percentages somewhat lower than experienced in most months of 1957.

The price adjustment for each month would be based upon the utilization figures for the first and second preceding months. Two months will give a more reliable indication of market conditions than a single month. In the following table there are shown the standard utilization percentages for each two-month period and the corresponding month in which the price would be affected thereby:

Month for which price applies	Months for which average utilization is computed	Standard utilization percentages	
		Minimum	Maximum
January.....	November-December.....	117	121
February.....	December-January.....	117	121
March.....	January-February.....	117	121
April.....	February-March.....	119	123
May.....	March-April.....	124	128
June.....	April-May.....	134	138
July.....	May-June.....	134	138
August.....	June-July.....	128	132
September.....	July-August.....	115	119
October.....	August-September.....	110	114
November.....	September-October.....	114	118
December.....	October-November.....	114	118

The schedule of standard utilization percentages provides a range of 4 points within which there would be no price adjustment. This will guard against changes from a positive to negative price adjustment unless there is a significant change in the relation of supplies to market needs. A wider range, as proposed by handlers and producers would reduce unduly the responsiveness of the price adjustment mechanism.

At rate of price adjustment of 2 cents per point of variation of the actual utilization percentage from the standard percentage range would be used. Producers proposed that if a supply-demand adjustment were put in the order, the rate of plus adjustment in fall months should be 2 cents per point and the negative adjustment should be at 1 cent per point, and, conversely, in spring months the plus adjustment should be at 1 cent per point and the negative adjustment at 2 cents per point. This varied rate of price adjustment is not adopted because of the difficulty in estimating the effects it would have on seasonal price movements, and because it would appear to interfere with responsive adjustment of prices to changing market conditions. The proposal by handlers to have a higher rate of adjustment in short supply months than in flush months is denied for the same reasons. Use of the first and second preceding months as a basis for price adjustment will require that the market administrator announce the Class I price later than currently indicated in the order. Announcement of the Class I price on the 10th day of the month will allow adequate time for the market administrator to make the required computations.

If the supply-demand adjustment as herein described had been in effect during the year 1957, the utilization percentages in the market would have resulted in an average deduction of about 13 cents per hundredweight from the Class I price. This amount of price adjustment, under conditions recently affecting the market, would be in line with the overall supply and demand situation, including intermarket price relationships and the availability of milk from alternative sources, as well as the volume of milk from dairy farmers presently shipping to the Chattanooga market.

The amount of price adjustment by the supply-demand adjustment should be limited to an addition, or subtraction, of not more than 50 cents per hundredweight. Such limits will prevent undue

price adjustments which might result from unusual circumstances.

A proposal was made at the hearing by handlers to subtract from Class I sales the receipts of packaged fluid milk products originating at a plant under another order. This proposal is described under issue No. 8, but the conclusion thereon is deferred for another decision on this record. If subsequent consideration of this matter should result in exclusion of such volume of Class I milk from the pool value for which handlers are obligated to producers, a corresponding change should be made in the supply-demand computation.

2. *Butterfat differentials.* The producer butterfat differentials should be a weighted average of the Class I and Class II differentials. No change should be made in the Class I or Class II butterfat differentials.

The producer association proposed that the Class I butterfat differential should be changed from 0.13 to 0.12 times the Chicago butter price. The association also proposed that the producer butterfat differential should be the average of the Class I and Class II differentials weighted by the volumes of producer butterfat in each class.

The average butterfat test of Class I disposition in the market has been within the range of 3.59 percent to 3.70 percent. Standard and homogenized milk, which account for about four-fifths of the Class I milk volume, test close to 4.0 percent. The butterfat test of Class II milk has varied from 5.19 to 9.22 percent. The butterfat test of receipts from producers has ranged from 4.19 to 4.58 percent.

A producer representative testified that in view of the wide difference between the test of producer milk and Class I milk, a butterfat differential as high as 0.13 times the butter price is not justified.

Handlers opposed a reduction in the Class I butterfat differential on the basis that this would increase the cost of low-fat items, and that additional butterfat in Class I products would not influence public acceptance.

The proposed reduction in the Class I butterfat differential would result in a reapportionment of the value of skim milk and butterfat in the Class I price. This would not result in any change in the price for milk of standard test of 4 percent, but would result in a higher cost to handlers of products with lower than 4 percent butterfat content, and a lesser cost for products with a higher test.

The evidence presented on the record did not give a specific basis for a value for butterfat used in Class I disposition. The producer argument as to the advantage of reducing the Class I differential is based on the possibility of greater utilization of butterfat in Class I, thus achieving greater returns to producers.

The proposed change would result in a lower Class I butterfat differential in this market than in the Knoxville market, thus increasing the difference in the price for skim milk products under the two orders. It is concluded that this would result in a misalignment of prices in the two markets. The proposal is denied.

Evidence was introduced to show that the value of butterfat as reflected in uniform prices to producers is less than the value reflected in class butterfat differentials. This indicates that some of the value ascribed to butterfat in Class I and Class II milk values is attributed to skim milk in producer uniform prices.

The producer butterfat differential is calculated as 0.12 times the Chicago butter price. If the producer butterfat differential were calculated by averaging the Class I and Class II differentials weighted by the volumes of butterfat in each class, then the value of butterfat in Class I and Class II milk will be the same in sum as the value ascribed to butterfat in the producer uniform price. It is concluded that this change in the producer butterfat differential should be adopted to return to producers the use value of butterfat.

Testimony on the matter of butterfat differentials did not contain any specific recommendations for modification of the Class II butterfat differential, nor is any need for modification shown by the record.

3. *Base plan.* The order should be amended to provide: (1) The privilege of division of bases earned by partnerships; (2) notification of producer associations of bases earned by members of the association; and (3) assignment of bases to producers delivering to plants which become pool plants after the base earning months.

Producers proposed that a base which has been earned by a partnership should be allowed to be split between the partners on any basis agreed to in writing by the partners. No opposing testimony was offered. Such a division of base, which is not now provided for in the order, would accommodate various business arrangements under partnerships, particularly in the case of dissolution. The order should be so amended.

Producers proposed that the market administrator should notify cooperatives of the daily average base earned by each producer member of the cooperative, and notify the handler receiving milk from nonmembers only of the bases earned by such nonmember producers. Under this proposal, all producers would continue to be individually notified of their earned base.

The order currently provides for notification of earned base to each producer, and to each handler with respect to producers from whom he receives milk. One handler testified that he had no objection to the association being notified of its members' bases, but requested that he should continue to be notified of bases of his producers.

The Chattanooga producer association pays its members for all milk delivered by them. Since the association pays its members for their production, the order should provide for the market administrator to notify cooperative associations of member bases. No change is needed with respect to notification of handlers.

Handlers abandoned their proposal to allow the transfer of bases between Federal order markets and no testimony was

offered in support of this proposal. From time to time, however, there may be changes in the association of plants with the market. Some provision should be made in the order for assigning bases to producers delivering to a plant which becomes a pool plant after the beginning of the base earning period. Such producers should be assigned a base computed from the records of the deliveries to such plant to the extent that such records are available for the base earning period. This would ordinarily insure that producers who find themselves on the market because of circumstances beyond their control will not be deprived of participation in the value of base milk during the periods when base and excess prices are applied.

4. *Other source milk from opening inventory.* Other source milk from opening inventory which is allocated to Class I should be subject to a reclassification charge at the same rate as the compensatory payment on current receipts of other source milk allocated to Class I.

Producers testified that handlers who have other source milk from inventory which is used as Class I have a competitive advantage over handlers who use only producer milk. Handlers who have current receipts of other source milk used in Class I are charged compensatory payments thereon. Producers proposed that the order should be amended to eliminate this competitive advantage. Handlers did not oppose the amendment.

The order procedure for accounting for inventories provides that producer milk from inventory has prior claim on Class I use over other source milk, in the same manner as is provided for current receipts of producer milk. This is accomplished through the accounting procedure by considering the opening inventory of a month as a receipt in the same month and subtracting such receipt, in series, starting with Class II milk, following the subtraction of other source milk. To the extent that the opening inventory is allocated to Class I and there was an equivalent amount of skim milk and butterfat in producer milk classified in Class II milk in the previous month, a reclassification charge is made according to the difference between the Class II price in the previous month and the Class I price in the current month. Handled in this manner, producer milk from inventory is priced to handlers identically with milk from current receipts.

However, the order does not provide that other source milk from inventory which is used in Class I is to be priced at a level comparable with the Class I price. Therefore, other source milk from inventory allocated to Class I should be subject to a reclassification charge at the same rate as the compensatory payment on current receipts of other source milk allocated to Class I. This amendment will result in equality of cost of milk among handlers and returns to producers irrespective of whether inventory allocated to Class I is producer milk or other source milk.

5. *Definitions.* The definition of "other source milk" should be corrected

by elimination of the word "said" in § 1000.13 (a) and substitution of the word "fluid".

Modifications of the definitions of "producer", "handler", and "producer milk" were proposed in the hearing notice, but were abandoned by proponents at the hearing and were not supported on the record. No change is necessary in these definitions.

6. *Marketing area.* Proposals to enlarge the marketing area were contained in the hearing notice, but at the hearing were abandoned by proponents. The proposals were not supported by any testimony. No change should be made in the marketing area.

7. *Classification of sour cream.* It was proposed by handlers that sour cream be named as a specific Class II use. Handlers are now charged the Class II price for such use, but desire that the order language be clarified as to classification of this product. Producers requested Class I classification of sour cream.

The conclusion on this matter is deferred and will be covered in another decision on this record.

8. *Classification of receipts of packaged milk from regulated handlers, and transfers between pool plants.* A proposal was presented by handlers to change the provisions under which various types of milk receipts at a pool plant are assigned to Class I and Class II milk disposition. The handler proposal would assign to Class I disposition the receipts of milk in packaged form from a plant under another order, if the milk is classified as Class I under the other order and disposed of by the Chattanooga plant in the same packages as received.

The conclusion on this issue is deferred, and will be covered in another decision on this record.

No proposals were made at the hearing to modify provisions as to classification of milk transferred between pool plants.

9. *Rate of compensatory payment.* The hearing notice contained a proposal to change the rate of compensatory payment applied in some months with respect to other source milk allocated to Class I disposition. At the hearing, the proponent abandoned the proposal, and no testimony was given to support a change.

The present provision for rate of compensatory payment is not clear with respect to the rate to be applied in the case of other source milk received in a form other than fluid milk products, and allocated to Class I. The provisions of § 1000.54 and § 1000.70 have been modified to make clear that location adjustment applies in computation of the compensatory payment only in case the other source milk is received in the form of a fluid milk product. For other products, such as nonfat dry milk for example, it would be administratively impossible to determine on a uniform basis the actual origin of the product. In the case of such products the origin should be considered to be for this purpose the plant at which such products are used.

10. *Conforming and miscellaneous changes.* Milk is being sold in the Chattanooga marketing area by nonpool plants, some of which are regulated by another order, and at least one not subject to any other order. The Chattanooga order provisions should set forth the authority of the market administrator to require reports from operators of nonpool plants selling milk in the marketing area, or supplying milk to plants which have routes in the marketing area. Depending on the circumstances for each plant, the market administrator may need information on receipts, sources, and disposition to determine such a plant's status under the order.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

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

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be 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

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended marketing agreement and order amending the order. The following order amending the order regulating the handling of milk in the Chattanooga, Tennessee, marketing area is recommended as the detailed and appropriate means by which the forego-

ing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended:

1. Delete § 1000.13 (a) and substitute therefor the following:

(a) Receipts during the month of fluid milk products except (1) fluid milk products received from pool plants, and (2) producer milk; and

2. Delete § 1000.27 (k) (1) and substitute therefor the following:

(1) The 10th day of each month, the Class I milk price and the Class I butterfat differential, both for the current month; and the Class II milk price and the Class II butterfat differential, both for the preceding month, and

3. In § 1000.31 add a new paragraph (c) as follows:

(c) Upon request by the market administrator, operators of nonpool plants distributing milk in the marketing area or selling milk to pool plants as defined in § 1000.7 shall file a report containing such information with respect to receipts and utilization of butterfat and skim milk as the market administrator may prescribe.

4. Delete § 1000.45 and substitute therefor a new § 1000.45 as follows:

§ 1000.45 *Allocation of skim milk and butterfat classified.* (a) The pounds of skim milk remaining in each class after making the following computations each month with respect to the pool plant(s) of each handler, shall be the pounds of skim milk in such class allocated to the producer milk of such handler for such month:

(1) Subtract from the total pounds of skim milk in Class II milk the shrinkage of skim milk in producer milk classified as Class II milk pursuant to § 1000.41 (b).

(2) Subtract from the pounds of skim milk remaining in Class II milk the skim milk received as other source milk not in the form of fluid milk products: *Provided*, That if the pounds of skim milk to be subtracted are greater than the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk.

(3) Subtract from the pounds of skim milk remaining in Class II milk the skim milk in other source milk received in the form of fluid milk products and not subject to the Class I pricing provisions of another order issued pursuant to the act: *Provided*, That if the pounds of skim milk to be subtracted are greater than the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk.

(4) Subtract from the pounds of skim milk remaining in Class II milk the skim milk in other source milk which is subject to the Class I pricing provisions of another order issued pursuant to the act: *Provided*, That if the pounds of skim milk to be subtracted are greater than the remaining pounds of skim milk in Class II milk, the balance shall be

PROPOSED RULE MAKING

subtracted from the pounds of skim milk in Class I milk,

(5) Subtract from the pounds of skim milk remaining in Class II milk the skim milk contained in inventories of fluid milk products on hand at the beginning of the month: *Provided*, That if the pounds of skim milk in such inventory exceed the remaining pounds of skim milk in Class II milk the balance shall be subtracted from the pounds of skim milk remaining in Class I milk,

(6) Subtract the pounds of skim milk in fluid milk products received from pool plants of other handlers from the pounds of skim milk remaining in the class to which assigned, pursuant to § 1000.43 (a),

(7) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph,

(8) If the pounds of skim milk remaining in all classes exceed the pounds of skim milk in milk received from producers, subtract such excess from the pounds of skim milk remaining in the various classes in series beginning with Class II milk. Any amount so subtracted shall be known as "overage".

(b) Determine the pounds of butterfat in each class to be allocated to producer milk in the manner prescribed in paragraph (a) of this section for determining the allocation of skim milk to producer milk; and

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

5. Delete § 1000.51 (a) and substitute therefor the following:

(a) *Class I milk price.* The price per hundredweight for Class I milk for the month shall be the basic formula price for the preceding month, subject to the adjustments provided in subparagraphs (1) and (2) of this paragraph:

(1) Add \$1.75;

(2) Add if the utilization percentage calculated pursuant to subparagraph (3) of this paragraph is less than, or subtract if it is more than, the standard utilization range, an amount determined by multiplying the net utilization percentage calculated pursuant to subparagraph (4) of this paragraph by 2 cents: *Provided*, That any addition or subtraction shall be limited to 50 cents per hundredweight;

(3) Calculate a utilization percentage for each month by dividing the net hundredweight of Class I milk disposed of from all pool plants for the first and second preceding months into the total hundredweight of producer milk for the same months, multiplying by 100, and rounding the resultant figure to the nearest whole number;

(4) Calculate a net utilization percentage by determining the amount by which the utilization percentage calculated pursuant to subparagraph (3) of this paragraph exceeds the higher figure or is less than the lower figure of the standard utilization range in the following table:

Month for which price applies	Months for which average net utilization is computed	Standard utilization range	
		Minimum	Maximum
January.....	November-December.....	117	121
February.....	December-January.....	117	121
March.....	January-February.....	117	121
April.....	February-March.....	119	123
May.....	March-April.....	124	128
June.....	April-May.....	134	138
July.....	May-June.....	134	138
August.....	June-July.....	128	132
September.....	July-August.....	115	119
October.....	August-September.....	110	114
November.....	September-October.....	114	118
December.....	October-November.....	114	118

6. Delete § 1000.54 (a) and substitute therefor the following:

(a) For the months of March through July, subtract the Class II price, adjusted by the Class II butterfat differential, from the Class I price, adjusted by the Class I butterfat differential, and in the case of fluid milk products, adjusted by the Class I location differential of the plant at which the milk was received from farmers.

7. Delete § 1000.70 and substitute therefor a new § 1000.70 as follows:

§ 1000.70 *Computation of the value of producer milk for each handler.* For each month, the market administrator shall compute the value of producer milk for each handler as follows:

(a) Multiply the quantity of producer milk in each class computed pursuant to § 1000.45 by the applicable class price, total the resulting amounts, and add any amount necessary to reflect adjustments in location differential allowance required pursuant to the proviso of § 1000.53;

(b) Add the amounts computed in subparagraphs (1), (2) and (3) of this paragraph:

(1) Multiply the rate of compensatory payment determined pursuant to § 1000.54 by the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1000.45 (a) (2) and (b);

(2) Multiply the rate of compensatory payment determined pursuant to § 1000.54 at the nearest plant(s) from which an equivalent amount of other source milk was received in the form of fluid milk products by the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1000.45 (a) (3) and (b);

(3) Multiply the rate of compensatory payment determined pursuant to § 1000.54 at the nearest plant(s) from which an equivalent amount of other source milk was received by the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1000.45 (a) (5) and (b), which is in excess of the sum of: (i) The quantity for which a payment must be computed pursuant to paragraph (d) of this section, and (ii) the quantity subtracted from Class II milk pursuant to § 1000.45 (a) (4) and (b) in the preceding month;

(c) Add the amounts computed by multiplying the pounds of overage deducted from each class pursuant to

§ 1000.45 (a) (8) and (b) by the applicable class price; and

(d) Add the amount computed by multiplying the difference between the appropriate Class II price for the preceding month and the appropriate Class I milk price for the current month by the hundredweight of skim milk and butterfat remaining in Class II milk after the calculations pursuant to § 1000.45 (a) (6) and (b) for the preceding month or the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1000.45 (a) (5) and (b) for the current month, whichever is less, respectively.

8. Delete § 1000.73 and substitute a new § 1000.73 as follows:

§ 1000.73 *Butterfat differential to producers.* The applicable uniform price to be paid each producer shall be increased or decreased for each one-tenth of one percent which the average butterfat content of his milk is above or below 4 percent, respectively, at the rate determined by multiplying the pounds of butterfat in producer milk allocated to each class by the appropriate butterfat differentials for such class as determined by § 1000.52, dividing by the total butterfat in producer milk, and rounding to the nearest tenth of a cent.

9. In § 1000.90, change the period at the end of the sentence to a colon and add a proviso as follows: "*Provided*, That any producer who, during the preceding months of September through January, delivered his milk to a nonpool plant which became a pool plant after the beginning of such period shall be assigned a base in the same manner as if he had been a producer during such period, calculated from his deliveries during such September-January period to such plant."

10. In § 1000.91, delete paragraph (b) and the word "and" at the end of paragraph (a) and insert new paragraphs (b), and (c) as follows:

(b) A base which is assigned pursuant to the proviso of § 1000.90 shall be non-transferable. An entire base which is otherwise assigned shall be transferred from a person holding such base to any other person effective as of the end of any month during which an application for such transfer is received by the market administrator, such application to be on forms approved by the market administrator and signed by the baseholder, or his heirs, and by the person to whom such base is to be transferred: *Provided*, That if a base is held jointly, the entire base shall be transferable only upon the receipt of such application signed by all joint holders or their heirs, and by the person to whom such base is to be transferred; and

(c) A base which has been established by two or more persons operating a dairy farm as a partnership may be divided between the partners on any basis agreed to in writing by the partners provided written notification of the agreed division of base signed by each partner is received by the market administrator prior to the first day of the month on which such division is to be effective.

11. Delete § 1000.92 and substitute therefor the following:

§ 1000.92 *Announcement of established bases.* On or before March 1 of each year, the market administrator shall notify each producer, and the handler receiving milk from such producer, of the daily average base established by such producer, and shall notify a cooperative association of which such producer is a member of such daily average base if the cooperative association so requests.

Issued at Washington, D. C., this 31st day of January 1958.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator.
[F. R. Doc. 58-882; Filed, Feb. 4, 1958;
8:53 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 1, 17]

[Docket No. 11665]

ANTENNA TOWERS

EXTENSION OF TIME FOR FILING COMMENTS

In the matter of amendment of Parts 1 and 17 of the Commission's rules to encourage the grouping of antenna towers and the multiple use of structures for supporting antennas, and amendment of Part 17 to provide new criteria for determining whether applications for antenna towers will require special aeronautical study.

The Commission having under consideration a formal request dated January 30, 1958, filed on behalf of the American Broadcasting Company, requesting further extension of time in which to submit comments directed to the Commission's Notice of Proposed Rule Making in the above-captioned matter:

It appearing that the preparation of suitable comments in this proceeding by the American Broadcasting Company was unavoidably delayed because of the required appearance of its officers and counsel before a committee of Congress; and

It further appearing that additional time is required to relate the Commission's proposals in this proceeding to the matter of jet aircraft penetration procedures; and

It further appearing that in view of the American Broadcasting Company's direct interest in this proceeding, the public interest would be served by further extension of time for reception of comments in the manner requested:

It is ordered, This 30th day of January 1958, that pursuant to authority contained in section 0.322 (b) of the Commission's rules, the time for filing comments in the above-captioned matter is hereby extended from January 31, 1958 to February 10, 1958, and that rebuttal comments may be filed within 10 days from such extended closing date.

Released: January 31, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-871; Filed, Feb. 4, 1958;
8:50 a. m.]

FEDERAL TRADE COMMISSION

[16 CFR Part 34]

[File No. 21-464]

NURSERY INDUSTRY

NOTICE OF HOLDING OF TRADE PRACTICE CONFERENCE

In the matter of trade practice conference proceedings relative to amending and revising trade practice rules for the Nursery Industry promulgated June 27, 1956 (16 CFR Part 34).

Notice is hereby given that trade practice conference proceedings have been authorized by the Federal Trade Commission for the purpose of appropriately revising and amending the trade practice rules for the Nursery Industry as promulgated by the Commission on June 27, 1956. Two sessions of the conference will be held under the auspices of the Commission as follows:

First session. February 27, 1958, commencing at 10:00 a. m., c. s. t., in the La Salle Hotel, Chicago, Illinois.

Second session. March 10, 1958, commencing at 10:00 a. m., e. s. t., in the Roosevelt Hotel, New York, N. Y.

All persons, firms, corporations, or organizations engaged in the sale, offering for sale, or distribution of industry products are cordially invited to attend the scheduled sessions and to participate

in the conference proceedings. Products of the industry include all types of trees, small fruit plants, shrubs, vines, ornamentals, herbaceous annuals, biennials and perennials, bulbs, corms, rhizomes, and tubers which are offered for sale or sold to the general public. Included are products propagated sexually or asexually and whether grown in a commercial nursery or collected from the wild state. Such products customarily are used for outdoor planting. Not included are florists' or greenhouse plants solely for inside culture or use and annual vegetable plants. Likewise, gladiolus bulbs and corms are excluded inasmuch as they are covered by trade practice rules promulgated January 17, 1952.

Applicants in the proceedings have proposed certain revisions in Rule 1 "Deception (General)" (§ 34.1), Rule 2 "Deception Through Use of Names" (§ 34.2), Rule 3 "Substitution of Products" (§ 34.3) and Rule 4 "Size and Grade Designations" (§ 34.4), and amendment of the rules to include a new rule covering deceptive use of Seals, etc. However, all of the present rules will be open for discussion and proposed modification during the conference, including the last paragraph of Rule 5 (§ 34.5) which requires certain disclosures to be made in connection with the sale to the general public of rose bushes previously used in the commercial greenhouse production of cut flowers.

Copies of the present Nursery Industry trade practice rules will be available at the scheduled sessions of the conference. Opportunity will be afforded at both conference sessions for full expression of views by those in attendance respecting any and all proposals.

After the conference, and before final rules are approved by the Commission, a draft of proposed rules in the form deemed appropriate will be released by the Commission and a public hearing will be scheduled thereon to afford opportunity to all interested or affected parties to present their views, criticisms, and suggestions respecting such proposed rules.

Issued: January 31, 1958.

By direction of the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 58-857; Filed, Feb. 4, 1958;
8:47 a. m.]

NOTICES

DEPARTMENT OF COMMERCE

Bureau of Foreign Commerce

[Case No. 240]

N. V. CHEM. TECHN. INDUSTRIE "TILBURG"

ORDER DENYING EXPORT PRIVILEGES

In the matter of N. V. Chem. Techn. Industrie "Tilburg," Werner H. H. von der Fuhr and Hans W. J. M. von der Fuhr, copartners, doing business as N. V.

Chem. Techn. Industrie "Tilburg," Poststraat 39, Postbox 37, Tilburg, Netherlands, respondents; Case No. 240.

The respondents, Werner H. H. von der Fuhr and Hans W. J. M. von der Fuhr, copartners, doing business as N. V. Chem. Techn. Industrie "Tilburg," having been charged by the Agent-in-Charge, Investigation Staff, Bureau of Foreign Commerce of the U. S. Department of Commerce, with having violated the Export Control Act of 1949, as

amended, in that, as alleged, they made false statements and representations to and concealed material facts from the U. S. Department of Commerce, Bureau of Foreign Commerce, in documents submitted in support of applications for export licenses, duly answered the charges, admitted numerous facts, and offered various arguments and facts in mitigation.

The respondents did not demand an oral hearing and, in accordance with the

practice, this case was referred to the Compliance Commissioner, to whom was presented all evidence in support of the charges and the answers and evidence submitted by the respondents. After the evidence was submitted, the Compliance Commissioner in due course made his report and recommendation, which, upon the facts as hereafter found, appears to be fair and just and is therefore adopted.

Now, after considering the entire record consisting of the charges, the answers of the respondents, the evidence submitted in support of the charges and the report and recommendation of the Compliance Commissioner, I hereby make the following findings of fact:

1. At all times hereafter mentioned, respondents Werner H. H. von der Fuhr and Hans W. J. M. von der Fuhr were and now are copartners engaged in a chemical manufacturing business in Tilburg, Holland; under the firm name and style of N. V. Chem. Techn. Industrie "Tilburg". (Said individuals and their firm are hereafter referred to as respondents.)

2. One P. Melman, who did business under the firm name and style of Gebrs. Melman, in 's-Hertogenbosch, the Netherlands, is and at the times hereafter mentioned was a notorious transshipper of boron products to Eastern Germany, but no finding is made herein that respondents had any knowledge of Melman's activities or intentions with respect to such boron products. (22 F. R. 7408.)

3. At some time prior to April 27, 1955, the respondents herein entered into an arrangement with Melman wherein and whereby they agreed that, for a 5 percent commission to be computed on the value of all boron products obtained from the United States for Melman, they would allow Melman to use their firm name and facilities in his efforts to obtain such products from the United States.

4. In pursuance of that arrangement, respondents did, on or about the 27th day of April 1955, enter into negotiations with an American exporter for the purpose of having exported from the United States 250 metric tons of borax and, in connection with such negotiations, they executed an end use statement (Single Transaction Statement, BFC Form 842) in which they represented and stated that the said borax was to be used for their own production purposes in the manufacture of soap flakes to be produced in Holland and distributed in Holland, Belgium, and Luxembourg. They made such representation and statement with the knowledge and intention that the same would be used by their American supplier for the purpose of supporting his application to the Department of Commerce for an export license authorizing him to ship to them 250 metric tons of borax.

5. The representations and statements so made were false and known to be false by the respondents in that they at no time had any intention to use the borax in their own production or to distribute the manufactured products as stated, but, in truth and in fact, it was at all

times their intention to turn such borax over to Melman immediately upon exportation from the United States.

6. Thereafter, having become aware of the possibility of profitably selling borax and boric acid, the respondents, having no use or demand for borax or boric acid and solely for the purpose of acquiring quantities thereof for sale to unknown and hoped for buyers, entered into negotiations in early May 1956 with another American supplier for the purchase of borax and boric acid.

7. This supplier notified respondents in writing that an end use certificate was required by the United States Government prior to the issuance of an export license and, thereafter, in compliance with respondents' request, sent to them this form for execution by them.

8. On or about the 5th day of June 1956, with knowledge that the American exporter would use the same in support of his application for an export license and with the intention that he so use the same, respondents executed and sent to the American exporter an end use certificate (Single Transaction Statement, BFC Form 842) in which they requested that export license be issued to their American supplier for 250 tons of borax and 250 tons of boric acid and, in the said statement, they represented and stated that the borax and boric acid would be used for their ceramics industry and their own industrial purposes, to be distributed in Benelux, Western Germany, France, etc.

9. The American exporter thereafter, on or about the 11th day of June 1956, submitted an application for export license to the Department of Commerce requesting that it be permitted to export to the respondents 250 tons of borax and 250 tons of boric acid and, in support of said application, submitted said end use statement which had theretofore been executed by the respondents.

10. The statements and representations by respondents in the said end use statement were false and known by them to be false in that it was not their intention to use the said borax and boric acid in their ceramic industry and for their own industrial purposes, but they sought to acquire the same solely for speculative purposes and resale to unknown potential buyers.

11. After a routine end use investigation the Department of Commerce rejected said application.

And, from the foregoing, the following is my conclusion:

The respondents Werner H. H. von der Fuhr and Hans W. J. M. von der Fuhr, copartners doing business under the firm name and style of N. V. Chem. Techn. Industrie "Tilburg", violated the Export Control Act of 1949, as amended, and the regulations promulgated thereunder in that they knowingly made and caused to be made false representations to and concealed and caused to be concealed material facts from the Department of Commerce with respect to their efforts to obtain borax and boric acid from the United States, all in connection with the preparation and submission of export control documents for the purpose of effecting exportations from the United

States in violation of § 381.5 of the Export Regulations.

In his report, the Compliance Commissioner said,

It is clear and the respondents admit that they made the false representations alleged and found. These false representations were made in two instances. The first was the result of an arrangement under which, for a handling commission, they permitted a notorious transshipper to Communist destinations to use their facilities in his efforts to obtain borax for that purpose. There is no evidence that they were aware of his transshipment intentions. In the second instance, having, by reason of their experience with Melman, learned of the profit possibilities involved in the handling of borax, they attempted, as a speculation, to obtain large quantities of borax and boric acid. All the attempts failed and, for that reason, the respondents' conduct resulted in no real damage to the United States. However, their willingness to allow their name and facilities to be used by Melman could have resulted, if their efforts had been successful, in the transshipment of this highly strategic commodity to a Communist destination. This willingness on their part to lend their name and facilities to Melman, who was not well known to them, therefore is far more serious than their later effort to obtain the borax and boric acid as a speculative venture. On the other hand, there is nothing at all in the evidence to indicate that the respondents, had they obtained the borax and boric acid in their own subsequent private endeavor, would have participated in any unlawful transshipment. For these reasons, it is my recommendation that respondents be denied export privileges for the duration of export controls but that, after one year, they be placed on probation and their export privileges be restored to them conditioned upon their good behavior and continued observance of all export control regulations and requirements.

Having concluded that the recommended action is fair, just, and necessary to achieve effective enforcement of the law; *It is hereby ordered:*

I. Henceforth, and so long as exports from the United States shall be controlled, the said respondents be and they hereby are suspended from and denied all privileges of participating, directly or indirectly, in any manner or capacity, in an exportation of any commodity or technical data from the United States to any foreign destination, including Canada, whether such exportation has heretofore or hereafter been completed. Without limitation of the generality of the foregoing denial of export privileges, participation in an exportation is deemed to include and prohibit participation by them, directly or indirectly, in any manner or capacity, (a) as parties or as representatives of a party to any validated export license application, (b) in the obtaining or using of any validated or general export license or other export control document, (c) in the receiving, ordering, buying, selling, using, or disposing in any foreign country of any commodities in whole or in part exported or to be exported from the United States, and (d) in storing, financing, forwarding, transporting, or other servicing of such exports from the United States.

II. Such denial of export privileges shall extend not only to the respondents, but also to any person, firm, corporation, or business organization with which they

may be now or hereafter related by ownership, control, position of responsibility, or other connection in the conduct of trade in which may be involved exports from the United States or services connected therewith.

III. Upon condition that the respondents comply in all respects with this order, and with all other requirements of the Export Control Act of 1949, as amended, and all regulations promulgated thereunder, commencing one year following the date hereof, they may engage in and enjoy all export privileges permitted by United States laws and regulations.

IV. The privileges conditionally restored to the respondents, under Part III hereof, may be revoked summarily and without notice upon a finding by the Director of the Office of Export Supply, or such other official as may at that time be exercising the duties now exercised by him, that the respondents, at any time following the date hereof, have knowingly failed to comply with any of the conditions or provisions upon which or whereby, by Part III hereof, they have been permitted to engage in any phase of the export business otherwise denied to them under Part I hereof.

V. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, during any time when a respondent is prohibited under the terms hereof from engaging in any activity within the scope of Part I hereof, shall, without prior disclosure to, and specific authorization from the Bureau of Foreign Commerce, directly or indirectly, in any manner or capacity, (a) apply for, obtain, or use any license, shipper's export declaration, bill of lading, or other export control document relating to any such prohibited activity, (b) order, receive, buy, use, dispose of, finance, transport or forward, any commodity on behalf of or in any association with such respondent, or (c) do any of the foregoing acts with respect to any commodity or exportation in which a respondent may have any interest or benefit of any kind or nature, direct or indirect.

Dated: January 31, 1958.

JOHN C. BORTON,
Director,
Office of Export Supply.

[F. R. Doc. 58-868; Filed, Feb. 4, 1958; 8:49 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Sacramento Area Office Redelelegation Order 1, Amdt. 2]

AREA FIELD REPRESENTATIVES AND DIRECTOR, PALM SPRINGS OFFICE

REDELEGATION OF AUTHORITY WITH RESPECT TO FUNCTIONS RELATING TO LANDS AND MINERALS

Order 1 (21 F. R. 1296), as amended (22 F. R. 4034), is further amended by adding a new heading and a new section thereunder to read as set forth below. The purpose of this amendment is to authorize the Area Field Representa-

tives to close roads under the jurisdiction of the Bureau of Indian Affairs, as provided in § 162.6 of Title 25—Code of Federal Regulations, when required for public safety, fire prevention or suppression, or fish or game protection, or to prevent damage to unstable roadbed.

FUNCTIONS RELATING TO LANDS AND MINERALS

SEC. 2.28 *Roads.* The closing of roads pursuant to 25 CFR 162.6.

(Bureau Order 551, sec. 28, and Secretarial Order 2508, sec. 28)

LEONARD M. HILL,
Area Director.

Approved: January 30, 1958.

GLENN L. EMMONS,
Commissioner.

[F. R. Doc. 58-848; Filed, Feb. 4, 1958; 8:46 a. m.]

Bureau of Land Management

[Classification 27]

COLORADO

SMALL TRACT CLASSIFICATION

1. Pursuant to authority delegated to me by Order No. 541, dated April 2, 1954 (19 F. R. 2743), I hereby classify the following described public land in Ouray County, Colorado, as suitable for public sale under the Small Tract Act of June 1, 1938 (53 Stat. 609; 43 U. S. C. 682a), as amended:

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO
T. 46 N., R. 8 W.,
Sec. 8, E½SE¼SW¼NE¼.

2. Classification of the above-described tract by this Order segregates it from all appropriations, including locations under the mining laws, except applications under the Mineral Leasing Laws.

3. The tract is about 8 miles north of Ridgway, Colorado. U. S. Highway 550 between Montrose and Ouray passes one-fourth mile east of the tract. There is no public access to the tract. The tract is fairly level, built up of gravel deposits from the Uncompahgre River. The vegetation is cottonwood trees and an open grass park. The north end of the tract extends into the bed of the Uncompahgre River. There is no evidence of metallic or non-metallic minerals.

4. This tract contains 5 acres. The appraised value of the tract is \$275.00. All minerals in the land will be reserved to the United States.

5. Persons who have acquired a tract under the Small Tract Act are not qualified to purchase this tract at the sale unless they can make a showing satisfactory to the Bureau of Land Management that the acquisition of another tract is warranted in the circumstances.

6. The above-described tract will be sold at public auction at a public sale to be held in Room 367, New Custom House, Denver, Colorado, at 10:00 a. m. and 2:00 p. m. on May 27, 1958. The sale at 10:00 a. m. will be open only to those persons who qualify for veterans preference under the provisions outlined in paragraph 9 below. The 2:00 p. m. sale

will be open to the public generally, but will be held only if the tract described in paragraph 1 above remains unsold after the 10:00 a. m. sale. Bids may be made personally by an individual or his agent at either sale, or by mail. Bids sent by mail will be considered only if received at the Colorado Land Office prior to 10:00 a. m. on May 27, 1958. No bids will be accepted if it is less than the appraised price of the tract. See paragraph 4 above for appraised value.

7. To facilitate the completion of the sale, all oral bidders at the 10 a. m. sale should bring with them a photostatic copy of their discharge papers or other acceptable certification of proof of right to veteran's preference, as outlined in paragraph 9, below.

8. Each bid sent by mail must clearly show: (a) The full name and mailing address of the bidder; (b) Classification Order No. 27; (c) the legal description of the tract for which the bid is made, described in accordance with paragraph 1 of this order. Each bid must be accompanied by the full amount of the bid in the form of a certified or cashier's check, post office money order, or bank draft, made payable to the Bureau of Land Management. All unsuccessful bids will be promptly returned after the sale. A photostatic copy of bidder's discharge papers or other certification showing proof of veteran's preference, as outlined in paragraph 9 below, must accompany the bid. Such papers will be returned promptly after the sale. Each envelope containing a bid must be addressed to the Manager, Land Office, Bureau of Land Management, Room 371 New Custom House, P. O. Box 1018, Denver 1, Colorado, and carry in the lower left-hand corner of its face the following information and nothing else: (a) "Bid for Small Tract," (b) "Classification Order No. 27"; (c) "Veteran's Preference"; if the bidder is entitled to such preference; and (d) the description of the tract for which the bid is made, described in accordance with paragraph 4 above. Sender's name and return address should be shown on reverse side of envelope.

9. In accordance with 43 CFR 257.14 (e), the tract, when offered at the 10:00 a. m. sale, will be awarded to the highest bidder among persons entitled to veteran's preference. Persons entitled to veteran's preference, in brief, are (a) honorably discharged veterans who served at least 90 days after September 15, 1940; (b) surviving spouse or minor orphan children of such veterans; and (c) with the consent of the veteran, the spouse of living veterans. Veterans who were discharged on account of wounds or disability incurred in the line of duty, or the surviving spouse or minor children of veterans killed in line of duty are eligible for veteran's preference regardless of whether such servicemen served less than 90 days after September 15, 1940. The tract will be offered at the 2:00 p. m. sale if it is not sold at the 10:00 a. m. sale, and will be awarded to the highest bidder among the general public irrespective of qualifications upon which veteran's preference is based.

10. Mrs. Ella Slagle, P. O. Box 637, Montrose, Colorado, claims an equity in

a frame house and other improvements on this tract. In the event Mrs. Slagle is not the successful bidder for this tract, she will be allowed a reasonable period of time from May 27, 1958, the date of sale, within which to remove any improvements that can be removed without substantial damage to the land or the improvements. Any other person acquiring this lot as a result of this sale will be required, as a condition precedent to issuance of final certificate and patent, to reimburse Mrs. Slagle for the reasonable value of all the permanent improvements which are left on the land and which are of value to the persons taking over the land. Proof of such reimbursement must be filed with the Land Office Manager, Bureau of Land Management, Room 371, New Custom House, P. O. Box 1018, Denver 1, Colorado. In the absence of agreement between the owner of the improvements and the purchaser at public auction, the Bureau of Land Management will determine the fair and reasonable value for the improvements upon the land for which compensation must be paid.

11. Sealed bids will be opened in the presence of the public in Room 367 New Custom House, Denver 1, Colorado, beginning at 10:00 a. m. on May 27, 1958. The highest sealed bid received for the tract will be posted for public inspection at the sale.

12. All inquiries concerning this tract should be addressed to the Land Office Manager, 371 New Custom House, P. O. Box 1018, Denver 1, Colorado.

LOWELL M. PUCKETT,
State Supervisor.

JANUARY 24, 1958.

[F. R. Doc. 58-849; Filed, Feb. 4, 1958; 8:46 a. m.]

DEPARTMENT OF DEFENSE

Department of the Army

JOHN S. PFEIL

STATEMENT OF CHANGES IN FINANCIAL INTERESTS

In accordance with the requirements of section 710 (b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955 the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER of July 26, 1957, 22 F. R. 5936:

A. Deletions: None.
B. Additions: None.

This statement is made as of January 1, 1958.

Dated: January 23, 1958.

JOHN S. PFEIL.

[F. R. Doc. 58-843; Filed, Feb. 4, 1958; 8:45 a. m.]

HARRY S. ROBINSON

STATEMENT OF CHANGES IN FINANCIAL INTERESTS

In accordance with the requirements of section 710 (b) (6) of the Defense

Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955 the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER of August 17, 1957, 22 F. R. 6634:

A. Deletions: None.
B. Additions: None.

This statement is made as of January 15, 1958.

Dated: January 24, 1958.

HARRY S. ROBINSON.

[F. R. Doc. 58-844; Filed, Feb. 4, 1958; 8:45 a. m.]

CHARLES F. MOSHER

STATEMENT OF CHANGES IN FINANCIAL INTERESTS

In accordance with the requirements of section 710 (b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955 the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER of July 26, 1957, 22 F. R. 5935:

A. Deletions: None.
B. Additions: None.

This statement is made as of January 1, 1958.

Dated: January 1, 1958.

CHARLES F. MOSHER.

[F. R. Doc. 58-845; Filed, Feb. 4, 1958; 8:45 a. m.]

ALBERT W. GILMER

STATEMENT OF CHANGES IN FINANCIAL INTERESTS

In accordance with the requirements of section 710 (b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955 the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER of July 26, 1957, 22 F. R. 5934:

A. Deletions: None.
B. Additions: Airdesign Corporation, Director and Secretary. Crown Cork & Seal Company, Inc., Stockholder.

This statement is made as of January 1, 1958.

Dated: January 1, 1958.

ALBERT W. GILMER.

[F. R. Doc. 58-846; Filed, Feb. 4, 1958; 8:45 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[P. & S. Docket No. 1211]

SAINT PAUL UNION STOCKYARDS Co.

NOTICE OF PETITION FOR MODIFICATION OF RATE ORDER

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

amended (7 U. S. C. 181 et seq.), an order was issued on December 30, 1957, authorizing the respondent, Saint Paul Union Stockyards Company, South St. Paul, Minnesota, to assess the current schedule of rates and charges to and including December 31, 1959, unless modified or extended by further order before the latter date.

By a petition filed on January 20, 1958, the respondent requested authority to make certain modifications in its current schedule of rates and charges. The respondent also requested that an order be issued authorizing these modifications at the earliest possible date and that the order not be limited in duration. The proposed modifications are set forth below.

ITEM 1—YARDAGE

	Rate per head	
	Present	Proposed
Cattle (except bulls 700 lbs. or over).....	\$1.05	\$1.35
Bulls (700 lbs. or over).....	1.60	2.10
Calves (300 lbs. or under).....	.61	.80
Hogs.....	.35	.45
Sheep.....	.20	.25

ITEM 2—RESALES OR REWEIGHS

Columns (see notes)	Rate per head					
	Present			Proposed		
	(1)	(2)	(3)	(1)	(2)	(3)
Cattle (except bulls 700 lbs. or over).....	\$0.96			\$1.35		
Bulls (700 lbs. or over).....	1.60			2.10		
Cattle (including bulls).....	\$0.30	\$0.13		\$0.40	\$0.17	
Calves (300 lbs. or under).....	.58	.18	.08	.80	.24	.10
Hogs.....	.33	.09	.06	.45	.12	.08
Sheep.....	.19	.05	.03	.25	.07	.04

Notes: Column (1) applies on resales in the commission division.

Column (2) applies on resales and/or resales by dealers to buyers on the market (other than resales by a commission firm). When livestock is purchased by a stocker and feeder dealer from another stocker and feeder dealer for the purpose of filling out a shipment sold to be shipped off the market, the charges in Column (3) shall be applicable to both resales if the livestock is not reweighed.

Column (3) applies on resales and/or resales for shipment from these yards (off the market—other than resales by commission firms).

ITEM 3—DIRECT DELIVERY

	Rate per head	
	Present	Proposed
Cattle (except bulls 700 lbs. or over).....	\$0.53	\$0.63
Bulls (700 lbs. or over).....	.80	1.05
Calves (300 lbs. or under).....	.31	.40
Hogs.....	.18	.23
Sheep.....	.10	.13

The modifications, if authorized, will produce additional revenue for the respondent and increase the cost of marketing livestock. Accordingly, it appears that this public notice of the filing of the petition and its contents should be given in order that all interested per-

sons may have an opportunity to indicate a desire to be heard in the matter.

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

Done at Washington, D. C., this 31st day of January 1958.

[SEAL] DAVID M. PETTUS,
Director,
Livestock Division,
Agricultural Marketing Service.

[F. R. Doc. 58-876; Filed, Feb. 4, 1958;
3:51 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 12055 etc.; FCC 58-86]

RADIO TAMPA ET AL.

MEMORANDUM OPINION AND ORDER AMENDING ISSUES

In re applications of Richard M. Seidel, Bernice Schwartz and Harold H. Meyer, d/b as Radio Tampa, Tampa, Florida, Docket No. 12055, File No. BP-10348; Rand Broadcasting Company, Tampa, Florida, Docket No. 12056, File No. BP-11010; B. F. J. Timm, Lakeland, Florida, Docket No. 12057, File No. BP-11031; for construction permits.

1. The Commission has before it for consideration (1) petition for hearing and modification and enlargement of issues filed July 5, 1957, by Rand Broadcasting Company; comment on petition filed July 18, 1957, by Chief, Broadcast Bureau; opposition to petition filed July 23, 1957, by B. F. J. Timm; and reply to opposition filed July 30, 1957, by Rand Broadcasting Company; (2) petition for enlargement of issues filed July 5, 1957, by Radio Tampa; opposition to petition filed July 15, 1957, by Rand Broadcasting Company; comment on petition filed July 18, 1957, by Chief, Broadcast Bureau; opposition to petition and request to delete issue filed July 23, 1957, by B. F. J. Timm; reply to opposition of B. F. J. Timm filed July 29, 1957, by Radio Tampa.

2. Radio Tampa (Tampa) and Rand Broadcasting Company (Rand) each filed an application for a construction permit for a new standard broadcast station to operate on 1010 kilocycles, with a power of 50 kw, directional antenna, daytime only at Tampa, Florida. B. F. J. Timm (Timm) filed an application for construction permit for a new standard broadcast station specifying the same facilities, to be located at Lakeland, Florida. Tampa and Lakeland are approximately 30 miles apart. By Commission order, released June 20, 1957, the applications were designated for hearing in a consolidated proceeding in the following issues:

1. To determine the areas and populations which would receive service from each of the proposed operations and the availability of other primary service to such areas and populations.

2. To determine whether a grant of the application of B. F. J. Timm would

be in contravention of the provisions of § 3.35 of the Commission's rules.

3. To determine, in the light of section 307 (b) of the Communications Act of 1934, as amended, whether a grant of the Lakeland, Florida, proposal or one of the Tampa, Florida, proposals herein would better provide a fair, efficient and equitable distribution of radio service.

4. To determine, in the event that Tampa, Florida, is considered to have the greater need for a new radio facility under Issue 3 above, which of the applications of Radio Tampa and Rand Broadcasting Company for operation in Tampa would better serve the public interest in the light of the evidence adduced under the foregoing issues and the record made with respect to the significant differences between the two applicants as to:

(a) The background and experience of each of said two applicants to own and operate its proposed station.

(b) The proposal of each of said two applicants with respect to the management and operation of its proposed station.

(c) The programming service proposed in the application of each of said two applicants.

5. To determine, in the light of evidence adduced pursuant to the foregoing issues, which, if any, of the applications should be granted.

3. In its petition for hearing and modification of issues Rand asserts that the issues as now framed appropriately contemplate a consolidated hearing under section 307 (b) of the Communications Act of 1934, as amended, but inappropriately limit the hearing under section 309 (b) of the act to the two Tampa applicants, and then only if the 307 (b) question is resolved in favor of Tampa. Rand requests the issues be modified to include comparative consideration of all applicants and to either delete the present 307 (b) issue or limit such issue to a determination of whether Timm's application would satisfy the requirements of a fair, efficient and equitable distribution of facilities.

4. Rand contends that limiting the comparative consideration to Tampa and itself only if Timm is not favored on the basis of section 307 (b) of the act violates section 309 (b) of the act and the Supreme Court decision in *Federal Communications Commission v. Allentown Broadcasting Company*, 349, U. S. 358 75 S. GT 855 (1955). Rand further asserts that section 309 (b) of the act confers an "absolute right" upon applicants to be heard under the licensing standard and that the *Ashbacher* case (*Ashbacher Radio Corp. v. F. C. C.*, 326 U. S. 327) has interpreted that right to include the right to be heard comparatively with other mutually exclusive applicants. Rand contends that the *Allentown* case requires comparative consideration of all mutually exclusive applicants and that the Commission's interpretation of that case is erroneous.

5. In support of its request for the deletion of the 307 (b) issue, Rand asserts the areas which would be served by Rand and Timm are substantially the same; that Rand would supply a 25 mv/m sig-

nal to all but a fraction of Tampa, to half of St. Petersburg and to half of Lakeland, and a 5.0 mv/m signal or better to the rest of these areas while Timm would provide no more than a 2.0 mv/m signal to Tampa and St. Petersburg.

6. The Broadcast Bureau, in its comments, believes Rand's contention that it has an absolute right to comparative consideration, and that the Commission has misinterpreted the *Allentown* decision, is without merit. The Bureau states, however, that in view of the fact that all proposals will serve the community of each applicant, and that a "comparatively substantial area and population is common to all three proposals", it is appropriate to enlarge the issues to include comparative consideration.

7. Timm, in his opposition, contends that the Commission's issues were correctly framed under the *Allentown* decision and that the Broadcast Bureau's suggestion that all three applicants should receive comparative consideration is fallacious. Timm asserts that Lakeland is a city separate from Tampa, is not a part of the Tampa-St. Petersburg urbanized area and there is no reason to give comparative consideration to all of the applicants if it is found that the city of Lakeland should be preferred under 307 (b) considerations.

8. The two Tampa applicants and the Lakeland applicant all propose to operate on 1010 kilocycles, which is a Class II channel, using 50 kw power, directional antennas, daytime only. The centers of Tampa and Lakeland are approximately 30 miles apart. Operating as proposed, each of the three will provide a signal of 5 mv/m over both cities, and thus they will satisfy the requirements of §§ 3.182 (f) and 3.188 (b) of the Commission's rules concerning the intensity of signal required to city residential areas.¹ Portions of Lakeland will receive a 25 mv/m signal from the two Tampa proposals, but Timm's operation will not cover any of Tampa with a signal of this strength. While the applications do not reveal to what extent the Tampa applicants would serve Lakeland with 10 mv/m or greater, and vice versa, it may be inferred, at the least, that the Lakeland area receiving such a signal from Tampa will be greater than the 25 mv/m area. However, on the basis of the facts now known, it cannot be concluded that the applicants for one city will adequately cover the business or industrial area of the other city. According to the Broadcast Bureau's undisputed estimate, there is an area of approximately 50 percent which is common to the three applicants and approximately 50 percent of the population concerned is common to the three proposals. As noted, the Channel involved is classified by § 3.25 of the rules as Class II, and § 3.22 of the rules in pertinent part describes a Class II station as a "secondary station" which "is designed to render service over a primary service area which is limited and subject to such interfer-

¹ Additionally, all of St. Petersburg will receive at least 5 mv/m from the two Tampa proposals and part of it from Timm at Lakeland.

ence as may be received from Class I stations."

9. The foregoing facts justify a departure from the Commission's usual policy of excluding 309 (b) comparative issues from cases in which the Commission believes 307 (b) considerations will control. While it is not as apparent here as it was in the recent Plainfield case² that the 309 (b) issue is needed to determine which of the three applicants would better serve either Tampa or Lakeland, depending upon which city is found to have the greater need for service in terms of section 307 (b), the facts that both cities will receive 5 mv/m service from any one of the three applicants and that there is a substantial commonly served area and population, are enough to warrant the enlargement to include the 309 (b) issue as requested by Rand.

10. Here, in view of the absence of more nearly similar service areas, the distance between the cities, and the apparent inability of the applicants to provide adequate service to the business and industrial areas of both cities, the Commission would not be justified in saying, as it did in the Plainfield opinion with respect to two of the three cities therein involved, that it is not unlikely that a choice between the two cities on 307 (b) grounds will not be possible. However, the fact that the applicants plan to broadcast on a Class II channel which is designed to serve wide areas may be found to reduce somewhat the significance of local need and the likelihood that 307 (b) will be the decisive factor.

11. Tampa, in its petition for enlargement of issues, requests the Commission to enlarge the issues to determine whether Timm is financially qualified and whether Timm has "trafficked" in licenses and permits; whether grant of the Rand application would be in contravention of § 3.35³ of the Commission's rules; and whether the facts relative to

the filing of certain applications reflect adversely upon the character and other qualifications of Rand. In support of its request, Tampa alleges that Timm has failed to supply information as to funds, credits and other services available to him for the construction and operation of his proposed station and since Timm has underestimated the cost of construction of a 50 kw station there is a serious question as to whether such funds and credits as may be available to Timm are adequate.

12. Tampa asserts that Timm, in association with the "Rivers group" has engaged in trading, speculating and "trafficking" in broadcast construction permits and licenses and in support thereof states that Timm, in the period 1951-1954, was involved in six transactions whereby he acquired or relinquished interests in broadcast facilities. Tampa submits that Timm's past transactions indicate he has regarded broadcast authorizations as "commodities to be traded for profit in the market place."

13. Tampa asserts that Rand is the controlling stockholder in WINZ, a 50 kw standard broadcast station and permittee of WMFL-TV, both in Miami; and that Rand has controlling interest in WEAT, a 1 kw standard broadcast station, and WEAT-TV the only VHF station in Palm Beach, Florida. Tampa submits that the grant of the Rand application would give Rand control of three major standard broadcast facilities and would raise a serious question of concentration of control of standard broadcast stations.

14. Tampa further submits that an examination of the chronology of the Rand application raises a serious question as to whether the Rand application was filed in good faith, and, hence, whether its principals have the necessary character qualifications to be a licensee. In support thereof, Tampa recites certain actions by Messrs. Klein and Moore, both of whom are officers, directors and stockholders in Rand Broadcasting Company, with respect to the filing of an application for a standard broadcast station in Tampa, and the subsequent revelation of Rand Broadcasting Company as the real applicant.

15. Timm opposes Tampa's request for enlargement asserting that on the basis of a newly submitted balance sheet, Timm is financially qualified. Rand opposes the requested enlargement as to its application asserting that the facts alleged are insufficient. The Broadcast Bureau agrees that Tampa has alleged sufficient facts to justify inquiry into Timm's financial qualifications on the basis of information in Timm's application. The Bureau is of the belief the comparative issues, if adopted, would encompass the question of alleged "trafficking" in licenses by Timm, and, while the Bureau does not believe Tampa's request for an issue with respect to Rand's compliance with § 3.35 of the Commission's rules is adequately supported, it does agree that

holders, officers or directors to have a direct or indirect interest in, or be stockholders, officers, or directors of, more than seven standard broadcast stations.

Rand's ownership of station raises a question of concentration of control of mass media. This, the Bureau also believes could be resolved under the comparative issues. Similarly, the Bureau believes the question concerning circumstances relative to the filing of certain applications by officers of Rand could be resolved under the comparative issues.

16. Timm requests that issue No. 2, which would determine whether a grant of Timm's application would be in contravention of the provisions of § 3.35 of the Commission's rules, be deleted. This request is based on a statement from Timm's consulting engineer to the effect that there is no overlap of service areas of Timm's existing stations, and that the service area of Timm's proposed station at Lakeland would not overlap the service area of any of Timm's existing stations.

17. The Commission is of the opinion that the petitioner Rand has set forth sufficient facts to justify the designation for hearing of an issue with respect to the comparative qualifications of the three applicants in the proceeding. However, the Commission is still of the opinion that it is not unlikely that a choice between the two cities on 307 (b) grounds will be possible and for that reason deletion or modification of the 307 (b) issue for a determination of whether Timm's application would satisfy the requirements of a fair, efficient and equitable distribution of facilities is not warranted.

18. Sufficient support has been shown by Tampa for the designation of issues relating to the transactions of Timm and the Rivers group and to the financial qualifications of Timm. The Commission also believes that Tampa has set forth sufficient facts to warrant an inquiry into the character qualifications of Rand and into the question of concentration of control of broadcast stations operated by Rand. However, the Commission is not of the opinion that sufficient additional facts have been submitted by Timm to warrant the deletion of the multiple ownership issue relating to Timm.

On the basis of the foregoing, *It is ordered*, This 30th day of January 1958, that the petitions for hearing and for modification and enlargement of issues filed July 5, 1957, by Rand Broadcasting Company, and the petitions for enlargement of issues filed July 8, 1957, by Radio Tampa are granted, and the request to delete issue filed July 23, 1957, by B. F. J. Timm, is denied:

It is further ordered, That issue No. 4 is deleted, that issue No. 5 is renumbered as issue No. 9 and the hearing issues are enlarged to read as follows:

1. To determine the areas and populations which would receive primary service from each of the proposed operations and the availability of other primary service to such areas and populations.

2. To determine whether a grant of the application of B. F. J. Timm would be in contravention of the provisions of § 3.35 of the Commission's rules.

3. To determine, in the light of section 307 (b) of the Communications Act of

² 23 FCC 705; 16 RR 295.

³ § 3.35 *Multiple ownership*. No license for a standard broadcast station shall be granted to any party (including all parties under common control) if:

(a) Such party directly or indirectly owns, operates or controls another standard broadcast station, a substantial portion of which primary service area would receive primary service from the station in question, except upon a showing that public interest, convenience and necessity will be served through such multiple ownership situation; or

(b) Such party, or any stockholder, officer or director of such party, directly or indirectly owns, operates, controls, or has any interest in, or is an officer or director of any other standard broadcast station if the grant of such license would result in a concentration of control of standard broadcasting in a manner inconsistent with public interest, convenience, or necessity. In determining whether there is such a concentration of control, consideration will be given to the facts of each case with particular reference to such factors as the size, extent and location of areas served, the number of people served, classes of stations involved and the extent of other competitive service to the areas in question. The Commission, however, will in any event consider that there would be such a concentration of control contrary to the public interest, convenience or necessity for any party or any of its stock-

1934, as amended, whether a grant of the Lakeland, Florida, proposal or one of the Tampa, Florida, proposals herein would better provide a fair, efficient and equitable distribution of radio service.

4. To determine all of the facts and circumstances surrounding the transactions of B. F. J. Timm and E. D. Rivers, Sr., E. D. Rivers, Jr., James S. Rivers and J. J. Maughm, involving acquisition, trading, and selling of broadcast licenses and construction permits; and to determine therefrom whether such transactions constitute "trafficking" in broadcast authorizations which reflects adversely on the qualifications of B. F. J. Timm to acquire the construction permit he seeks in this proceeding.

5. To determine the financial qualifications of B. F. J. Timm to construct, own and operate the proposed station at Lakeland, Florida.

6. To determine whether a grant of the application of Rand Broadcasting Company would be in contravention of the provisions of § 3.35 of the Commission's rules.

7. To determine all of the facts and circumstances surrounding the filing of the applications of Nathaniel J. Klein and Clarence Moore, d/b as Klein and Moore (BP-10846), and of Rand Broadcasting (File No. BP-11010), and to determine therefrom whether any of these facts reflect adversely upon the character and other qualifications of Rand Broadcasting Company, or its Officers, Directors, and Stockholders.

8. To determine on a comparative basis which of the operations proposed in the above captioned applications would better serve the public interest, convenience and necessity in the light of record made with respect to the significant differences between the applicants as to: (a) The background and experience of each having a bearing on its ability to own and operate the proposed broadcast stations; (b) the proposals of each with respect to the management and operation of the proposed broadcast stations; (c) the programming service proposed in each of the above-captioned applications.

9. To determine in the light of the evidence adduced pursuant to the foregoing issues, which, if any, of the applications should be granted.

Released: January 31, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-872; Filed, Feb. 4, 1958;
8:50 a. m.]

[Docket Nos. 12229, 12230; FCC 58M-93]

WALTER G. ALLEN AND MARSHALL COUNTY
BROADCASTING Co., Inc.

ORDER SCHEDULING HEARING

In re applications of Walter G. Allen, Huntsville, Alabama, Docket No. 12229, File No. BP-10871; Marshall County Broadcasting Company, Inc., Arab, Alabama, Docket No. 12230, File No. BP-11088; for construction permits.

Upon informal request of counsel for Marshall County Broadcasting Company, Inc., and with the concurrence of other counsel in the proceeding: *It is ordered*, This 30th day of January 1958, that hearing in this proceeding be, and the same is hereby, scheduled to commence on March 11, 1958, at 10 o'clock a. m. in the offices of the Commission, Washington, D. C.

Released: January 31, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-873; Filed, Feb. 4, 1958;
8:50 a. m.]

[Docket No. 12264 etc.; FCC 58M-92]

HIRSCH BROADCASTING Co. (KFVS) ET AL.

NOTICE OF PREHEARING CONFERENCE

In re applications of Hirsch Broadcasting Company (KFVS), Cape Girardeau, Missouri, Docket No. 12264, File No. BP-11001; Stephen P. Bellinger, Joel W. Townsend, Ben H. Townsend, Morrie E. Kemper and T. Keith Coleman d/b as Wabash Valley Broadcasters, Vincennes, Indiana, Docket No. 12265, File No. BP-11193; W. H. Firmin, J. H. Firmin and Bernard Lurie d/b as The Firmin Company, Vincennes, Indiana, Docket No. 12266, File No. BP-11621; for construction permits.

A prehearing conference will be held Monday, February 10, 1958, at 10 a. m., in the offices of the Commission, Washington, D. C.

Dated: January 29, 1958.

Released: January 30, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-874; Filed, Feb. 4, 1958;
8:50 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-10715]

ATLANTIC REFINING Co.

NOTICE OF APPLICATION AND DATE OF
HEARING

JANUARY 30, 1958.

Take notice that The Atlantic Refining Company (Applicant), an independent producer, filed an application on July 6, 1956, as supplemented on July 12 and July 16, 1956, for authority to abandon and render service, pursuant to section 7 of the Natural Gas Act, as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application, which is on file with the Commission and open to public inspection.

Applicant seeks (1) permission and approval to abandon service to Texas Eastern Transmission Corporation (Texas Eastern) from a well on the Campbell Lease, Hagist Ranch Field, located in Duval and McMullen Coun-

ties, Texas; (2) authorization to sell the gas from the aforesaid Campbell Lease to Texas Illinois Natural Gas Pipeline Company (Texas Illinois). Applicant states that at present gas is being produced from two separate formations, the Wilcox "G" Sand, from which approximately 1,300 Mcf of casinghead gas is being flared per day, and the Upper Wilcox Sand, from which high pressure gas is being produced at the rate of 1,500 Mcf per day. Production from the Upper Wilcox Sand is presently being sold to Texas Eastern at the outlet of the Goliad Corporation Hagist Gasoline Plant. The proposed change in buyers will result in an increase in deliveries from the Upper Wilcox Sand to approximately 6,000 Mcf per day, and thus eliminate drainage now taking place at the rate of approximately 4,500 Mcf per day.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on March 4, 1958 at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 20, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 58-851; Filed, Feb. 4, 1958;
8:46 a. m.]

[Docket No. G-12310 etc.]

R. OLSEN AND HOWARD HOGAN

NOTICE OF APPLICATIONS AND DATE OF
HEARING

JANUARY 30, 1958.

In the matters of R. Olsen, Operator, Docket Nos. G-12310, G-12629; Howard Hogan, Docket Nos. G-13112, G-13113.

Take notice that on March 29, 1957, and May 24, 1957, R. Olsen, Operator (Olsen), in Docket Nos. G-12310 and G-12629, respectively, and on August 21, 1957, Howard Hogan (Hogan), in Docket Nos. G-13112 and G-13113, filed appli-

NOTICES

[Docket Nos. G-13367, G-13450]

LLANO GRANDE CORP. AND CITIES SERVICE
OIL CO.NOTICE OF APPLICATIONS AND DATE OF
HEARING

JANUARY 30, 1958.

cations for permission and approval to abandon service and for authority to render service pursuant to section 7 of the Natural Gas Act, as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the respective applications which are on file with the Commission and open to public inspection.

The respective applications seek authority for:

(1) Hogan, in Docket Nos. G-13122 and G-13113, to abandon his sales of natural gas to El Paso Natural Gas Company (El Paso) from a dual completion well located on the Jack Lease (NW/4 Section 8-24S-37E) in Lea County, New Mexico, which sales were authorized on May 31, 1956, in Docket No. G-3852. The natural gas is sold pursuant to contracts dated September 5, 1951, and October 11, 1951, respectively.

(2) Olsen, in Docket Nos. G-12310 and G-12629, to continue the sales to El Paso proposed to be abandoned by Hogan in Docket Nos. G-13112, and G-13113, respectively.

Applicants state that by assignment dated December 15, 1954, Hogan and his wife, Helen Hogan, conveyed their undivided 20 percent interest in the Jack Lease and well thereon to Olsen, subject, among other things, to the above-mentioned sales contracts of September 5, 1951, and October 11, 1951.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on March 4, 1958, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 20, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.[F. R. Doc. 58-852; Filed, Feb. 4, 1958;
8:46 a. m.]

shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.[F. R. Doc. 58-853; Filed, Feb. 4, 1958;
8:47 a. m.]

[Docket No. G-13563]

NORTHERN NATURAL GAS CO.

NOTICE OF APPLICATION AND DATE OF HEARING

JANUARY 30, 1958.

Take notice that Northern Natural Gas Company (Applicant), a Delaware corporation with its principal place of business in Omaha, Nebraska, filed an application on October 22, 1957, as supplemented on November 20, 1957, for a certificate of public convenience and necessity authorizing the construction and operation of a total of 27.6 miles of 30-inch pipeline looping existing facilities at two points south of its Mullinville compressor station, subject to the jurisdiction of the Commission, all as more fully described in its application, which is on file with the Commission and open to public inspection.

The application indicates that the proposed facilities will provide additional main line capacity required to enable Applicant to transport increased volumes of gas which will be available to it beginning with the 1957-1958 heating season from producing fields in the areas located adjacent to Applicant's main line system south of its Mullinville compressor station. The aforesaid facilities will be extensions to two existing 30-inch pipeline loops and will consist of approximately 18.3 miles of 30-inch pipeline north of Applicant's Beaver station and 9.3 miles of 30-inch line north of its Sunray station.

Applicant produces and purchases natural gas in the Texas Panhandle field and in the Hugoton Field and numerous new fields discovered in the Anadarko Basin adjacent to its system between Panhandle Field and the Bushton compressor station. In addition, Applicant purchases gas from its subsidiary, the Permian Basin Pipeline Company. This gas is delivered by El Paso Natural Gas Company to Applicant at Dumas in the Panhandle Field.

The application states that in order to have operating flexibility insofar as supply is concerned, it is necessary for Applicant to have capacity capable of carrying the volumes which are available south of Mullinville. Applicant states that the volumes available to it south of Mullinville are such that without the proposed facilities it would be required to pay for gas which it cannot take and utilize. Applicant further states that the proposed facilities will not increase the sales capacity of its system north of Mullinville.

Financing will be carried out during the period of construction through the use of cash on hand and by short-term

Take notice that Llano Grande Corporation (Llano), on October 7, 1957, in Docket No. G-13367, and Cities Service Oil Company (Operator) (Cities Service), on October 14, 1957, in Docket No. G-13450, filed separate applications for authority to abandon and render service pursuant to section 7 of the Natural Gas Act, as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the respective applications, which are on file with the Commission and open to public inspection.

The respective applications seek authority for:

(1) Llano to abandon the sale of natural gas to El Paso Natural Gas Company (El Paso) from Llano's Lehman Gasoline Plant situated in Cochran County, Texas, which service was authorized on December 29, 1954, in Docket No. G-2860, and is covered by an agreement dated February 1, 1954.

(2) Cities Service to continue the subject service to El Paso proposed to be abandoned by Llano.

Applicants state that effective October 1, 1957, Cities Service acquired the Lehman Plant and related gathering facilities from Llano and by assignment dated October 1, 1957, succeeded to the rights of Llano under the aforementioned contract. In addition, Llano's rights under the contracts by which it purchased gas from producers have also been assigned to Cities Service.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on March 4, 1958, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 20, 1958. Failure of any party to appear at and participate in the hearing

borrowing. The estimated cost of constructing these facilities is \$3,020,500.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end;

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on March 4, 1958, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 21, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 58-854; Filed, Feb. 4, 1958; 8:47 a. m.]

[Docket Nos. G-13832, G-14217]

EL PASO NATURAL GAS CO. AND NEVADA
NATURAL GAS PIPE LINE CO.

NOTICE OF APPLICATIONS, CONSOLIDATING
PROCEEDINGS AND DATE OF HEARING

JANUARY 30, 1958.

Take notice that (1) on December 2, 1957, El Paso Natural Gas Company (El Paso), a Delaware corporation, with its principal place of business in El Paso, Texas, filed an application, pursuant to section 7 of the Natural Gas Act, for a certificate of public convenience and necessity to sell natural gas to Southwest Gas Corporation (Southwest), in interstate commerce for resale for ultimate public consumption, and to operate certain facilities necessary to effect the proposed sale, all subject to the jurisdiction of the Commission, as more fully stated in the application filed with the Commission and open for public inspection, and (2) Nevada Natural Gas Pipe Line Company (Nevada), a Nevada corporation, with its principal place of business at Las Vegas, Nevada, filed an application on January 10, 1958, pursuant to section 7 of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the construction of certain facilities proposed to be leased by Nevada to and operated by El Paso in order to

effect the aforementioned sale of gas to Southwest, as more fully described in the application on file with the Commission and open to public inspection.

El Paso proposes to deliver and sell natural gas to Southwest through a 16-inch O. D. pipeline located in Mohave County, Arizona, which is presently under lease to El Paso by Nevada. Said lease agreement provides that El Paso dedicate the leased facilities to the exclusive use of Nevada except that El Paso may utilize the facilities for the transportation and delivery of natural gas to others for its own account to the extent that such pipelines will permit transportation and delivery of natural gas to others without interfering with the agreed deliveries to Nevada.

The additional facilities to be constructed by Nevada and which El Paso proposes to operate will be used by El Paso in conjunction with existing facilities to deliver relatively small quantities of natural gas to Southwest for resale by it to the residents and other users within and adjacent to Bullhead City and to other residential, non-residential and irrigation consumers in the Mohave County, Arizona area to be served by Southwest. These facilities consist of taps along the aforementioned 16-inch line at Bullhead City, Mohave County and at nine other locations along the same line for the deliveries to be made by El Paso.

El Paso will supply the gas volume required for the proposed sale to Southwest from its existing general sources of supply, including those available in the Permian Basin of West Texas and San Juan Basin of New Mexico.

Nevada states in its application that it proposes to construct the following specific facilities for the purpose of facilitating deliveries and sales of natural gas by El Paso to Southwest for resale by Southwest to the residents and other users of natural gas within the area to be served:

(1) A tap to be known as "Bullhead City Tap" at or near P. I. 1683 plus 6916 in Section 19, T. 20 N., R. 22 W., G. & S. R. M., Mohave County, Arizona.

(2) Nine main line taps along the transmission line leased by Nevada to El Paso in the area to be served by Southwest.

The total estimated cost of the proposed facilities to be constructed by Nevada is \$5,565. The application indicates that Nevada will neither operate nor maintain said facilities but will lease such facilities to El Paso under the terms of the existing leasing agreement.

These matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable Rules and Regulations, and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on March 4, 1958 at 9:30 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the

issues presented by such applications: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceeding pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 21, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 58-855; Filed, Feb. 4, 1958; 8:47 a. m.]

[Docket Nos. G-13911, G-13912]

TRANSCONTINENTAL GAS PIPE LINE CORP.
AND MARENGO CORP.

NOTICE OF APPLICATIONS AND DATE OF
HEARING

JANUARY 30, 1958.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco), a Delaware corporation with its principal place of business in Houston, Texas, and Marengo Corporation (Marengo), an Alabama corporation with its principal place of business in Linden, Alabama, filed separate companion applications on December 12, 1957, for certificates of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing the construction of facilities for the transportation and sale of natural gas, as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the respective applications, which are on file with the Commission and open for public inspection.

Transco's application, in Docket No. G-13911, seeks to construct and operate two 4-inch taps with appurtenances on Transco's looped 30-inch lines Nos. 1 and 2 located 3.90 miles upstream from Transco's Compressor Station No. 9, in Choctaw County, Alabama. The purpose of the facilities is to sell gas to Marathon Southern Corporation and to deliver such gas to Marengo Corporation for the account of Marathon.

Transco's proposed facilities are estimated to cost \$14,000, to be financed from company funds.

Marengo, in its application, seeks to construct and operate approximately 3½ miles of 3½ inch O. D. pipeline running from Transco's proposed tap northerly to the new Marathon plant at Naheola. This proposed line is to be owned and operated by Marengo and used to transport natural gas for sale to Marathon and to transport for Marathon's account natural gas purchased by

Marathon from Transco. The line is estimated to cost \$34,500.

The applications state that Marathon is completing a new \$40,000,000 paper mill at Naheola, Alabama, about 10 miles northeast of Butler, Alabama, and plans to operate a gas-fired lime kiln in connection with the paper mill.

It is estimated that Marathon will require up to a maximum of 1,000 Mcf per day of gas for the first three years, as follows:

	First year	Second year	Third year
Daily (Mcf).....	600	800	1,000
Annual (Mcf).....	210,000	280,000	350,000

The major portion of Marathon's requirements will be supplied by Transco.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on March 4, 1958 at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules practice and procedure (18 CFR-1.8 or 1.10) on or before February 20, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 58-856; Filed, Feb. 4, 1958;
8:47 a. m.]

INTERSTATE COMMERCE COMMISSION

[Notice 202]

MOTOR CARRIER APPLICATIONS

JANUARY 31, 1958.

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers and by brokers under sections 206, 209, and 211 of the Interstate Commerce Act and cer-

tain other procedural matters with respect thereto (49 CFR 1.241).

All hearings will be called at 9:30 o'clock a. m., United States standard time, unless otherwise specified.

APPLICATIONS ASSIGNED FOR ORAL HEARING OR PRE-HEARING CONFERENCE

MOTOR CARRIERS OF PROPERTY

No. MC 1641 (Sub No. 40), filed January 13, 1958. Applicant: RAY PEAKE, doing business as PEAKE TRANSPORT SERVICE, Chester, Nebr. Applicant's attorney: Einar Viren, 904 City National Bank Building, Omaha 2, Nebr. For authority to operate as a *common carrier*, over irregular routes, transporting: *Asphalt and road oil and residual fuel oil*, from Phillipsburg, Kans., to points in Nebraska west of the western boundaries of Red Willow, Frontier, Lincoln, Custer, Blaine, Brown, and Keyapaha Counties, Nebr. Applicant is authorized to conduct operations over regular routes in Kansas and Nebraska, and over irregular routes in Iowa, Kansas, Nebraska, and South Dakota.

HEARING: March 25, 1958, at the Hotel Kansan, Topeka, Kans., before Joint Board No. 19, or, if the Joint Board waives its right to participate, before Examiner Thomas F. Kilroy.

No. MC 1942 (Sub No. 3), filed January 13, 1958. Applicant: ALVIN HORNBERGER, doing business as RICHMOND TRUCK LINE, Richmond, Kans. For authority to operate as a *common carrier*, over regular routes, transporting: *Fertilizer, feed, and seed*, in sacks and in bulk, between St. Joseph, Mo., and Richmond, Kans.; from St. Joseph over U. S. Highway 59 to Richmond, and return over the same route, serving intermediate and off-route points within 20 miles of Richmond, Kans. Applicant is authorized to conduct operations between specified points in Kansas and Missouri.

HEARING: March 19, 1958, at the Hotel Kansan, Topeka, Kans., before Joint Board No. 36, or, if the Joint Board waives its right to participate, before Examiner Thomas F. Kilroy.

No. MC 20729 (Sub No. 2), filed September 9, 1957, ALLEN ARNOLD AND FREDDIE AHRENSTORFF, doing business as ARNOLD-AHRENSTORFF TRANSFER, Lake Park, Iowa. Applicant's attorney: Philip R. Wigton, 1221 Badgerow Building, Sioux City 9, Iowa. For authority to operate as a *common carrier*, over irregular routes, transporting: *Livestock feed*, between Waterloo, Iowa and points in that part of Iowa on and west of U. S. Highway 69, and on and north of U. S. Highway 20, except Sioux City, Iowa, on the one hand, and, on the other, points in Nebraska and South Dakota, and points in Minnesota on and south of U. S. Highway 12, extending from the South Dakota State line to the Mississippi River; and *fertilizer*, from the above-described territory in Iowa to points in Nebraska and South Dakota, and points in Minnesota on and south of U. S. Highway 12, extending from the South Dakota State line to the Mississippi River. Applicant is authorized to conduct operations in Iowa, Minnesota, and South Dakota.

NOTE: Applicant states that where authority here sought duplicates existing authority granted, it shall comprise but a single operating right.

HEARING: March 31, 1958, at the Warrior Hotel, Sioux City, Iowa, before Examiner Thomas F. Kilroy.

No. MC 31600 (Sub No. 436), filed January 24, 1958. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham, Mass. For authority to operate as a *common carrier*, over irregular routes, transporting: *Formic acid*, in bulk, in tank vehicles, from Fords and Garfield, N. J., to Albany, Ga., and Orangeburg, S. C.; and *refused shipments of formic acid* on return. Applicant is authorized to transport similar commodities in Connecticut, Delaware, Massachusetts, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, and Vermont.

HEARING: March 14, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Robert A. Joyner.

No. MC 42261 (Sub No. 34), filed January 24, 1958. Applicant: LANGER TRANSPORT CORP., P. O. Box 305, Route No. 1, foot of Danforth Street, Jersey City, N. J. Applicant's attorney: S. S. Eisen, 140 Cedar Street, New York 6, N. Y. For authority to operate as a *common carrier*, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from Philadelphia, Pa., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia. Applicant is authorized to conduct similar commodities in Connecticut, Delaware, New Hampshire, New Jersey, New York, Pennsylvania, and Virginia.

HEARING: March 13, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Lucian A. Jackson.

No. MC 42329 (Sub No. 137), filed January 9, 1958. Applicant: HAYES FREIGHT LINES, INC., 628 East Adams Street, Springfield, Ill. Applicant's attorney: Carl L. Steiner, 39 South La Salle Street, Chicago 3, Ill. For authority to operate as a *common carrier*, transporting: *General commodities, including Class A and B explosives*, but excluding commodities of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the site of the B. F. Goodrich Chemical Company plant located approximately two miles northeast of Henry, Ill., as an off-route point in connection with applicant's authorized regular route operations (1) between Rochelle, Ill., and Cairo, Ill., over U. S. Highway 51, and (2) to and from Peoria, Ill.

HEARING: February 25, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Joint Board No. 149.

No. MC 42963 (Sub No. 7), filed November 25, 1957, DANIEL HAMM DRAYAGE COMPANY, a Corporation, Second and Tyler Streets, St. Louis, Mo. Applicant's attorney: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis 1,

Mo. For authority to operate as a *common carrier*, over irregular routes, transporting: *Commodities* (except pipe stringing, machinery equipment and supplies incidental to and used in connection with the construction, dismantling and repairing of pipelines), the transportation of which because of size, weight, or shape, require the use of special equipment or special handling, between points in Missouri, on the one hand, and, on the other, points in Louisiana, Oklahoma and Texas. Applicant is authorized to transport similar commodities in Arkansas, Illinois, Indiana, Iowa, Kentucky, Missouri, Ohio, and Tennessee.

HEARING: March 10, 1958, at the Mark Twain Hotel, St. Louis, Mo., before Examiner Thomas F. Kilroy.

No. MC 43552 (Sub No. 3), filed January 13, 1958. Applicant: UNION MOTOR LINE, INC., 2167 Stanley Terrace, Union, N. J. Applicant's attorney: August W. Heckman, 880 Bergen Avenue, Jersey City 6, N. J. For authority to operate as a *common carrier*, over irregular routes, transporting: *Coal*, from points in Schuylkill and Luzerne Counties, Pa., to New York, N. Y., Elizabeth, N. J., and points in New Jersey on and north of U. S. Highway 22. Applicant is authorized to conduct operations in Pennsylvania, New York, and New Jersey.

HEARING: March 11, 1958, at 346 Broadway, New York, N. Y., before Examiner James I. Carr.

No. MC 46297 (Sub No. 2), filed December 30, 1957. Applicant: FILM TRUCK SERVICE, INC., 902 Fox Theatre Building, Detroit, Mich. Applicant's attorney: William B. Elmer, 2606 Guardian Building, Detroit 26, Mich. For authority to operate as a *common carrier*, over irregular routes, transporting: *Film, motion picture equipment, materials and supplies, equipment, materials and supplies* used or useful in the operation of motion picture theatres, *advertising materials, magazines, periodicals, and air freight* having an immediately prior or immediately subsequent movement by air, and *returned, rejected or damaged shipments* of the commodities specified, between points in Michigan. Applicant is authorized to transport similar commodities in Illinois and Michigan.

NOTE: Applicant states it presently has authority for film and related commodities and that this application has been filed to clarify the extent of such authority and to establish the right to transport other commodities which applicant claims are presently embraced within said authority.

HEARING: March 18, 1958, at the Olds Hotel, Lansing, Mich., before Joint Board No. 76, or, if the Joint Board waives its right to participate, before Examiner William J. Cave.

No. MC 50002 (Sub No. 30), filed December 23, 1957, T. CLARENCE BRIDGE AND HENRY W. BRIDGE, doing business as BRIDGE BROTHERS, North Santa Fe Trail, Lamar, Colo. Applicant's attorney: C. Zimmerman, 503 Schweiter Building, Wichita 2, Kans. For authority to operate as a *common carrier*, over irregular routes, transporting: *Natural and casinghead gasoline*

iso-pentane, and *liquefied petroleum gases*, in bulk, in tank vehicles, from Big Springs, Nebr., and points within six (6) miles thereof, to El Dorado, McPherson, and Wichita, Kans., and to points within six (6) miles of each, and to those in Kansas on and west of U. S. Highway 183, and *contaminated products* on return. Applicant is authorized to conduct operations in Colorado, Kansas, Missouri, Nebraska, Oklahoma, Texas, and Wyoming.

HEARING: March 25, 1958, at the Hotel Kansan, Topeka, Kans., before Joint Board No. 19, or, if the Joint Board waives its right to participate, before Examiner Thomas F. Kilroy.

No. MC 64932 (Sub No. 235), filed December 16, 1957. Applicant: ROGERS CARTAGE CO., a Corporation, 1934 South Wentworth Avenue, Chicago, Ill. Applicant's attorneys: Axelrod, Goodman & Steiner, 39 South La Salle Street, Chicago 3, Ill. For authority to operate as a *common carrier*, over irregular routes, transporting: *Corn syrup blends and mixtures* (including blends of corn syrup and liquid sugar), *corn oil blends and mixtures, soybean oil blends and mixtures, and vegetable oil blends and mixtures*, in bulk, in tank vehicles, from Decatur, Ill., to points in Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, Tennessee, Wisconsin, Pennsylvania, West Virginia, and points in Nebraska on and east of U. S. Highway 281, extending through Hastings and Grand Island, Nebr. Applicant is authorized to conduct operations in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, West Virginia, and Wisconsin.

HEARING: March 26, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner John P. McCarthy.

No. MC 71992 (Sub No. 1), filed January 7, 1958. Applicant: RAND EXPRESS FREIGHT LINES, INC., 1110 Rutherford Avenue, Lyndhurst, N. J. Applicant's Attorney: Harris J. Klein and William Biederman, 280 Broadway, New York 7, N. Y. For authority to operate as a *common carrier*, over irregular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Hacketts-town, N. J., on the one hand, and, on the other, points in Connecticut, Massachusetts, Rhode Island, New York, and Pennsylvania. Applicant is authorized to conduct operations in Connecticut, Massachusetts, Rhode Island, New York, and Pennsylvania, and New Jersey.

NOTE: Applicant states that the purpose of the instant application is to enable it to serve M & M Candies, a division of Food Manufacturers, Inc.; that M & M Candies receives certain raw materials and supplies for the purpose of manufacturing M & M Candies which are distributed throughout the New England and Middle Atlantic States.

HEARING: March 14, 1958, at 346 Broadway, New York, N. Y., before Examiner James I. Carr.

No. MC 74721 (Sub No. 61), filed January 15, 1958. Applicant: MOTOR CAR-GO, INC., 1540 West Market Street, Akron 13, Ohio. Applicant's attorney: James F. Neal, 2001 Massachusetts Avenue NW., Washington 6, D. C. For authority to operate as a *common carrier*, transporting: *General commodities*, except those of unusual value, Class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the site of the Olin Mathieson Chemical Corporation plant near Mapleton, Ill., as an off-route point in connection with applicant's authorized regular route operations between Staunton, Ill., and Peoria, Ill. **RESTRICTION:** No transportation is to be performed between the site of the Olin Mathieson Chemical Corporation plant and any other point located west of the Illinois-Indiana State line. Applicant is authorized to conduct operations in Illinois, Indiana, Iowa, Maryland, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, Wisconsin, and the District of Columbia.

HEARING: March 6, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Joint Board No. 149.

No. MC 78118 (Sub No. 7), filed January 22, 1958. Applicant: WILBUR H. JOHNS, 327 North Reservoir Street, Lancaster, Pa. Applicant's attorney: William S. Livengood, Jr., 227 State Street, Harrisburg, Pa. For authority to operate as a *common carrier*, over irregular routes, transporting: *Plastic and glass nursing bottles, with or without caps, covers, discs or tops, baby bottle sterilizers and warmers, cleaning compound powder, NOI, tongs, rubber and plastic nipples and gloves, vaporizers, measuring spoons, funnels, feeding dishes, formula pitchers, and other commodities* used or useful in the preparation and serving of food and the administration of medicine to babies and infants, from Oil City (Venango County) Pa., to points in Virginia, North Carolina, South Carolina, Georgia and Florida.

Empty containers or other such incidental facilities used in transporting the above-specified commodities, and *rejected or damaged merchandise*, on return.

NOTE: Applicant is authorized to conduct operations as a common carrier in Certificate MC 78118 Sub No. 1 from and to specified points in Pennsylvania, Maryland and New York, and operations as a contract carrier in Permits MC 15583 and MC 15583 Sub No. 12, from, to and between specified points in Pennsylvania, New York, Ohio, New Jersey, and the District of Columbia. Applicant has filed appropriate application with this Commission for a determination of its status as a common or contract carrier, assigned Docket MC 15583 (Sub No. 14).

HEARING: March 12, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Richard H. Roberts.

No. MC 85934 (Sub No. 2), filed December 2, 1957, MICHIGAN TRANS-

PORTATION COMPANY, a Corporation, 1650 Waterman, Detroit, Mich. Applicant's attorney: Robert A. Sullivan, 2606 Guardian Building, Detroit 26, Mich. For authority to operate as a *common carrier*, over irregular routes, transporting: *Chemicals in liquid form*, in bulk, in tank vehicles, from Detroit, Mich., to points in Illinois, Indiana, and Ohio.

Note: Applicant is authorized to transport the subject commodities as a contract carrier from points in Wayne County, Mich., (except Detroit) to points in Illinois, Indiana, and Ohio. Applicant states it has filed a form BOR-96 application to convert its operations from contract to common carrier authority, and states that if the conversion application is not granted it would desire to have contract authority issued to transport the subject commodities as above specified.

HEARING: March 13, 1958, at the Federal Building, Detroit, Mich., before Examiner William J. Cave.

No. MC 86913 (Sub No. 6), filed January 17, 1958. Applicant: SILER MOTOR LINES, INCORPORATED, North Second Avenue Extension, Sanford, N. C. Applicant's attorney: James E. Wilson, Perpetual Building, 1111 E Street NW., Washington 4, D. C. For authority to operate as a *common carrier*, over irregular routes, transporting: *Lumber*, except plywood and veneer, from points in Ohio, Pennsylvania, New York, New Jersey, and Maryland to points in Virginia and North Carolina. Applicant is authorized to conduct operations in Connecticut, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Virginia, and the District of Columbia.

HEARING: March 11, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Dallas B. Russell.

No. MC 87523 (Sub No. 65), filed January 20, 1958. Applicant: FRANK COSGROVE TRANSPORTATION COMPANY, INC., 393 Mystic Avenue, Medford, Mass. Applicant's attorney: Mary E. Kelley, 10 Tremont Street, Boston 8, Mass. For authority to operate as a *common carrier*, over irregular routes, transporting: *Acetic acid*, between ports of entry on the International Boundary between the United States and Canada at Madawaska and Van Buren, Maine, on the one hand, and, on the other, Limestone, Maine.

HEARING: March 7, 1958, at the Federal Building, Portland, Maine, before Joint Board No. 115, or, if the Joint Board waives its right to participate, before Examiner Herbert L. Hanback.

No. MC 87523 (Sub No. 66), filed January 20, 1958. Applicant: FRANK COSGROVE TRANSPORTATION COMPANY, INC., 393 Mystic Avenue, Medford, Mass. Applicant's attorney: Mary E. Kelley, 10 Tremont Street, Boston 8, Mass. For authority to operate as a *common carrier*, over irregular routes, transporting: *Petroleum wax*, in bulk, in tank vehicles, from Warren, Pa., to Leominster, Mass.

HEARING: March 12, 1958, at the New Post Office and Court House Building, Boston, Mass., before Examiner Herbert L. Hanback.

No. MC 90373 (Sub No. 12), filed January 3, 1958. Applicant: C & R TRUCK-

ING, a Corporation, Avénel, N. J. Applicant's attorney: Milton E. Diehl, 1383 National Press Building, Washington 4, D. C. For authority to operate as a *contract carrier*, over irregular routes, transporting: *Asphalt*, under a continuing contract with Cities Service Oil Company and for no other shipper, from Linden, N. J., and points within twenty (20) miles thereof, to points in New York, Connecticut, and Pennsylvania. Applicant is authorized to conduct operations in Connecticut, New Jersey, New York, and Pennsylvania.

Note: Duplicating authority to be eliminated.

HEARING: March 13, 1958, at 346 Broadway, New York, N. Y., before Examiner James I. Carr.

No. MC 92983 (Sub No. 265), filed January 2, 1958. Applicant: ELDON MILLER, INC., 330 East Washington Street, Iowa City, Iowa. For authority to operate as a *common carrier*, over irregular routes, transporting: *Juices*, in bulk, in tank vehicles, from points in Florida to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Ohio, and Wisconsin.

HEARING: March 25, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner John P. McCarthy.

No. MC 92983 (Sub No. 269), filed January 13, 1958. Applicant: ELDON MILLER, INC., 330 East Washington Street, Iowa City, Iowa. For authority to operate as a *common carrier*, over irregular routes, transporting: *Liquid chemicals, glues and resins*, in bulk, in tank vehicles, from Aurora, Ill., to points in Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. Applicant is authorized to conduct operations in Alabama, Arkansas, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, West Virginia, Wisconsin, Connecticut, Florida, Georgia, and Massachusetts.

HEARING: March 24, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner John P. McCarthy.

No. MC 92983 (Sub No. 271), filed January 13, 1958. Applicant: ELDON MILLER, INC., 330 East Washington Street, Iowa City, Iowa. For authority to operate as a *common carrier*, over irregular routes, transporting: *Acids and chemicals*, in bulk, from Tulsa, Okla., to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, West Virginia, and Wisconsin. Applicant is authorized to conduct operations in Alabama, Arkansas, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, West Virginia, Wisconsin,

Connecticut, Florida, Georgia, and Massachusetts.

HEARING: March 21, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner John P. McCarthy.

No. MC 92983 (Sub No. 272), filed January 16, 1958. Applicant: ELDON MILLER, INC., 330 East Washington Street, Iowa City, Iowa. For authority to operate as a *common carrier*, over irregular routes, transporting: *Acids*, in bulk, in tank vehicles, between Sheerin, Tex., on the one hand, and, on the other, points in Colorado, Kansas, New Mexico, and Oklahoma. Applicant is authorized to conduct operations in Alabama, Arkansas, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, West Virginia, Wisconsin, Connecticut, Florida, Georgia, and Massachusetts.

HEARING: March 21, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner John P. McCarthy.

No. MC 94835 (Sub No. 2), filed December 31, 1957. Applicant: BRICK TRUCKING CORPORATION, 1172 East 96th Street, Brooklyn 36, N. Y. Applicant's attorney: Edward M. Alfano, 36 West 44th Street, New York 36, N. Y. For authority to operate as a *common carrier*, over irregular routes, transporting: *Brick*, from Gonic, N. H., and from points in Beaver County, Pa., to all points in Connecticut, New Jersey, and New York; and *empty containers or other such incidental facilities* (not specified), used in transporting brick, on return. Applicant is authorized to transport brick in New Jersey, New York, and Pennsylvania.

HEARING: March 11, 1958, at 346 Broadway, New York, N. Y., before Examiner James I. Carr.

No. MC 95212 (Sub No. 28), filed January 9, 1958. Applicant: HELEN R. HENDERSON, doing business as H. R. HENDERSON, Box 327, Seneca, Ill. Applicant's attorney: Joseph M. Scanlan, 111 West Washington Street, Chicago 2, Ill. For authority to operate as a *contract carrier*, over irregular routes, transporting: (1) *Sand*, in bulk, from Wedron, Ill., to points in Indiana, Kentucky, Michigan, Iowa, Minnesota, Missouri, Ohio, and Wisconsin. (2) *Brick*, from points in Indiana, Kentucky, Michigan, Iowa, Minnesota, Missouri, Ohio, and Wisconsin to Chicago, Ill., and points in Illinois within 50 miles of Chicago, Ill. Applicant is authorized to conduct operations in Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, and Wisconsin.

HEARING: March 24, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner John P. McCarthy.

No. MC 96441 (Sub No. 2), FILED ON January 13, 1958. Applicant: BEN SEIFERT, West Eighth Street, Fairbury, Nebr. Applicant's representative: C. A. Ross, 1004 Trust Building, Lincoln 8,

Nebr. For authority to operate as a *common carrier* over irregular routes, transporting: *Brick, tile, cement, mortar and related products* taking brick rates, as more fully described in the application, from Endicott, Nebr., and points within six miles of Endicott, to points in Iowa and Missouri; and *empty containers or other such incidental facilities* (not specified), used in transporting the commodities specified from points in Iowa and Missouri to Endicott, Nebr., and points within six miles of Endicott. Applicant is authorized to transport similar commodities in Kansas and Nebraska.

HEARING: March 26, 1958, at 11:00 o'clock a. m., at the Nebraska State Railway Commission, Capitol Building, Lincoln, Nebr., before Joint Board No. 192, or, if the Joint Board waives its right to participate, before Examiner Thomas F. Kilroy.

No. MC 104004 (Sub No. 138), filed December 26, 1957, ASSOCIATED TRANSPORT, INC., 380 Madison Avenue, New York, N. Y. For authority to operate as a *common carrier*, over a regular route, transporting: *Plastic materials, powder, granules, pellets, or flake*, in bulk, from Kingsport, Tenn., to Meadville, Pa., from Kingsport over U. S. Highway 11W to Bristol, Va., thence over U. S. Highway 19 via Abingdon, Va., to Princeton, W. Va., thence via the West Virginia Turnpike to Charleston, W. Va., thence over U. S. Highway 21 to Parkersburg, W. Va., thence over West Virginia Highway 2 to Wheeling, W. Va., thence over U. S. Highway 40 to Washington, Pa., and thence over U. S. Highway 19 to Meadville. Applicant is authorized to transport general commodities, with exceptions, in Delaware, Georgia, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and the District of Columbia.

NOTE: Proposed route is applicant's presently authorized routes from Kingsport, Tenn., to Pittsburgh, Pa., on general commodities.

HEARING: March 7, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner C. Evans Brooks.

No. MC 105807 (Sub No. 21), filed December 18, 1957, RED BALL TRANSFER CO., a Corporation, 1009 Capitol Avenue, Omaha, Nebr. For authority to operate as a *common carrier*, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between McCook, Nebr., and Denver, Colo., from McCook over U. S. Highway 34 to its junction with U. S. Highway 6, thence over U. S. Highway 6 to Denver, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations (1) between Denver, Colo., and Omaha, Nebr., and (2) between McCook, Nebr., and Grand Island, Nebr. Applicant is authorized to transport similar

commodities in Colorado, Illinois, Indiana, Iowa, Kansas, Missouri, and Nebraska. **RESTRICTION:** Applied-for authority over proposed alternate route to be limited to eastbound traffic only originating at or moving through Denver, Colo., destined to or moving through Grand Island or Hastings, Nebr., or westbound traffic originating at or moving through Grand Island or Hastings, Nebr., destined to or moving through Denver, Colo.

HEARING: March 28, 1958, at the Nebraska State Railway Commission, Capitol Building, Lincoln, Nebr., before Joint Board No. 31, or, if the Joint Board waives its right to participate before Examiner Thomas F. Kilroy.

No. MC 106965 (Sub No. 118), filed January 17, 1958. Applicant: M. I. O'BOYLE & SON, INC., doing business as O'BOYLE TANK LINES, 817 Michigan Avenue NE., Washington, D. C. For authority to operate as a *common carrier*, over irregular routes, transporting: *Tomato paste*, in bulk, in tank vehicles, from Bowling Green, Ohio, to Salem, N. J., and Chambersburg and Pittsburgh, Pa.

HEARING: March 11, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Alfred B. Hurley.

No. MC 107323 (Sub No. 30), filed November 29, 1957, RUSSELL GILLILAND AND MAURICE I. GILLILAND, doing business as GILLILAND TRANSFER COMPANY, 21 West Sheridan, Fremont, Mich. Applicant's attorney: Leonard D. Verdier, Jr., Michigan Trust Building, Grand Rapids 2, Mich. For authority to operate as a *common carrier*, over irregular routes, transporting: (1) *Canners' supplies and commodities used or useful in the manufacturing and processing of foods*, from points in Ohio to Fremont, Mich. (2) *Empty tin cans*, from Cincinnati, Ohio to Bailey, Mich., and points within 15 miles thereof. (3) *Insecticides, fungicides, chemicals, and food processing machinery*, from Midleport, N. Y., to points in Michigan on and north of U. S. Highway 16. (4) *Alcohol*, in tank trailers, from Terre Haute and Whiting, Ind., Stickney and Chicago, Ill., and points in the Chicago, Ill., Commercial Zone, as defined by the Commission, to Scottville, Mich. (5) *Canners' supplies and commodities used or useful in the manufacture and processing of foods*, from Chicago, Ill., and points in the Chicago, Ill., Commercial Zone, as defined by the Commission, to Fremont, Mich. *Damaged and rejected shipments* of the commodities specified in this application on return. Applicant is authorized to conduct operations in Illinois, Indiana, Kentucky, Michigan, Missouri, New York, Ohio, Pennsylvania, West Virginia, and Wisconsin.

HEARING: March 17, 1958, at the Olds Hotel, Lansing, Mich., before Examiner William J. Cave.

No. MC 107323 (Sub No. 31), filed January 8, 1958. Applicant: RUSSELL GILLILAND AND MAURICE I. GILLILAND, doing business as GILLILAND TRANSFER COMPANY, 21 West Sheridan, Fremont, Mich. Applicant's attorney: Leonard D. Verdier, Jr., Michigan

Trust Building, Grand Rapids 2, Mich. For authority to operate as a *common carrier*, over irregular routes, transporting: *Fertilizer* (1) from Columbus, and Ironton, Ohio, and points within five miles of each, to points in Michigan on and north of U. S. Highway 16, (2) from Butler, Ind., to points in Michigan on and north of U. S. Highway 16, and *damaged and rejected shipments* of fertilizer on return. Applicant is authorized to conduct similar operations in Michigan and Ohio.

HEARING: March 18, 1958, at the Olds Hotel, Lansing, Mich., before Joint Board No. 9, or, if the Joint Board waives its right to participate, before Examiner William J. Cave.

No. MC 107403 (Sub No. 254), filed January 23, 1958. Applicant: E. BROOKE MATLACK, INC., 33d and Arch Streets, Philadelphia 4, Pa. Applicant's attorney: Paul F. Barnes, 811-819 Lewis Tower Building, 225 South 15th Street, Philadelphia 2, Pa. For authority to operate as a *common carrier*, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from Philadelphia, Pa., to points in Alabama, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia. Applicant is authorized to conduct operations in Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

HEARING: March 13, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Lucian A. Jackson.

No. MC 109637 (Sub No. 64), filed December 16, 1957, GASOLINE TRANSPORT CO., a corporation, 4107 Bells Lane, Louisville 11, Ky. For authority to operate as a *common carrier*, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from Madison, Ind., and points within five (5) miles thereof, to points in Illinois, Ohio, Tennessee, and West Virginia. Applicant is authorized to conduct operations in Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, North Carolina, Ohio, Tennessee, Texas, West Virginia, and Wisconsin.

HEARING: March 12, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner Lucy W. Hinely.

No. MC 109637 (Sub No. 66), filed January 15, 1958. Applicant: GASOLINE TRANSPORT CO., a Corporation, 4107 Bells Lane, Louisville 11, Ky. Applicant's representative: H. N. Nunnally (same address as applicant). For authority to operate as a *common carrier*, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from Marshall, Ill., and points within five (5) miles

thereof, to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Texas. Applicant is authorized to conduct operations in Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Michigan, Minnesota, Missouri, North Carolina, Ohio, Tennessee, Texas, West Virginia, and Wisconsin.

HEARING: March 14, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner John P. McCarthy.

No. MC 111401 (Sub No. 88), filed December 16, 1957, GROENDYKE TRANSPORT, INC., 2204 North Grand, Enid, Okla. For authority to operate as a common carrier, over irregular routes, transporting: *Carbon black*, in bulk, from Ponca City, Okla., and points within ten (10) miles thereof, to Topeka, Kans., and points within ten (10) miles thereof, and *empty containers or other such incidental facilities* (not specified) used in transporting carbon black on return. Applicant is authorized to conduct operations in Arizona, Arkansas, California, Colorado, Kansas, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, Tennessee, Texas, Utah, and Wyoming.

HEARING: March 24, 1958, at the Hotel Kansan, Topeka, Kans., before Joint Board No. 39, or, if the Joint Board waives its right to participate, before Examiner Thomas F. Kilroy.

No. MC 11478 (Sub No. 10), filed November 18, 1957, OIL CARRIERS CO., a Corporation, 12030 Pleasant, Detroit 25, Mich. Applicant's attorney: Robert A. Sullivan, 2606 Guardian Building, Detroit 26, Mich. For authority to operate as a common or contract carrier, over irregular routes, transporting: *Liquid chemicals*, as defined in Maxwell Co. Extension—Addyston, 63 MCC 677, *ester-gum, varnish, liquid glue, synthetic resins, surface coating resin compounds, solvents, non-edible oils*, namely, vegetable, fish, sea animal or animal and/or derivatives and blends thereof, including but not limited to paint oils, varnish oils and fatty acids, in bulk, in tank vehicles, (1) between Newark, N. J., and points in New Jersey within 10 miles thereof, on the one hand, and, on the other, points in Michigan, Ohio, New York, Pennsylvania, West Virginia, Kentucky, Indiana, Illinois, Missouri, Kansas, Iowa, Wisconsin, Minnesota, Alabama, Tennessee, and Georgia; (2) between Wyandotte, Mich., on the one hand, and, on the other, points in Michigan, Ohio, New York, Pennsylvania, West Virginia, Kentucky, Indiana, Illinois, Missouri, Kansas, Iowa, Wisconsin, Minnesota, Alabama, Tennessee, New Jersey, and Georgia; (3) between Decatur, Ill., on the one hand, and, on the other, points in Michigan, Ohio, New York, Pennsylvania, West Virginia, Kentucky, Indiana, Missouri, Kansas, Iowa, Wisconsin, Minnesota, Alabama, Tennessee, New Jersey, and Georgia; (4) between Ashtabula, Ohio, on the one hand, and, on the other, points in Michigan, New York, Pennsylvania, West Virginia, Kentucky, Indiana, Illinois, Missouri, Kansas, Iowa, Wisconsin, Minnesota,

Alabama, Tennessee, New Jersey, and Georgia; and (5) between Ferndale, Mich., on the one hand, and, on the other, points in Connecticut.

NOTE: Applicant is authorized, in its Permit No. MC 11478 dated March 21, 1950, to conduct similar operations in Michigan, Ohio, New York, Pennsylvania, West Virginia, Kentucky, Indiana, Illinois, Missouri, Kansas, Iowa, Wisconsin, Minnesota, New Jersey, Alabama, Tennessee, and Georgia. It is also authorized to conduct common carrier operations in Certificate No. MC 112703 (Sub No. 1). Applicant has filed appropriate application with this Commission for a determination of its status as a common or contract carrier, No. MC 11478 (Sub No. 11).

HEARING: March 14, 1958, at the Federal Building, Detroit, Mich., before Examiner William J. Cave.

No. MG 112202 (Sub No. 1), filed January 17, 1958. Applicant: RALPH J. FISHER, JR., COMPANY, INC., 528 West Columbia Street, Box 96, Schuylkill Haven, Pa. Applicant's attorney: Christian V. Graf, 11 North Front Street, Hafersburg, Pa. For authority to operate as a common carrier, over irregular routes, transporting: *Coal*, from points in Schuylkill County, Pa., to Brooklyn, N. Y. and points on Long Island, N. Y. Applicant is authorized to transport coal to points in Delaware, New Jersey, and Pennsylvania.

HEARING: March 12, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Alton R. Smith.

No. MC 113843 (Sub No. 19), filed November 18, 1957, REFRIGERATED FOOD EXPRESS, INC., 8 Commonwealth Pier, Boston 10, Mass. Applicant's attorney: James Michael Walsh, same address. For authority to operate as a common carrier, over irregular routes, transporting: *Meats, meat products and meat by-products*, from Detroit, Mich., to Prattville, N. Y. Applicant is authorized to transport similar commodities in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia.

HEARING: March 13, 1958, at the Federal Building, Detroit, Mich., before Examiner William J. Cave.

No. MC 113908 (Sub No. 28), filed December 6, 1957, ERICKSON TRANSPORT CORPORATION, MPO Box 706, Springfield, Mo. Applicant's attorney: Turner White, 808 Woodruff Building, Springfield, Mo. For authority to operate as a common carrier, over irregular routes, transporting: *Fresh liquid fruit juices*, in bulk, in insulated tank vehicles, from points in Florida to points in Illinois, Ohio, Indiana, Minnesota, Missouri, Kansas, Arkansas, Michigan, Wisconsin, and Iowa. Applicant is authorized to transport commodities other than fruit juices in Illinois, Indiana, Iowa, Kansas, Kentucky, Minnesota, Missouri, Nebraska, Ohio, South Dakota, and Texas.

HEARING: March 17, 1958, at the Hotel Pickwick, Kansas City, Mo., before Examiner Thomas F. Kilroy.

No. MC 114015 (Sub No. 8), filed January 7, 1958. Applicant: HUSS, INCORPORATED, Chase City, Va. Applicant's attorney: John C. Goddin, State-Planters Bank Building, Richmond 19, Va. For authority to operate as a contract carrier, over irregular routes, transporting: *Nails, steel strapping, wire, waterproof paper and lumber*, used or usable in the manufacture of box shooks, from New York, N. Y., the site of the Ford Motor Co., plant at or near Delair, Camden County, N. J., Bloomfield, N. J., and points in New Jersey within forty (40) miles of Bloomfield, points in Pennsylvania, Weirton, W. Va., and Columbus and Toledo, Ohio, to Chase City and Keysville, Va., and *refused and damaged shipments* of the above-described commodities on return. Applicant is authorized to conduct operations in New Jersey, New York, Ohio, Pennsylvania, Virginia, and West Virginia.

HEARING: March 7, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Lawrence A. Van Dyke.

No. MC 115036 (Sub No. 5), filed December 23, 1957. VAN TASSEL, INCORPORATED, Fifth and Grand, Pittsburg, Kans. Applicant's representative: H. V. Eskelin, 607 Commerce Building, 922 Walnut Street, Kansas City, Mo. For authority to operate as a contract carrier, over irregular routes, transporting: *Clay brick and tile*, from Gas, Allen County, Kans., to all points in Oklahoma and Arkansas (under continuing contract with United Brick and Tile Company only); and *empty containers or other such incidental facilities* (not specified), used in transporting the commodities specified on return. Applicant is authorized to transport similar commodities in Arkansas, Colorado, Kansas, Missouri, Nebraska, New Mexico, Oklahoma, South Dakota, and Texas.

HEARING: March 24, 1958, at the Hotel Kansan, Topeka, Kans., before Joint Board No. 285, or, if the Joint Board waives its right to participate, before Examiner Thomas F. Kilroy.

No. MC 115331 (Sub No. 4), filed December 26, 1957, TRUCK TRANSPORT, INC., Crystal City, Mo. Applicant's attorney: Gregory M. Rebman, Suite 1230 Boatmen's Bank Building, St. Louis 2, Mo. For authority to operate as a common carrier, over irregular routes, transporting: *Fertilizer and acids*, as described in Appendix XV to the report in *Descriptions in Motor Carrier Certificates*, 61 M. C. C. 209, and *Chemicals*, as defined in No. MC 50405 (Sub No. 15), *The Maxwell Co.*, decided June 30, 1955, in bulk, in tank vehicles, between the site of the Olin-Mathieson Chemical Corporation plant, at or near Ordill, Ill., on the one hand, and, on the other, points in Missouri, Indiana, Kentucky, Tennessee, Iowa, Oklahoma, Kansas, and Arkansas. Applicant is authorized to conduct operations in Arkansas, Illinois, Iowa, Kansas, Kentucky, Missouri, Oklahoma, and Tennessee.

HEARING: March 14, 1958, at the Mark Twain Hotel, St. Louis, Mo., before Examiner Thomas F. Kilroy.

No. MC 115916 (Sub No. 2), filed January 17, 1958. Applicant: RALPH S.

RICH, 10312 Grafton Hall Road, Valley Station, Ky. Applicant's attorney: Paul F. Barnes, 811-819 Lewis Tower Building, 225 South 15th Street, Philadelphia 2, Pa. For authority to operate as a *common carrier*, over irregular routes, transporting: *Cheese and cheese products*, from points in Wisconsin to Philadelphia, Pa. Applicant is authorized to transport cheese in Indiana, Pennsylvania, and Wisconsin.

NOTE: Duplication with present authority to be eliminated.

HEARING: March 7, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Gerald F. Colfer.

No. MC 116438 (Republication), filed February 11, 1957. WM. MOSS, Winchester, Ill. Applicant's attorneys: Hutchens and Mann, Winchester, Ill.

This is a second publication which covers a Report of the Commission, Division 1. The Form BMC 78 application here at issue was filed February 11, 1957, and published in the FEDERAL REGISTER, issue of April 24, 1957, on page 2892, and covered a request for authority to operate as a *common carrier*, over irregular routes, transporting: *Brick*, from Winchester, Ill., to Wellsville and Vandalia, Mo., Louisville, Ky., Kenosha, Wauwatosa, Elm Grove, Madison, Marshfield, Janesville, and Fort Atkinson, Wis., and Mecca, Michigan City, Gary, Hamlet, and Chesterton, Ind.; *livestock*, from Winchester, Ill., to Kansas City and St. Joseph, Mo., and Sandusky, Ohio; *grain*, from Winchester, Ill., to St. Louis, Mo., and points in Missouri; and *farm machinery*, from Winchester, Ill., to points in Ohio and Wisconsin.

The Report of the Commission, Division 1, decided December 31, 1957, finds that the present and future public convenience and necessity require operation by applicant as a *common carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, (1) of *brick*, from Aulsey, Ill., to Wellsville and Vandalia, Mo., Louisville, Ky., Kenosha, Wauwatosa, Elm Grove, Madison, Marshfield, Janesville, and Fort Atkinson, Wis., and Mecca, Michigan City, Gary, Hamlet, and Chesterton, Ind., and (2) of *agricultural machinery*, as described in Appendix XII of *Descriptions in Motor Carrier Certificates*, 61 M. C. C. 209, from Riggston, Ill., to points in Ohio and Wisconsin. Issuance of a certificate herein will be withheld for a period of 30 days from the date of this republication, during which period any interested proper party may file an appropriate protest or other pleading.

No. MC 116780, filed June 28, 1957. (AMENDMENT). Applicant: DUNCAN McRAE, doing business as UNION TRANSPORTATION COMPANY, 824 South Yorktown, Tulsa, Okla. Applicant's attorney: Herbert L. Smith, 401 Perry-Brooks Building, Austin 1, Tex. (1) Applicant's attorney, by letter dated January 27, 1958, advises the substitution of UNION TRANSPORTATION COMPANY, an Oklahoma Corporation, which is controlled by Duncan McRae, and of which he is president, as party applicant in lieu of Duncan McRae, an individual,

(2) and that any and all data concerning the corporation will be submitted at the oral hearing, and (3) the scope of the proposed operations will remain exactly the same.

HEARING: Remains as assigned March 10, 1958, at 9:30 o'clock a. m. United States Standard Time at Room 852, U. S. Custom House Building, 610 South Canal Street, Chicago, Ill., before Examiner Isadore Freidson.

No. MC 116949, filed September 23, 1957. AVERY J. BURNS, Dakota City, Nebr. Applicant's attorney: Deck & Mahr, 222 Davidson Building, Sioux City 1, Iowa. For authority to operate as a *contract carrier*, over irregular routes, transporting: *New and used semi-trailers, wrecked trailers, new and used parts for semi-trailers*, including tow away, but excluding other means of motor hauling, between Sioux City, Iowa and points in Indiana, Illinois, Wisconsin, Minnesota, Iowa, Missouri, Kansas, Nebraska, South Dakota, North Dakota, Montana, Wyoming, Colorado, Idaho, Oklahoma, Texas, and New Mexico.

HEARING: April 1, 1958, at the Warrior Hotel, Sioux City, Iowa, before Examiner Thomas F. Kilroy.

No. MC 116983, filed December 13, 1957. EARL J. ANDERSON and RITA H. PEINE, a Partnership, doing business as A & P TRANSPORTATION COMPANY, 426 East Third Street, Garnett, Kans. Applicant's attorney: James L. Grimes, Jr., National Bank of Topeka Building, Topeka, Kans. For authority to operate as a *contract carrier*, over irregular routes, transporting: *Buildings*, prefabricated, precut, sectionalized or panelized, and *building materials and supplies*, used or useful in or incidental to the conduct of the business of prefabricating or precutting buildings, with or without erection or assembling by carrier at the point of destination, between Garnett, Kans., and Kansas City, Mo., on the one hand, and, on the other, points in Kansas, Missouri, Iowa, Nebraska, Oklahoma, and Arkansas.

HEARING: March 19, 1958, at the Hotel Kansan, Topeka, Kans., before Examiner Thomas F. Kilroy.

No. MC 117027, filed November 4, 1957. R & S MOTOR SALES CO., 214 East Fourth Street, Joplin, Mo. For authority to operate as a *common carrier*, over irregular routes, transporting: *Motor vehicles*, damaged or defective, wrecked or disabled, requiring use of a wrecker or tow truck, between points in that part of Missouri bounded on the north by and including Vernon and Cedar Counties, on the east by and including Dade and Lawrence Counties, and on the south by and including Barry and McDonald Counties, points in that part of Kansas bounded by and including Bourbon, Allen, Wilson, Montgomery, Labette, and Cherokee Counties, points in that part of Oklahoma bounded by and including Washington, Rogers, Mayes, and Delaware Counties, and those in Benton and Washington Counties, Ark.

HEARING: March 18, 1958, at the Hotel Pickwick, Kansas City, Mo., before Examiner Thomas F. Kilroy.

No. MC 117048, filed November 19, 1957. CHARLES FARKAS, doing business as

CHARLES FARKAS TRUCKING COMPANY, 101 Parkway, White Oak, McKeesport, Pa. Applicant's attorney: Charles F. McKenna, 508 Grant Street, Pittsburgh 19, Pa. For authority to operate as a *common carrier*, over irregular routes, transporting: *Molasses and syrup* in drums and packages; *refined sugar* in bags; and *invert sugar* in drums and packages, from Brooklyn, N. Y., to that part of Pennsylvania on and west of a line beginning at U. S. Highway 220 on the Pennsylvania-Maryland State line, thence north along U. S. Highway 220 to junction U. S. Highway 322, thence west along U. S. Highway 322 to junction U. S. Highway 19, thence north along U. S. Highway 19 to Erie, Pa., including Erie, and Martins Ferry, Ohio, and Wheeling, W. Va. Applicant holds contract carrier authority in the name of Charles Farkas. Section 210, dual operations, may be involved.

HEARING: March 10, 1958, at the Fulton Building, 101-115 Sixth Street, Pittsburgh, Pa., before Examiner William J. Cave.

No. MC 117060, filed November 27, 1957. OTIS BROWN, doing business as OTIS BROWN STABLES, 4 Countryside Lane, St. Louis 22, Mo. Applicant's attorney: Theodore E. Beckemeier, 705 Chestnut Street, Suite 416, St. Louis 1, Mo. For authority to operate as a *common carrier*, over irregular routes, transporting: *Horses, tack and equipment* appurtenant thereto, from the City of St. Louis, Mo., and points in St. Louis County, Mo., to all points in the United States, except points in Washington, Oregon, Idaho, Montana, North Dakota, South Dakota, Maine, New Hampshire, and Vermont.

NOTE: Applicant states that the above would include, but not be limited to transportation of Horses from the City of St. Louis and points in St. Louis County, Mo., to and from horse shows and to race tracks in various parts of the United States.

HEARING: March 13, 1958, at the Mark Twain Hotel, St. Louis, Mo., before Examiner Thomas F. Kilroy.

No. MC 117077, filed December 6, 1957. THOMAS L. SMITH AND JOHN W. SMITH, doing business as "SMITH BROTHERS", Lake Andes, S. Dak. Applicant's attorney: Don A. Bierle, 218½ West Third Street, Yankton, S. Dak. For authority to operate as a *common carrier*, over irregular routes, transporting: *Livestock*, and/or *unprocessed agricultural commodities, farm machinery, farm machinery repair parts, processed milk, feed, seed, empty propane bottle gas tanks, dry fertilizer*, in sacks or other containers, from Sioux City, Iowa, to Lake Andes, S. Dak., and points within 10 miles thereof. *Household goods and emigrant movables*, from Lake Andes, S. Dak., to points in Iowa, Nebraska and Minnesota; from points in Iowa and Nebraska to Lake Andes, S. Dak.

HEARING: March 31, 1958, at the Warrior Hotel, Sioux City, Iowa, before Examiner Thomas F. Kilroy.

No. MC 117109, filed January 3, 1958. SYKES TRANSPORT COMPANY, a Corporation, Ironton, Mo. Applicant's attorney: David Axelrod, 39 South La Salle Street, Chicago 3, Ill. For au-

thority to operate as a *common carrier*, over irregular routes, transporting: *Lumber*, from points in South Carolina and Arkansas (excluding Little Rock, Ark.), Missouri, Kentucky, Illinois, Georgia, Tennessee (except those in Shelby County), Alabama (except those in Greene, Sumter, and Marengo Counties and except from Birmingham, Mobile, and the Commercial Zones of each), Mississippi (except Picayune, Columbia, and Beaumont and points on U. S. Highways 51, 61 and 98), and Louisiana (except points on U. S. Highway 51), on the one hand, and, on the other, all points in Indiana, Illinois, and Ohio, and Louisville, Ky., Detroit, Mich., Milwaukee, Wis., Davenport and Bettendorf, Iowa, St. Louis, Mo., and Pittsburgh, Pa.

NOTE: No duplicating authority is sought. Applicant has pending applications for contract carrier authority in MC 116359 and MC 116359 Sub 1 TA. If authority applied for herein is granted and said pending applications for contract authority for which is included above have been granted prior thereto, the contract carrier authority involved should be revoked simultaneously with the issuance of the common carrier authority.

HEARING: March 27, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner John P. McCarthy.

No. MC 117124, filed January 16, 1958. Applicant: SILAS R. KINCAID, doing business as R. & K., Mound City, Mo. Applicant's attorney: Bernard M. Spencer, 115 South Eighth Street, Nebraska City, Nebr. For authority to operate as a *contract carrier*, over irregular routes, transporting: *Road and dam construction materials*, including sand, gravel, dirt and rock of all types including riprap, broken and crushed, between all points in North Dakota, South Dakota, Iowa, Nebraska, Kansas, and Missouri.

HEARING: March 27, 1958, at the Nebraska State Railway Commission, Capitol Building, Lincoln, Nebr., before Examiner Thomas F. Kilroy.

MOTOR CARRIERS OF PASSENGERS

No. MC 111346 (Sub No. 2), filed December 16, 1957, LYNN R. WADE, doing business as WADE'S BUS LINE, 220 West First Street, Ogallala, Nebr. For authority to operate as a *common carrier*, over a regular route, transporting: *Passengers, baggage of passengers, mail, express and newspapers* in the same vehicle, between Scottsbluff, Nebr., and Ogallala, Nebr., from Scottsbluff over Nebraska Highway 29 to Gering, thence over Nebraska Highway 86 to its junction with U. S. Highway 26, thence north over U. S. Highway 26 to Bayard, thence from Bayard south over U. S. Highway 26 to Bridgeport, thence over Nebraska Highway 19 to Northport, thence over U. S. Highway 26N to Broadwater, thence over U. S. Highway 26 to Ogallala, and return over the same route, serving the intermediate points of Gering, Melbeta, McGrew, Chimney Rock Service, Bayard, Bridgeport, Northport, Broadwater, Lisco, Oshkosh, and Lewellen, Nebr. Applicant is authorized to operate in Nebraska.

NOTE: Applicant requests that if the above-requested authority is granted, permission be granted to discontinue part of his presently authorized operation as follows: From Scottsbluff over U. S. Highway 26 to Bayard, thence north from Bayard over U. S. Highway 26 to junction with U. S. Highway 26N, thence over U. S. Highway 26N to Northport.

HEARING: March 28, 1958, at the Nebraska State Railway Commission, Capitol Building, Lincoln, Nebr., before Joint Board No. 93, or, if the Joint Board waives its right to participate before Examiner Thomas F. Kilroy.

PETITIONS

No. MC 60584 (PETITION TO REOPEN "GRANDFATHER APPLICATION"), filed December 23, 1957. Petitioner: J. M. HATCHER, JR., Delaplane, Va. Petitioner's representative: Fred Lockhart, 1000 Half Street SE., Washington, D. C. Petitioner is the holder of Certificate No. MC-60584 authorizing him to perform the following transportation services: *Livestock*, other than ordinary livestock, and in connection therewith, *personal effects of attendants*, supplies and equipment, including mascots, used in the care and/or exhibition of such animals, over irregular routes, between points in Virginia within 20 miles of Delaplane, Va., including Delaplane, on the one hand, and, on the other, points in New York, New Jersey, Pennsylvania, Delaware, and West Virginia. Petitioner prays that the Commission reopen the original application in this matter and issue an amended order changing the authority to read: *Livestock*, other than ordinary livestock, and in connection therewith, *personal effects of attendants*, supplies and equipment, including mascots, used in the care and/or exhibition of such animals, over irregular routes, between points in Virginia within 20 miles of Delaplane, Va., including Delaplane, and points in New York, New Jersey, Pennsylvania, Delaware, Maryland, and West Virginia.

No. MC 60756 (Sub No. 4), PETITION TO REOPEN, RECONSIDER, AND MODIFY AUTHORITY IN CERTIFICATE No. MC 60756 (Sub No. 4), dated October 21, 1957. PETITIONER: CRESCENT MOTOR LINES, a Corporation, Union Road, Spartanburg, S. C., Petitioner's attorney: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, S. C. Petitioner was granted authority in Certificate of Public Convenience and Necessity, No. MC 60756 (Sub No. 4), under date of December 7, 1944, to transport, in interstate or foreign commerce, over irregular routes: *General commodities*, except those of unusual value and except dangerous explosives, livestock, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment, in shipments weighing not less than 5,000 pounds each for any one consignor, between Spartanburg and Lyman, S. C., on the one hand, and, on the other, points in Georgia, North Carolina and South Carolina within 100 miles of Spartanburg. By the instant petition petitioner seeks amendment of such authority by removing the restriction reading: "In shipments weighing not

less than 5,000 pounds each for any one consignor".

No. MC 96531, filed October 16, 1957, (PETITION FOR WAIVER OF RULE 101(e) OF THE GENERAL RULES OF PRACTICE AND REOPENING AND MODIFICATION OF PERMIT No. MC 96531) Petitioner: FUSCO TRUCKING CO., INC., 3138 Webster Avenue, New York, N. Y. Petitioner's representative: Charles H. Trayford, 155 East 40th Street, New York 16, N. Y., and Petitioner's attorney: Morris H. Wertkin, 32 Broadway, New York 4, N. Y. Petitioner was issued a Permit on October 1, 1945, authorizing, in part, the transportation, in interstate or foreign commerce as a contract carrier by motor vehicle: *Baby carriages, baby furniture, and juvenile furniture*, uncrated, from New York, N. Y., to Philadelphia, Pa.: from New York over U. S. Highway 1 to Philadelphia. Service is authorized to and from all intermediate points, and the off-route points of Rahway, New Brunswick, Perth Amboy, Plainfield, Passaic, Paterson, Hackensack, and Teaneck, N. J., and all points in Essex and Hudson Counties, N. J. From New York, N. Y., to New Haven, Conn.: from New York over U. S. Highway 1 to New Haven, serving to and from all intermediate points. Petitioner prays that the Commission: "(1) Inform petitioner that the transportation being performed in the handling of furniture in cartons is authorized in petitioner's permit, or, (2) Correct the permit so as to delete therefrom the word 'uncrated', or, (3) Grant such other relief as the Commission in its wisdom shall deem proper and equitable."

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING IS REQUESTED

MOTOR CARRIERS OF PROPERTY

No. MC 35536 (Sub No. 50), filed December 30, 1957, (Amended January 24, 1958) published in January 15, 1958 issue on page 285. Applicant: SCOTT BROS., INCORPORATED, 1000 South Broad Street, Philadelphia 46, Pa. Applicant's attorney: Robert H. Griswold, Commerce Building, P. O. Box 432, Harrisburg, Pa. For authority to operate as a *common carrier*, over regular and alternate routes, transporting: *General commodities*, except Class A and B explosives, household goods as defined by the Commission and commodities in bulk, and including commodities requiring special equipment, (1) between Stockton, N. J., and Flemington, N. J., over County Highway 523, serving no intermediate points, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations; (2) between Stockton, N. J., and Baptistown, N. J., over County Highway 519, serving no intermediate points and serving Baptistown for purposes of joinder only, as an alternate route for operating convenience only in connection with applicant's authorized regular routes; (3) between junction of New Jersey Highways 18 and 79 south of Matawan, N. J., and Freehold, N. J., over New Jersey Highway 79, serving no intermediate points and serving said junction for purposes of joinder only, as an

alternate route for operating convenience only in connection with applicant's authorized regular route operations; (4) between New Brunswick, N. J., and junction U. S. Highway 130 and unnumbered highway southeast of Dayton, N. J., over U. S. Highway 130, serving no intermediate points and serving said junction for purposes of joinder only, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations; (5) between Yardville, N. J., and the junction of U. S. Highways 130 and 206 north of Bordentown, N. J., over U. S. Highway 130, serving no intermediate points and serving said junction for purposes of joinder only, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations; (6) between junction U. S. Highway 206 and New Jersey Highway 68 and Browns Mills, N. J., from junction of U. S. Highway 206 and New Jersey Highway 68 over New Jersey Highway 68 to junction of unnumbered highway southwest of Wrightstown, N. J., thence over unnumbered highway to junction County Highway 545, thence over County Highway 545 to Browns Mills, and return over the same route, serving the intermediate point of Fort Dix, N. J., and serving said junction for purposes of joinder only; (7) between junction New Jersey Highway 68 and unnumbered highway southwest of Wrightstown, N. J., and Lewistown, N. J., over unnumbered highway, serving no intermediate points and serving said junction for purposes of joinder only, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations; (8) between junction U. S. Highway 130 and County Highway 543 southwest of Burlington, N. J., and junction U. S. Highway 130 and New Jersey Highway 73, over (U. S. Highway 130), serving no intermediate points and serving said junctions for purposes of joinder only, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations. RESTRICTIONS: Applied-for authority to be limited to that which is auxiliary to or supplemental of rail service of The Pennsylvania Railroad Company, hereinafter called the Railroad. Said applicant shall not serve any point not a station on the rail line of the Railroad. All contractual arrangements between applicant and the Railroad shall be reported to the Commission and shall be subject to revision if and as the Commission may find it to be necessary in order that such arrangements shall be fair and equitable to the parties. Such further specific conditions as the Com-

mission in the future may find it necessary to impose in order to restrict applicants operations by motor vehicle to service which is auxiliary to or supplemental of rail service. Applicant is authorized to transport similar commodities in Connecticut, Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia, and the District of Columbia.

NOTE: Applicant has contract carrier authority in MC 52405 (Sub No. 1), and Subs 2 and 3. Section 210 (dual operations) may be involved.

No. MC 66562 (Sub No. 1391), filed January 6, 1958. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, Principal Office: 219 East 42d Street, New York 17, N. Y.; Local Office: 275 East Fourth Street, St. Paul 1, Minn. Applicant's attorney: William H. Marx, 219 East 42d Street, New York 17, N. Y. For authority to operate as a *common carrier*, over a regular route, transporting: *General commodities*, including *Class A and B explosives*, moving in express service, between Marquette, Iowa, and Lansing, Iowa: (1) from Marquette over Iowa Highway 13 to Waukon, Iowa, thence over Iowa Highway 9 to Lansing; and (2) from Lansing over the Iowa-Wisconsin interstate bridge to junction Wisconsin Highway 35, thence over Wisconsin Highway 35 to junction U. S. Highway 18 at Prairie du Chien, Wis., thence over the Wisconsin-Iowa Interstate bridge to Marquette, serving the intermediate points of Waukon, Iowa, and Prairie du Chien, Wis. (Prairie du Chien to be served as an intermediate *transfer* point only). RESTRICTIONS: The service to be performed by applicant shall be limited to service which is auxiliary to or supplemental of rail or air express service. Shipments proposed to be transported shall be limited to those moving on a through bill of lading or express receipt covering, in addition to a motor carrier movement by applicant, an immediately prior or immediately subsequent movement by rail or air. Such further specific conditions as the Commission, in the future, may find it necessary to impose in order to restrict said applicant's operations to service which is auxiliary to or supplemental of express service.

NOTE: Applicant states that the proposed operation comprises a circular or "loop" route, originating and ending at Marquette, Iowa, and that it proposes to transport General Commodities moving in express service along the entire "loop". Applicant further states that the instant application is for authority to substitute motor service for discontinued rail service, and that as a pure substitute service, it considers that it effects no change in competitive conditions within the area involved. Applicant is authorized to conduct operations throughout the United States.

No. MC 66562 (Sub No. 1393), filed January 20, 1958. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N. Y. Applicant's representative: James E. Thomas, c/o Alston, Sibley, Miller, Spann & Shackelford, 1220 The Citizens and Southern Nat'l. Bank Building, Atlanta 3, Ga. For authority to operate

as a *common carrier*, over a regular route, transporting: *General commodities*, including *Class A and B explosives*, moving in express service, between Tampa, Fla., and Sarasota, Fla., from Tampa over U. S. Highway 41 to Bradenton, Fla., thence over U. S. Highway 301 to Sarasota, and return over the same route, serving the intermediate points of East Tampa, North Ruskin, Palmetto, and Bradenton, Fla., and the off-route point of Gillett, Fla. RESTRICTIONS: (1) The service to be performed by applicant shall be limited to service which is auxiliary to or supplemental of express service; (2) Shipments transported by carrier shall be limited to those moving on through bills of lading or express receipts covering, in addition to the motor carrier movement by carrier, an immediately prior or an immediately subsequent movement by rail or air; and (3) Such further specific conditions as the Commission in the future may find it necessary to impose in order to restrict applicant's operation to service which is auxiliary to or supplemental of express service. Applicant is authorized to conduct operations throughout the United States.

No. MC 110479 (Sub No. 10), filed January 24, 1958. Applicant: DUDLEY HARPER, doing business as HARPER TRUCK SERVICE, 1230 North Eighth Street, Paducah, Ky. Applicant's representative: C. W. Craig, 910 Jefferson Street, Paducah, Ky. For authority to operate as a *common carrier*, over irregular routes, transporting: *General commodities*, except commodities of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Paducah, Ky., on the one hand, and, on the other, Farmington, Stella, Browns Grove, Symsonia, Cunningham, Hickory, Kirksey, Brewers, South Marshall High School near Benton, Ky., and Coldwater, Ky. Applicant is authorized to transport similar commodities in Illinois, Kentucky, and Missouri.

No. MC 116077 (Sub No. 36), filed January 2, 1958. Applicant: ROBERTSON TANK LINES, INC., 5700 Polk Avenue, Houston, Tex. Applicant's attorneys: Charles D. Mathews and Thomas E. James, P. O. Box 858, Austin, Tex. For authority to operate as a *common carrier*, over irregular routes, transporting: *Wine*, in bulk, in tank vehicles, from Houston, Tex., to Atlanta, Ga., and to Miami, Fla., rendering a call and demand service. Applicant is authorized to conduct operations in Alabama, Arkansas, Colorado, Florida, Georgia, Idaho, Illinois, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, Oregon, Tennessee, Texas, and Washington.

No. MC 117132, filed January 23, 1958. Applicant: PAUL NYARI, 103 Newdawn Drive, Bryan, Ohio. Applicant's representative: Earl J. Thomas, Thomas Bldg. 5844-5850 North High Street, Worthington, Ohio. For authority to operate as a *contract carrier*, over irregular routes, transporting: *Scrap iron and metals* to be used for remelting purposes only, when transported in dump trucks or dump trailers, between

Bryan and Defiance, Ohio, on the one hand, and, on the other, points in Indiana and Michigan.

MOTOR CARRIERS OF PASSENGERS

No. MC 1504 (Sub No. 142), filed December 26, 1957. Applicant: ATLANTIC GREYHOUND CORPORATION, 1100 Kanawha Valley Building, Charleston, W. Va. Applicant's attorney: L. C. Major, Jr., 2001 Massachusetts Avenue NW., Washington 6, D. C. For authority to operate as a *common carrier*, over regular routes, transporting: *Passengers and their baggage, and express, mail, and newspapers*, in the same vehicle with passengers, (1) Between junction South Carolina Highway 314 and U. S. Highway 15 and junction South Carolina Highway 314 and U. S. Highway 176, over South Carolina Highway 314, serving all intermediate points; and (2) between Holly Hill, S. C., and Harleyville, S. C., over South Carolina Highway 453, serving all intermediate points. Applicant is authorized to conduct operations in Florida, Georgia, Kentucky, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia.

Note: Applicant states that the sole purpose of the instant application is to improve the nature and extent of the existing service to and from the small town of Holly Hill, S. C.

APPLICATIONS UNDER SECTIONS 5 AND 210a (b)

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

MOTOR CARRIERS OF PROPERTY

No. MC-F 6810, published in the January 15, 1958, issue of the FEDERAL REGISTER on page 287. Supplement filed January 29, 1958, to show joinder of EZRA DETTLING and LOLA DETTLING, both of 32 North Deeplands, Grosse Pointe Shores, Mich., as the persons in control of vendee.

No. MC-F 6825. Authority sought for purchase by A & P TRUCKING CORPORATION, 2110 85th Street, North Bergen, N. J., of the operating rights of HILLSIDE FREIGHT LINES, INC. (SIDNEY W. GINDIN, ASSIGNEE), c/o Clarick & Clarick, 1143 East Jersey Street, Elizabeth, N. J., and for acquisition by ARTHUR E. IMPERATORE, 1208 River Road, Edgewater, N. J., GEORGE E. IMPERATORE, 1090 Dartmouth Street, Teaneck, N. J., ARNOLD D. IMPERATORE, 1522 Fourth Street, Fort Lee, N. J., and EUGENE W. IMPERATORE, 361 Columbia Street, Cliffside, N. J., of control of such rights through the purchase. Applicants' attorneys: Zelby & Burstein, 160 Broadway, New York, N. Y., and Clarick & Clarick, 1143 East Jersey Street, Elizabeth 4, N. J. Operating rights sought to be transferred: *General commodities*, with certain exceptions including household

goods and commodities in bulk, as a *common carrier* over irregular routes between points in Essex, Union, Bergen, Passaic, Hudson, and Middlesex Counties, N. J., on the one hand and, on the other, New York, N. Y., points in Orange, Rockland, Westchester, and Nassau Counties, N. Y., that part of Pennsylvania east of the Susquehanna River, and that part of Connecticut on and west of U. S. Highway 5. Vendee is authorized to operate as a *common carrier* in New Jersey, New York and Connecticut. Application has been filed for temporary authority under section 210a (b).

No. MC-F 6828. Authority sought for control and merger by BUCKINGHAM TRANSPORTATION, INC., Omaha and West Boulevard, Rapid City, S. Dak., of the operating rights and property of RIDGELY TRANSPORT, doing business as PIONEER-RIDGELY FREIGHT LINES, 1509 Bent Avenue, Cheyenne, Wyo., and for acquisition by EARL F. BUCKINGHAM and HAROLD D. BUCKINGHAM, both of Rapid City, of control of such rights and property through the transaction. Applicants' attorney: Jones & Meiklejohn, 526 Denham Building, Denver 2, Colo. Operating rights sought to be controlled and merged: *General commodities*, with certain exceptions including household goods and commodities in bulk, as a *common carrier* over regular routes, between Fort Collins, Colo., and Ault, Colo., between Greeley, Colo., and Loveland, Colo., between Denver, Colo., and Cheyenne, Wyo., and between Scottsbluff, Nebr., and Cheyenne, Wyo., serving certain intermediate and off-route points; alternate route for operating convenience only between Denver, Colo., and Wellington, Colo.; *machinery and machinery parts* (except farm machinery), *sugar, cotton bags, cotton net, jute, and burlap*, between Lyman, Nebr., and Henry, Nebr., serving no intermediate points; *such materials and supplies* as are necessary to the maintenance and operation of Civilian Conservation Corps camps, between the Civilian Conservation Corps warehouse one-fourth mile north of Littleton, Colo., and Denver, Colo., serving certain intermediate and off-route points; *meats, meat products, meat by-products, and dairy products*, as defined by the Commission, between Denver, Colo., and Scottsbluff, Nebr., between Cheyenne, Wyo., and junction U. S. Highway 30 and Nebraska Highway 19 near Sidney, Nebr., and between Kimball, Nebr., and Scottsbluff, Nebr., serving certain intermediate points; *such materials and supplies* as are necessary to the maintenance and operation of Civilian Conservation Corps camps, over irregular routes, between points on U. S. Highway 26, between Scottsbluff, Nebr., and Torrington, Wyo., and on U. S. Highway 85 between Torrington, Wyo., and Denver, Colo., and between the Civilian Conservation Corps warehouse one-fourth mile north of Littleton, Colo., and Denver, including the specified points, on the one hand, and, on the other, certain points in Wyoming. BUCKINGHAM TRANSPORTATION, INC., is authorized to operate as a *common carrier* in Minnesota, South Dakota,

Nebraska, Iowa, Wyoming, Colorado, North Dakota, Montana, Utah, Kansas, Washington, California, Nevada, Oregon, Missouri and Idaho. Application has not been filed for temporary authority under section 210a (b).

No. MC-F 6829. Authority sought for purchase by NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver 23, Colo., of the operating rights and certain property of W. C. MOORHEAD, JR., doing business as MOORHEAD FREIGHT LINE, P. O. Box 926, Gallup, N. Mex., and for acquisition by LAURENCE COHEN, also of Denver, of control of such rights and property through the purchase. Applicant's attorneys: O. Russell Jones, P. O. Box 1437, Santa Fe, N. Mex., and Harold O. Waggoner, Simms Building, Albuquerque, N. Mex. Operating rights sought to be transferred: *General commodities*, except those of unusual value, Class A and B explosives, commodities in bulk, commodities requiring special equipment, household goods as defined by the Commission, materials, supplies, and property of motion picture studios, cement, cement building blocks, and lumber, and machinery, materials, supplies or equipment incidental to, or used in, the construction, development, operation and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, as a *common carrier* over irregular routes, between points in McKinley County, N. Mex., on the one hand, and, on the other, certain points in Arizona. Vendee is authorized to operate as a *common carrier* in New Mexico, California, Arizona, Texas, Colorado, Illinois, Iowa, Nebraska, Missouri, Nevada, Kansas, Indiana, and Oklahoma. Application has been filed for temporary authority under section 210a (b).

MOTOR CARRIERS OF PASSENGERS

No. MC-F 6826. Authority sought for control by FRANK E. McCREARY, 1504 West Madison Street, Maywood, Ill., of BLUEBIRD COACH LINES, INC., 4752 Joliet Avenue, Lyons, Ill. Applicant's attorney: Louis R. Gentili, 38 South Dearborn, Chicago, Ill. Operating rights sought to be controlled: *Passengers and their baggage, and express, newspapers, and mail*, in the same vehicle with passengers, as a *common carrier* over regular routes between Chicago, Ill., and Joliet, Ill., serving all intermediate points. FRANK E. McCREARY holds no authority from this Commission, but is a majority stockholder of (1) PEORIA-ROCKFORD BUS COMPANY, Rockford, Ill., and (2) AMERICAN COACH COMPANY, INC., Skokie, Ill., which are authorized to operate as *common carriers* in (1) Illinois, Wisconsin, Indiana and Missouri, and (2) Wisconsin and Illinois, respectively. Application has not been filed for temporary authority under section 210a (b).

No. MC-F 6827. Authority sought for purchase by CROWN TRANSIT LINES, INC., 326 North Sixth Street, Springfield, Ill., of the operating rights and property of ILLINOIS TRANSIT LINES, INC., and CAPITOL TRANSIT LINES, INC., both of 326 North Sixth Street, Springfield, Ill., and for acquisition by THOMAS A. BYRNE and THOMAS J. McVEY, both

of Springfield, of control of such rights and property through the purchase. Applicants' attorney: Harold M. Olsen, 712 South Second Street, Springfield, Ill. Operating rights sought to be transferred: (ILLINOIS TRANSIT LINES, INC.) *Passengers and their baggage, and express and newspapers* in the same vehicle with passengers, as a *common carrier* over regular routes between Springfield, Ill., and Rushville, Ill., between Springfield, Ill., and Terre Haute, Ind., between Springfield, Ill., and Taylorville, Ill., between Springfield, Ill., and junction U. S. Highway 36 and Illinois Highway 32, between Rushville, Ill., and Good Hope, Ill., between Decatur, Ill., and Terre Haute, Ind., between Davenport, Iowa, and Monmouth, Ill., between Sullivan, Ill., and LaPlace, Ill., between Windsor, Ill., and Mattoon, Ill., and between Good Hope, Ill., and Davenport, Iowa, serving certain intermediate points; (CAPITOL TRANSIT LINES, INC.) *passengers and their baggage, and express, mail and newspapers*, in the same vehicle with passengers, as a *common carrier* over regular routes between Springfield, Ill., and Freeport, Ill., between junction Illinois Highways 47 and 10 and Champaign, Ill., between Decatur, Ill., and junction Illinois Highways 47 and 10, between Decatur, Ill., and junction Illinois Highways 105 and 47, between Springfield, Ill., and junction Illinois Highways 97 and 8, and between Peoria, Ill., and Davenport, Iowa, serving certain intermediate points. Vendee holds no authority from this Commission. Application has been filed for temporary authority under section 210a (b).

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 58-863; Filed, Feb. 4, 1958; 8:49 a. m.]

[No. 32324]

ILLINOIS CENTRAL SUBURBAN FARES, 1958
ASSIGNMENTS OF TIMES AND PLACE OF HEARING; RULES OF PRACTICE

In the matter of (1) assigning the times and place of hearing and (2) prescribing special rules of practice.

Upon consideration of the record in the above-entitled proceeding and good cause appearing therefor;

It is ordered, That the above proceeding be assigned for hearing jointly with Illinois Commerce Commission, Docket No. 44655, in the matter of the proposed increases and changes in commutation fares, stated in Ill. C. C. No. 4736, filed by the Illinois Central Railroad Company, and be subject to special rules of practice as follows:

(1) Respondent shall file its evidence in chief in the form of prepared statements and supporting exhibits on or before March 3, 1958, with three copies to each Commission, one copy to each of the persons listed in the Appendix hereof, and one copy to be furnished any other interested party upon request in writing addressed to Mr. Erle J. Zoll, Jr., General

Commerce Attorney, Illinois Central Railroad Company, 135 East 11th Place, Chicago 5, Ill.

(2) Hearing will be held at the offices of the Illinois Commerce Commission, 160 North La Salle Street, Chicago, Ill., beginning at 10 a. m., U. S. Standard Time, March 17, 1958, before Examiner Fuller, for the purpose of formal introduction of respondent's evidence, cross-examination of respondent's witnesses, and presentation of any requests by the Commissions and interested parties for additional information to be furnished by respondent.

(3) Evidence by others than respondent, either in support of, or in opposition to respondent, shall be filed on or before April 14, 1958. Such evidence in behalf of groups or associations, including evidence dealing with the cost of the service or other technical matters, shall be submitted in the form of prepared statements, with or without exhibits attached, with three copies to each Commission, one copy to Mr. Zoll and one copy to each of the persons listed in the Appendix set forth below, with a copy to any other interested party requesting same. Such evidence by individuals may be submitted in letter form with one copy to each Commission and one copy to Mr. Zoll. Unless orally objected to at the hearing provided for in the next paragraph hereof, such letters will be received in evidence.

(4) Hearing will be held at the offices of the Illinois Commerce Commission, 160 North La Salle Street, Chicago, Ill., beginning at 10:00 a. m., United States Standard Time, April 28, 1958, before Examiner Fuller, for the purpose of the formal introduction of protestants' evidence, cross-examination of protestants' witnesses, presentation of the above-mentioned additional information and rebuttal evidence by respondent, and cross-examination thereon. Opportunity will be given at this session for the presentation of oral testimony in support of, or in opposition to respondent by interested parties.

(5) The Commission will take official notice of and consider as part of the record in these proceedings, the annual, quarterly, and monthly reports of the respondent to these Commissions for the periods from 1946 to the date of the submission of these proceedings. Respondent will make available one copy of its working papers relating to its results of suburban operations for the year, 1957, and subsequently, for inspection by the Commissions and interested parties, at each of the following three offices: the offices of respondent, and the Illinois Commission in Chicago, and of the Interstate Commerce Commission in Washington. Respondent shall, on request, afford the Commissions and interested parties opportunity to inspect basic source documents at respondent's offices in Chicago.

(6) Memoranda briefs may be filed on or before May 19, 1958. An original and fourteen copies must be filed with each Commission and one copy served on each party filing an appearance at the hearings.

And it is further ordered, That a copy of this order shall be served upon respondent, the parties listed in the Appendix set forth below, and a copy filed with the Illinois Commerce Commission, Chicago, Ill., and with the Director, Division of the Federal Register, Washington, D. C.

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

By the Commission, Chairman Freas.

[SEAL] HAROLD D. MCCOY,
Secretary.

APPENDIX

LIST OF INTERESTED PARTIES

Benjamin S. Adamowski, Attorney, States Attorney of Cook County, Ill., Room 507 County Building, Chicago 2, Ill.

Herbert C. Berggren, 153 East 154th Street, Harvey, Ill.

Harry R. Booth, Attorney, 80 North La Salle Street, Chicago, Ill.

Boyd A. Cable, Secretary, Rosegrove Improvement Association, 10825 Vernon Avenue, Chicago 28, Ill.

J. J. Danaher, 511 City Hall, Chicago, Ill.

James W. Fawcett, 14306 South Stewart, Chicago 27, Ill.

Joseph F. Grossman, Special Assistant Corporation Counsel, 511 City Hall, Chicago 2, Ill.

Henry W. Lehmann, 10 South La Salle Street, Chicago, Ill.

Thomas J. McGrath, Hoover, Scheels & McGrath, 11 South La Salle Street., Suite 520, Chicago 3, Ill.

Earl E. Melsenbach, Assistant Corporation Counsel of Chicago, 511 City Hall, Chicago 2, Ill.

John C. Melaniphy, Corporation Counsel of the City of Chicago, 511 City Hall, Chicago 2, Ill.

L. Agnew Myers, Jr., Myers Tariff Bureau, Warner Building, Washington 4, D. C.

Howard M. Paul, Chairman, Park Forest Home-seateders, 247 Suak Trall, Park Forest, Ill.

Edward E. Plusdrak, Attorney, Assistant State's Attorney, Room 507 County Building, Chicago 2, Ill.

J. G. Steinbrecher, 1453 East 54th Street, Chicago 13, Ill.

Leonard I. Tafel, 5423 South Woodlawn, Chicago 15, Ill.

Walter E. Wiles, Attorney, Illinois Central Commuters Association, 105 West Adams Street, Chicago 3, Ill.

Wallace Wyatt, Attorney at Law, 100 North La Salle Street, Chicago 2, Ill.

[F. R. Doc. 58-866; Filed, Feb. 4, 1958; 8:49 a. m.]

[Rev. S. O. 562; Taylor's I. C. C. Order-90]

GENESEE AND WYOMING RAILROAD CO.

REROUTING OR DIVERSION OF TRAFFIC

In the opinion of Charles W. Taylor, Agent, the Genesee and Wyoming Railroad Company, account derailment at Retsof, New York, is unable to transport traffic routed over its lines.

It is ordered, That:

(a) Rerouting traffic: The Genesee and Wyoming Railroad Company, and its connections, are hereby authorized to divert or reroute such traffic over any available route to expedite the movement, regardless of routing shown on the waybill. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

[File No. 24D-1790]

HARDROCK MINING SYNDICATE

ORDER TEMPORARILY SUSPENDING EXEMPTION, STATEMENT OF REASONS THEREFOR, AND NOTICE OF OPPORTUNITY FOR HEARING

JANUARY 29, 1958.

I. Hardrock Mining Syndicate (Hardrock), a Nevada corporation, 40 Dio Drive, Las Vegas, Nevada, formerly located at 139 North Virginia Street, Reno, Nevada, filed with the Commission on June 16, 1955, a notification on Form 1-A and an offering circular, and filed various amendments thereto, relating to an offering of 6,000,000 shares of its 5 cents par value common stock at 5 cents per share for an aggregate of \$300,000, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3 (b) thereof, and Regulation A promulgated thereunder; and

II. The Commission has reasonable cause to believe that:

A. The terms and conditions of Regulation A have not been complied with in that Hardrock has failed to file reports of sales on Form 2-A as required by Rule 224 and as requested by the staff;

B. The notification and offering circular contain untrue statements of material fact and omit to state material facts necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading in the following respects, among others:

1. In failing to disclose Edgar P. Lyons, secretary-treasurer and director of the company; John McClelland Abrams, president and director, Thomas P. Sidwell, vice president and director, and Willard W. Wallace, director, resigned from their respective positions and disposed of all or most of the shares issued to them by the company.

2. In failing to reflect the uses of \$60,000 in cash advanced to the company.

3. In failing to reflect the status of the company's options to purchase property; and

C. The use of the offering circular would operate as a fraud and deceit upon purchasers.

III. It is ordered, Pursuant to Rule 223 (a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

Notice is hereby given, that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing; that within 20 days after receipt of such request, the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and

(b) Concurrence of receiving roads to be obtained: The railroads desiring to divert or reroute traffic under this order shall confer with the proper transportation officer of the railroad or railroads to which such traffic is to be diverted or rerouted, and shall receive the concurrence of such other railroads before the rerouting or diversion is ordered.

(c) Notification to shippers: The Carriers rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic by said Agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipments on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date: This order shall become effective at 7:00 a. m., January 28, 1958.

(g) Expiration date: This order shall expire at 11:59 p. m., February 5, 1958, unless otherwise modified, changed, suspended or annulled.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., January 28, 1958.

INTERSTATE COMMERCE
COMMISSION,
CHARLES W. TAYLOR,
Agent.

[F. R. Doc. 58-867; Filed, Feb. 4, 1958;
8:49 a. m.]

SECURITIES AND EXCHANGE
COMMISSION

[File No. 24D-2009]

URANIA, INC.

ORDER TEMPORARILY SUSPENDING EXEMPTION, STATEMENT OF REASONS THEREFOR, AND NOTICE OF OPPORTUNITY FOR HEARING

JANUARY 29, 1958.

I. Urania, Inc., a Nevada corporation, 1802 South Main Street, Las Vegas, Nevada, filed with the Commission on January 16, 1956, a notification on Form 1-A

and a Rule 219 (b) statement, and filed various amendments thereto, relating to an offering of 50,000 shares of its \$1 par value common stock at \$1 per share for an aggregate of \$50,000, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3 (b) thereof and Regulation A, promulgated thereunder;

II. The Commission has reasonable cause to believe that:

A. The principal underwriter of the securities offered, Fenner, Streitman & Co., a partnership of which Lynne B. Fenner was a partner, withdrew its registration as a broker-dealer with this Commission on September 27, 1956. The firm was succeeded by Fenner Corporation. On April 29, 1957, the New York Supreme Court, New York County, issued an order permanently enjoining Lynne B. Fenner and Fenner Corporation from engaging in or continuing conduct and practices in connection with the purchase and sale of securities.

B. The terms and conditions of Regulation A have not been complied with in that the issuer has failed to file reports of sales on Form 2-A as required by Rule 224, and has ignored requests by the Commission's staff for such reports; and

C. The statement required by Rule 219 (b) of Regulation A omits to state material facts necessary in order to make the statements made in the light of the circumstances under which they are made, in misleading, in failing to disclose:

1. Whether the \$10,000 due landowners by the issuer has been paid;

2. Whether the required assessment work on the issuer's unpatented claims has been performed;

3. Whether rent or royalty payments have been made, as required on the issuer's claims, and the status of the issuer's rights, title and interest to such claims.

III. It is ordered, Pursuant to Rule 223 (a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

Notice is hereby given, that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing; that within 20 days after receipt of such request, the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for said hearing will be promptly given by the Commission.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F. R. Doc. 58-859; Filed, Feb. 4, 1958;
8:48 a. m.]

place for said hearing will be promptly given by the Commission.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F. R. Doc. 58-860; Filed, Feb. 4, 1958;
8:48 a. m.]

[File No. 70-3666]

DELAWARE POWER & LIGHT CO.

NOTICE OF PROPOSED AMENDMENTS TO CERTIFICATE OF INCORPORATION FOR THE FURTHER PROTECTION OF HOLDERS OF PREFERRED STOCK

JANUARY 29, 1958.

Notice is hereby given that Delaware Power & Light Company ("Company"), a registered holding company and a public-utility company, has filed a declaration and an amendment pursuant to the Public Utility Holding Company Act of 1935 ("act"), designating sections 6 (a), 7, 12 (e) and 20 thereof and Rule U-62 thereunder as applicable to the proposed transactions, which are summarized as follows:

The Company proposes to amend Article Fourth of its Certificate of Incorporation (relating to the issuance of Preferred Stock and the protection of preferred stockholders) in such manner as to incorporate therein the protective provisions contained in the Commission's order of December 4, 1956, relating to the Company's issuance of Preferred Stock (Holding Company Act Release No. 13326). Said order set out certain terms and conditions for the protection of the preferred stockholders which should continue effective, in addition to the terms and provisions relating to the Preferred Stock already contained in the Certificate of Incorporation, so long as any of the Preferred Stock then being issued was outstanding. The proposed amendments undertake to supplement the existing charter provisions as follows:

The Certificate of Incorporation provides that if any dividends are in arrears on any shares of Preferred Stock, the Company may not redeem less than all the outstanding Preferred Stock and may not acquire for value any Preferred Stock, except in accordance with an offer (which may vary with respect to shares of different series) made to all holders of Preferred Stock. It is proposed to amend the Certificate of Incorporation so that, in addition to the foregoing restrictions, the Company, in the event of dividend arrearages on any shares of Preferred Stock, shall not acquire any shares of Preferred Stock (except by redemption of all shares of Preferred Stock) unless approval is obtained under the Public Utility Holding Company Act of 1935.

The Certificate of Incorporation also provides that the Company will not, without the consent of the holders of at least two-thirds of the total shares of Preferred Stock, create or authorize any kind of stock (other than a series of Preferred Stock) ranking prior to or on a parity with the Preferred Stock, or create any securities convertible into shares of any such stock. It is proposed to provide further that the Company may not issue

any stock ranking prior to the Preferred Stock more than twelve months after the date as of which the Company was empowered to create or authorize such prior ranking stock.

The Company's Certificate of Incorporation further provides that the Company may not issue additional Preferred Stock unless the earnings of the Company meet certain tests with respect to interest and preferred dividend coverage. The proposed amendment will subject the consolidated earnings of the Company and its subsidiaries to the same earnings tests and will make such tests include the dividend requirements on any class of stock ranking prior to or on a parity with the shares of Preferred Stock to be issued.

It is further proposed to amend the Certificate of Incorporation to provide that, in the determination of net earnings for the purposes aforesaid, the amount deducted on account of depreciation shall be at least equal to the aggregate amount required to be expended by the Company and its subsidiaries for property additions pursuant to the Company's Mortgage and Deed of Trust dated as of October 1, 1943, as now amended.

Finally, the Certificate of Incorporation provides for certain restrictions on the payment of dividends or the making of any distribution of assets to holders of the common stock unless certain capitalization ratios are maintained. The proposed amendment will provide that, in computing these capitalization ratios, the Company shall include the principal amount of all outstanding indebtedness of the Company and its subsidiaries represented by bonds, notes or other evidences of indebtedness maturing by their terms more than one year after the date of issue thereof instead of one year or more from the date of the proposed payment of the common stock dividend.

The Company proposes to submit the aforesaid amendments for the approval of the common stockholders at their next annual meeting, to be held on April 15, 1958, and in connection therewith to solicit proxies in support of said amendments. In the opinion of the Company's counsel, no vote of the preferred stockholders is required since the proposed amendments are not prejudicial to them, but for their further protection.

It is stated that no fees or commissions will be paid in connection with the proposed transactions, and that the expenses will consist only of routine expenses in connection with the proxy solicitation; also, that the proposed transactions are not subject to the jurisdiction of any other Commission.

The Company requests that the order of the Commission to be entered herein (1) permit the declaration as amended to become effective, and (2) upon notification to the Commission that the proposed amendments to the Company's Certificate of Incorporation have been adopted and become effective, operate to rescind the terms and conditions imposed by the Commission's order of December 4, 1956, aforesaid.

Notice is further given that any interested person may, not later than Feb-

ruary 14, 1958, at 5:30 p. m., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law, if any, raised by said amended declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date the declaration as now amended or as further amended, may be permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions as provided in Rules U-20 (a) and U-100 thereof, or take such other action as it may deem appropriate under the circumstances.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 58-861; Filed, Feb. 4, 1958;
8:48 a. m.]

[File No. 24D-1988]

FIREBALL URANIUM MINES, INC.

ORDER TEMPORARILY SUSPENDING EXEMPTION, STATEMENT OF REASONS THEREFOR, AND NOTICE OF OPPORTUNITY FOR HEARING

JANUARY 29, 1958.

I. Fireball Uranium Mines, Inc. (Fireball), a Nevada corporation, 275 North Main Street, Moab, Utah, filed with the Commission on December 7, 1955, a notification on Form 1-A and a Rule 219 (b) statement, and filed various amendments thereto, relating to an offering of an aggregate of 250,000 shares of its 20-cent par value common stock, 225,000 shares of such stock to be sold for cash on behalf of the company for an aggregate of \$45,000, and 25,000 of such shares to be sold by Mr. David H. Borwick, president of the company, for claims to be computed at an aggregate sales price not to exceed \$5,000, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3 (b) thereof and Regulation A, promulgated thereunder; and

II. The Commission has reasonable cause to believe that:

A. The terms and conditions of Regulation A have not been complied with in that Fireball has failed to file reports of sales on Form 2-A as required by Rule 224 and has ignored requests by the Commission's staff for such reports; and

B. The statement required by Rule 219 (b) of Regulation A omits to state material facts necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, in failing to disclose (1) whether the required assessment work on the issuer's 55 unpatented mining claims has been performed, and (2) the status of the issuer's right, title, and interest to such claims.

III. It is ordered, Pursuant to Rule 223 (a) of the general rules and regulations

NOTICES

under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

Notice is hereby given, that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing; that within 20 days after receipt of such

request, the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the

hearing; and that notice of the time and place for said hearing will be promptly given by the Commission.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 58-862; Filed, Feb. 4, 1958;
8:48 a. m.]